

SESSION LAWS
OF
HAWAII
PASSED BY THE
THIRTY-FIRST STATE LEGISLATURE
STATE OF HAWAII

REGULAR SESSION
2021

Convened on Wednesday, January 20, 2021, and
Adjourned sine die on Thursday, April 29, 2021

SPECIAL SESSION
2021

Convened on Tuesday, July 6, 2021, and
Adjourned sine die on Thursday, July 8, 2021

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by the
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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 2021.

The text of the laws is printed in full except as provided herein. Statutory material that is being repealed is either bracketed or bracketed and stricken. New material is indicated by underscoring. However, as authorized by Section 23G-16.5, Hawaii Revised Statutes (HRS), the text is edited to omit the bracketed material for HRS sections that are being repealed in their entirety and to omit the underscoring for entirely new HRS sections. With the exception of the foregoing and certain obvious typographical errors that have been corrected, the text of the laws appears as enacted.

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

Charlotte A. Carter-Yamauchi
Revisor of Statutes

Honolulu, Hawaii
July 20, 2021

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¹Appointed on June 17, 2021, to seat vacated by J. Kalani English.

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Twenty-First District—(Oahu)
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Jarrett Keohokalole (D)

Twenty-Second District—(Oahu)
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Twenty-Fifth District—(Oahu)
Chris Lee (D)

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D – Democrats	47
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**Session Laws of Hawaii
Passed By The
Thirty-First State Legislature
Regular Session
2021**

ACT 1

H.B. NO. 1278

A Bill for an Act Relating to Employment Security.

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

SECTION 1. Section 383-1, Hawaii Revised Statutes, is amended as follows:

1. By amending the definition of “benefit year” to read:

““Benefit year” [with respect to any individual means the one-year period beginning with the first day of the first week with respect to which the individual first files a valid claim for benefits and thereafter the one-year period beginning with the first day of the first week with respect to which the individual next files a valid claim for benefits after the termination of the individual’s last preceding benefit year. Any claim for benefits made in accordance with section 383-32 shall be deemed a “valid claim” for the purpose of this paragraph if the individual has satisfied the conditions required under section 383-29(a)(5). Nothing in sections 383-29 and 383-30, except section 383-29(a)(5), shall affect the filing of a “valid claim” or the establishment of a “benefit year”. For the purposes of this paragraph a week with respect to which an individual files a valid claim shall be deemed to be “in”, “within”, or “during” that benefit year which includes the greater part of such week.] means a period of fifty-two consecutive weeks beginning with the first day of the week in which an individual files a new valid claim for benefits; except that the benefit year shall be fifty-three weeks if the filing of a new valid claim would result in overlapping any quarter of the base year of a previously filed new claim. A subsequent benefit year cannot be established until the expiration of the current benefit year.”

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

““Week” means [any period of seven consecutive days as the department may by rule prescribe.] a period of seven consecutive calendar days commencing with Sunday and ending at midnight the following Saturday.”

SECTION 2. Section 383-29.7, Hawaii Revised Statutes, is amended to read as follows:

“§383-29.7 Partial unemployment; claim filing requirements, determinations. (a) Claims for partial unemployment shall be filed according to section 383-32. [For partially unemployed individuals, a new claim may be taken within twenty-eight days from the week-ending date of the first week of partial unemployment for which the claim is filed; provided that an individual shall not be

ACT 1

required to file a claim earlier than two weeks from the date wages are paid for the claim period.]

(b) ~~[An individual may file a continued claim certification for partial unemployment benefits in person, by mail, by telephone, or by using other alternative claim filing procedures as instructed or authorized by the department and in the manner prescribed by the department with respect to each week of the individual's partial unemployment. A continued claim certification shall be filed in the same manner as prescribed in rules of the department for continued claim certifications for total or part-total unemployment benefits and not later than twenty-eight days from the end of the week for which the individual claims benefits; provided that an individual shall not be required to file a continued claim certification earlier than two weeks from the date wages are paid for a claim period.]~~ Continued claim certifications for partial unemployment benefits shall be filed in the same manner and extent that apply to total or part-total unemployment benefits."

SECTION 3. Section 383-62, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Except as otherwise provided in this section, each employer shall pay contributions determined in accordance with sections 383-66 and 383-68.

Notwithstanding any other provision of this part to the contrary, for the calendar years 1977 and 1978 each employer (except any employer making payments instead of contributions pursuant to subsection (b) or (d)) shall pay contributions equal to three and one-half per cent of wages paid by the employer during such calendar years.

Notwithstanding any other provision of this part to the contrary, for weeks of unemployment beginning March 15, 2020, and ending on March 20, 2021, any base period employer charged with benefits that are not a direct result of the COVID-19 pandemic shall be entitled to a relief in the form of a fifty per cent credit against the amount owed by the reimbursable employer; provided that this relief shall not apply to any base period employer making reimbursements instead of contributions pursuant to subsection (b)."

SECTION 4. Section 383-68, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) Effective with calendar year 1992 and thereafter, before December 31 of the previous year the contribution rate schedule for the following calendar year shall be determined on the basis of the relationship between the most recent current reserve fund and the most recent adequate reserve fund, in accordance with this subsection and subsection (d).

- (1) Whenever the ratio of the current reserve fund to the adequate reserve fund is greater than 1.69, contribution rate schedule A shall apply.
- (2) Whenever the ratio of the current reserve fund to the adequate reserve fund is 1.3 to 1.69, contribution rate schedule B shall apply.
- (3) Whenever the ratio of the current reserve fund to the adequate reserve fund is 1.0 to 1.29, contribution rate schedule C shall apply.
- (4) Whenever the ratio of the current reserve fund to the adequate reserve fund is .80 to .99, contribution rate schedule D shall apply.
- (5) Whenever the ratio of the current reserve fund to the adequate reserve fund is .60 to .79, contribution rate schedule E shall apply.
- (6) Whenever the ratio of the current reserve fund to the adequate reserve fund is .40 to .59, contribution rate schedule F shall apply.
- (7) Whenever the ratio of the current reserve fund to the adequate reserve fund is .20 to .39, contribution rate schedule G shall apply.

- (8) Whenever the ratio of the current reserve fund to the adequate reserve fund is less than .20, contribution rate schedule H shall apply.

Notwithstanding the ratio of the current reserve fund to the adequate reserve fund, contribution rate schedule D shall apply for calendar ~~[year 2010 and contribution rate schedule F shall apply for calendar years 2011 and 2012.]~~ years 2021 and 2022.”

SECTION 5. Section 383-69, Hawaii Revised Statutes, is amended to read as follows:

“§383-69 Procedure for rate determination. The department of labor and industrial relations, as soon as is reasonably possible in each period, shall make its classification of employers for the period and notify each employer of the employer’s rate of contributions for the period as determined pursuant to sections 383-63 to 383-69. The determination shall become conclusive and binding upon the employer unless the employer appeals the determination by filing a written notice of appeal within fifteen days after the mailing of notice of the determination to the employer’s last known address. The appeal shall be heard by the referee in accordance with applicable provisions of sections 383-38 and 383-39 but no employer shall have standing, in any proceeding involving the employer’s rate of contributions or contribution liability, to contest the chargeability to the employer’s account of any benefits paid in accordance with a determination, redetermination, or decision pursuant to sections 383-31 to 383-43; provided that the services on the basis of which the benefits were found to be chargeable did not constitute services performed in employment for the employer and only if the employer was not a party to the determination, redetermination, or decision, or to any other proceedings under this chapter in which the character of the services was determined. The referee’s determination shall become final unless a proceeding for judicial review in the manner provided in chapter 91 is commenced in the circuit court of the judicial circuit in which the employer resides or has the employer’s principal place of business or in the circuit court of the first judicial circuit. An appeal may be taken from the decision of the circuit court to the intermediate appellate court, subject to chapter 602. Notwithstanding any other provision of this chapter, the director shall for calendar years 2021 and 2022 modify the annual computation to omit benefits charged for all employers to address the disruptions caused by the COVID-19 pandemic.”

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 7. This Act shall take effect upon its approval; provided that sections 4 and 5 of this Act shall take effect retroactive to January 1, 2021.

(Approved March 2, 2021.)

ACT 2

H.B. NO. 1

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

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

¹ There is appropriated out of the general revenues of the State of Hawaii the sum of \$9,629,159 or so much thereof as may be necessary to the senate for the following expenses:

ACT 2

- (1) The sum of \$8,640,409 for defraying any and all session and nonsession expenses of the senate up to and including June 30, 2022, including the 2021 regular session, thirty-first legislature of the State of Hawaii and pre-session expenses and the expenses of any committee or committees established during the interim between the 2021 and 2022 regular sessions;
- (2) The sum of \$977,500 for defraying the expenses of the legislative information system for cost items such as hardware, software, consultants, installation, materials, supplies, and other related costs associated with the legislative information system that have been or will be incurred; and
- (3) The sum of \$11,250 for defraying the cost of the legislative broadcasting program to pay for the production and distribution of television broadcasts of legislative proceedings.

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 \$13,137,606 or so much thereof as may be necessary to the house of representatives for the following expenses:

- (1) The sum of \$12,657,144 for defraying any and all session and non-session expenses of the house of representatives up to and including June 30, 2022, including the 2021 regular session, thirty-first legislature of the State of Hawaii and pre-session expenses and the expense of any committee or committees established during the interim between the 2021 and 2022 regular sessions;
- (2) The sum of \$469,212 for defraying the expenses of the legislative information system for cost items such as hardware, software, consultants, installation, materials, supplies, and other related costs associated with the legislative information system that have been or will be incurred; and
- (3) The sum of \$11,250 for defraying the cost of the legislative broadcasting program to pay for the production and distribution of television broadcasts of legislative proceedings.

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 2021 and 2022 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 2021 and 2022 regular sessions shall be made only with the approval of the speaker of the house of representatives.

SECTION 4. Before January 19, 2022, 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 house of representatives convening on January 19, 2022.

SECTION 5. Unless otherwise prescribed by law, the expenses of any member of the legislature while traveling abroad on official business of the legislature shall be \$145 a day as authorized by the president of the senate and speaker of the house of representatives.

SECTION 6. There is appropriated out of the general revenues of the State of Hawaii the sum of \$3,091,122 or so much thereof as may be necessary to the office of the auditor for the following expenses:

- (1) The sum of \$2,953,122 for defraying the expenses of the office of the auditor during fiscal year 2021-2022; and
- (2) The sum of \$138,000 during fiscal year 2021-2022 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 \$2,800,000 or so much thereof as may be necessary to the office of the auditor during fiscal year 2021-2022 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 \$6,300,000 or so much thereof as may be necessary to the office of the auditor during fiscal year 2021-2022 for the office to conduct or complete its audit functions as provided by law.

The sum appropriated shall be expended by the auditor.

SECTION 9. There is appropriated out of the general revenues of the State of Hawaii the sum of \$3,439,879 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 2021-2022, 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 \$1,327,566 or so much thereof as may be necessary to the office of the ombudsman for defraying the expenses of the office during fiscal year 2021-2022.

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 sum of \$1,152,454 or so much thereof as may be necessary to the office of the state ethics commission for defraying the expenses of the office during fiscal year 2021-2022.

The sum appropriated in this section shall be expended by the state ethics commission.

SECTION 12. There is appropriated out of the general revenues of the State of Hawaii the following sums or so much thereof as may be necessary to

ACT 3

be expended for the purpose of accrued vacation payments and vacation transfer payments for any employee leaving the employ of the senate, house of representatives, office of the auditor, legislative reference bureau, office of the ombudsman, and state ethics commission:

<u>Expending Agency</u>	<u>Amount</u>
Senate	\$245,000
House of Representatives	\$294,524
Office of the Auditor	\$68,106
Legislative Reference Bureau	\$26,810
Office of the Ombudsman	\$14,035
State Ethics Commission	\$16,553

provided that the appropriate expending agency shall first make payments from the vacation payout allocation before expending funds from turnover and vacancy amounts; and provided further that any unexpended funds shall lapse to the general fund on June 30, 2022.

SECTION 13. As of the close of business on June 30, 2022, the unexpended or unencumbered balance of any appropriation made by this Act shall lapse into the general fund.

SECTION 14. Each section of this Act is declared to be severable from the remainder of this Act.

SECTION 15. This Act shall take effect upon its approval.

(Approved April 12, 2021.)

Note

1. Prior to amendment "SECTION 1." appeared here.

ACT 3

H.B. NO. 576

A Bill for an Act Relating to Health Care.

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

SECTION 1. The legislature finds that Hawaii has many qualified licensed health care providers, including advanced practice registered nurses, who can safely and effectively provide abortion care. However, the legislature also finds that Hawaii's current laws restrict any health care provider other than physicians from providing medication or aspiration abortion care. Consequently, numerous Hawaii residents live on an island without, or with limited access to, an abortion care provider.

The legislature further finds that the health and economic security of Hawaii's residents is suffering due to various issues caused by the State's abortion provider shortage, including unnecessary travel, long wait times, high costs, and delays to time-sensitive care. In addition, residents on Kauai, Molokai, Lanai, and the west side of the island of Hawaii do not have access to local physicians who can provide abortion care. These residents are therefore forced to travel long distances to access care, increasing costs for travel, lodging, and childcare. Travel to reach care is an insurmountable barrier for people who already face systemic barriers to health care, including people with low incomes, young people, survivors of intimate partner violence, and people in rural communities. The coronavirus disease 2019 (COVID-19) pandemic has highlighted the existing challenges of the abortion provider shortage and exacerbated current barriers

to care, including making travel to access abortion care exceedingly difficult and potentially risking viral spread of COVID-19.

The legislature also finds that advanced practice registered nurses can safely and effectively provide medication or aspiration abortion care. Studies have found no difference in abortion safety when performed by qualified licensed health care providers other than physicians. Further, numerous health care and professional organizations, including the National Academies of Sciences, Engineering, and Medicine, agree that restricting qualified licensed health care providers from providing medication or aspiration abortion care confers no medical benefit and instead harms patients by limiting access to care.

To improve equitable access to health care, the legislature concludes that allowing licensed advanced practice registered nurses to provide medication or aspiration abortion care would allow residents to stay in the residents' respective communities and safely receive high-quality care with fewer financial and logistical barriers.

Accordingly, the purpose of this Act is to lift the burdensome and medically unnecessary physician-only restriction on performing certain abortion care procedures to ensure that all people in Hawaii can equally access abortion care, no matter their income or where they live, by authorizing licensed advanced practice registered nurses to perform medication or aspiration abortions.

SECTION 2. Chapter 457, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§457- Advanced practice registered nurses; abortions by medication or aspiration; penalties; refusal to perform. (a) Notwithstanding section 453-16 or any other law to the contrary, an advanced practice registered nurse may provide medication or aspiration abortion care in the first trimester of pregnancy, so long as the advanced practice registered nurse:

- (1) Has prescriptive authority;
- (2) Practices within the advanced practice registered nurse's practice specialty;
- (3) Has a valid, unencumbered license obtained in accordance with this chapter; and
- (4) The aspiration abortion is performed in a hospital licensed by the department of health or operated by the federal government or an agency thereof, or in a clinic or advance practice registered nurse's office.

(b) Abortion shall mean an intentional termination of the pregnancy of a nonviable fetus. The termination of a pregnancy of a viable fetus is not included in this section.

(c) The State shall not deny or interfere with a female's right to choose or obtain an abortion of a nonviable fetus or an abortion that is necessary to protect the life or health of the female.

(d) Any person who knowingly violates subsection (a) shall be fined no more than \$1,000 or imprisoned no more than five years, or both.

(e) Nothing in this section shall require any hospital or any person to participate in an abortion, nor shall any hospital or any person be liable for a refusal.”

SECTION 3. New statutory material is underscored.¹

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

(Approved April 12, 2021.)

Note

1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to Animal Control Services.

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

SECTION 1. The legislature finds that section 143-16, Hawaii Revised Statutes, is an outdated statute and is no longer relevant to the State’s needs. The requirement that the county of Kauai contract solely with the Kauai humane society for animal control services has been superseded by the county’s ability to offer public contracts to other animal control service providers.

The legislature also finds that construction of the animal shelter or “dog pound” authorized by section 143-16, Hawaii Revised Statutes, has been completed, making the provision no longer necessary.

Accordingly, the purpose of this Act is to repeal section 143-16, Hawaii Revised Statutes.

SECTION 2. Section 143-16, Hawaii Revised Statutes, is repealed.

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.¹

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

(Approved April 14, 2021.)

Note

1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to Theft in the Second Degree.

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

SECTION 1. The legislature finds that the State’s Penal Code does not adequately address situations in which an offender takes the property of another that is commonly used to store items of personal or monetary value, including purses, handbags, or wallets. The Hawaii supreme court decision in *State v. Cabrera*, 90 Haw. 359, 978 P.2d 797 (1999), established that the prosecution must prove beyond a reasonable doubt that an accused offender intended to steal property or services valued in excess of \$750 to convict a defendant of theft in the second degree under section 708-831(1)(b), Hawaii Revised Statutes. Thus, an offender may be arrested for the offense of theft in the second degree when the value of property taken exceeds \$750, but due to the high standard of proof required, this offense is typically amended or dropped.

The legislature further finds that including any instance in which an offender takes the property of another that is commonly used to store items of personal or monetary value, including purses, handbags, or wallets, as an offense

of theft in the second degree may deter potential offenders from engaging in theft of these items. The legislature finds that specifying this particular offense as a felony may have a long-term deterrent effect and create a safer environment for the community.

Additionally, the legislature finds that purses, handbags, wallets, or similar items often contain personal information of not just the victim whose property was taken in a theft, but also the personal information of the victim's family, employer, friends, or acquaintances. These items can also contain sensitive medical information, credit cards, workplace information, personal photos, or other sensitive information. The victim's personal information stored in these items typically leads to further victimization, including fraud, identity theft, harassment, or stalking.

Accordingly, the purpose of this Act is to amend the offense of theft in the second degree to include theft of property commonly used to store items of monetary value, including any purse, handbag, or wallet.

SECTION 2. Section 708-831, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) A person commits the offense of theft in the second degree if the person commits theft~~[-]~~ of:

- (a) ~~[Of property]~~ Property from the person of another;
- (b) ~~[Of property]~~ Property or services the value of which exceeds \$750;
- (c) ~~[Of an]~~ An aquacultural product or part thereof from premises that are fenced or enclosed in a manner designed to exclude intruders or there is prominently displayed on the premises a sign or signs sufficient to give notice and reading as follows: “Private Property”, “No Trespassing”, or a substantially similar message;
- (d) ~~[Of agricultural]~~ Agricultural equipment, supplies, or products, or part thereof, the value of which exceeds \$100 but does not exceed \$20,000, or of agricultural products that exceed twenty-five pounds, from premises that are fenced, enclosed, or secured in a manner designed to exclude intruders or where there is prominently displayed on the premises a sign or signs sufficient to give notice and reading as follows: “Private Property”, “No Trespassing”, or a substantially similar message; or if at the point of entry of the premise, a crop is visible. The sign or signs, containing letters ~~[not]~~ no less than two inches in height, shall be placed along the boundary line of the land in a manner and in such a position as to be clearly noticeable from outside the boundary line. Possession of agricultural products without ownership and movement certificates, when a certificate is required pursuant to chapter 145, is prima facie evidence that the products are or have been stolen; ~~[or]~~
- (e) ~~[Of agricultural]~~ Agricultural commodities that are generally known to be marketed for commercial purposes. Possession of agricultural commodities without ownership and movement certificates, when a certificate is required pursuant to section 145-22, is prima facie evidence that the products are or have been stolen; provided that ~~[“agriculture”]~~ “agricultural commodities” has the same meaning as in section 145-21~~[-]~~; or
- (f) Property commonly used to store items of monetary value, including but not limited to any purse, handbag, or wallet.”

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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.

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

(Approved April 14, 2021.)

ACT 6

H.B. NO. 172

A Bill for an Act Relating to Offenses Against Property Rights.

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

SECTION 1. The legislature finds that the Hawaii Revised Statutes contains numerous provisions aimed at addressing the high number of vehicle thefts that occur on the island of Oahu. Frequently, a stolen vehicle is recovered during the commission of a crime or after it has been used to commit other crimes. In many vehicle theft cases, the vehicle is recovered while being operated or occupied by individuals who were not authorized to operate or occupy the vehicle. However, law enforcement officers may be unable to connect the actual theft of the vehicle with a specific individual.

Current statutory provisions have been rendered ineffective by state court rulings that require the State to prove that a defendant operating or occupying a stolen vehicle knew that the vehicle was stolen. In the great majority of cases, this requires a confession from the defendant, which may be difficult to obtain because defendants have the right to remain silent. Thus, law enforcement is often hindered in meeting the burden of proof needed to prosecute these cases.

Accordingly, the purpose of this Act is to establish the offense of unauthorized control of propelled vehicle in the second degree, which applies if a person recklessly or negligently exerts unauthorized control over another's propelled vehicle by operating the propelled vehicle without the owner's consent or by changing the identity of the propelled vehicle without the owner's consent.

SECTION 2. Chapter 708, Hawaii Revised Statutes, is amended by adding a new section to part IV be appropriately designated and to read as follows:

“§708- Unauthorized control of a propelled vehicle in the second degree.

(1) A person commits the offense of unauthorized control of a propelled vehicle in the second degree if the person recklessly or negligently exerts unauthorized control over another's propelled vehicle by operating the propelled vehicle without the owner's consent or by changing the identity of the propelled vehicle without the owner's consent.

(2) It is an affirmative defense to a prosecution under this section that the defendant:

- (a) Received authorization to use the propelled vehicle from an agent of the owner where the agent had actual or apparent authority to authorize use; or
- (b) Is a lien holder or legal owner of the propelled vehicle, or an authorized agent of the lien holder or legal owner, engaged in the lawful repossession of the propelled vehicle.

(3) For the purposes of this section:

“Owner” means the registered owner of the propelled vehicle or the unrecorded owner of the propelled vehicle pending transfer of ownership; provided that if there is no registered owner of the propelled vehicle or unrecorded owner of the propelled vehicle pending transfer of ownership, “owner” means the legal owner.

“Propelled vehicle” shall have the same meaning as in section 708-836.

(4) Unauthorized control of a propelled vehicle in the second degree is a misdemeanor.”

SECTION 3. Section 708-836, Hawaii Revised Statutes, is amended to read as follows:

“§708-836 Unauthorized control of a propelled vehicle[-] in the first degree. (1) A person commits the offense of unauthorized control of a propelled vehicle in the first degree if the person intentionally or knowingly exerts unauthorized control over another’s propelled vehicle by operating the propelled vehicle without the owner’s consent or by changing the identity of the propelled vehicle without the owner’s consent.

~~[(2) “Propelled vehicle” means an automobile, airplane, motorcycle, motorboat, or other motor-propelled vehicle.~~

~~(3)~~ (2) It is an affirmative defense to a prosecution under this section that the defendant:

- (a) Received authorization to use the propelled vehicle from an agent of the owner where the agent had actual or apparent authority to authorize ~~[such]~~ use; or
- (b) Is a lien holder or legal owner of the propelled vehicle, or an authorized agent of the lien holder or legal owner, engaged in the lawful repossession of the propelled vehicle.

~~[(4)]~~ (3) For the purposes of this section~~[-] “owner”~~:

“Owner” means the registered owner of the propelled vehicle or the unrecorded owner of the propelled vehicle pending transfer of ownership; provided that if there is no registered owner of the propelled vehicle or unrecorded owner of the propelled vehicle pending transfer of ownership, “owner” means the legal owner.

“Propelled vehicle” means an automobile, airplane, motorcycle, motorboat, or other motor-propelled vehicle.

~~[(5)]~~ (4) Unauthorized control of a propelled vehicle in the first degree is a class C felony.”

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.¹

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

(Approved April 14, 2021.)

Note

1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to Election Proclamations.

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

SECTION 1. Section 11-91, Hawaii Revised Statutes, is amended to read as follows:

“**§11-91 Proclamation.** ~~[Not]~~ No later than 4:30 p.m. on the tenth day ~~[prior to]~~ before the close of filing in elections involving state offices, the chief election officer shall issue an election proclamation. In elections involving only county offices the clerk shall issue the proclamation. In elections involving both state and county offices the proclamation may be issued jointly.

The proclamation shall contain a statement of the ~~[time and places where, and the]~~ purposes for which~~;~~ the election is to be held, and a designation of the offices and the terms thereof for which candidates are to be nominated or elected. It may also contain any other relevant matter including an offer of rewards for the detection and conviction of offenders against the election laws. The chief election officer or clerk shall cause the election proclamation to be published at least once in a newspaper of general circulation and ~~[not]~~ no later than on the tenth day ~~[prior to]~~ before the close of filing.”

SECTION 2. Section 11-92.1, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The ~~[chief election officer]~~ clerk shall issue a proclamation listing all voter service centers and places of deposit, including the days each voter service center and place of deposit is open and the hours of operations and location of each voter service center and place of deposit, as may have been determined by the clerk as of the proclamation date. The clerk shall make arrangements for the rental or erection of suitable shelter for the establishment of a voter service center whenever public buildings are not available and shall cause these voter service centers to be equipped with the necessary facilities for lighting, ventilation, and equipment needed for elections on any island. This proclamation may be issued jointly with the proclamation required in section 11-91.”

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 16, 2021.)

A Bill for an Act Making an Emergency Appropriation for the Department of Human 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 article VII, section 9, of the Constitution of the State of Hawaii.

SECTION 2. Act 9, Session Laws of Hawaii 2020, appropriated a certain designated sum to the department of human services to provide funds for the general assistance program under the benefit, employment and support ser-

vices division for the fiscal period beginning July 1, 2020, and ending June 30, 2021.

A critical funding emergency exists. Pursuant to section 346-53(b), Hawaii Revised Statutes, the general assistance program operates as a block grant program. Currently, depending upon the amount appropriated by the legislature, the monthly maximum allowance a general assistance recipient may receive is determined by dividing the amount of the appropriation by the number of general assistance recipients; though per section 346-71(d), Hawaii Revised Statutes, the maximum allowance shall not exceed sixty-two and one-half per cent of the standard of need. The current monthly general assistance amount is \$388 or forty-one per cent of the standard of need. The standard of need is based upon the 2006 federal poverty level.

Due to the COVID-19 pandemic, the number of individuals receiving general assistance benefits increased more than thirty-one per cent from February through October 2020. Based upon the October caseload of 6,814, the department projects the general assistance program will expend all appropriated funds before the end of the current fiscal year and the department will be unable to maintain the current monthly general assistance allowance of \$388 to the projected caseload of 6,834 general assistance recipients.

The current monthly allowance of \$388 is barely enough to cover living expenses for disabled individuals on a fixed income who have no other viable means of support. Stopping the grant payment or reducing the amount of the grant payment for these recipients poses a real threat to their health and safety. Additional funds are urgently needed to prevent the reduction of general assistance payments in the fourth quarter of fiscal year 2020-2021. The department anticipates that the high monthly caseload will continue, and the department projects an \$8,400,000 shortfall for state fiscal year 2020-2021.

In Act 196, Session Laws of Hawaii 2015, the legislature established the interim assistance reimbursement special fund to receive federal reimbursements paid to the State by the United States Social Security Administration for general assistance payments. Reimbursements paid after the end of the fiscal year are retained by the department and deposited into the interim assistance reimbursement special fund to meet shortfalls in the general assistance program in the event of economic downturn.

Due to the COVID-19 pandemic and the economic downturn, the department withdrew \$202,222.97 from the interim assistance reimbursement special fund to meet program shortfalls in the last quarter of the state fiscal year 2019-2020.

For the current state fiscal year, the department anticipates withdrawing the entire \$3,000,000 from the interim assistance reimbursement special fund and that withdrawals may begin in December 2020.

The department requires an emergency appropriation for state fiscal year 2020-2021.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$3,200,000 or so much thereof as may be necessary for fiscal year 2020-2021 to be used for general assistance payments.

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

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

(Approved April 20, 2021.)

A Bill for an Act Relating to the State Funds.

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

SECTION 1. Section 28-16, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) Disbursements from each account maintained under subsection (b) may include attorney’s fees and other necessary expenses that the department determines to be reasonable and directly related to prosecution of the civil action for which the account is maintained; provided that in the case of moneys deposited as a result of recoveries by an agency to which a non-general fund applies, the moneys shall be held and disbursed intact for deposit to the credit of the non-general fund. Money deposited in the fund pursuant to an order of the court shall be disbursed in accordance with the order of the court. Any residual funds remaining in an account shall be transferred to the respective non-general ~~[or general]~~ fund with which the civil action is associated or, if no specific non-general fund applies, transferred to the emergency and budget reserve fund established pursuant to section 328L-3, no later than thirty days after the civil action for which the account is maintained is closed and all costs of that civil action have been paid, unless otherwise provided for by statute.”

SECTION 2. Section 328L-3, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There is established in the state treasury the emergency and budget reserve fund, which shall be a special fund administered by the director of finance and into which shall be deposited:

- (1) Moneys received from the tobacco settlement moneys under section 328L-2;
- (2) Notwithstanding any other law to the contrary, any moneys received through a civil action in which the State is a party and no other law or court order specifically provides for the deposit elsewhere of moneys received through the action;
- (3) Appropriations made by the legislature to the fund; and
- ~~[(3)]~~ (4) Five per cent of the state general fund balance at the close of the fiscal year, whenever state general fund revenues for each of two successive fiscal years exceeds revenues for each of the preceding fiscal years by five per cent. For the purpose of this section, the general fund balance at the close of the fiscal year shall be calculated after any:
 - (A) Tax refund or tax credit is provided by the legislature;
 - (B) Deposit into the emergency and budget reserve fund or another reserve fund is appropriated by the legislature; or
 - (C) Prepayment of general obligation bond debt service or pension or other post-employment benefit liability is appropriated by the legislature;

during the same regular session as the transfer depositing such moneys to the emergency and budget reserve fund; provided that transfers shall not be made to the emergency and budget reserve fund whenever the balance of the emergency and budget reserve fund is equal to or more than ten per cent of general fund revenues for the preceding fiscal year. The transfer shall be executed by the director of finance.

All moneys deposited into the emergency and budget reserve fund under paragraphs (1) ~~[and]~~, (2), and (3) and all moneys deposited under paragraph ~~[(3)]~~ (4) shall be kept in separate and distinct accounts.”

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 22, 2021.)

ACT 10

H.B. NO. 189

A Bill for an Act Relating to Designating Substitute Judges on the Intermediate Court of Appeals.

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

SECTION 1. Section 602-55, Hawaii Revised Statutes, is amended to read as follows:

“§602-55 Panels; substitute judge. Parties shall be entitled to a hearing before a panel of not less than three intermediate appellate judges. In ~~[the event]~~ case of vacancy, or if the number of available intermediate appellate judges is insufficient to make up a panel because of ~~[vacancy or]~~ disqualification, the chief justice of the supreme court may designate circuit judges ~~[or]~~, retired intermediate appellate judges, or retired supreme court justices to temporarily fill ~~[such]~~ the vacancy or the need[-] to make up a panel. A judge serving temporarily shall not be actively engaged in the practice of law. Substitute judges shall be compensated per diem at a rate of pay equivalent to that of associate intermediate appellate judges.”

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 26, 2021.)

ACT 11

S.B. NO. 60

A Bill for an Act Relating to Special Number Plates.

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

SECTION 1. Chapter 249, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§249- Special number plates; Polynesian Voyaging Society authorized.
(a) Notwithstanding any law to the contrary, the director of finance shall issue to any registered owner of a motor vehicle, who is a resident of the State, upon completed application and payment of the required fees, a special number plate for the registered owner’s motor vehicle commemorating the Polynesian Voyaging Society.

(b) The director of finance of the city and county of Honolulu, in consultation with the directors of finance of the counties of Kauai, Maui, and Hawaii; chiefs of police of the city and county of Honolulu and the counties of Kauai, Maui, and Hawaii; and board of directors of the Polynesian Voyaging Society, shall establish a special number plate design that:

- (1) Contains words, images, or both, that indicate the special number plate is issued to recognize the Polynesian Voyaging Society;
- (2) Is similar in shape and size to the uniform state number plate prescribed by law; and
- (3) Does not obstruct the visibility of the numbers or letters or any other information that is required by law to be on a number plate and is readily identifiable and distinguishable under actual traffic conditions.

(c) The special number plate design shall not:

- (1) Infringe upon or otherwise violate any trademark, trade name, service mark, copyright, or other proprietary or property right;
- (2) Represent any obscene or degrading image, idea, word, or phrase;
- (3) Advertise or endorse a product, brand, or service that is provided for sale;
- (4) Promote any religious belief; or
- (5) Promote any philosophy based on prejudice or that is contrary to state civil rights laws.

(d) Each special number plate shall be securely fastened to the motor vehicle in lieu of the uniform state number plate.

(e) The director of finance shall charge a special number plate fee at least equal to the county's cost of providing the special number plate and administrative costs, if any, plus a fundraising fee to be determined by the director of finance in consultation with the board of directors of the Polynesian Voyaging Society. The fundraising fee shall be in addition to any other state or county fees collected for a motor vehicle registration or license plate.

(f) The director of finance may charge an additional fundraising fee of the same or a different amount as the fundraising fee established pursuant to subsection (e), for the renewal of a special number plate. If an additional fundraising fee is implemented pursuant to this subsection, the director of finance shall revoke the special number plate of any registered owner of a motor vehicle who fails to pay the additional fundraising fee imposed by this subsection.

(g) The revenue generated by the fundraising fees, or a portion of the revenue generated by the fundraising fees as determined by the director of finance, shall be deposited in the name of the Polynesian Voyaging Society in a separate account. The director of finance shall determine the most efficient means of directing the revenue generated by the fundraising fees to the Polynesian Voyaging Society.

(h) The director of finance may revoke all special number plates issued pursuant to this section if the total number of registered owners of motor vehicles that obtain the special number plates is less than one hundred fifty within three years of issuance of the first special number plate.

(i) Nothing in this section shall be construed as to apply to any plates issued pursuant to sections 249-9.2 or 249-9.5.

(j) For the purposes of this section, unless a different meaning appears from the context, "special number plate" means a license plate that represents the Polynesian Voyaging Society."

SECTION 2. Section 249-9.5, Hawaii Revised Statutes, is amended by amending subsection (i) to read as follows:

“(i) Nothing in this section shall be construed to apply to any plates issued pursuant to ~~section~~ sections 249-9.2[.] and 249-_____.”

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 4. This Act shall take effect on July 1, 2021.

(Approved May 6, 2021.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 12

S.B. NO. 1187

A Bill for an Act Making an Emergency Appropriation to the Department of Public Safety.

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

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

SECTION 2. Act 5, Session Laws of Hawaii 2019, as amended by Act 7, Session Laws of Hawaii 2020, and as also amended by Act 9, Session Laws of Hawaii 2020, deleted the base salary of 298.50 positions in the amount of \$17,972,111 in general funds from the fiscal year 2020-2021 budget of the department of public safety. Specifically, 160.0 adult corrections officers' salaries were deleted, totaling \$9,613,332.

The department of public safety operates eight separate correctional institutions in the State, with four institutions on Oahu, two on the island of Hawaii, one on Kauai, and one on Maui, twenty-four hours a day, seven days a week. A sufficient number of trained security staff is required to safely operate these secure institutions. The staff of one hundred sixty (160.0 FTE) adult corrections officers is necessary to ensure continuous security coverage, especially considering any response to the coronavirus disease 2019 (COVID-19) pandemic.

The department projects a shortage in funding for personnel for fiscal year 2020-2021 for the following facilities:

PSD 402- Halawa correctional facility: \$1,281,396

PSD 403- Kulani correctional facility: \$29,520

PSD 404- Waiawa correctional facility: \$292,932

PSD 405- Hawaii community correctional center: \$240,714

PSD 406- Maui community correctional center: \$1,053,924

PSD 407- Oahu community correctional center: \$1,620,912

PSD 408- Kauai community correctional center: \$144,204

PSD 409- Women's community correctional center: \$143,064

Additionally, staffing for the health care division, which is at the forefront of the department's response to the COVID-19 pandemic, has been critically reduced with the deletion of the base salary for 33.50 positions, 26.50 of which are health care professionals, including physicians, psychiatrists, psychologists, registered nurses, para-medical assistants, physical and occupational therapists, and psychiatric social workers. The salary reduction for the 26.50 positions in

ACT 13

PSD 421-health care for fiscal year 2020-2021 is \$2,400,451. The department's pandemic response plan requires all health care disciplines to provide health care service, assistance, and monitoring capabilities in-house at all correctional institutions. The department projects a shortfall for personnel services for PSD 421-health care in fiscal year 2020-2021 as:

PSD 421- health care: \$1,200,226

The purpose of this Act is to make an emergency appropriation to the department of public safety to provide the correctional institutions listed above and the health care division with sufficient funds to cover the personnel costs associated with the provision of continuous operations and response to the COVID-19 pandemic.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$6,006,000 or so much thereof as may be necessary for fiscal year 2020-2021 for the department of public safety to cover the shortfall for personnel services costs.

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

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

(Approved May 7, 2021.)

ACT 13

S.B. NO. 1194

A Bill for an Act Making Emergency Appropriations to the Department of Public Safety Relating to COVID-19 Expenditures.

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 legislature finds that the impact of the SARS-CoV-2 virus and resulting coronavirus disease 2019 (COVID-19) pandemic has been devastating to global, national, and state economies.

The Coronavirus Aid, Relief, and Economic Security Act (CARES Act), Public Law 116-136, was enacted on March 27, 2020, to address the extensive health and economic fallout of the COVID-19 pandemic and provided federal funds to support the State's COVID-19 relief efforts. With the expiration of federal CARES Act funds, the legislature finds that additional funds are needed to continue funding critical COVID-19 response programs and activities for the remainder of fiscal year 2020-2021.

Accordingly, the purpose of this Act is to appropriate funds for COVID-19 response activities and provide transparency and accountability for the use of those funds.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$2,106,460 or so much thereof as may be necessary for fiscal year 2020-2021 for healthcare professional costs and inmate hospitalization expenses at non-state facilities for Hawaii inmates.

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

SECTION 4. 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 2020-2021 for providing food services and deep cleaning, disinfecting, and sanitizing departmental offices and correctional facilities.

The sum appropriated shall be expended by the department public safety¹ for the purposes of this Act.

SECTION 5. There is appropriated out of the general revenues of the State of Hawaii the sum of \$136,201 or so much thereof as may be necessary for fiscal year 2020-2021 for security costs, overtime, and other payroll costs for ten existing full-time equivalent (10.00 FTE) deputy sheriff positions to continue security screening and protocols for the safe travels Hawaii program.

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

SECTION 6. The governor is authorized to transfer funds appropriated by this Act among all executive agencies as deemed necessary; provided that the governor is authorized to transfer funds in excess of what is needed for the department of public safety to the governor’s contingency fund as deemed necessary by the governor for the purposes of this Act.

SECTION 7. The appropriations made by this Act shall not lapse at the end of the fiscal year for which the appropriations are made; provided that all moneys from the appropriation unencumbered as of June 30, 2022, shall lapse as of that date.

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

(Approved May 7, 2021.)

Note

1. So in original.

ACT 14

S.B. NO. 1350

A Bill for an Act Relating to State Government.

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

PART I

SECTION 1. Act 2, Session Laws of Hawaii 2020, is amended by amending section 2 to read as follows:

“SECTION 2. (a) Notwithstanding any law to the contrary and notwithstanding the legislature not disapproving the commission on salaries’ recommendation for salary increases by adoption of a concurrent resolution in 2019, beginning on July 1, 2020, and continuing through [~~June 30, 2021,~~] December 31, 2022, the annual salaries of the governor, lieutenant governor, justices and judges of all state courts, administrative director of the State or an equivalent position, and department heads or executive officers and the deputies or assistants to the department heads or executive officers of the departments of:

- (1) Accounting and general services;
- (2) Agriculture;
- (3) The attorney general;
- (4) Budget and finance;
- (5) Business, economic development, and tourism;
- (6) Commerce and consumer affairs;
- (7) Defense;

- (8) Hawaiian home lands;
- (9) Health;
- (10) Human resources development;
- (11) Human services;
- (12) Labor and industrial relations;
- (13) Land and natural resources;
- (14) Public safety;
- (15) Taxation; and
- (16) Transportation,

shall remain at the salary rate as of June 30, 2020; provided that on ~~[July 1, 2021,]~~ January 1, 2023, the salaries of these positions shall be adjusted pursuant to the salary recommendations of the commission on salaries to the level they would have been on July 1, ~~[2021,]~~ 2022, without the delay under this Act; provided further that the salary recommendations of the commission on salaries for these positions effective July 1, ~~[2022,]~~ 2023, and ~~[each year thereafter through]~~ July 1, 2024, shall become effective on that date in accordance with the recommendations.

(b) Notwithstanding any law to the contrary and notwithstanding the legislature not disapproving the commission on salaries' recommendation for salary increases by adoption of a concurrent resolution in 2019, beginning on January 1, 2021, and continuing through ~~[June 30, 2021,]~~ December 31, 2022, the annual salaries of members of the legislature shall remain at the salary rate as of June 30, 2020; provided that on ~~[July 1, 2021,]~~ January 1, 2023, the salaries of the legislators shall be adjusted pursuant to the salary recommendations of the commission on salaries to the level they would have been on January 1, ~~[2021,]~~ 2023, without the delay under this Act; provided further that the salary recommendations of the commission on salaries for legislators effective ~~[January 1, 2022, and each year thereafter through]~~ January 1, 2024, shall become effective on that date in accordance with the recommendations.

(c) This section shall not be enforced to the extent that it is preempted by federal law.”

PART II

SECTION 2. The purpose of this part is to:

- (1) Permit public notice in a short form for proposed, revised, and final reapportionment plans, subject to specific requirements;
- (2) Temporarily amend the start date for the availability of nomination papers for the 2022 primary election;
- (3) Define “permanent resident” for reapportionment purposes; and
- (4) Authorize and appropriate funds to the reapportionment commission.

SECTION 3. Section 1-28.5, Hawaii Revised Statutes, is amended to read as follows:

“§1-28.5 Publication of notice. (a) Notwithstanding any other statute, law, charter provision, ordinance, or rule to the contrary, whenever a government agency is required to give public notice or to publish notice, the notice shall be given only as follows:

- (1) For statewide publication:
 - (A) In a daily or weekly publication of statewide circulation; or
 - (B) By publication in separate daily or weekly publications whose combined circulation is statewide; and
- (2) For county-wide publication, by publication in a daily or weekly publication in the affected county.

Additional supplemental notice may also be given through Hawaii FYI, the State's interactive computer system.

(b) For purposes of this section, the comptroller pursuant to chapter 103D shall determine a publication for all government agencies to enable the public to go to one source of publication for published public notice on each island.

(c) Whenever a public notice is published in a newspaper or other publication described in subsection (a), proof of the publication shall be the affidavit of the printer, publisher, principal clerk, or business manager of the newspaper or other publication or of the designated agent of the group that published the notice.

(d) This section shall not apply to notices required by chapters 103D, 103F, 127A, and 523A.

(e) For purposes of publishing a proposed, revised, or final reapportionment plan pursuant to section 25-2, public notice shall be permitted in a short form; provided that each short form public notice shall include the following information:

- (1) Whether the reapportionment plan has been either proposed, revised, or adopted;
- (2) The online location to view the reapportionment plan;
- (3) A list of the location of each public office where the hard copies of the reapportionment plan and maps are available; and
- (4) The public hearing dates.

~~[(e)]~~ (f) For purposes of this section, "government agency" means each department, board, commission, or officer of the State or any of its political subdivisions."

SECTION 4. Section 12-2.5, Hawaii Revised Statutes, is amended to read as follows:

“§12-2.5 Nomination papers; when available. Nomination papers shall be made available from the first working day of ~~February~~ March in every even-numbered year; provided that in the case of a special primary or special election, nomination papers shall be made available at least ten days ~~prior to~~ before the close of filing.”

SECTION 5. Section 25-2, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Legislative reapportionment. The commission shall reapportion the members of each house of the legislature on the basis, method, and criteria prescribed by the Constitution of the United States and article IV of the Hawaii State Constitution. ~~[Pursuant thereto, the]~~ For purposes of legislative reapportionment, a “permanent resident” means a person having the person’s domiciliary in the State. In determining the total number of permanent residents for purposes of apportionment among the four basic island units, the commission shall only extract non-permanent residents from the total population of the State counted by the United States Census Bureau for the respective reapportionment year. The commission shall conduct public hearings and consult with the apportionment advisory council of each basic island unit. ~~[Not]~~ No more than one hundred days from the date on which all members are certified, the commission shall cause to be given in each basic island unit, public notice subject to section 1-28.5 of a legislative reapportionment plan prepared and proposed by the commission. At least one public hearing on the proposed reapportionment plan shall be held in each basic island unit after initial public notice of the plan. At

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least twenty days' notice shall be given of the public hearing. The notice shall include a statement of the substance of the proposed reapportionment plan, and of the date, time, and place where interested persons may be heard thereon. The notice shall be given at least once in the basic island unit where the hearing will be held. All interested persons shall be afforded an opportunity to submit data, views, or arguments, orally or in writing, for consideration by the commission. After the last of the public hearings, but in no event later than one hundred fifty days from the date on which all members of the commission are certified, the commission shall determine whether ~~or not~~ the plan is in need of correction or modification, make the correction or modification, if any, and file with the chief election officer, a final legislative reapportionment plan. Within fourteen days after the filing of the final reapportionment plan, the chief election officer shall cause public notice subject to section 1-28.5 to be given of the final legislative reapportionment plan which, upon public notice, shall become effective as of the date of filing and govern the election of members of the next five succeeding legislatures."

SECTION 6. There is appropriated out of the general revenues of the State of Hawaii the sum of \$287,200 or so much thereof as may be necessary for fiscal year 2021-2022 for the reapportionment commission to support its expenses.

The sum appropriated shall be expended by the office of elections for the purposes of this Act.

PART III

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 that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 8. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 9. This Act shall take effect on upon its approval; provided that:

- (1) Part I of this Act shall take effect on June 29, 2021;
- (2) Section 4 of this Act shall be repealed on November 9, 2022; provided further that section 12-2.5, Hawaii Revised Statutes, shall be reenacted in the form in which it read on the day before the effective date of this Act; and
- (3) Section 6 of this Act shall take effect on July 1, 2021.

(Approved May 17, 2021.)

ACT 15

S.B. NO. 1039

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. The following sums or so much thereof as may be necessary for fiscal year 2020-2021 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:

**JUDGMENTS AGAINST THE STATE
AND SETTLEMENTS OF CLAIMS:**

	AMOUNT
1. AGRIBUSINESS DEVELOPMENT CORPORATION:	
Na Kia'i Kai v. Nakatani, et al.	\$ 131,849.15
Civil No. 18-00005, USDC	Settlement
SUBTOTAL	\$ 131,849.15
2. ALOHA STADIUM AUTHORITY:	
Williams v. Aloha Stadium, et al.	\$ 75,000.00
Civil No. 19-1-0762-05, First Circuit	Settlement
SUBTOTAL	\$ 75,000.00
3. DEPARTMENT OF THE ATTORNEY GENERAL:	
Nickel v. Connors, et al.	\$ 5,000.00
Civil No. 20-00330, USDC	Settlement
SUBTOTAL	\$ 5,000.00
4. DEPARTMENT OF EDUCATION:	
Chavis v. State of Hawaii, et al.	\$ 77,000.00
Civil No. 17-1-1455-09, First Circuit	Settlement
Kenigton v. State of Hawaii, et al.	\$ 80,000.00
Civil No. 18-1-1443-09, First Circuit	Settlement
Unga v. Board of Education, et al.	\$ 8,250.00
Civil No. 20-0000576, First Circuit	Settlement
Yoon v. State of Hawaii, et al.	\$ 70,000.00
Civil No. 15-1-1664-08, First Circuit	Settlement
SUBTOTAL	\$ 235,250.00
5. DEPARTMENT OF HAWAIIAN HOME LANDS:	
Kalima, et al. v. State of Hawaii, et al.	\$ 370,418.91
Case No. 18-0000068, Supreme Court of the State of Hawaii	Judgement
SUBTOTAL	\$ 370,418.91
6. DEPARTMENT OF HEALTH:	
Dasalia, et al. v. Onaka, et al.	\$ 44,903.62
Civil No. 13-1-0373-02, First Circuit	Judgment
SUBTOTAL	\$ 44,903.62
7. DEPARTMENT OF LAND AND NATURAL RESOURCES:	
Mahuka, et al. v. Mansker, et al.	\$ 115,000.00
Civil No. 17-1-0973-06, First Circuit	Settlement
SUBTOTAL	\$ 115,000.00

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8. DEPARTMENT OF PUBLIC SAFETY:

Iuli v. State of Hawaii, et al.	\$ 100,000.00
Civil No. 19-1-0634-04, First Circuit	Settlement
SUBTOTAL	\$ 100,000.00

9. HAWAII STATE PUBLIC CHARTER SCHOOL COMMISSION:

Miller-Potter v. State of Hawaii, et al.	\$ 75,000.00
Civil No. 16-1-0385K, Third Circuit	Settlement
HGEA/AFSCME on Behalf of Ardith Renteria, and Charter Volcano School of Arts and Sciences	\$ 74,053.25
	Judgment
SUBTOTAL	\$ 149,053.25

10. MISCELLANEOUS CLAIMS:

Gregory Au	\$ 240.00
Caitlyn LD Cagaoan	\$ 50.00
Christopher Carreon	\$ 815.40
Holiday Jewelers of Hawaii, Inc.	\$ 1,080.21
Melvin Ishizu	\$ 6,041.40
Robert D. Linn	\$ 728.00
Matthew Lutey	\$ 94.00
Mercede Nacion	\$ 150.00
Barbara J. Nakagawa	\$ 75.00
Donna Noguchi	\$ 503.00
Leon Richards	\$ 2,297.45
Gregory and Sarah Rocheleau	\$ 1,367.00
Jerome and Anne Ryan	\$ 5,536.61
Waste Management of Hawaii, Inc.	\$ 15,654.47
Lana Wold	\$ 2,105.55
Cycle City, Ltd.	\$ 27,757.15
John A. Ferreiro Irrevocable Residuary Trust B	\$ 29,161.47
Mid-Pacific Country Club	\$ 10,032.14
SUBTOTAL:	\$ 103,688.85
TOTAL (SECTION 1):	\$ 1,330,163.78

The sums appropriated shall be expended by the department of the attorney general for the purposes of this Act.

PART II

SECTION 2. The following sums or so much thereof as may be necessary for fiscal year 2020-2021 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 amounts set forth opposite their names:

**JUDGMENTS AGAINST THE STATE
AND SETTLEMENTS OF CLAIMS:**

AMOUNT

DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION:

Link v. State of Hawaii	\$ 50,000.00
Civil No. 20-0000681, First Circuit	Settlement
Siu, et al. v. State of Hawaii	\$ 995,000.00
Civil No. 16-1-1230-06, First Circuit	Settlement
SUBTOTAL	\$ 1,045,000.00
TOTAL (SECTION 2):	\$ 1,045,000.00

The sums appropriated shall be expended by the department of transportation, highways division, for the purposes of this Act.

PART III

SECTION 3. 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 that departments shall obtain the approval of the attorney general before payment of any claim may be made.

SECTION 4. 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 Act, as provided in section 662-8, Hawaii Revised Statutes, for those cases to which the statute applies.

SECTION 5. All unexpended and unencumbered balances of the appropriations made in this Act as of the close of business on June 30, 2022, shall lapse.

SECTION 6. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act, which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

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

(Approved May 19, 2021.)

ACT 16

H.B. NO. 357

A Bill for an Act Relating to Statute of Limitations.

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

SECTION 1. The legislature finds that the explicit creation of a statute of limitations applicable to inverse condemnation actions against the State is warranted in light of the Hawaii supreme court’s decision in *DW Aina Le’a Dev., LLC v. State Land Use Comm’n*, 148 Haw. 396 (2020). Setting this limitation by statute will bring certainty and predictability to the time within which a plain-

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tiff must file this type of claim against the State or be barred from pursuing the claim.

Accordingly, the purpose of this Act is to establish a two-year statute of limitations for an inverse condemnation claim brought against the State, including a claim brought under article I, section 20, of the Hawaii State Constitution, pursuant to section 661-5, Hawaii Revised Statutes, by amending the jurisdiction of the state circuit and district courts under section 661-1, Hawaii Revised Statutes, to expressly include claims against the State founded upon article I, section 20, of the Hawaii State Constitution.

SECTION 2. Section 661-1, Hawaii Revised Statutes, is amended to read as follows:

“§661-1 Jurisdiction. The several circuit courts of the State and, except as otherwise provided by statute or rule, the several state district courts, subject to appeal as provided by law, shall have original jurisdiction to hear and determine the following matters, and, unless otherwise provided by law, shall determine all questions of fact involved without the intervention of a jury:

- (1) All claims against the State founded upon any statute of the State; upon any rule of an executive department; upon article I, section 20, of the Hawaii State Constitution; or upon any contract, expressed or implied, with the State, and all claims ~~[which]~~ that may be referred to any such court by the legislature; provided that no action shall be maintained, nor shall any process issue against the State, based on any contract or any act of any state officer that the officer is not authorized to make or do by the laws of the State, nor upon any other cause of action than as herein set forth; and
- (2) All counterclaims, whether liquidated or unliquidated, or other demands whatsoever on the part of the State against any person making claim against the State under this part.”

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 20, 2021.)

ACT 17

H.B. NO. 723

A Bill for an Act Relating to Pandemic Response.

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

SECTION 1. Act 9, Session Laws of Hawaii 2020, is amended by amending section 30 to read as follows:

“SECTION 30. Notwithstanding any other law to the contrary, there is appropriated out of the emergency and budget reserve fund established under section 328L-3, Hawaii Revised Statutes, from the amounts received by the State of Hawaii from the Coronavirus Aid, Relief, and Economic Security Act, Public

Law 116-136, the sum of \$61,000,000 or so much thereof as may be necessary for fiscal year 2020-2021 to be used for the purchase and distribution of personal protective equipment and industrial hygiene products to hospitals, childcare facilities, elderly care facilities, businesses, non-profits, ~~[and]~~ schools, and all state departments and attached agencies, pursuant to Public Law 116-136 and associated guidance issued by appropriate federal agencies; provided that:

- (1) All procurements executed pursuant to this part shall be exempt from the requirements of chapters 103D and 103F, Hawaii Revised Statutes;
- (2) Beginning July 15, 2020, a monthly report that details all allocations and expenditures shall be submitted to the governor and the legislature; and
- (3) On December 28, 2020, any unexpended funds shall be transferred to the unemployment compensation trust fund established under section 383-121, Hawaii Revised Statutes.

The sum appropriated shall be expended by the department of defense for the purposes of this part.”

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 24, 2021.)

ACT 18

H.B. NO. 961

A Bill for an Act Relating to Military Dependents.

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

SECTION 1. The purpose of this Act is to:

- (1) Exempt dependents of military service members from the residency requirement for government employment when the military service member’s dependent is in Hawaii accompanying the military service member on valid military orders; and
- (2) Provide a streamlined pathway for temporary professional licensure of a military spouse.

SECTION 2. 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 within thirty days after beginning their employment and as a condition of eligibility for continued employment~~[-];~~ provided that bona fide military service members’ dependents shall be exempt from the requirement to become residents if the dependents are in the State by virtue of the military service members’ orders.

For purposes of this subsection:

“Dependent”, with respect to a service member, means the service member’s spouse, child who is under the age of eighteen years, or an individual for whom the service member provided more than one-half of the individual’s finan-

cial support for one hundred eighty days immediately preceding an application for an exemption under this section.

“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 primary residence.”

SECTION 3. Section 436B-14.7, Hawaii Revised Statutes, is amended to read as follows:

“§436B-14.7 Licensure by endorsement or licensure by reciprocity; initial acceptance by affidavit; temporary license; military spouse. (a) ~~[If a military spouse holds a current license in another state, district, or territory of the United States with licensure requirements that the licensing authority determines are equivalent to or exceed those established by the licensing authority of this State, that military spouse shall receive a license pursuant to applicable statutes or requirements of the licensing authority of this State regarding licensure by endorsement or licensure by reciprocity; provided that the military spouse:~~

- ~~(1) Has not committed an act in any jurisdiction that would have constituted grounds for the limitation, suspension, or revocation of a license; has never been censured or had other disciplinary action taken; has not had an application for licensure denied; or has not refused to practice a profession or vocation for which the military spouse seeks licensure;~~
- ~~(2) Has not been disciplined by a licensing or credentialing entity in another jurisdiction; is not the subject of an unresolved complaint, review procedure, or disciplinary proceeding conducted by a licensing or credentialing entity in another jurisdiction; and has not surrendered membership on any professional staff in any professional association, society, or faculty for another state or licensing jurisdiction while under investigation or to avoid adverse action for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action in this State;~~
- ~~(3) Pays any fees required by the licensing authority of this State;~~
- ~~(4) Submits with the application a signed affidavit stating that application information, including necessary prior employment history, is true and accurate. Upon receiving the affidavit, if the licensing authority issues the license to the military spouse, the licensing authority may revoke the license at any time if the information provided in the application is found to be false; and~~
- ~~(5) Is the spouse of a military member who is a member in good standing in the active or a reserve component of any of the armed forces of the United States and the military member has orders issued by the appropriate agencies of the armed forces to be stationed in Hawaii for a duration of at least one year.]~~

Notwithstanding any other law to the contrary, a person who is married to an active duty member of the armed forces of the United States shall be approved for temporary licensure if the person:

- (1) Is accompanying the member on an official permanent change of station to a military installation located in this State;
- (2) Either holds a license in another jurisdiction of the United States:
 - (A) As an acupuncturist, behavior analyst, dentist, dispensing optician, hearing aid dealer and fitter, marriage and family therapist, mental health counselor, certified nurse aide, licensed practical nurse, registered nurse, nursing home administra-

tor, occupational therapist, optometrist, pharmacist, naturopathic physician, osteopathic physician, physician, physician assistant, podiatrist, psychologist, respiratory therapist, social worker, speech pathologist, audiologist, or veterinary technician; or

- (B) Is in a profession or vocation not included in subparagraph (A) for which the licensing authority of this State has determined that the licensure requirements of the other jurisdiction are equivalent to or exceed those of this State;
- (3) Has been licensed or certified by another jurisdiction of the United States for at least one year, and the license or certification is current, active, and in good standing without conditions or restrictions in all jurisdictions in which the person holds a license or certification;
- (4) Has met minimum education requirements and applicable work experience and clinical supervision requirements when licensed or certified by another jurisdiction, and the other jurisdiction verifies that the person met those requirements to become licensed or certified in that jurisdiction;
- (5) Has passed the examination requirements for the license or certification, if required by the licensing authority of this State or another jurisdiction;
- (6) Has not had a license or certificate limited, suspended, or revoked and has not voluntarily surrendered a license or certificate in another jurisdiction while under investigation for licensing violations;
- (7) Has not had an application for licensure denied, been censured, or had discipline imposed by another licensing authority; provided that if another jurisdiction has taken disciplinary action against the person, the licensing authority of this State shall determine if all terms and conditions of the discipline, if any, are satisfied and the matter resolved; provided further that if the terms and conditions of discipline have not been satisfied in that jurisdiction, the licensing authority may deny or refuse to issue a license applied for under this section until the terms and conditions of discipline are satisfied;
- (8) Has not surrendered membership on any professional staff in any professional association, society, or faculty while under investigation or to avoid adverse action for acts or conduct that would constitute grounds for disciplinary action in this State;
- (9) Pays all applicable fees;
- (10) Does not have a disqualifying criminal history as determined by the licensing authority; and
- (11) Submits with the application a signed affidavit stating that the application information, including evidence of requisite education, exam, and experience; prior employment; and criminal history record check, is true and accurate; provided that, upon receiving the affidavit, if the licensing authority issues the license to the person, the licensing authority may revoke the license at any time if the information provided in the application is found to be false or if the person fails to maintain the conditions of initial licensure.

(b) A person who is licensed pursuant to this section shall be subject to the laws regulating the person's practice in this State and shall be subject to the jurisdiction of the licensing authority of this State.

~~(b)~~ (c) The licensing authority shall issue to the [military spouse] person a temporary license to allow the [military spouse] person to perform specified services, under the supervision of a professional licensed by this State if

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appropriate, while completing any requirements necessary for licensure in this State; provided that a temporary license shall only be issued in those professions where credentials, experience, or passage of a national exam is substantially equivalent to or exceed those established by the licensing authority of this State.

~~[(e)]~~ (d) The licensing authority shall expedite consideration of the application and issuance of a license by endorsement, license by reciprocity, or temporary license to a ~~[a military spouse]~~ person who meets the requirements of this section.

~~[(d)]~~ (e) A license ~~[by endorsement or reciprocity]~~ issued under subsection (a) shall be valid for the same period of time as a license issued pursuant to the requirements of title 25 for the particular profession; provided that the total time period that ~~[a military spouse]~~ the person holds a license issued ~~[by endorsement or reciprocity]~~ under subsection (a) shall not exceed five years in the aggregate~~[-]~~ or the period covered under the military member's orders of assignment 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 on January 1, 2022.

(Approved May 25, 2021.)

ACT 19

H.B. NO. 391

A Bill for an Act Relating to the Residential Landlord-Tenant Code.

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

SECTION 1. The purpose of this Act is to establish a process for the early termination of a rental agreement for certain active duty servicemembers who:

- (1) Receive military orders requiring the servicemember tenant to vacate civilian housing and move into on-post government quarters; provided that failure to move into on-post government quarters will result in a forfeiture of basic allowance for housing; or
- (2) Die while serving on active duty.

SECTION 2. Chapter 521, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§521- Early termination of tenancy; servicemember tenants. (a) A servicemember tenant may terminate a rental agreement of a term of one year or less without penalty or fees for early termination or liability for future rent if the servicemember tenant receives military orders requiring the servicemember tenant to vacate civilian housing and move into on-post government quarters; provided that:

- (1) Failure to move into on-post government quarters will result in a forfeiture of the servicemember tenant's basic allowance for housing;
- (2) The servicemember tenant requests permission from their commanding officer to maintain their housing allowance and their request is denied; and
- (3) The servicemember tenant submits at least thirty days written notice to the landlord.

(b) When the tenancy is from month to month, a servicemember tenant may terminate a rental agreement without penalty or fees for early termination or liability for future rent if the servicemember tenant receives military orders requiring the servicemember tenant to vacate civilian housing and move into on-post government quarters; provided that failure to move into on-post government quarters will result in a forfeiture of the servicemember tenant's basic allowance for housing; provided further that the servicemember tenant submits at least fifteen days written notice to the landlord.

(c) The written notice required under subsection (a) or (b) shall be accompanied by the following documents:

- (1) Either:
 - (A) A copy of official military orders; or
 - (B) A written verification signed by the servicemember tenant's commanding officer; and
- (2) Written proof from the servicemember tenant's commanding officer that the servicemember tenant's request to maintain their housing allowance was denied.

(d) In the event a servicemember tenant dies during active duty, an adult member of the servicemember tenant's family may terminate a rental agreement of a term of one year or less, or a rental agreement with a month to month tenancy, without penalty or fees for early termination or liability for future rent if the family member provides at least fifteen days written notice to the landlord. The notice shall be accompanied by a copy of the servicemember tenant's death certificate and:

- (1) A copy of official military orders showing the servicemember tenant was on active duty; or
- (2) A written verification signed by the servicemember tenant's commanding officer.

(e) If the servicemember tenant is solely liable on the rental agreement, the rental agreement shall terminate on the early termination date described in subsection (a), (b), or (d), and the servicemember tenant or servicemember tenant's estate or family member, as applicable, shall be liable for rent owed through the early termination date plus any previous obligations outstanding as of that date. The amount due from the servicemember tenant shall be paid to the landlord on or before the early termination date.

(f) If there are multiple tenants who are parties to the rental agreement, the release of one or more servicemember tenants under this section shall not terminate the rental agreement with respect to the other non-terminating tenants; provided that the other non-terminating tenants demonstrate an ability to pay the rent under the rental agreement, as determined by the landlord. If the other non-terminating tenants fail to demonstrate an ability to pay the rent, the landlord may terminate the rental agreement by giving notice of early termination to the other non-terminating tenants at least thirty days before the early termination date specified in the notice; provided that the landlord shall not assess any penalty or fees for the early termination. The amount due from the other non-terminating tenants shall be paid to the landlord on or before the early termination date.

The landlord shall not be required to refund security deposits under section 521-44 or prepaid rent until:

- (1) The rental agreement terminates with respect to all tenants and the dwelling unit is surrendered to the landlord; or
- (2) Early termination is effected pursuant to this section, in which case each terminating tenant shall receive a prorated share of any security deposit or prepaid rent from the landlord upon termination of

the rental agreement; provided that the percentage of any security deposit to be returned shall be determined by the parties in writing; provided further that if there is no determination made by the parties regarding the percentage share of the security deposit, the landlord shall be permitted to refund the security deposit in equal shares to each tenant on the rental agreement.

(g) If a servicemember tenant or an adult member of the servicemember tenant’s family submits notice of early termination in compliance with this section, the landlord shall:

- (1) Return a prorated share of all security deposits recoverable by the terminating servicemember tenant or the terminating servicemember tenant’s family member under section 521-44 and prepaid rent recoverable by the terminating servicemember tenant or the terminating servicemember tenant’s family member following the servicemember tenant’s or family member’s surrender of the dwelling unit, except as otherwise provided in subsection (f); provided that the landlord may withhold a prorated amount of the security deposit for payment of damages that the landlord has suffered by reason of the terminating servicemember tenant’s noncompliance with section 521-51; and
- (2) Not assess any fee or penalty against the terminating servicemember tenant or the terminating servicemember tenant’s family member for exercising any right granted under this section.

(h) This section shall not affect a servicemember tenant’s liability for delinquent, unpaid rent, or other amounts owed to the landlord before the rental agreement was terminated by the servicemember tenant or servicemember tenant’s family member under this section.

(i) Nothing in this section shall be construed to infringe upon or affect in any way the rights a servicemember tenant may have under the federal Servicemembers Civil Relief Act, P.L. 108-189, or chapter 657D.

(j) This section shall not apply if the military orders are a result of disciplinary action or court order.

(k) For the purposes of this section, “servicemember tenant” means an active duty member of the regular or reserve component of the United States armed forces, the United States Coast Guard, or the Hawaii national guard, who is on ordered federal duty for a period of ninety days or more and who is a party to a rental agreement under this chapter.”

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.¹

SECTION 5. This Act shall take effect on November 1, 2021.

(Approved May 25, 2021.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 20

H.B. NO. 171

A Bill for an Act Relating to Property Crimes.

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

SECTION 1. The legislature finds that Hawai‘i has a high property crime rate, and law enforcement officers are tasked with locating, identifying,

and recovering stolen property, and returning the stolen property to the rightful owner. The legislature also finds that existing law does not adequately address situations in which an offender takes the property of another and subsequently sells the stolen item to a pawnbroker or secondhand dealer, as described in chapter 486M, Hawaii Revised Statutes. Criminals have successfully profited from selling or pawning property that was stolen from homes or vehicles and have disguised these transactions as legitimate business dealings. The legislature intends to ensure that pawnbrokers and secondhand dealer businesses, as potential purchasers of these goods, are transparent and fully accountable for all of their respective business dealings.

Accordingly, the purpose of this Act is to clarify the state of mind required for section 486M-7, Hawaii Revised Statutes, to deter movement of stolen property and extend penalties to any person who intentionally, knowingly, or recklessly violates certain laws relating to pawnbrokers and secondhand dealers.

SECTION 2. Section 486M-7, Hawaii Revised Statutes, is amended to read as follows:

“§486M-7 Penalties. Any dealer, or any agent, employee, or representative of a dealer who intentionally, knowingly, or recklessly violates any of the provisions of sections 486M-2, 486M-3, or 486M-4, or who refuses to allow the inspection provided for in section 486M-5, and any person who offers or records information [~~which~~] that is required under section 486M-2 that the person knows or has reason to know is false, shall be guilty of a misdemeanor. Any dealer, or any agent, employee, or representative of a dealer who is convicted for a second violation of any provision of this chapter shall, in addition to the foregoing penalty, be permanently prohibited from engaging in the business of buying or selling of precious or semiprecious metals or precious or semiprecious gems or any article.”

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 28, 2021.)

ACT 21

H.B. NO. 181

A Bill for an Act Relating to the Definition of Property.

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

SECTION 1. Section 708-800, Hawaii Revised Statutes, is amended by amending the definition of “property” to read as follows:

““Property” means any money, personal property, real property, thing in action, evidence of debt or contract, or article of value of any kind[-], and includes property that is stored in an electronic medium and is retrievable in a perceivable form. Commodities of a public utility nature such as gas, electricity, steam, and water constitute property, but the supplying of such a commodity to premises from an outside source by means of wires, pipes, conduits, or other equipment shall be deemed a rendition of a service rather than a sale or delivery of property.”

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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 its approval.

(Approved May 28, 2021.)

ACT 22

H.B. NO. 250

A Bill for an Act Relating to Sexual Assault.

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

SECTION 1. The legislature finds that there was an incident in which a Honolulu police officer was indicted for the offense of sexual assault in the third degree for knowingly subjecting a teenage girl in custody to sexual contact. The indictment was based on the interpretation that a person being stopped by a police officer for a traffic infraction was in “custody”. However, the indictment was dismissed with prejudice due to the court’s determination that the term “custody” in the Hawaii Revised Statutes did not include a traffic stop.

The purpose of this Act is to clarify that the offenses of sexual assault in the second degree and sexual assault in the third degree include, and explicitly prohibit, a law enforcement officer from knowingly subjecting to sexual penetration or sexual contact, a person who is being stopped by a law enforcement officer or accompanied by a law enforcement officer for official purposes, including during a traffic stop.

SECTION 2. Section 707-731, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

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

- (a) [~~The person knowingly~~] Knowingly subjects another person to an act of sexual penetration by compulsion;
- (b) [~~The person knowingly~~] Knowingly subjects to sexual penetration [~~another~~] a person who is mentally incapacitated or physically helpless;
- (c) [~~The person, while~~] While employed:
 - (i) In a state correctional facility;
 - (ii) By a private company providing services at a correctional facility;
 - (iii) By a private company providing community-based residential services to persons committed to the director of public safety and having received notice of this statute;
 - (iv) By a private correctional facility operating in the State [~~of Hawaii~~]; or
 - (v) As a law enforcement officer as defined in section 710-1000, knowingly subjects to sexual penetration; an imprisoned person[;]; a person confined to a detention facility[;]; a person committed to the director of public safety[;]; a person residing in a private cor-

rectional facility operating in the State [~~of Hawaii, or~~]; a person in custody; [~~provided that paragraph (b) and this paragraph shall not be construed to prohibit practitioners licensed under chapter 453 or 455 from performing any act within their respective practices; and further~~] a person who is stopped by a law enforcement officer; or a person who is being accompanied by a law enforcement officer for official purposes; provided that this paragraph shall not be construed to prohibit a law enforcement officer from performing a lawful search pursuant to a warrant or exception to the warrant clause; or

- (d) [~~The person knowingly~~] Knowingly subjects to sexual penetration a [~~minor~~] person who is at least sixteen years old and the [~~person~~] actor is contemporaneously acting in a professional capacity to instruct, advise, or supervise [~~the minor;~~] such a person; provided that~~[:]~~ the actor is:
- (i) [~~The person is not~~] No less than five years older than the minor; and
 - (ii) [~~The person is not~~] Not legally married to the minor.

Paragraphs (b) and (c) shall not be construed to prohibit practitioners licensed under chapter 453 or 455 from performing any act within their respective practices.”

SECTION 3. Section 707-732, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) A person commits the offense of sexual assault in the third degree if~~[:]~~ the person:

- (a) [~~The person recklessly~~] Recklessly subjects another person to an act of sexual penetration by compulsion;
- (b) [~~The person knowingly~~] Knowingly subjects to sexual contact [~~another~~] a person who is less than fourteen years old or causes such a person to have sexual contact with the [~~person;~~] actor;
- (c) [~~The person knowingly~~] Knowingly engages in sexual contact with a person who is at least fourteen years old but less than sixteen years old or causes [~~the minor~~] such a person to have sexual contact with the [~~person;~~] actor; provided that~~[:]~~ the actor is:
 - (i) [~~The person is not~~] No less than five years older than the minor; and
 - (ii) [~~The person is not~~] Not legally married to the minor;
- (d) [~~The person knowingly~~] Knowingly subjects to sexual contact [~~another~~] a person who is mentally defective, mentally incapacitated, or physically helpless, or causes such a person to have sexual contact with the actor;
- (e) [~~The person, while~~] While employed:
 - (i) In a state correctional facility;
 - (ii) By a private company providing services at a correctional facility;
 - (iii) By a private company providing community-based residential services to persons committed to the director of public safety and having received notice of this statute;
 - (iv) By a private correctional facility operating in the State [~~of Hawaii~~]; or

(v) As a law enforcement officer as defined in section ~~[[710-1000]]~~, knowingly subjects to sexual contact, ~~or causes to have sexual contact~~; an imprisoned person~~;~~; a person confined to a detention facility~~;~~; a person committed to the director of public safety~~;~~; a person residing in a private correctional facility operating in the State ~~[of Hawaii, or]~~; a person in custody~~;~~ ~~or causes the person to have sexual contact with the actor~~; a person who is stopped by a law enforcement officer; or a person who is being accompanied by a law enforcement officer for official purposes; provided that this paragraph shall not be construed to prohibit a law enforcement officer from performing a lawful search pursuant to a warrant or an exception to the warrant clause; or

(f) ~~[The person knowingly,]~~ Knowingly, by strong compulsion, has sexual contact with another person or causes another person to have sexual contact with the actor.

Paragraphs (b), (c), (d), and (e) shall not be construed to prohibit practitioners licensed under chapter 453 or 455 from performing any act within their respective practices~~;~~ ~~provided further that paragraph (e)(v) shall not be construed to prohibit a law enforcement officer from performing a lawful search pursuant to a warrant or an exception to the warrant clause].”~~

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 May 28, 2021.)

ACT 23

H.B. NO. 282

A Bill for an Act Relating to Minors.

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

SECTION 1. Section 346-17.6, Hawaii Revised Statutes, is amended by amending subsection (h) to read as follows:

“(h) For purposes of this section:

“Minor” means a person less than eighteen years of age.

“No cost emergency shelter and related services” means accommodation at no cost for a continuous period of no more than thirty days, unless extended for emergency purposes and in compliance with subsection (b), including beds, meals, individual showering facilities, transportation to and from the place of shelter, and any of the following services as deemed appropriate by the provider:

- (1) Assistance with reunification with the family, legal guardian, or legal custodian of the minor;
- (2) Referral to safe housing;
- (3) Individual, family, and group counseling;
- (4) Assistance in obtaining clothing;

- (5) Access to medical and dental care, and mental health counseling;
- (6) Education and employment services;
- (7) Recreational activities;
- (8) Case management, advocacy, and referral services;
- (9) Independent living skills training; and
- (10) Aftercare services, as those services are defined in title 45 Code of Federal Regulations section 1351.1.

“Provider” means any child placing organization, or child caring institution authorized by the department under section 346-17 to receive or place minor children for care and maintenance and to provide related services, health care, or supplies to these minors. “Provider” includes an organization that is not a child placing organization or child caring institution that:

- (1) Conducts criminal history clearances, child abuse and neglect (CA/N) registry checks, background, employment, and any other checks as may be required by state or federal law on an annual basis for all employees and volunteers;
- (2) Maintains separate sleeping areas for unrelated adults and minor children;
- (3) Serves no more than five minor children per day;
- (4) Keeps a current register of all minors admitted; and
- (5) Coordinates with the department to provide shelter or other services for a minor child.”

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 be repealed on June 30, 2023; provided that section 346-17.6, Hawaii Revised Statutes, shall be reenacted in the form in which it read on the day before the effective date of this Act.

(Approved May 28, 2021.)

ACT 24

H.B. NO. 311

A Bill for an Act Relating to the Nursing Facility Sustainability Program.

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

SECTION 1. The legislature finds that the nursing facility sustainability program was established in 2012 and has served a critical role in strengthening the long-term care system in Hawaii. In the nine years since its inception, the nursing facility sustainability program has helped long-term care facilities treat the most vulnerable patients in the State, especially low-income individuals who require these services. The program has been carried out via a public-private partnership to ensure that patients in Hawaii can access quality, affordable care.

The legislature further finds that, even with this program, nursing facilities in the State face major challenges. These challenges are due in part to the health and financial pressures related to the coronavirus disease 2019 (COVID-19) pandemic. Medicaid is jointly financed by the federal and state governments by statutory formula; the federal government pays between fifty per cent and seventy-four per cent, with assistance levels determined by each state’s per capita income. States with the lowest per capita income receive higher federal matching rates. Under federal rules, the state share must be public funds that are not

federal funds. The legislature notes that public funding to help sustain Hawaii's nursing facilities financially may be accessed through a provider fee.

The legislature also finds that provider fees exist in forty-nine states and the District of Columbia as a means of drawing down federal funds to sustain their medicaid programs due to rising state budget deficits, increasing health care costs, and expanding medicaid enrollment. Provider fees, which are collected from specific categories of health care providers, may be imposed on different classes of health care services, including inpatient and outpatient hospital and nursing facility services.

The legislature therefore finds that, in Hawaii, a provider fee on nursing facilities can result in a substantial increase in medicaid payments, without putting additional constraints on the State's budget. The additional federal funds obtained via the fee program authorized by the nursing facility sustainability program can maintain access to care for medicaid recipients, which will allow nursing facilities in the State to continue to serve under-insured or uninsured patients in a timely, effective manner and help ensure the overall sustainability of the health care system in the State during the challenging time of the COVID-19 pandemic.

The purpose of this Act is to preserve access to health care for medicaid recipients by extending the nursing facility sustainability fee program.

SECTION 2. Section 346F-4, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) Revenue from the nursing facility sustainability fee shall be used exclusively as follows:

- (1) No less than eighty-eight per cent of the revenue from the nursing facility sustainability fee shall be used for one or more of the following:
 - (A) To match federal medicaid funds, with the combined total to be used to enhance capitated rates to medicaid managed care health plans for the purpose of increasing medicaid payments to private nursing facilities to support the availability of services and ensure access to care for the medicaid managed care health plan enrollees; or
 - (B) To match federal medicaid funds, with the combined total to enhance capitated rates for the purpose of paying quality incentives;
- (2) Twelve per cent of the revenue from the nursing facility sustainability fee may be used by the department for other departmental purposes; and
- (3) All moneys remaining in the special fund on ~~[December 30, 2021,]~~ June 30, 2024, shall be distributed to nursing facilities within thirty days in the same proportions as received from the nursing facilities.”

SECTION 3. Section 346F-5, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The nursing facility sustainability fee shall not exceed 5.5 per cent of overall net patient service revenue and shall be calculated and paid on a per resident day basis, unless the facility qualifies for an exemption identified in subsection (d)(1). The ~~[per resident daily fee shall not exceed \$20.00 for each affected facility, except for]~~ facilities described in subsection (d)(2)~~], which instead~~ shall pay a ~~[per resident]~~ reduced daily fee ~~[not to exceed \$9.00.]~~ compared to other facilities participating in the program.”

SECTION 4. Section 346F-6, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The department shall collect and each nursing facility shall pay in twelve equal installments the nursing facility sustainability fee in section 346F-5 on a monthly basis, subject to the terms of this section. The fee shall be due within ~~thirty~~ sixty days after the end of each month, with the initial payment due on the later of July 31, 2012, or forty-five days after the required federal approvals for the assessment and any increase in health plan capitation payments have been secured from the Centers for Medicare and Medicaid Services.”

SECTION 5. Section 346F-10, Hawaii Revised Statutes, is amended to read as follows:

“§346F-10 Enhanced rates to medicaid managed care health plans. In accordance with title 42 Code of Federal Regulations part 438, the department shall use revenues from the nursing facility sustainability fee and federal matching funds to enhance the capitated rates paid to medicaid managed care health plans for ~~[state fiscal years 2019–2020 and 2020–2021,]~~ the period of July 1 through December 31, 2021, and calendar years 2022 and 2023, consistent with the following objectives:

- (1) The rate enhancement shall be used exclusively for increasing reimbursements to private nursing facilities to support the availability of services and to ensure access to care to the medicaid managed care health plan enrollees;
- (2) The rate enhancement shall be made part of the monthly capitated rates by the department to medicaid managed care health plans, which shall provide documentation to the department and the nursing facility trade association located in Hawaii certifying that the revenues received under paragraph (1) are used in accordance with this section;
- (3) The rate enhancement shall be actuarially sound and approved by the federal government for federal fund participation;
- (4) The department shall modify the fee-for-service reimbursement rates of the nursing facilities to recognize the medicaid portion of the nursing facility sustainability fee as an additional cost of serving medicaid patients, and to provide a uniform percentage increase in preexisting facility-specific rates; and
- (5) Payments made by the medicaid managed care health plans shall be made within thirty calendar days upon receipt of monthly capitation rates from the department.”

SECTION 6. Section 346F-13, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Collection of the nursing facility sustainability fee under section 346F-5 shall be discontinued if:

- (1) The waiver in section 346F-7 or the enhanced capitation rates in section 346F-10 have not been approved by the Centers for Medicare and Medicaid Services;
- (2) The department reduces funding for nursing facility services below the state appropriation in effect on June 30, ~~[2020;]~~ 2021;
- (3) The department or any other state agency uses the money in the special fund for any use other than the uses permitted pursuant to this chapter; or

- (4) Federal financial participation to match the nursing facility sustainability fee becomes unavailable under federal law. In such case, the department shall terminate the collection of the fee beginning on the effective date of the federal statutory, regulatory, or interpretive change.”

SECTION 7. Act 156, Session Laws of Hawaii 2012, as amended by section 3 of Act 142, Session Laws of Hawaii 2013, as amended by section 2 of Act 124, Session Laws of Hawaii 2014, as amended by section 2 of Act 69, Session Laws of Hawaii 2015, as amended by section 2 of Act 59, Session Laws of Hawaii 2016, as amended by section 5 of Act 60, Session Laws of Hawaii 2017, as amended by section 6 of Act 163, Session Laws of Hawaii 2019, is amended by amending section 5 to read as follows:

“SECTION 5. This Act shall take effect on July 1, 2012, and shall be repealed on ~~[June 30, 2021;]~~ December 31, 2023; provided that section -4, Hawaii Revised Statutes, established by section 2 of this Act, and the amendment made to section 36-30(a), Hawaii Revised Statutes, in section 3 of this Act, shall be repealed on ~~[December 31, 2021;]~~ June 30, 2024.”

SECTION 8. Act 124, Session Laws of Hawaii 2014, as amended by section 3 of Act 69, Session Laws of Hawaii 2015, as amended by section 3 of Act 59, Session Laws of Hawaii 2016, as amended by section 6 of Act 60, Session Laws of Hawaii 2017, as amended by section 7 of Act 163, Session Laws of Hawaii 2019, is amended by amending section 7 to read as follows:

“SECTION 7. This Act shall take effect on June 29, 2014; provided that:

- (1) Section 5 shall take effect on July 1, 2014; and
- (2) The amendments made to ~~[section]~~ sections 36-27(a) and 36-30(a), Hawaii Revised Statutes, in sections 3 and 4 of this Act shall be repealed on ~~[December 31, 2021;]~~ June 30, 2024.”

SECTION 9. There is appropriated out of the nursing facility sustainability program special fund the sum of \$20,000,000 or so much thereof as may be necessary for fiscal year 2021-2022 and the same sum or so much thereof as may be necessary for fiscal year 2022-2023 for uses consistent with section 346F-4, Hawaii Revised Statutes.

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

SECTION 10. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 11. This Act shall take effect on June 29, 2021; provided that sections 8 and 9 of the Act shall take effect on July 1, 2021.

(Approved May 28, 2021.)

ACT 25

H.B. NO. 954

A Bill for an Act Relating to the Hawaii Emergency Management Agency.

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

SECTION 1. The legislature finds that there continues to be an insufficient number of Hawaii emergency management agency staff and applicants

to fill critical position vacancies with trained, experienced, and qualified personnel. Exempting key Hawaii emergency management agency positions from civil service will create the conditions for a responsive, flexible, and aggressive hiring system that will expedite the filling of these vacancies, as well as improve competitive recruiting and retention of qualified and experienced emergency management professionals. There will also be a reduction of risk to the State in having extended vacancies in these critical positions.

SECTION 2. Section 76-16, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The civil service to which this chapter applies shall comprise all positions in the State now existing or hereafter established and embrace all personal services performed for the State, except the following:

- (1) Commissioned and enlisted personnel of the Hawaii National Guard as such, and positions in the Hawaii National Guard that are required by state or federal laws or regulations or orders of the National Guard to be filled from those commissioned or enlisted personnel;
- (2) Positions filled by persons employed by contract where the director of human resources development has certified that the service is special or unique or is essential to the public interest and that, because of circumstances surrounding its fulfillment, personnel to perform the service cannot be obtained through normal civil service recruitment procedures. Any such contract may be for any period not exceeding one year;
- (3) Positions that must be filled without delay to comply with a court order or decree if the director determines that recruitment through normal recruitment civil service procedures would result in delay or noncompliance, such as the Felix-Cayetano consent decree;
- (4) Positions filled by the legislature or by either house or any committee thereof;
- (5) Employees in the office of the governor and office of the lieutenant governor, and household employees at Washington Place;
- (6) Positions filled by popular vote;
- (7) Department heads, officers, and members of any board, commission, or other state agency whose appointments are made by the governor or are required by law to be confirmed by the senate;
- (8) Judges, referees, receivers, masters, jurors, notaries public, land court examiners, court commissioners, and attorneys appointed by a state court for a special temporary service;
- (9) One bailiff for the chief justice of the supreme court who shall have the powers and duties of a court officer and bailiff under section 606-14; one secretary or clerk for each justice of the supreme court, each judge of the intermediate appellate court, and each judge of the circuit court; one secretary for the judicial council; one deputy administrative director of the courts; three law clerks for the chief justice of the supreme court, two law clerks for each associate justice of the supreme court and each judge of the intermediate appellate court, one law clerk for each judge of the circuit court, two additional law clerks for the civil administrative judge of the circuit court of the first circuit, two additional law clerks for the criminal administrative judge of the circuit court of the first circuit, one additional law clerk for the senior judge of the family court of the first circuit, two additional law clerks for the civil motions judge of the circuit

- court of the first circuit, two additional law clerks for the criminal motions judge of the circuit court of the first circuit, and two law clerks for the administrative judge of the district court of the first circuit; and one private secretary for the administrative director of the courts, the deputy administrative director of the courts, each department head, each deputy or first assistant, and each additional deputy, or assistant deputy, or assistant defined in paragraph (16);
- (10) First deputy and deputy attorneys general, the administrative services manager of the department of the attorney general, one secretary for the administrative services manager, an administrator and any support staff for the criminal and juvenile justice resources coordination functions, and law clerks;
 - (11)
 - (A) Teachers, principals, vice-principals, complex area superintendents, deputy and assistant superintendents, other certificated personnel, not more than twenty noncertificated administrative, professional, and technical personnel not engaged in instructional work;
 - (B) Effective July 1, 2003, teaching assistants, educational assistants, bilingual/bicultural school-home assistants, school psychologists, psychological examiners, speech pathologists, athletic health care trainers, alternative school work study assistants, alternative school educational/supportive services specialists, alternative school project coordinators, and communications aides in the department of education;
 - (C) The special assistant to the state librarian and one secretary for the special assistant to the state librarian; and
 - (D) Members of the faculty of the University of Hawaii, including research workers, extension agents, personnel engaged in instructional work, and administrative, professional, and technical personnel of the university;
 - (12) Employees engaged in special, research, or demonstration projects approved by the governor;
 - (13)
 - (A) Positions filled by inmates, patients of state institutions, persons with severe physical or mental disabilities participating in the work experience training programs;
 - (B) Positions filled with students in accordance with guidelines for established state employment programs; and
 - (C) Positions that provide work experience training or temporary public service employment that are filled by persons entering the workforce or persons transitioning into other careers under programs such as the federal Workforce Investment Act of 1998, as amended, or the Senior Community Service Employment Program of the Employment and Training Administration of the United States Department of Labor, or under other similar state programs;
 - (14) A custodian or guide at Iolani Palace, the Royal Mausoleum, and Hulihee Palace;
 - (15) Positions filled by persons employed on a fee, contract, or piecework basis, who may lawfully perform their duties concurrently with their private business or profession or other private employment and whose duties require only a portion of their time, if it is impracticable to ascertain or anticipate the portion of time to be devoted to the service of the State;

- (16) Positions of first deputies or first assistants of each department head appointed under or in the manner provided in section 6, article V, of the Hawaii State Constitution; three additional deputies or assistants either in charge of the highways, harbors, and airports divisions or other functions within the department of transportation as may be assigned by the director of transportation, with the approval of the governor; four additional deputies in the department of health, each in charge of one of the following: behavioral health, environmental health, hospitals, and health resources administration, including other functions within the department as may be assigned by the director of health, with the approval of the governor; an administrative assistant to the state librarian; and an administrative assistant to the superintendent of education;
- (17) Positions specifically exempted from this part by any other law; provided that:
 - (A) Any exemption created after July 1, 2014, shall expire three years after its enactment unless affirmatively extended by an act of the legislature; and
 - (B) All of the positions defined by paragraph (9) shall be included in the position classification plan;
- (18) Positions in the state foster grandparent program and positions for temporary employment of senior citizens in occupations in which there is a severe personnel shortage or in special projects;
- (19) Household employees at the official residence of the president of the University of Hawaii;
- (20) Employees in the department of education engaged in the supervision of students during meal periods in the distribution, collection, and counting of meal tickets, and in the cleaning of classrooms after school hours on a less than half-time basis;
- (21) Employees hired under the tenant hire program of the Hawaii public housing authority; provided that not more than twenty-six per cent of the authority's workforce in any housing project maintained or operated by the authority shall be hired under the tenant hire program;
- (22) Positions of the federally funded expanded food and nutrition program of the University of Hawaii that require the hiring of nutrition program assistants who live in the areas they serve;
- (23) Positions filled by persons with severe disabilities who are certified by the state vocational rehabilitation office that they are able to perform safely the duties of the positions;
- (24) The sheriff;
- (25) A gender and other fairness coordinator hired by the judiciary;
- (26) Positions in the Hawaii National Guard youth and adult education programs;
- (27) In the state energy office in the department of business, economic development, and tourism, all energy program managers, energy program specialists, energy program assistants, and energy analysts;
- (28) Administrative appeals hearing officers in the department of human services;
- (29) In the Med-QUEST division of the department of human services, the division administrator, finance officer, health care services branch administrator, medical director, and clinical standards administrator;

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(30) In the director’s office of the department of human services, the enterprise officer, information security and privacy compliance officer, security and privacy compliance engineer, and security and privacy compliance analyst; ~~and~~

~~[(31)]~~ The Alzheimer’s disease and related dementia services coordinator in the executive office on aging[-]; and

(32) In the Hawaii emergency management agency, the executive officer, public information officer, civil defense administrative officer, branch chiefs, and emergency operations center state warning point personnel; provided that, for state warning point personnel, the director shall determine that recruitment through normal civil service recruitment procedures would result in delay or noncompliance.

The director shall determine the applicability of this section to specific positions.

Nothing in this section shall be deemed to affect the civil service status of any incumbent as it existed on July 1, 1955.”

SECTION 3. 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 28, 2021.)

ACT 26

H.B. NO. 975

A Bill for an Act Relating to Reports of Child Abuse.

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

SECTION 1. The legislature finds that the Child Abuse Prevention and Treatment Act of 1974 (P.L. 93-247), as amended, provides federal funding to states for prevention, assessment, investigation, prosecution, and treatment activities for child abuse and neglect. On January 7, 2019, the Victims of Child Abuse Act Reauthorization Act of 2018 (P.L. 115-424), was enacted, further amending certain provisions of the Child Abuse Prevention and Treatment Act. The 2019 amendment provides immunity from civil and criminal liability “for individuals making good faith reports of suspected or known instances of child abuse or neglect, or who otherwise provide information or assistance, including medical evaluations or consultations, in connection with a report, investigation, or legal intervention pursuant to a good faith report of child abuse or neglect.”

The legislature further finds that due to the impact of the coronavirus disease 2019 pandemic on the Hawaii state legislature’s regular session of 2020, the Children’s Bureau of the Administration for Children and Families of the United States Department of Health and Human Services, granted the department of human services an extension until June 30, 2021, to bring Hawaii’s law into compliance with federal law.

The purpose of this Act is to bring state law into compliance with the most recent amendments to the Child Abuse Prevention and Treatment Act by no later than June 30, 2021.

SECTION 2. Section 350-3, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Anyone participating in good faith in the making of a report pursuant to this chapter shall have immunity from any liability, civil or criminal, that might be otherwise incurred or imposed by or as a result of the making of such report~~[-]~~. including persons who otherwise provide information or assistance, including medical evaluations or consultation, in connection with a report, investigation, or legal intervention pursuant to a good faith report of child abuse or neglect. Any such participant shall have the same immunity with respect to participation in any judicial proceeding resulting from such report.”

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 30, 2021.

(Approved May 28, 2021.)

ACT 27

H.B. NO. 1237

A Bill for an Act Relating to the Judiciary.

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

SECTION 1. The legislature finds that temporary restraining orders, protective orders, and injunctions restraining a person from contacting, threatening, physically abusing, or harassing a minor typically expire when the minor reaches the age of majority because there is ambiguity whether the courts have the authority to issue these orders for a period that extends beyond the date when the minor turns eighteen years of age. This forces the now eighteen-year-old who was previously protected to return to court and complete the process again.

The purpose of this Act is to clarify that the courts have the authority to issue temporary restraining orders, protective orders, and injunctions for reasonable time periods that expire after a protected minor reaches the age of majority.

SECTION 2. Section 586-5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) A temporary restraining order granted pursuant to this chapter shall remain in effect at the discretion of the court, for a period not to exceed one hundred eighty days from the date the order is granted or until the effective date, as defined in section 586-5.6, of a protective order issued by the court, whichever occurs first~~[-]~~. including, in the case where a temporary restraining order restrains any party from contacting, threatening, or physically abusing a minor, for a period extending to a date after the minor has reached eighteen years of age.”

SECTION 3. Section 586-5.5, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) If, after hearing all relevant evidence, the court finds that the respondent has failed to show cause why the order should not be continued and that a protective order is necessary to prevent domestic abuse or a recurrence of abuse, the court may order that a protective order be issued for a further fixed reasonable period as the court deems appropriate~~[-]~~. including, in the case where a protective order restrains any party from contacting, threatening, or physically

abusing a minor, a fixed reasonable period extending to a date after the minor has reached eighteen years of age.

The protective order may include all orders stated in the temporary restraining order and may provide for further relief as the court deems necessary to prevent domestic abuse or a recurrence of abuse, including orders establishing temporary visitation and custody with regard to minor children of the parties and orders to either or both parties to participate in domestic violence intervention services. If the court finds that the party meets the requirements under section 334-59(a)(2), the court further may order that the party be taken to the nearest facility for emergency examination and treatment.

(b) A protective order may be extended for ~~[such]~~ a further fixed reasonable period as the court deems appropriate~~[-]~~, including, in the case where a protective order restrains any party from contacting, threatening, or physically abusing a minor, for a fixed reasonable period extending to a date after the minor has reached eighteen years of age. Upon application by a person or agency capable of petitioning under section 586-3, the court shall hold a hearing to determine whether the protective order should be extended. In making a determination, the court shall consider evidence of abuse and threats of abuse that occurred before the initial restraining order and whether good cause exists to extend the protective order.

The extended protective order may include all orders stated in the preceding restraining order and may provide ~~[such]~~ further relief as the court deems necessary to prevent domestic abuse or a recurrence of abuse, including orders establishing temporary visitation and custody with regard to minor children of the parties and orders to either or both parties to participate in domestic violence intervention services. The court may terminate the extended protective order at any time with the mutual consent of the parties.”

SECTION 4. Section 604-10.5, Hawaii Revised Statutes, is amended by amending subsection (g) to read as follows:

“(g) A temporary restraining order that is granted under this section shall remain in effect at the discretion of the court for a period not to exceed ninety days from the date the order is granted~~[-]~~, including, in the case where a temporary restraining order restrains any party from harassing a minor, for a period extending to a date after the minor has reached eighteen years of age. A hearing on the petition to enjoin harassment shall be held within fifteen days after the temporary restraining order is granted. If service of the temporary restraining order has not been effected before the date of the hearing on the petition to enjoin, the court may set a new date for the hearing; provided that the new date shall not exceed ninety days from the date the temporary restraining order was granted.

The parties named in the petition may file or give oral responses explaining, excusing, justifying, or denying the alleged act or acts of harassment. The court shall receive all evidence that is relevant at the hearing and may make independent inquiry.

If the court finds by clear and convincing evidence that harassment as defined in paragraph (1) of that definition exists, it may enjoin for no more than three years further harassment of the petitioner, or that harassment as defined in paragraph (2) of that definition exists, it shall enjoin for no more than three years further harassment of the petitioner~~[-]~~, including, in the case where any party is enjoined from harassing a minor, for a period extending to a date after the minor has reached eighteen years of age; provided that this ~~[paragraph]~~ subsection shall not prohibit the court from issuing other injunctions against the

named parties even if the time to which the injunction applies exceeds a total of three years.

Any order issued under this section shall be served upon the respondent. For the purposes of this section, “served” [~~shall mean~~] means actual personal service, service by certified mail, or proof that the respondent was present at the hearing at which the court orally issued the injunction.

Where service of a restraining order or injunction has been made or where the respondent is deemed to have received notice of a restraining order or injunction order, any knowing or intentional violation of the restraining order or injunction order shall subject the respondent to the provisions in subsection (i).

Any order issued shall be transmitted to the chief of police of the county in which the order is issued by way of regular mail, facsimile transmission, or other similar means of transmission.”

SECTION 5. This Act does not affect 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.

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

(Approved May 28, 2021.)

ACT 28

S.B. NO. 1150

A Bill for an Act Relating to Skilled Nursing Facility Licensing.

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

SECTION 1. The legislature finds that there are organizations such as The Joint Commission, which provide accreditation or certification for skilled nursing facilities. Authorizing the department of health to recognize these organizations and accept their accreditation and certification reviews to establish a skilled nursing facility’s compliance with all licensing requirements of the State will allow the department to effectively continue its regulatory oversight responsibilities for licensing purposes and more efficiently use its limited resources for other oversight activities.

The purpose of this Act is to authorize the department of health to accept nationally recognized accreditation or certification organizations to demonstrate a skilled nursing facility’s compliance with the licensing inspections required by the State.

SECTION 2. Chapter 321, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

“PART . SKILLED NURSING FACILITIES

§321- Skilled nursing facilities. (a) All skilled nursing facilities shall be licensed by the department of health to ensure the health, safety, and welfare of the individuals placed therein.

(b) The director of health shall adopt rules pursuant to chapter 91 that shall provide for the licensing of skilled nursing facilities.

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(c) The rules shall provide that accreditation by The Joint Commission or other nationally recognized accreditation or certification organization demonstrates a skilled nursing facility's compliance with all licensing inspections required by the State. The rules may exempt a skilled nursing facility from a licensing inspection on a continuing basis throughout the term of the accreditation or certification under the following conditions:

- (1) The skilled nursing facility provides a certified copy of the facility's official accreditation or certification report to the department;
- (2) The skilled nursing facility continuously holds full accreditation or certification by the accreditation or certification organization; and
- (3) The skilled nursing facility holds a current and valid state license.

(d) The rules shall provide that the department may conduct inspections and investigations of exempt skilled nursing facilities regarding complaints, adverse accreditation or certification findings, or periodic validation surveys.

(e) Information contained in reports of survey and official accreditation or certification letters made by the accreditation or certification organization used in determining compliance with licensing requirements shall be public information.

(f) All other records maintained by the department shall be governed by chapter 92F.”

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

(Approved May 28, 2021.)

ACT 29

H.B. NO. 204

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. SHORT TITLE. This Act shall be known and may be cited as the Office of Hawaiian Affairs Appropriations Act of 2021.

SECTION 2. DEFINITIONS. As used in this Act, unless the context otherwise requires:

“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. These letter symbols, where used, shall mean the following:

A General funds

T Trust funds

“Position ceiling” means the maximum number of permanent and temporary full-time equivalent positions authorized for a particular program during a specified period or periods, as denoted by an asterisk (*) for permanent full-time equivalent positions and a pound sign (#) for temporary full-time equivalent positions.

“Program ID” means the unique identifier for the specific program and consists of OHA, the abbreviation for the office of Hawaiian affairs, followed by the organization number for the program.

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 appropriated or authorized from the means of financing specified to the office of Hawaiian affairs for the fiscal biennium beginning July 1, 2021, and ending June 30, 2023. The total expenditures and the number of positions in each fiscal year of the biennium shall not exceed the sums and the numbers indicated for each fiscal year, except as provided elsewhere in this Act, or as provided by general law.

PROGRAM APPROPRIATIONS				APPROPRIATIONS	
ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	FISCAL M	FISCAL M
				YEAR O	YEAR O
				2021-2022 F	2022-2023 F
Hawaiian Affairs					
1.	OHA150 -	OFFICE OF THE TRUSTEES			
	OPERATING		OHA	0.47 *	0.47 *
			OHA	0 A	0 A
			OHA	4.53 *	4.53 *
			OHA	275,687 T	275,687 T
2.	OHA160 -	ADMINISTRATION			
	OPERATING		OHA	5.03 *	5.03 *
			OHA	0 A	0 A
			OHA	31.97 *	31.97 *
			OHA	2,861,727 T	2,861,727 T
3.	OHA175 -	BENEFICIARY ADVOCACY			
	OPERATING		OHA	1.47 *	1.47 *
			OHA	2,254,400 A	2,254,400 A
			OHA	18.53 *	18.53 *
			OHA	3,292,290 T	3,292,290 T

PART III. PROGRAM PROVISIONS

SECTION 4. Provided that the general fund appropriations in part II of this Act shall be expended by the Office of Hawaiian Affairs.

SECTION 5. Provided that of the funds appropriated for beneficiary advocacy (OHA175), the sum of \$500,000 in general funds and \$500,000 in trust funds for fiscal year 2021-2022 and the same sums for fiscal year 2022-2023 shall be expended for office of Hawaiian affairs beneficiaries for occupancy ready housing needs.

SECTION 6. Provided that of the funds appropriated for beneficiary advocacy (OHA175), the sum of \$415,000 in general funds and \$415,000 in trust funds for fiscal year 2021-2022 and the same sums for fiscal year 2022-2023 shall be expended to provide for social services, including referral services and case management, to at-risk Office of Hawaiian Affairs beneficiaries to immediately address unexpected crises; provided further that program activities shall be designed with an overall objective to provide financial assistance to improve stability during emergency situations; and 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, or a competitive grants process, as appropriate.

SECTION 7. Provided that of the funds appropriated for beneficiary advocacy (OHA175), the sum of \$615,000 in general funds and \$615,000 in trust funds for fiscal year 2021-2022 and the same sums for fiscal year 2022-2023 shall be expended to provide for educational improvement programs for native Hawaiian students; provided further that program activities shall be designed to help native Hawaiian students succeed academically; and provided further that notwithstanding section 10-17(e), Hawaii Revised Statutes, any expenditures for the purposes of this section shall be in accordance with chapter 103D or 103F, Hawaii Revised Statutes, or a competitive grants process, as appropriate.

SECTION 8. Provided that of the funds appropriated for beneficiary advocacy (OHA175), the sum of \$524,400 in general funds and \$524,400 in trust funds for fiscal year 2021-2022 and the same sums for fiscal year 2022-2023 shall be expended to provide for legal services and legal representation to Office of Hawaiian Affairs beneficiaries for:

- (1) The assertion and defense of quiet title actions;
- (2) Assistance with ahupuaa and kuleana tenant rights, including rights of access and rights to water;
- (3) Land title assistance, including review of title and genealogy;
- (4) Preservation of traditional and customary practices;
- (5) Protection of culturally significant places;
- (6) Preservation of native Hawaiian land trust entitlements; and

provided further that notwithstanding section 10-17(e), Hawaii Revised Statutes, any funds expended for the purposes of this section shall be made in accordance with chapter 103D or 103F, Hawaii Revised Statutes, as appropriate.

PART IV. RELEASE OF PRIOR FUNDS

SECTION 9. Act 37, Session Laws of Hawaii 2019, is amended by amending section 8 to read as follows:

“SECTION 8. ~~[(a) Provided that of the trust funds appropriated in part II of this Act, the sum of \$500,000 for fiscal year 2019-2020 shall be expended for the costs for the auditor to conduct or contract for a financial and management audit of the Office of Hawaiian Affairs.~~

~~The auditor shall submit a report of the findings and recommendations of the audit to the legislature, governor, and the chairperson of the board of trustees of the office of Hawaiian affairs no later than twenty days prior to the convening of the regular session of 2020.~~

~~(b) Provided that the general funds appropriated for fiscal year 2020-2021 pursuant to part II of this Act shall not be released to the Office of Hawaiian Affairs until after the [audit report required by subsection (a)] CLA – OHA & LLCs Contract and Disbursement Review – Report, dated December 4, 2019, is received by the legislature.”~~

SECTION 10. The general funds appropriated for fiscal year 2020-2021 pursuant to part II of Act 37, Session Laws of Hawaii 2019, shall not lapse at the end of the fiscal year for which the appropriation is made; provided that all moneys from the appropriation that are unencumbered as of June 30, 2022, shall lapse as of that date.

SECTION 11. Provided that of the general funds appropriated for beneficiary advocacy (OHA175), the sum of \$200,000 for fiscal year 2021-2022 shall be expended to conduct or contract for a follow-up contract and disbursement review of the CLA – OHA & LLCs Contract and Disbursement Review – Report, dated December 4, 2019.

PART V. MISCELLANEOUS PROVISIONS AND EFFECTIVE DATE

SECTION 12. Provided that whenever necessary, the board of trustees of the Office of Hawaiian Affairs or the board's designee may transfer sufficient funds and positions between programs for operating purposes; provided further that these transfers shall be consistent with legislative intent; and provided further that the Office of Hawaiian Affairs shall submit a report to the legislature of all uses of this authority for the previous twelve month period from December 1 to November 30, no later than twenty days prior to the convening of the regular sessions of 2022 and 2023.

SECTION 13. If any provision of this Act, or the application thereto 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. 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 that appropriation to the extent possible.

SECTION 14. If manifest clerical, typographical, or other mechanical errors are found in this Act, the board of trustees of the Office of Hawaiian Affairs may correct these errors. All changes made pursuant to this section shall be reported to the legislature at its next session.

SECTION 15. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 16. This Act shall take effect on July 1, 2021; provided that sections 9 and 10 of this Act shall take effect retroactive to June 30, 2021.

(Approved May 28, 2021.)

ACT 30

S.B. NO. 189

A Bill for an Act Relating to Dog Bites.

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

SECTION 1. The legislature finds that dog bites are among the top reasons for emergency room visits, ranking higher than injuries occurring on motorcycles, to pedestrians, and from gunshots. According to a 2018 study, an average of over 4.6 million people in the United States each year are admitted into the emergency department as a result of a dog bite. Many dog bite victims are children.

The legislature further finds that the current state law only allows a dog bite victim standing in district court if it can be proven to the court that the dog has bitten and injured a person on at least two separate occasions. However, the

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legislature notes there is no systematic tracking system for dog bites in the State and many dog bite incidents go unreported.

Therefore, the purpose of this Act is to allow a person who has been bitten by a dog to bring legal action against the dog's owner without having to prove that the dog has bitten a person on two separate occasions.

SECTION 2. Section 142-75, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Whenever a dog has bitten a human being [~~on at least two separate occasions~~] under circumstances for which none of the exceptions specified in section 663-9.1 apply, any person may bring an action against the owner of the dog in the district court of the judicial circuit in which the owner resides, to determine whether conditions of the treatment or confinement of the dog or other circumstances existing at the time of the bite or bites have been changed so as to remove the danger to other persons presented by [~~such~~] the animal. The court, after hearing, may make any order it deems appropriate to prevent the recurrence of such an incident, including but not limited to the removal of the animal from the area or its destruction by its owner. In making its decision, the court may consider:

- (1) The vicious or dangerous propensities of the animal;
- (2) The ability of the owner to adequately confine or remove the animal; and
- (3) The necessity of any destruction of an animal in light of the health, safety, and welfare of the community.

This section shall not preclude any existing common law remedies.”

SECTION 3. 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 7, 2021.)

ACT 31

S.B. NO. 343

A Bill for an Act Relating to Sexual Assault of an Animal.

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

SECTION 1. The legislature finds that the sexual assault of an animal, or bestiality, is prohibited in forty-six states. While Hawaii has strong animal cruelty laws, the sexual molestation of animals by humans is not adequately addressed. Animal cruelty laws require proof of specific actions such as torture, actions that inflict bodily injury to the animal, or actions that cause the animal's death. Some sexual assaults of animals cannot be prosecuted under animal cruelty laws because they do not cause bodily injury. Additionally, many acts of animal sexual abuse are discovered long after the incident occurs, limiting the available evidence.

The legislature further finds that the sexual assault of an animal has been significantly linked to the sexual abuse of children, as well as interpersonal violence and other forms of animal cruelty. In addition, sexual abusers of animals have been shown to collect and share child pornography and express interest in other aberrant behavior involving sexual violence and fetish behaviors.

The legislature additionally finds that establishing the sexual assault of an animal as a separate crime will allow state law enforcement officers to better identify potentially dangerous and violent sexual predators in their communities.

Accordingly, the purpose of this Act is to prohibit the sexual assault of an animal in the State.

SECTION 2. Chapter 711, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§711- Sexual assault of an animal. (1) A person commits the offense of sexual assault of an animal if the person knowingly:

- (a) Subjects an animal to sexual contact;
 - (b) Possesses, sells, transfers, purchases, or otherwise obtains an animal with the intent to subject the animal to sexual contact;
 - (c) Organizes, promotes, conducts, or participates as an observer in an act where an animal is subject to sexual contact;
 - (d) Causes, coerces, aids, or abets another person to subject an animal to sexual contact;
 - (e) Permits sexual contact with an animal to be conducted on any premises under the person’s charge or control;
 - (f) Advertises, solicits, offers, or accepts the offer of an animal with the intent that it be subjected to sexual contact in the State; or
 - (g) Creates, distributes, publishes, or transmits, whether for commercial or recreational purposes, a pornographic image or material depicting a person subjecting an animal to sexual contact.
- (2) This section shall not apply to the following practices:
- (a) Veterinary medicine;
 - (b) Artificial insemination of animals for the purpose of procreation;
 - (c) Animal husbandry;
 - (d) Conformation judging; or
 - (e) Customary care of an animal by its owner.
- (3) Unless otherwise provided by any other law:
- (a) Sexual assault of an animal is a misdemeanor for the first offense and a class C felony for the second or subsequent offense; or
 - (b) If the offense subjected a minor to sexual contact with an animal or was committed in the presence of a minor as defined in section 706-606.4, sexual assault of an animal is a class B felony.
- (4) Each violation of this section shall constitute a separate offense.
- (5) Upon conviction, guilty plea, or plea of nolo contendere for any violation of this section, in addition to any other penalty, the defendant shall be:
- (a) Ordered to:
 - (i) Surrender or forfeit the animal whose sexual assault was the basis of the conviction or plea to the custody of the animal service contractor in the county in which the offense took place for the time and under the conditions ordered by the court;
 - (ii) Surrender or forfeit any other animals in the defendant’s possession, custody, or control to the animal service contractor in the county in which the offense took place for the time and under the conditions ordered by the court; provided that there is substantial evidence that the animals are being abused in violation of this section;
 - (iii) Reimburse the animal service contractor in the county in which the offense took place for reasonable costs incurred to care for, feed, house, and medically treat any animal sexually assaulted under this section;

- (iv) Attend an appropriate treatment program or obtain psychiatric or psychological counseling, at the defendant's expense; and
 - (v) Make restitution to the owner of the animal, including reimbursement for any expenses incurred for medical treatment or rehabilitation; provided that the defendant is not the owner of the animal whose sexual assault was the basis of the conviction or plea; and
- (b) Prohibited from:
- (i) Harboring, owning, possessing, or exercising control over any animal;
 - (ii) Residing in any household where animals are present; and
 - (iii) Engaging in any occupation, whether paid or unpaid, or participating in a volunteer position at any establishment at which animals are present, for the length of time that the court deems reasonable for the protection of all animals but no less than five years after the person's release from imprisonment or court supervision.

(6) Prosecution under this section does not preclude prosecution under any other law. Nothing in this section is intended to affect any civil remedies available for a violation of this section.

(7) As used in this section:

“Animal” includes every living or dead creature, except a human being.

“Pornographic” has the same meaning as defined in section 712-1210.

“Sexual contact” means:

- (a) The intentional touching or penetration, however slight, of the sex organs, genitalia, mouth, or anus of an animal by a person or of a person by an animal; or
- (b) The insertion of a person's body part or object into the sex organs, genitalia, mouth, or anus of an animal.

(8) Violations of this section shall be subject to the search, impound, and forfeiture provisions in sections 711-1109.1 and 711-1109.2.”

SECTION 3. Section 706-606.4, Hawaii Revised Statutes, is amended by amending subsection (2) to read as follows:

“(2) As used in this section:

“In the presence of a minor” means in the actual physical presence of a child or knowing that a child is present and may hear or see the offense.

“Offense” means a violation of section 707-710 (assault in the first degree), 707-711 (assault in the second degree), 707-730 (sexual assault in the first degree), 707-731 (sexual assault in the second degree), 707-732 (sexual assault in the third degree), [ø] 709-906 (abuse of family or household members)[-], or 711- (sexual assault of an animal).”

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.¹

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

(Approved June 7, 2021.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 32

S.B. NO. 385

A Bill for an Act Relating to the Uniform Trust Code.

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

SECTION 1. The legislature finds that the Uniform Trust Code is a national codification of the law of trusts, which provides for greater clarity and uniformity in trust law and interpretation. While there are currently a number of Hawaii statutes relating to trusts, the Uniform Trust Code serves to update these laws and to bring them under one comprehensive umbrella.

The legislature further finds that the Uniform Trust Code will significantly reduce the time, complexity, and expense of trust proceedings and, in certain instances, allow for nonjudicial resolution of trust issues that currently require court intervention. At the same time, the Uniform Trust Code provides ready access to a judge if either a dispute arises during the course of trust administration or the interested parties desire judicial supervision. The Uniform Trust Code also provides greater clarity and certainty in many areas of trust law that are exceedingly thin or without precedent in Hawaii.

The purpose of this Act is to enact the Uniform Trust Code (2018 version) in the State, with appropriate amendments to reflect Hawaii law and practice where relevant.

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

**“CHAPTER
UNIFORM TRUST CODE**

PART I. GENERAL PROVISIONS AND DEFINITIONS

§ -101 **Short title.** This chapter may be cited as the Uniform Trust Code.

§ -102 **Scope.** This chapter applies to express trusts, charitable or noncharitable, and trusts created pursuant to a statute, judgment, or decree that requires the trust to be administered in the manner of an express trust.

§ -103 **Definitions.** As used in this chapter:

“Action”, with respect to an act of a trustee, includes a failure to act.

“Ascertainable standard” means a standard relating to an individual’s health, education, support, or maintenance within the meaning of section 2041(b)(1)(A) or 2514(c)(1) of the Internal Revenue Code of 1986, as in effect on the effective date of this chapter.

“Beneficiary” means a person who:

- (1) Has a present or future beneficial interest in a trust, vested or contingent; or
- (2) In a capacity other than that of trustee, holds a power of appointment over trust property.

“Charitable trust” means a trust, or portion of a trust, created for a charitable purpose described in section -405(a).

“Conservator” means a person appointed by the court to administer the estate of a minor or adult individual.

“Court” means the circuit court in this State having jurisdiction over all subject matter relating to trusts.

“Environmental law” means a federal, state, or local law, rule, regulation, or ordinance relating to protection of the environment.

“Guardian” means a person appointed by the court, a parent, or a spouse to make decisions regarding the support, care, education, health, and welfare of a minor or adult individual. “Guardian” does not include a guardian ad litem.

“Incapacitated” means an individual who, for reasons other than age, is unable to manage property and business affairs effectively because of an impairment in the ability to receive and evaluate information or to make or communicate decisions, even with the use of appropriate and reasonably available technological assistance or because of another physical, mental, or health impairment, or because the individual is missing, detained, or unable to return to the United States.

“Interested persons” includes beneficiaries and any others having a property right in or claim against a trust estate that may be affected by a judicial proceeding and fiduciaries and other persons representing interested persons. The meaning as it relates to particular persons may vary from time to time and shall be determined according to the particular purposes of, and matter involved in, any proceeding.

“Interests of the beneficiaries” means the beneficial interests provided in the terms of the trust.

“Jurisdiction”, with respect to a geographic area, includes a state or country.

“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.

“Power of withdrawal” means a presently exercisable general power of appointment other than a power:

- (1) Exercisable by a trustee and limited by an ascertainable standard; or
- (2) Exercisable by another person only upon consent of the trustee or a person holding an adverse interest.

“Property” means anything that may be the subject of ownership, whether real or personal, legal or equitable, or any interest therein.

“Qualified beneficiary” means a beneficiary who, on the date the beneficiary’s qualification is determined:

- (1) Is a distributee or permissible distributee of trust income or principal;
- (2) Would be a distributee or permissible distributee of trust income or principal if the interests of the distributees described in paragraph (1) terminated on that date without causing the trust to terminate; or
- (3) Would be a distributee or permissible distributee of trust income or principal if the trust terminated on that date.

“Revocable”, as applied to a trust, means revocable by the settlor without the consent of the trustee or a person holding an adverse interest.

“Settlor” means a person, including a testator, who creates, or contributes property to, a trust. If more than one person creates or contributes property to a trust, each person is a settlor of the portion of the trust property attributable to that person’s contribution except to the extent another person has the power to revoke or withdraw that portion.

“Spendthrift provision” means a term of a trust that restrains both voluntary and involuntary transfer of a beneficiary’s interest.

“Spouse” includes individuals who are married to each other and individuals who are reciprocal beneficiaries.

“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. “State” includes an Indian tribe or band recognized by federal law or formally acknowledged by a state.

“Terms of a trust” means:

- (1) Except as otherwise provided in paragraph (2), the manifestation of the settlor’s intent regarding a trust’s provisions as:
 - (A) Expressed in the trust instrument; or
 - (B) Established by other evidence that would be admissible in a judicial proceeding; or
- (2) The trust’s provisions, as established, determined, or amended by:
 - (A) A trustee or other person in accordance with applicable law;
 - (B) A court order; or
 - (C) A nonjudicial settlement agreement under section -111.

“Trust instrument” means an instrument executed by the settlor that contains terms of the trust, including any amendments thereto.

“Trustee” includes an original, additional, and successor trustee, and a cotrustee.

§ -104 Knowledge. (a) Subject to subsection (b), a person has knowledge of a fact if the person:

- (1) Has actual knowledge of it;
- (2) Has received a notice or notification of it; or
- (3) From all the facts and circumstances known to the person at the time in question, has reason to know it.

(b) An organization that conducts activities through employees has notice or knowledge of a fact involving a trust only from the time the information was received by an employee having responsibility to act for the trust, or would have been brought to the employee’s attention if the organization had exercised reasonable diligence. An organization exercises reasonable diligence if it maintains reasonable routines for communicating significant information to the employee having responsibility to act for the trust and there is reasonable compliance with the routines. Reasonable diligence does not require an employee of the organization to communicate information unless the communication is part of the individual’s regular duties or the individual knows a matter involving the trust would be materially affected by the information.

§ -105 Default and mandatory rules. (a) Except as otherwise provided in the terms of the trust, this chapter governs the duties and powers of a trustee, relations among trustees, and the rights and interests of a beneficiary.

(b) The terms of a trust prevail over any provision of this chapter except:

- (1) The requirements for creating a trust;
- (2) The duty of a trustee to act in good faith and in accordance with the terms and purposes of the trust and the interests of the beneficiaries;
- (3) The requirement that a trust and its terms be for the benefit of its beneficiaries as their interests are defined by the terms of the trust and that the trust have a purpose that is lawful, not contrary to public policy, and possible to achieve;
- (4) The power of the court to modify or terminate a trust under sections -410 through -416;
- (5) The effect of a spendthrift provision and the rights of certain creditors and assignees to reach a trust as provided in part V;

- (6) The power of the court under section -702 to require, dispense with, or modify or terminate a bond;
- (7) The power of the court under section -708(b) to adjust a trustee's compensation, specified in the terms of the trust, that is unreasonably low or high;
- (8) The duty under section -813(c)(2) and (3) to notify qualified beneficiaries of an irrevocable trust of the existence of the trust, of the identity of the trustee, and of their right to request trustee reports;
- (9) The duty under section -813(b) to respond to the request of a qualified beneficiary of an irrevocable trust for trustee reports and other information reasonably related to the administration of a trust;
- (10) The effect of an exculpatory term under section -1008;
- (11) The rights under sections -1010 through -1013 of a person other than a trustee or beneficiary;
- (12) Periods of limitation for commencing a judicial proceeding;
- (13) The power of the court to take action and exercise jurisdiction as may be necessary in the interests of justice; and
- (14) The subject matter jurisdiction of the court and venue for commencing a proceeding, as provided in sections -203 and -204.

§ -106 Common law of trusts; principles of equity. The common law of trusts and principles of equity supplement this chapter, except to the extent modified by this chapter or another law of this State.

§ -107 Governing law. The meaning and effect of the terms of a trust are determined by:

- (1) The law of the jurisdiction designated in the terms unless the designation of that jurisdiction's law is contrary to a strong public policy of the jurisdiction having the most significant relationship to the matter at issue; or
- (2) In the absence of a controlling designation in the terms of the trust, the law of the jurisdiction having the most significant relationship to the matter at issue.

§ -108 Principal place of administration. (a) Without precluding other means for establishing a sufficient connection with the designated jurisdiction, terms of a trust designating the principal place of administration are valid and controlling if:

- (1) A trustee's principal place of business is located in or a trustee is a resident of the designated jurisdiction; or
 - (2) All or part of the administration occurs in the designated jurisdiction.
- (b) A trustee is under a continuing duty to administer the trust at a place appropriate to its purposes, its administration, and the interests of the beneficiaries.

(c) Without precluding the right of the court to order, approve, or disapprove a transfer, the trustee, in furtherance of the duty prescribed by subsection (b), may transfer the trust's principal place of administration to another state or to a jurisdiction outside of the United States.

(d) The trustee shall notify the qualified beneficiaries of a proposed transfer of a trust's principal place of administration no less than sixty days before initiating the transfer. The notice of proposed transfer shall include:

- (1) The name of the jurisdiction to which the principal place of administration is to be transferred;
 - (2) The address and telephone number at the new location at which the trustee can be contacted;
 - (3) An explanation of the reasons for the proposed transfer;
 - (4) The date on which the proposed transfer is anticipated to occur; and
 - (5) The date, no less than sixty days after the giving of the notice, by which the qualified beneficiary shall notify the trustee of an objection to the proposed transfer.
- (e) The authority of a trustee under this section to transfer a trust's principal place of administration terminates if a qualified beneficiary notifies the trustee of an objection to the proposed transfer on or before the date specified in the notice.
- (f) In connection with a transfer of the trust's principal place of administration, the trustee may transfer some or all of the trust property to a successor trustee designated in the terms of the trust or appointed pursuant to section -704.

§ -109 Methods and waiver of notice. (a) Notice to a person under this chapter or the sending of a document to a person under this chapter shall be accomplished in a manner reasonably suitable under the circumstances and likely to result in receipt of the notice or document. Permissible methods of notice or for sending a document include first-class mail, personal delivery, delivery to the person's last known place of residence or place of business, or a properly directed electronic message.

(b) Notice otherwise required under this chapter or a document otherwise required to be sent under this chapter need not be provided to a person whose identity or location is unknown to and not reasonably ascertainable by the trustee.

(c) Notice under this chapter or the sending of a document under this chapter may be waived by the person to be notified or sent the document.

(d) Notice of a judicial proceeding shall be given as provided in the Hawaii probate rules.

§ -110 Others treated as qualified beneficiaries. (a) A charitable organization expressly designated to receive distributions under the terms of a charitable trust has the rights of a qualified beneficiary under this chapter if the charitable organization, on the date the charitable organization's qualification is being determined:

- (1) Is a distributee or permissible distributee of trust income or principal;
- (2) Would be a distributee or permissible distributee of trust income or principal upon the termination of the interests of other distributees or permissible distributees then receiving or eligible to receive distributions; or
- (3) Would be a distributee or permissible distributee of trust income or principal if the trust terminated on that date.

(b) A person appointed to enforce a trust created for the care of an animal or another noncharitable purpose, as provided in section -408 or -409, has the rights of a qualified beneficiary under this chapter.

(c) The attorney general of this State has the rights of a qualified beneficiary with respect to a charitable trust having its principal place of administration in this State.

§ -111 **Nonjudicial settlement agreements.** (a) Except as otherwise provided in subsection (b), interested persons may enter into a binding nonjudicial settlement agreement with respect to any matter involving a trust.

(b) A nonjudicial settlement agreement is valid only to the extent it does not violate a material purpose of the trust and includes terms and conditions that could be properly approved by the court under this chapter or other applicable law.

(c) Matters that may be resolved by a nonjudicial settlement agreement include, but are not limited to:

- (1) The interpretation or construction of the terms of the trust;
- (2) The approval of a trustee's report or accounting;
- (3) Direction to a trustee to refrain from performing a particular act or the grant to a trustee of any necessary or desirable power;
- (4) The resignation or appointment of a trustee and the determination of a trustee's compensation;
- (5) Transfer of a trust's principal place of administration; and
- (6) Liability of a trustee for an action relating to the trust.

(d) Any interested person may request the court to approve a nonjudicial settlement agreement, to determine whether the representation as provided in part III was adequate, and to determine whether the agreement contains terms and conditions that the court could have properly approved.

(e) For purposes of this section, "interested person" means a person whose consent would be required in order to achieve a binding settlement were the settlement to be approved by the court.

§ -112 **Rules of construction.** The rules of construction that apply in this State to the interpretation of and disposition of property by will also apply, as appropriate, to the interpretation of the terms of a trust and the disposition of the trust property.

§ -113 **Insurable interest of trustee.** (a) A trustee of a trust has an insurable interest in the life of an individual insured under a life insurance policy that is owned by the trustee of the trust acting in a fiduciary capacity or that designates the trust itself as the owner if, on the date the policy is issued:

- (1) The insured is:
 - (A) A settlor of the trust; or
 - (B) An individual in whom a settlor of the trust has, or would have had if living when the policy was issued, an insurable interest; and
- (2) The life insurance proceeds are primarily for the benefit of one or more trust beneficiaries who have an insurable interest in the life of the insured.

(b) This section applies to any trust existing before, on, or after the effective date of this section, regardless of the effective date of the governing instrument under which the trust was created, but only as to a life insurance policy that is in force and for which an insured is alive on or after the effective date of this section.

(c) As used in this section, "settlor" means a person that executes a trust instrument. "Settlor" includes a person for whom a fiduciary or agent is acting.

PART II. JUDICIAL PROCEEDINGS

§ -201 **Role of court in administration of trust.** (a) The court may intervene in the administration of a trust to the extent its jurisdiction is invoked by an interested person or as provided by law.

(b) A trust is not subject to continuing judicial supervision unless ordered by the court.

(c) A judicial proceeding involving a trust may relate to any matter involving the internal affairs of trusts, including a proceeding to:

- (1) Appoint or remove a trustee;
- (2) Review or determine a trustee's compensation;
- (3) Review a trustee's report or accounting or compel a trustee to report or account;
- (4) Ascertain beneficiaries;
- (5) Determine any question arising in the administration or distribution of any trust, including questions of construction of trust terms;
- (6) Request instructions to trustees; and
- (7) Determine the existence or nonexistence of any immunity, power, privilege, duty, or right.

(d) A judicial proceeding is initiated by filing a petition in the court and giving notice pursuant to section -109 to interested persons. The court may order notification to additional persons.

§ -202 **Jurisdiction over trustee and beneficiary.** (a) By accepting the trusteeship of a trust having its principal place of administration in this State or by moving the principal place of administration to this State, the trustee submits personally to the jurisdiction of the courts of this State regarding any matter involving the trust.

(b) With respect to their interests in the trust, the beneficiaries of a trust having its principal place of administration in this State are subject to the jurisdiction of the courts of this State regarding any matter involving the trust.

(c) By accepting a distribution from such a trust, the recipient submits personally to the jurisdiction of the courts of this State regarding any matter involving the trust.

(d) By accepting the delegation of a trust function from the trustee of a trust having its principal place of administration in this State, the agent submits to the jurisdiction of the courts of this State regarding any matter involving the trust.

(e) This section does not preclude other methods of obtaining jurisdiction over a trustee, beneficiary, or other person receiving property from the trust.

§ -203 **Subject matter jurisdiction.** (a) The court has exclusive jurisdiction of proceedings in this State concerning the administration of a trust.

(b) The court has concurrent jurisdiction with other courts of this State of actions and proceedings involving a trust, including:

- (1) Proceedings to determine the existence or nonexistence of trusts created other than by will;
- (2) Actions by or against creditors or debtors of trusts; and
- (3) Other actions and proceedings involving trustees and third parties.

§ -204 **Venue.** (a) Except as otherwise provided in subsection (b), venue for a judicial proceeding involving a trust is in the judicial circuit of this State in which the trust's principal place of administration is or will be located

and, if the trust is created by will and the estate is not yet closed, in the judicial circuit in which the decedent's estate is being administered.

(b) If a trust has no trustee, venue for a judicial proceeding for the appointment of a trustee is in:

- (1) A judicial circuit of this State in which a beneficiary resides;
- (2) A judicial circuit in which any trust property is located;
- (3) If the trust is created by will, the judicial circuit in which the decedent's estate was or is being administered; or
- (4) The judicial circuit where the nominated trustee resides or has its principal place of business.

PART III. REPRESENTATION

§ -301 Representation; basic effect. (a) Notice to a person who may represent and bind another person under this part has the same effect as if notice were given directly to the other person.

(b) The consent of a person who may represent and bind another person under this part is binding on the person represented unless the person represented objects to the representation before the consent would otherwise have become effective.

(c) Except as otherwise provided in sections -411 and -602, a person who under this part may represent a settlor who lacks capacity may receive notice and give a binding consent on the settlor's behalf.

(d) A settlor shall not represent and bind a beneficiary under this part with respect to the termination or modification of a trust under section -411(a).

§ -302 Representation by holder of power of appointment. To the extent there is no material conflict of interest between the holder of a power of appointment and the persons represented with respect to the particular question or dispute, the holder may represent and bind persons whose interests, as permissible appointees, takers in default, or otherwise, are subject to the power.

§ -303 Representation by fiduciaries and parents. To the extent there is no conflict of interest between the representative and the person represented or among those being represented with respect to a particular question or dispute:

- (1) A conservator may represent and bind the estate that the conservator controls;
- (2) A guardian may represent and bind the ward if a conservator of the ward's estate has not been appointed;
- (3) An agent having authority to act with respect to the particular question or dispute may represent and bind the principal;
- (4) A trustee may represent and bind the beneficiaries of the trust;
- (5) A personal representative of a decedent's estate may represent and bind persons interested in the estate;
- (6) A parent may represent and bind the parent's minor or unborn child if a conservator or guardian for the child has not been appointed. The parent entitled to represent and bind the child is determined in the following order of priority:
 - (A) The parent who is a lineal descendant of a settlor;
 - (B) The parent who is a beneficiary of the trust that is the subject of the representation;
 - (C) The parent with legal custody of the child; and
 - (D) If one parent cannot be determined pursuant to the preceding criteria and if a disagreement arises between the parties seek-

- ing to represent the same child, a guardian ad litem shall be appointed to represent the minor child; and
- (7) A qualified beneficiary may represent and bind any beneficiary who may succeed to the qualified beneficiary's interest under the terms of the trust or pursuant to the exercise of a power of appointment.

§ -304 Representation by person having substantially identical interest.

Unless otherwise represented, a minor, incapacitated, or unborn individual, or a person whose identity or location is unknown and not reasonably ascertainable, may be represented by and bound by another having a substantially identical interest with respect to the particular question or dispute, but only to the extent that there is no material conflict of interest between the representative and the person represented.

§ -305 Appointment of guardian ad litem. (a) If the court determines that an interest is not represented under this part, or that the otherwise available representation might be inadequate, the court may appoint a guardian ad litem to receive notice, give consent, and otherwise represent, bind, and act on behalf of a minor, incapacitated, or unborn individual, or a person whose identity or location is unknown. A guardian ad litem may be appointed to represent several persons or interests.

(b) A guardian ad litem may act on behalf of the individual represented with respect to any matter arising under this chapter, regardless of whether a judicial proceeding concerning the trust is pending.

(c) In making decisions, a guardian ad litem may consider general benefits accruing to the living members of the individual's family.

PART IV. CREATION, VALIDITY, MODIFICATION, AND TERMINATION OF TRUST

§ -401 Methods of creating trust. A trust may be created by:

- (1) Transfer of property to another person as trustee during the settlor's lifetime or by will or other disposition taking effect upon the settlor's death;
- (2) Declaration by the owner of property that the owner holds identifiable property as trustee;
- (3) Exercise of a power of appointment in favor of a trustee; or
- (4) A court pursuant to its statutory or equitable powers.

§ -402 Requirements for creation. (a) A trust is created only if:

- (1) The settlor has capacity to create a trust;
- (2) The settlor indicates an intention to create the trust;
- (3) The trust has a definite beneficiary or is:
 - (A) A charitable trust;
 - (B) A trust for the care of an animal, as provided in section -408; or
 - (C) A trust for a noncharitable purpose, as provided in section -409; and
- (4) The trustee has duties to perform.

(b) A beneficiary is definite if the beneficiary can be ascertained now or in the future, subject to any applicable rule against perpetuities.

(c) A power in a trustee, or in another person under the terms of the trust, to select a beneficiary from an indefinite class is valid. If the power is not exercised within a reasonable time, the power fails and the property subject to

the power passes to the persons who would have taken the property had the power not been conferred.

(d) Notwithstanding subsection (a)(1), a trust created by an agent under power of attorney is valid if:

- (1) The trust is created by an agent of the settlor under a power of attorney that specifically authorizes the creation of a trust; and
- (2) The settlor had capacity to create a trust when the power of attorney was executed.

§ -403 **Trusts created in other jurisdictions.** A trust not created by will is validly created if its creation complies with the law of the jurisdiction in which the trust instrument was executed, or the law of the jurisdiction in which, at the time of creation:

- (1) The settlor was domiciled, had a place of abode, or was a national;
- (2) A trustee was domiciled or had a place of business; or
- (3) Any trust property was located.

Unless otherwise provided in the trust instrument, this section shall also apply to trust amendments.

§ -404 **Trust purposes.** A trust may be created only to the extent its purposes are lawful, not contrary to public policy, and possible to achieve. A trust and its terms shall be for the benefit of its beneficiaries, subject to the provisions of the trust.

§ -405 **Charitable purposes; enforcement.** (a) A charitable trust may be created for the relief of poverty, the advancement of education or religion, the promotion of health, governmental or municipal purposes, or other purposes the achievement of which is beneficial to the community.

(b) If the terms of a charitable trust do not indicate or otherwise provide for selection of a particular charitable purpose or beneficiary, the trustee or other person authorized by the terms of the trust or, if none, the court may select one or more charitable purposes or beneficiaries. The selection shall be consistent with the settlor's intention to the extent it can be ascertained.

(c) The settlor of a charitable trust, the trustee, a designated beneficiary, if any, or the attorney general may maintain a proceeding to enforce the trust.

§ -406 **Creation of trust induced by fraud, duress, or undue influence.** A trust is void to the extent its creation was induced by fraud, duress, or undue influence.

§ -407 **Evidence of oral trust.** (a) Except as required by law other than this chapter, a trust need not be evidenced by a trust instrument, but the creation of an oral trust and its terms, including any amendments thereto, may be established only by clear and convincing evidence.

(b) Except as required by law other than this chapter, a trust need not be evidenced by a trust instrument, but the establishment of a missing trust and its terms may be established by clear and convincing evidence. In the absence of clear and convincing evidence to establish the existence or terms and provisions of a missing trust, the existence of or the terms and provisions of a missing trust may be established by court order; provided that, in the circumstances and upon appropriate notice, it would be fair and equitable to do so. This section does not preclude a court from ordering relief otherwise allowed by law.

§ -408 Trust for care of animal. (a) A trust for the care of one or more designated domestic or pet animals shall be valid. The trust terminates when no living animal is covered by the trust. A governing instrument shall be liberally construed to bring the transfer within this section, to presume against the precatory or honorary nature of its disposition, and to carry out the general intent of the transferor. Extrinsic evidence shall be admissible in determining the transferor's intent.

(b) A trust for the care of one or more designated domestic or pet animals shall be subject to the following provisions:

- (1) Except as expressly provided otherwise in the instrument creating the trust, and notwithstanding section -816, no portion of the principal or income of the trust may be converted to the use of the trustee or to a use contrary to the trust's purposes or for the benefit of a covered animal;
- (2) Upon termination, the trustee shall transfer the unexpended trust property in the following order:
 - (A) As directed in the trust instrument;
 - (B) If there is no direction in the trust instrument and if the trust was created in a non-residuary clause in the transferor's will, then under the residuary clause in the transferor's will; and
 - (C) If no taker is produced by the application of subparagraph (A) or (B), then to the transferor's heirs, determined according to section 560:2-711;
- (3) A trust authorized by this section may be enforced by a person appointed in the terms of the trust or, if no person is so appointed, by a person appointed by the court. A person having an interest in the welfare of the animal may request the court to appoint a person to enforce the trust or to remove a person appointed;
- (4) Except as ordered by the court or required by the trust instrument, no filing, report, registration, periodic accounting, separate maintenance of funds, appointment, or fee shall be required by reason of the existence of the fiduciary relationship of the trustee;
- (5) The court may reduce the amount of the property transferred if it determines that the amount substantially exceeds the amount required for the intended use and the court finds that there will be no substantial adverse impact in the care, maintenance, health, or appearance of the designated domestic or pet animal; provided that the amount of the reduction, if any, shall pass as unexpended trust property under paragraph (2);
- (6) If a trustee is not designated or no designated trustee is willing and able to serve, the court shall name a trustee. The court may order the transfer of the property to another trustee if the transfer is necessary to ensure that the intended use is carried out and if a successor is not designated in the trust instrument or if no designated successor trustee agrees to serve and is able to serve. The court may also make other orders and determinations as are advisable to carry out the intent of the transferor and the purpose of this section; and
- (7) The trust is exempt from the operation of chapter 525, the Uniform Statutory Rule Against Perpetuities.

§ -409 Noncharitable trust without ascertainable beneficiary. Except as otherwise provided in section -408 or by other law, the following rules apply:

- (1) A trust may be created for a noncharitable purpose without a definite or definitely ascertainable beneficiary or for a noncharitable but otherwise valid purpose to be selected by the trustee;
- (2) A trust authorized by this section may be enforced by a person appointed in the terms of the trust or, if no person is so appointed, by a person appointed by the court; and
- (3) Property of a trust authorized by this section may be applied only to its intended use, except to the extent the court determines that the value of the trust property exceeds the amount required for the intended use; provided that, except as otherwise provided in the terms of the trust, property not required for the intended use shall be distributed to the settlor, if then living; otherwise pursuant to the terms of the settlor's will; or, if none, to the settlor's successors in interest.

§ -410 Modification or termination of trust; proceedings for approval or disapproval. (a) In addition to the methods of termination prescribed by sections -411 through -414, a trust terminates to the extent the trust is revoked or expires pursuant to its terms, no purpose of the trust remains to be achieved, or the purposes of the trust have become unlawful, contrary to public policy, or impossible to achieve.

(b) A proceeding to approve or disapprove a proposed modification or termination under sections -411 through -416, or trust combination or division under section -417, may be commenced by a trustee or beneficiary, and a proceeding to approve or disapprove a proposed modification or termination under section -411 may be commenced by the settlor. The settlor of a charitable trust may maintain a proceeding to modify the trust under section -413.

§ -411 Modification or termination of noncharitable irrevocable trust by consent. (a) A noncharitable irrevocable trust may be modified or terminated upon consent of the settlor and all beneficiaries, even if the modification or termination is inconsistent with a material purpose of the trust. A settlor's power to consent to a trust's modification or termination may be exercised by:

- (1) An agent under a power of attorney only to the extent expressly authorized by the power of attorney or the terms of the trust;
- (2) The settlor's conservator with the approval of the court supervising the conservatorship if an agent is not so authorized; or
- (3) The settlor's guardian with the approval of the court supervising the guardianship if an agent is not so authorized and a conservator has not been appointed.

This subsection does not apply to irrevocable trusts created before or to revocable trusts that become irrevocable before the effective date of this chapter.

(b) A noncharitable irrevocable trust may be terminated upon consent of all of the beneficiaries if the court concludes that continuance of the trust is not necessary to achieve any material purpose of the trust. A noncharitable irrevocable trust may be modified upon consent of all of the beneficiaries if the court concludes that modification is not inconsistent with a material purpose of the trust.

(c) It is a question of fact whether a spendthrift provision constitutes a material purpose of the trust.

(d) Upon termination of a trust under subsection (a) or (b), the trustee shall distribute the trust property as agreed to by the beneficiaries.

(e) If not all of the beneficiaries consent to a proposed modification or termination of the trust under subsection (a) or (b), the modification or termination may be approved by the court if the court is satisfied that:

- (1) If all of the beneficiaries had consented, the trust could have been modified or terminated under this section; and
- (2) The interests of a beneficiary who does not consent will be adequately protected.

§ -412 Modification or termination because of unanticipated circumstances or inability to administer trust effectively. (a) The court may modify the administrative or dispositive terms of a trust or terminate the trust if, because of circumstances not anticipated by the settlor, modification or termination will further the purposes of the trust. To the extent practicable, the modification shall be made in accordance with the settlor's probable intention.

(b) The court may modify the administrative terms of a trust if continuation of the trust on its existing terms would be impracticable or wasteful or impair the trust's administration.

(c) Upon termination of a trust under this section, the trustee shall distribute the trust property in a manner consistent with the purposes of the trust.

§ -413 Cy pres. (a) Except as otherwise provided in subsection (b), if a particular charitable purpose becomes unlawful, impracticable, impossible to achieve, or wasteful:

- (1) The trust does not fail, in whole or in part;
- (2) The trust property does not revert to the settlor or the settlor's successors in interest; and
- (3) The court may apply cy pres to modify or terminate the trust by directing that the trust property be applied or distributed, in whole or in part, in a manner consistent with the settlor's charitable purposes.

(b) Subsection (a) shall not apply if the document creating the charitable interest expressly provides for an alternate disposition of the charitable interest if the charitable purpose becomes unlawful, impracticable, impossible to achieve, or wasteful. A general residuary disposition by trust shall not be considered an express provision for an alternate disposition. In addition, if the alternative plan is also a charitable trust and that trust fails, the intention shown in the original plan shall prevail in the application of this section.

(c) In every cy pres proceeding, the attorney general shall be notified and given an opportunity to be heard.

§ -414 Modification or termination of uneconomic trust. (a) After notice to the qualified beneficiaries, the trustee of a trust consisting of trust property having a total value of less than \$100,000 may terminate the trust if the trustee concludes that the value of the trust property is insufficient to justify the cost of administration.

(b) The court may modify or terminate a trust or remove the trustee and appoint a different trustee if it determines that the value of the trust property is insufficient to justify the cost of administration.

(c) Upon termination of a trust under this section, the trustee shall distribute the trust property in a manner consistent with the purposes of the trust.

(d) This section shall not apply to an easement for conservation or preservation.

§ -415 Reformation to correct mistakes. The court may reform the terms of a trust, even if unambiguous, to conform the terms to the settlor's

intention if it is proved by clear and convincing evidence what the settlor's intention was and that the terms of the trust were affected by a mistake of fact or law, whether in expression or inducement.

§ **-416 Modification to achieve settlor's tax objectives.** To achieve the settlor's tax objectives, the court may modify the terms of a trust in a manner that is not contrary to the settlor's probable intention. The court may provide that the modification has retroactive effect.

§ **-417 Combination and division of trusts.** After notice to the qualified beneficiaries, a trustee may combine two or more trusts into a single trust or divide a trust into two or more separate trusts, if the result does not impair rights of any beneficiary or adversely affect achievement of the purposes of the trust. Two or more trusts may be combined into a single trust if the interests of each beneficiary in the trust resulting from the combination are substantially the same as the combined interests of the beneficiary in the trusts before the combination. The terms of each new trust created by a division under this section shall provide, in the aggregate, for the same succession of interests and beneficiaries as are provided in the original trust.

PART V. CREDITOR'S CLAIMS; SPENDTHRIFT AND DISCRETIONARY TRUSTS

§ **-501 Rights of beneficiary's creditor or assignee.** To the extent a beneficiary's interest is not subject to a spendthrift provision, the court may authorize a creditor or assignee of the beneficiary to reach the beneficiary's interest by attachment of present or future distributions to or for the benefit of the beneficiary or other means. The court may limit the award to relief as is appropriate under the circumstances.

§ **-502 Spendthrift provision.** (a) A spendthrift provision is valid only if it restrains both voluntary and involuntary transfer of a beneficiary's interest.

(b) A term of a trust providing that the interest of a beneficiary is held subject to a "spendthrift trust", or words of similar import, is sufficient to restrain both voluntary and involuntary transfer of the beneficiary's interest.

(c) A beneficiary shall not transfer an interest in a trust in violation of a valid spendthrift provision and, except as otherwise provided in this part, a creditor or assignee of the beneficiary shall not reach the interest or a distribution by the trustee before its receipt by the beneficiary.

§ **-503 Exceptions to spendthrift provision.** (a) A spendthrift provision is unenforceable against:

- (1) A beneficiary's child who has a judgment or court order against the beneficiary for support or maintenance; and
- (2) A claim of this State or the United States to the extent a law of this State or federal law so provides.

(b) A claimant against which a spendthrift provision cannot be enforced may obtain from a court an order attaching present or future distributions to or for the benefit of the beneficiary. The court may limit the award to relief as is appropriate under the circumstances.

§ **-504 Discretionary trusts; effect of standard.** (a) Except as otherwise provided in subsection (b), regardless of whether a trust contains a spend-

thrift provision, a creditor of a beneficiary shall not compel a distribution that is subject to the trustee's discretion, even if:

- (1) The discretion is expressed in the form of a standard of distribution; or
 - (2) The trustee has abused the discretion.
- (b) To the extent a trustee has not complied with a standard of distribution or has abused a discretion:
- (1) A distribution may be ordered by the court to satisfy a judgment or court order against the beneficiary for support or maintenance of the beneficiary's child; and
 - (2) The court shall direct the trustee to pay to or for the benefit of the beneficiary's child, an amount as is equitable under the circumstances but no more than the amount the trustee would have been required to distribute to or for the benefit of the beneficiary had the trustee complied with the standard or not abused the discretion.
- (c) This section shall not limit the right of a beneficiary to maintain a judicial proceeding against a trustee for an abuse of discretion or failure to comply with a standard for distribution.
- (d) If the trustee's or cotrustee's discretion to make distributions for the trustee's or cotrustee's own benefit is limited by an ascertainable standard, a creditor shall not reach or compel distribution of the beneficial interest except to the extent the interest would be subject to the creditor's claim were the beneficiary not acting as trustee or cotrustee.

§ -505 Creditor's claim against settlor. (a) Regardless of whether the terms of a trust contain a spendthrift provision, the following rules shall apply:

- (1) During the lifetime of the settlor, the property of a revocable trust is subject to claims of the settlor's creditors;
 - (2) Except as provided in chapter 554G, with respect to an irrevocable trust, a creditor or assignee of the settlor may reach the maximum amount that can be distributed to or for the settlor's benefit. If a trust has more than one settlor, the amount the creditor or assignee of a particular settlor may reach shall not exceed the settlor's interest in the portion of the trust attributable to that settlor's contribution; and
 - (3) After the death of a settlor, and subject to the settlor's right to direct the source from which liabilities will be paid, the property of a trust that was revocable at the settlor's death is subject to claims of the settlor's creditors, costs of administration of the settlor's estate, the expenses of the settlor's funeral and disposal of remains, and statutory allowances to a surviving spouse or reciprocal beneficiary and children to the extent the settlor's probate estate is inadequate to satisfy those claims, costs, expenses, and allowances.
- (b) For purposes of this section:
- (1) During the period the power may be exercised, the holder of a power of withdrawal is treated in the same manner as the settlor of a revocable trust to the extent of the property subject to the power; and
 - (2) Upon the lapse, release, or waiver of the power, the holder is treated as the settlor of the trust only to the extent the value of the property affected by the lapse, release, or waiver exceeds the greater of the amount specified in section 2041(b)(2) or 2514(e) of the Internal Revenue Code of 1986, as amended, or section 2503(b) of the Inter-

nal Revenue Code of 1986, as amended, in each case as in effect on the effective date of this chapter.

- (c) This section shall not apply to trusts created under chapter 554G.

§ -506 Overdue distribution. (a) Regardless of whether a trust contains a spendthrift provision, a creditor or assignee of a beneficiary may reach a mandatory distribution of income or principal, including a distribution upon termination of the trust, if the trustee has not made the distribution to the beneficiary within a reasonable time after the designated distribution date.

(b) As used in this section, “mandatory distribution” means a distribution of income or principal that the trustee is required to make to a beneficiary under the terms of the trust, including a distribution upon termination of the trust. “Mandatory distribution” does not include a distribution subject to the exercise of the trustee’s discretion even if:

- (1) The discretion is expressed in the form of a standard of distribution; or
- (2) The terms of the trust authorizing a distribution couple language of discretion with language of direction.

§ -507 Personal obligations of trustee. Trust property is not subject to personal obligations of the trustee, even if the trustee becomes insolvent or bankrupt.

PART VI. REVOCABLE TRUSTS

§ -601 Capacity of settlor of revocable trust. The capacity required to create or add property to a revocable trust is the same as that required to make a will. Unless otherwise altered by the terms of the trust pursuant to section -602(c), the capacity required to amend, revoke, or direct the actions of the trustee of a revocable trust is also the same as that required to make a will.

§ -602 Revocation or amendment of revocable trust. (a) Unless the terms of a trust expressly provide that the trust is irrevocable, the settlor may revoke or amend the trust. This subsection shall not apply to a trust created under an instrument executed before the effective date of this chapter.

(b) Unless the terms of a trust expressly provide otherwise, if a revocable trust is created or funded by more than one settlor:

- (1) To the extent the trust consists of community property, the trust may be revoked by either spouse acting alone, but may be amended only by joint action of both spouses;
- (2) To the extent the trust consists of property other than community property, each settlor may revoke or amend the trust with regard to the portion of the trust property attributable to that settlor’s contribution; and
- (3) Upon the revocation or amendment of the trust by fewer than all of the settlors, the trustee shall promptly notify the other settlors of the revocation or amendment.

(c) The settlor may revoke or amend a revocable trust by substantial compliance with a method provided in the terms of the trust, including requiring a higher level of capacity to amend or revoke, or, if the terms of the trust do not provide a method of amendment or revocation, by any written and signed method manifesting clear and convincing evidence of the settlor’s intent.

(d) Upon revocation of a revocable trust, the trustee shall deliver the trust property as the settlor directs.

(e) A settlor's powers with respect to revocation, amendment, or distribution of trust property may be exercised by an agent under a power of attorney only to the extent expressly authorized by the terms of the trust and the power.

(f) A conservator of the settlor may exercise a settlor's powers with respect to revocation, amendment, or distribution of trust property only with the approval of the court supervising the conservatorship.

(g) A trustee who does not have actual knowledge that a trust has been revoked or amended is not liable to the settlor or settlor's successors in interest for distributions made and other actions taken on the assumption that the trust had not been amended or revoked.

§ -603 Settlor's powers; powers of withdrawal. (a) While the settlor of a revocable trust is alive, rights of the beneficiaries are subject to the control of the settlor, the duties of the trustee are owed exclusively to the settlor, and beneficiaries other than the settlor have no right to receive notice, information, or reports under section -813.

(b) The rights of the beneficiaries with respect to property that is subject to a power of withdrawal are subject to the control of the holder of the power during the period that the power may be exercised, and the duties of the trustee are owed exclusively to the holder of a power of withdrawal with respect to the property that is subject to the power.

§ -604 Limitation on action contesting validity of revocable trust; distribution of trust property. (a) A person may commence a judicial proceeding after the settlor's death to contest the validity of a trust that was revocable at the settlor's death within the earlier of:

- (1) Five years after the settlor's death; or
- (2) Ninety days after the trustee sent the person a copy of the trust instrument and a notice informing the person of the trust's existence, of the trustee's name and address, and of the time allowed for commencing a proceeding.

(b) Upon the death of the settlor of a trust that was revocable at the settlor's death, the trustee may proceed to distribute the trust property in accordance with the terms of the trust. The trustee shall not be subject to liability for doing so unless:

- (1) The trustee has actual knowledge of a pending judicial proceeding contesting the validity of the trust; or
 - (2) A potential contestant has notified the trustee of a possible judicial proceeding to contest the trust and a judicial proceeding is commenced within sixty days after the contestant sent the notification.
- (c) A beneficiary of a trust that is determined to have been invalid is liable to return any distribution received.

PART VII. OFFICE OF TRUSTEE

§ -701 Accepting or declining trusteeship. (a) Except as otherwise provided in subsection (c), a person designated as trustee accepts the trusteeship:

- (1) By substantially complying with a method of acceptance provided in the terms of the trust; or
- (2) If the terms of the trust do not provide a method of acceptance or the method provided in the terms of the trust is not expressly made exclusive, by knowingly accepting delivery of the trust property, knowingly exercising powers or performing duties as trustee, or otherwise indicating acceptance of the trusteeship.

(b) A person designated as trustee who has not yet accepted the trusteeship may reject the trusteeship. A designated trustee who does not accept the trusteeship within a reasonable time after knowing of the designation is deemed to have rejected the trusteeship.

(c) A person designated as trustee, without accepting the trusteeship, may:

- (1) Act to preserve the trust property if, within a reasonable time after acting, the person sends a rejection of the trusteeship to the settlor or, if the settlor is dead or lacks capacity, to the designated cotrustee, or, if none, to the successor trustee, or, if none or unknown, to a qualified beneficiary; and
- (2) Inspect or investigate trust property to determine potential liability under environmental or other law or for any other purpose.

§ -702 Trustee's bond. (a) A trustee shall give bond to secure performance of the trustee's duties only if the court finds that a bond is needed to protect the interests of the beneficiaries or is required by the terms of the trust and the court has not dispensed with the requirement.

(b) The court may specify the amount of a bond, its liabilities, and whether sureties are necessary. The court may modify or terminate a bond at any time.

(c) A bank or trust company qualified under chapter 412 to do trust business in this State need not give bond, even if required by the terms of the trust.

§ -703 Cotrustees. (a) Cotrustees who are unable to reach a unanimous decision after consultation among all the cotrustees may act by majority decision.

(b) If a vacancy occurs in a cotrusteeship, the remaining cotrustee or cotrustees may act for the trust.

(c) Subject to the settlor's powers to direct under section -808, a cotrustee shall participate in the performance of a trustee's function unless the cotrustee is unavailable to perform the function because of absence, illness, disqualification under other law, or other temporary incapacity, or the cotrustee has properly delegated the performance of the function to another trustee.

(d) If a cotrustee is unavailable to perform duties because of absence, illness, disqualification under other law, or other temporary incapacity, and prompt action is necessary to achieve the purposes of the trust or to avoid injury to the trust property, the remaining cotrustee or a majority of the remaining cotrustees may act for the trust.

(e) A cotrustee who has a conflict of interest in performing any duty shall notify the other cotrustee or cotrustees of the conflict and may recuse itself from the transaction and the remaining cotrustee or a majority of the remaining cotrustees may act for the trust.

(f) A trustee shall not delegate to a cotrustee the performance of a function the settlor intended the trustees to perform jointly. A trustee may revoke a delegation previously made.

(g) Except as otherwise provided in subsection (h), a trustee who does not join in an action of another trustee is not liable for the action.

(h) Subject to the settlor's powers to direct under section -808, each trustee shall exercise reasonable care to:

- (1) Prevent a cotrustee from committing a serious breach of trust; and
- (2) Compel a cotrustee to redress a serious breach of trust.

(i) A dissenting trustee who joins in an action at the direction of the majority of the trustees and who notified the cotrustee or cotrustees in writing of the dissent at or before the time of the action shall not be liable for the action unless the action is a serious breach of trust.

§ -704 Vacancy in trusteeship; appointment of successor. (a) A vacancy in a trusteeship occurs if:

- (1) A person designated as trustee rejects the trusteeship;
- (2) A person designated as trustee cannot be identified, cannot be located, or does not exist;
- (3) A trustee resigns;
- (4) A trustee is disqualified, incapacitated, or removed;
- (5) A trustee dies; or
- (6) A guardian or conservator is appointed for an individual serving as trustee.

(b) If one or more cotrustees remain in office, a vacancy in a trusteeship need not be filled. A vacancy in a trusteeship shall be filled if the trust has no remaining trustee.

(c) A vacancy in a trusteeship of a noncharitable trust that is required to be filled shall be filled in the following order of priority:

- (1) By a person designated in the terms of the trust to act as successor trustee or a person named in the trust who has authority to appoint a successor trustee;
- (2) By a person selected by unanimous agreement of the qualified beneficiaries; or
- (3) By a person appointed by the court.

(d) A vacancy in a trusteeship of a charitable trust that is required to be filled shall be filled in the following order of priority:

- (1) By a person designated in the terms of the trust to act as successor trustee or a person named in the trust who has authority to appoint a successor trustee;
- (2) By a person selected by the charitable organizations expressly designated to receive distributions under the terms of the trust if the attorney general concurs in the selection; or
- (3) By a person appointed by the court.

(e) Regardless of whether a vacancy in a trusteeship exists or is required to be filled, the court may appoint an additional trustee or special fiduciary whenever the court considers the appointment necessary for the administration of the trust.

§ -705 Resignation of trustee. (a) A trustee may resign:

- (1) For a revocable trust, upon at least thirty days' notice to the settlor, if living, or if incapacitated, to the settlor's duly appointed agent or conservator, if any, and all cotrustees or, if none, to the designated successor trustee or trustees;
- (2) For an irrevocable trust, upon at least thirty days' notice to the qualified beneficiaries, the settlor, if living, and all cotrustees or, if none, to the designated successor trustee or trustees; or
- (3) With the approval of the court.

(b) In approving a resignation, the court may issue orders and impose conditions reasonably necessary for the protection of the trust property.

(c) Any liability of a resigning trustee or of any sureties on the trustee's bond for acts or omissions of the trustee is not discharged or affected by the trustee's resignation.

(d) A trustee may seek release and discharge directly from the beneficiaries or the court.

§ -706 Removal of trustee. (a) For an irrevocable trust, a cotrustee or a qualified beneficiary, or in the case of a charitable trust, the attorney general, may request the court to remove a trustee, or a trustee may be removed by the court on its own initiative. In the case of an irrevocable trust in which the settlor has a retained interest, the settlor, the settlor's conservator or guardian, or the settlor's duly authorized agent under a durable power of attorney may also request the court to remove a trustee.

(b) For a revocable trust, the settlor, the settlor's conservator or guardian, the settlor's duly authorized agent under a durable power of attorney, or a cotrustee may request the court to remove a trustee, or a trustee may be removed by the court on its own initiative.

(c) The court may remove a trustee if:

- (1) The trustee has committed a serious breach of trust;
- (2) Lack of cooperation among cotrustees substantially impairs the administration of the trust;
- (3) Because of unfitness, unwillingness, persistent failure of the trustee to administer the trust effectively, or any other reason, the court determines removal of the trustee best serves the interests of the beneficiaries; or
- (4) Removal of the trustee best serves the interests of all beneficiaries and:
 - (A) There has been a substantial change of circumstances or removal is requested by all of the qualified beneficiaries;
 - (B) Removal is not inconsistent with a material purpose of the trust; and
 - (C) A suitable cotrustee or successor trustee is available.

(d) Pending a final decision on a request to remove a trustee, or in lieu of or in addition to removing a trustee, the court may order appropriate relief under section -1001(b) as may be necessary to protect the trust property or the interests of the beneficiaries.

§ -707 Delivery of property by former trustee. (a) Unless a cotrustee remains in office or the court otherwise orders, and until the trust property is delivered to a successor trustee, or other person entitled to it, a trustee who has resigned or been removed has the duties of a trustee and the powers necessary to protect the trust property.

(b) A trustee who has resigned or been removed shall, within a reasonable time, deliver the trust property within the trustee's possession to the cotrustee, successor trustee, or other person entitled to it.

§ -708 Compensation of trustee. (a) A trustee's compensation shall be as set forth in sections 607-18 and 607-20, as appropriate.

(b) On petition of an interested person, after notice to all interested persons, the court may review the propriety of employment of any person by a trustee, including any attorney, auditor, investment advisor, or other specialized agent or assistant; the reasonableness of the compensation of any person so employed; the reasonableness of the determination of trust estate value or income made by the trustee for the purpose of computing the fee allowed by sections 607-18 and 607-20; and the reasonableness of any additional compensation for special services under sections 607-18 and 607-20. Any person who has

received excessive compensation from a trust may be ordered to make appropriate refunds.

§ -709 Reimbursement of expenses. (a) A trustee or designated trustee who acts in good faith is entitled to reimbursement out of the trust property, with interest as appropriate, for:

- (1) Expenses that were properly incurred in the administration of the trust, including the defense or prosecution of any action, whether successful or not, unless the trustee is determined to have wilfully or wantonly committed a material breach of trust; or
- (2) To the extent necessary to prevent unjust enrichment of the trust, expenses that were not properly incurred in the administration of the trust.

(b) An advance by the trustee or designated trustee of money for the protection of the trust gives rise to a lien against trust property to secure reimbursement with reasonable interest.

PART VIII. DUTIES AND POWERS OF TRUSTEE

§ -801 Duty to administer trust. Upon acceptance of a trusteeship, the trustee shall administer the trust in good faith, in accordance with its terms and purposes and the interests of the beneficiaries, and in accordance with this chapter.

§ -802 Duty of loyalty. (a) A trustee shall administer the trust solely in the interests of the beneficiaries.

(b) Subject to the rights of persons dealing with or assisting the trustee as provided in section -1012, a sale, encumbrance, or other transaction involving the investment or management of trust property entered into by the trustee for the trustee's own personal account or that is otherwise affected by a conflict between the trustee's fiduciary and personal interests is voidable by a beneficiary affected by the transaction unless:

- (1) The transaction was authorized by the terms of the trust;
- (2) The transaction was approved by the court;
- (3) The beneficiary did not commence a judicial proceeding within the time allowed by section -1005;
- (4) The beneficiary consented to the trustee's conduct, ratified the transaction, or released the trustee in compliance with section -1009; or
- (5) The transaction involves a contract entered into or claim acquired by the trustee before the person became or contemplated becoming a trustee.

(c) A sale, encumbrance, or other transaction involving the investment or management of trust property is presumed to be affected by a conflict between personal and fiduciary interests if it is entered into by the trustee with:

- (1) The trustee's spouse, or the spouse's descendants, siblings, or ancestors, and their spouses;
- (2) The trustee's descendants, siblings, ancestors, or their spouses;
- (3) An agent or attorney of the trustee;
- (4) A corporation or other person or enterprise in which the trustee has such a substantial interest that it might affect the trustee's best judgment; or

(5) A corporation or other person or enterprise that has such a substantial interest in the trustee that it might affect the trustee's best judgment.

(d) A transaction not concerning trust property in which the trustee engages in the trustee's individual capacity involves a conflict between personal and fiduciary interests if the transaction concerns an opportunity properly belonging to the trust.

(e) An investment by a trustee in securities of an investment company or investment trust to which the trustee or its affiliate provides services in a capacity other than as trustee is not presumed to be affected by a conflict between personal and fiduciary interests if the investment otherwise complies with the prudent investor rule of part IX. In addition to its compensation for acting as trustee, the trustee or its affiliate may be compensated by the investment company or investment trust for providing those services out of fees charged to the trust. If the trustee or its affiliate receives compensation from the investment company or investment trust for providing investment advisory or investment management services, the trustee shall at least annually notify the persons entitled under section -813 to receive a copy of the trustee's annual report of the rate and method by which that compensation was determined.

(f) In voting shares of stock or in exercising powers of control over similar interests in other forms of business entities, the trustee shall act in the best interests of the beneficiaries. If the trust is the sole owner of a corporation or another form of a business entity, the trustee shall elect or appoint directors or other managers who will manage the corporation or business entity in the best interests of the beneficiaries.

(g) This section does not preclude the following transactions, if fair to the beneficiaries:

(1) An agreement between a trustee and a beneficiary relating to the appointment or compensation of the trustee;

(2) Payment of reasonable compensation to the trustee;

(3) A transaction between a trust and another trust, decedent's estate, or conservatorship of which the trustee is a fiduciary or in which a beneficiary has an interest;

(4) A deposit of trust money in a regulated financial-service institution operated by the trustee; or

(5) An advance by the trustee of money for the protection of the trust.

(h) The court may appoint a special fiduciary to make a decision with respect to any proposed transaction that might violate this section if entered into by the trustee.

§ -803 Impartiality. If a trust has two or more beneficiaries, the trustee shall act impartially in investing, managing, and distributing the trust property, giving due regard to the beneficiaries' respective interests.

§ -804 Prudent administration. A trustee shall administer the trust as a prudent person would, by considering the purposes, terms, distributional requirements, and other circumstances of the trust. In satisfying this standard, the trustee shall exercise reasonable care, skill, and caution.

§ -805 Costs of administration. In administering a trust, the trustee may incur only costs that are reasonable in relation to the trust property, the purposes of the trust, and the skills of the trustee.

§ **-806 Trustee's skills.** A trustee who has special skills or expertise or is named trustee in reliance upon the trustee's representation that the trustee has special skills or expertise shall use those special skills or expertise.

§ **-807 Delegation by trustee.** (a) A trustee may delegate duties and powers that a prudent trustee of comparable skills could properly delegate under the circumstances. The trustee shall exercise reasonable care, skill, and caution in:

- (1) Selecting an agent;
 - (2) Establishing the scope and terms of the delegation, consistent with the purposes and terms of the trust; and
 - (3) Periodically reviewing the agent's actions to monitor the agent's performance and compliance with the terms of the delegation.
- (b) In performing a delegated function, an agent owes a duty to the trust to exercise reasonable care to comply with the terms of the delegation.
- (c) A trustee who complies with subsection (a) shall not be liable to the beneficiaries or to the trust for an action of the agent to whom the function was delegated.

(d) By accepting a delegation of powers or duties from the trustee of a trust that is subject to the law of this State, an agent submits to the jurisdiction of the courts of this State, even if the agency agreement provides otherwise, and the agent may be made a party to any action or proceeding if the issues relate to a decision, action, or inaction of the agent.

(e) Upon petition of a qualified beneficiary, after notice to all qualified beneficiaries, the trustee, and the agent of the trustee, the court may review the employment of any agent by the trustee and the reasonableness of the agent's compensation. Any agent who is found to have received excess compensation from a trust may be ordered to make appropriate refunds.

§ **-808 Powers to direct.** (a) While a trust is revocable and the settlor has capacity, the trustee may follow a written direction of the settlor that is contrary to the terms of the trust.

(b) The terms of a trust may confer upon a trustee or other person a power to direct the modification or termination of the trust.

(c) Whenever the terms of a trust direct that an advisor, rather than the trustee, shall have authority for certain fiduciary actions, the standard of care and performance for actions that are within the scope of the advisor's authority under the terms of a trust shall be as follows:

- (1) Where one or more persons are given authority by the terms of a trust and accept this authority to direct, consent to, or disapprove a trustee's actual or proposed investment decisions, distribution decisions, or any other decision of the trustee, those persons shall be considered to be advisors and shall have the duties and obligations of fiduciaries when exercising the given authority, unless the trust provides otherwise;
- (2) If a trust provides that a trustee is to follow the direction of an advisor and the trustee acts in accordance with the advisor's direction, then, except in cases of wilful misconduct or gross negligence on the part of the trustee so directed, the trustee shall not be liable for any loss resulting directly or indirectly from any such act;
- (3) If a trust provides that a trustee is to make decisions with the consent of an advisor, then, except in cases of wilful misconduct or gross negligence on the part of the trustee, the trustee shall not be liable for any loss resulting directly or indirectly from any act taken

- or omitted as a result of the advisor's failure to provide consent after having been requested to do so by the trustee; and
- (4) Whenever a trust provides that a trustee is to follow the direction of an advisor with respect to investment decisions, distribution decisions, or any other decision of the trustee, then, except to the extent that the terms of the trust provide otherwise, the trustee shall have no duty to:
- (A) Monitor the conduct of the advisor;
 - (B) Provide advice to the advisor or consult with the advisor; or
 - (C) Communicate with, warn, or apprise any beneficiary or third party concerning instances in which the trustee would or might have exercised the trustee's own discretion in a manner different from the manner directed by the advisor.

Absent clear and convincing evidence to the contrary, the actions of the trustee pertaining to matters within the scope of the advisor's authority, such as confirming that the advisor's directions have been carried out and recording and reporting actions taken at the advisor's direction, shall be presumed to be administrative actions taken by the trustee solely to allow the trustee to perform the duties assigned to the trustee under the trust, and the administrative actions shall not be deemed to constitute an undertaking by the trustee to monitor the advisor or otherwise participate in actions within the scope of the advisor's authority.

(d) A person, other than a beneficiary, who holds a power to direct is presumptively a fiduciary who, as such, is required to act in good faith with regard to the purposes of the trust and the interests of the beneficiaries. The holder of a power to direct is liable for any loss that results from breach of a fiduciary duty.

(e) For purposes of this section:

"Advisor" includes a protector that has been granted powers and authority by the terms of a trust, including the power to:

- (1) Remove and appoint trustees, advisors, trust committee members, and other protectors;
- (2) Modify or amend the trust to achieve a favorable tax status or to facilitate the efficient administration of the trust; and
- (3) Modify, expand, or restrict the terms of a power of appointment granted to a beneficiary by the trust.

"Investment decision" means the retention, purchase, sale, exchange, tender, or other transaction affecting the ownership of or rights in any investment, or the valuation of nonpublicly traded investments.

§ -809 Control and protection of trust property. A trustee shall take reasonable steps to take control of and protect the trust property.

§ -810 Recordkeeping and identification of trust property. (a) A trustee shall keep adequate records of the administration of the trust.

(b) A trustee shall keep trust property separate from the trustee's own property.

(c) Except as otherwise provided in subsection (d), a trustee shall cause the trust property to be designated so that the interest of the trust, to the extent feasible, appears in records maintained by a party other than a trustee or beneficiary.

(d) If the trustee maintains records clearly indicating the respective interests, a trustee may invest as a whole the property of two or more separate trusts.

§ -811 Enforcement and defense of claims. (a) A trustee shall take reasonable steps to enforce claims of the trust and to defend claims against the trust.

(b) A trustee may abandon or assign to one or more of the beneficiaries of the trust any claim that it believes is not prudent to enforce.

§ -812 Collecting trust property. (a) A trustee shall take reasonable steps to compel a former trustee or other person to deliver trust property to the trustee and to redress a breach of trust known to the trustee to have been committed by a former trustee or other person, unless the beneficiaries consent to, release, or ratify the actions of the former trustee or other person under section -1009.

(b) In addition to any other legal or equitable remedies, a person who receives a distribution from a trust shall be liable to return the distribution to the extent that the trustee or a court subsequently determines that the person was not entitled to the distribution.

§ -813 Duty to inform and report. (a) During the lifetime of the settlor of a revocable trust, regardless of whether the settlor has capacity to revoke the trust, the trustee's duties under this section are owed exclusively to the settlor. If the settlor lacks capacity to revoke the trust, a trustee may satisfy the trustee's duties under this section by providing information and reports to any one or more of the following in the order of preference listed:

- (1) The person or persons designated by the settlor in the trust to receive information and reports on the settlor's behalf;
- (2) The settlor's conservator;
- (3) The settlor's guardian;
- (4) The settlor's agent under durable power of attorney; or
- (5) The settlor's spouse; provided that the spouse is a beneficiary under the trust.

If the settlor lacks capacity to revoke the trust and there are no persons listed in this subsection to whom the trustee may provide information and reports, the trustee shall satisfy its duties under this section by providing information and reports to the qualified beneficiaries.

(b) After the settlor's death, a trustee shall keep the qualified beneficiaries of the trust reasonably informed about the administration of the trust and of the material facts necessary for them to protect their interests. Unless unreasonable under the circumstances, a trustee shall promptly respond to a qualified beneficiary's request for information related to the administration of the trust.

- (c) After the settlor's death, a trustee:
- (1) Upon request of a qualified beneficiary, shall promptly furnish to the qualified beneficiary a copy of the trust instrument;
 - (2) Within sixty days after accepting a trusteeship, shall notify the qualified beneficiaries of the acceptance and of the trustee's name, address, and telephone number;
 - (3) Within sixty days after the date the trustee acquires knowledge of the creation of an irrevocable trust or the date the trustee acquires knowledge that a formerly revocable trust has become irrevocable, whether by the death of the settlor or otherwise, shall notify the qualified beneficiaries of the trust's existence, of the identity of the settlor or settlors, of the right to request a copy of the trust instrument, and of the right to a trustee's report as provided in subsection (d); and

(4) Shall notify the qualified beneficiaries in advance of any change in the method or rate of the trustee's compensation.

(d) A trustee shall send to the distributees or permissible distributees of trust income or principal and other qualified beneficiaries who request it, at least annually and at the termination of the trust, a report of the trust property, liabilities, receipts, and disbursements, including the source and amount of the trustee's compensation, and a listing of the trust assets and, if feasible, their respective market values. Upon a vacancy in a trusteeship, unless a cotrustee remains in office, a report shall be sent to the qualified beneficiaries by the former trustee. A personal representative, conservator, or guardian may send the qualified beneficiaries a report on behalf of a deceased or incapacitated trustee.

(e) A qualified beneficiary may waive the right to a trustee's report or other information otherwise required to be furnished under this section. A qualified beneficiary, with respect to future reports and other information, may withdraw a waiver previously given.

(f) A trustee may charge a reasonable fee to a qualified beneficiary for providing information under this section.

(g) Every trustee acting under appointment of any court or under any appointment requiring the approval of any court shall, except where the prior trustee, if any, was not required by statute or the instrument creating the trust or appointing the trustee to file an account, file annually with the court having jurisdiction thereof an account showing in detail all receipts and disbursements, together with a full and detailed inventory of all property in the trustee's possession or under the trustee's control; provided that the court, when it deems it advisable in the interests of the beneficiaries, may permit the accounts to be filed biennially or triennially instead of annually or, if they are filed annually, may permit them to accumulate to be passed upon biennially or triennially; provided further that the court on its own examination or that of its clerk shall, without reference to a master, pass upon the accounts when the annual income does not exceed \$1,000, except in the case of a final account when the court may refer the same to a master, irrespective of the amount of the annual income, if for any reason it is deemed proper or necessary. If any trustee fails to file an account as required in this section, the clerk of the court in which the trustee is required to file the account shall notify the trustee promptly of the failure, and if the trustee fails to file the account within thirty days after the notification, the trustee shall be cited to appear before the court and be required to show cause why the trustee should not be punished for contempt of court as provided by section 710-1077, and the trustee shall be subject to all of the penalties provided in that section. The court may also, in its discretion, remove the trustee.

(h) Unless otherwise required by the instrument creating the trust, nothing in this section shall be construed to require the filing of an annual account either by a trustee or trustees appointed by the court as additional trustee or trustees to serve with or in the place and stead of a trustee or trustees appointed in the instrument creating a trust or by a trustee whose appointment is made in accordance with or pursuant to the instrument creating the trust where the appointment has been confirmed by any court in proceedings brought to secure the confirmation or approval thereof.

(i) Subsection (c)(2) and (3) shall not apply to:

- (1) A trustee who accepts a trusteeship before the effective date of this chapter;
- (2) An irrevocable trust created before the effective date of this chapter;
- or
- (3) A revocable trust that becomes irrevocable before the effective date of this chapter.

§ -814 Discretionary powers; tax savings. (a) Notwithstanding the breadth of discretion granted to a trustee in the terms of the trust, including the use of terms such as “absolute”, “sole”, or “uncontrolled”, the trustee shall exercise a discretionary power in good faith and in accordance with the terms and purposes of the trust and the interests of the beneficiaries.

(b) Subject to subsection (d), and unless the terms of the trust expressly indicate that a rule in this subsection does not apply:

- (1) A person other than a settlor who is a beneficiary and trustee of a trust that confers on the trustee a power to make discretionary distributions to or for the trustee’s personal benefit may exercise the power only in accordance with an ascertainable standard; and
- (2) A trustee shall not exercise a power to make discretionary distributions to satisfy a legal obligation of support that the trustee personally owes another person.

(c) A power whose exercise is limited or prohibited by subsection (b) may be exercised by a majority of the remaining trustees whose exercise of the power is not so limited or prohibited. If the power of all trustees is so limited or prohibited, the court may appoint a special fiduciary with authority to exercise the power.

(d) Subsection (b) shall not apply to:

- (1) A power held by the settlor’s spouse who is the trustee of a trust for which a marital deduction, as defined in section 2056(b)(5) or 2523(e) of the Internal Revenue Code of 1986, as in effect on the effective date of this chapter was previously allowed;
- (2) Any trust during any period that the trust may be revoked or amended by its settlor; or
- (3) A trust if contributions to the trust qualify for the annual exclusion under section 2503(c) of the Internal Revenue Code of 1986, as in effect on the effective date of this chapter.

§ -815 General powers of trustee. (a) A trustee, without authorization by the court, may exercise:

- (1) Powers conferred by the terms of the trust; and
- (2) Except as limited by the terms of the trust:
 - (A) All powers over the trust property that an unmarried competent owner has over individually owned property;
 - (B) Any other powers appropriate to achieve the proper investment, management, and distribution of the trust property; and
 - (C) Any other powers conferred by this chapter.

(b) The exercise of a power is subject to the fiduciary duties prescribed by this part.

§ -816 Specific powers of trustee. Without limiting the authority conferred by section -815, a trustee may:

- (1) Collect trust property, accept or reject additions to the trust property from a settlor or any other person, and retain trust property, even if the trustee has a personal interest in the property, until in the judgment of the trustee, disposition of the property should be made;
- (2) Invest and reinvest trust assets and acquire or sell property for cash or on credit at a public or private sale;
- (3) Exchange, partition, or otherwise change the character of trust property;

- (4) Deposit trust money in an account in a regulated financial services institution, including a financial institution operated by the trustee, if the deposit is adequately insured or secured;
- (5) Borrow money, with or without security, including from a corporate trustee's lending department, and mortgage or pledge trust property for a period within or extending beyond the duration of the trust; or advance money for the protection of the trust and for all expenses, losses, and liabilities sustained in the administration of the trust or because of the holding or ownership of any trust assets;
- (6) With respect to an interest in a proprietorship, partnership, limited liability company, business trust, corporation, or other form of business or enterprise, continue the business or other enterprise and take any action that may be taken by shareholders, members, or property owners, including merging, dissolving, or otherwise changing the form of business organization or contributing additional capital;
- (7) With respect to stocks or other securities, exercise the rights of an absolute owner, including the right to:
 - (A) Vote, or give proxies to vote, with or without power of substitution, or enter into or continue a voting trust agreement;
 - (B) Hold a security in the name of a nominee or in other form without disclosure of the trust so that title may pass by delivery;
 - (C) Pay calls, assessments, and other sums chargeable or accruing against the securities and sell or exercise stock option, subscription, conversion, or other rights; and
 - (D) Deposit the securities with a depository or other regulated financial services institution;
- (8) With respect to an interest in real property, construct, or make ordinary or extraordinary repairs to, alterations to, or improvements in, buildings or other structures, demolish improvements, raze existing or erect new party walls or buildings, subdivide or develop land, dedicate land to public use, with or without consideration, or grant public or private easements, and make or vacate plats and adjust boundaries;
- (9) Enter into a lease for any purpose as lessor or lessee, including a lease or other arrangement for exploration and removal of natural resources, with or without the option to purchase or renew, for a period within or extending beyond the duration of the trust;
- (10) Grant an option involving a sale, lease, or other disposition of trust property or acquire an option for the acquisition of property, including an option exercisable beyond the duration of the trust, and exercise an option so acquired;
- (11) Insure the property of the trust against damage or loss and insure the trustee, the trustee's agents, and beneficiaries against liability arising from the administration of the trust;
- (12) Abandon or decline to administer property of no value or of insufficient value to justify its collection or continued administration;
- (13) With respect to possible liability for violation of environmental law:
 - (A) Inspect or investigate property the trustee holds or has been asked to hold, or property owned or operated by an organization in which the trustee holds or has been asked to hold an interest, for the purpose of determining the application of environmental law with respect to the property;
 - (B) Take action to prevent, abate, or otherwise remedy any actual or potential violation of any environmental law affecting prop-

- erty held directly or indirectly by the trustee, whether taken before or after the assertion of a claim or the initiation of governmental enforcement;
- (C) Decline to accept property into trust or disclaim any power with respect to property that is or may be burdened with liability for violation of environmental law;
 - (D) Compromise claims against the trust that may be asserted for an alleged violation of environmental law; and
 - (E) Pay the expense of any inspection, review, abatement, or remedial action to comply with environmental law;
- (14) Pay or contest any claim, settle a claim by or against the trust, and release, in whole or in part, a claim belonging to the trust;
 - (15) Pay taxes, assessments, compensation of the trustee and of employees and agents of the trust, and other expenses incurred in the administration of the trust;
 - (16) Exercise elections with respect to federal, state, and local taxes;
 - (17) Select a mode of payment under any employee benefit or retirement plan, annuity, or life insurance payable to the trustee, exercise rights thereunder, including exercise of the right to indemnification for expenses and against liabilities, and take appropriate action to collect the proceeds;
 - (18) Make loans out of trust property, including loans to a beneficiary on terms and conditions the trustee considers to be fair and reasonable under the circumstances, and the trustee has a lien on future distributions for repayment of those loans;
 - (19) Pledge trust property to guarantee loans made by others to the beneficiary or to an entity in which the trust or beneficiary has an ownership interest; provided that this power shall not apply to any beneficiary whose interest is subject to a spendthrift provision;
 - (20) Appoint a trustee to act in another jurisdiction with respect to trust property located in the other jurisdiction, confer upon the appointed trustee any or all of the powers and duties of the appointing trustee, require that the appointed trustee furnish security, and remove any trustee so appointed;
 - (21) Pay an amount distributable to a beneficiary who is under a legal disability or who the trustee reasonably believes is incapacitated, by paying it directly to the beneficiary or applying it for the beneficiary's benefit, or by:
 - (A) Paying it to the beneficiary's conservator or, if the beneficiary does not have a conservator, the beneficiary's guardian;
 - (B) Paying it to the beneficiary's custodian under chapter 553A, the Hawaii Uniform Transfers to Minors Act, or custodial trustee under chapter 554B, the Hawaii Uniform Custodial Trust Act, and, for that purpose, creating a custodianship or custodial trust;
 - (C) If the trustee does not know of a conservator, guardian, custodian, or custodial trustee, paying it to an adult relative or other person having legal or physical care or custody of the beneficiary, to be expended on the beneficiary's behalf;
 - (D) Managing it as a separate fund on the beneficiary's behalf, subject to the beneficiary's continuing right to withdraw the distribution; or

- (E) Creating or funding a plan under section 529 of the Internal Revenue Code of 1986, in effect on July 1, 2003, for the beneficiary's benefit;
- (22) On distribution of trust property or the division or termination of a trust, make distributions in divided or undivided interests, allocate particular assets in proportionate or disproportionate shares, value the trust property for those purposes, and adjust for resulting differences in valuation;
- (23) Resolve a dispute concerning the interpretation of the trust or its administration by mediation, arbitration, or other procedure for alternative dispute resolution;
- (24) Prosecute or defend an action, claim, or judicial proceeding in any jurisdiction to protect trust property and the trustee in the performance of the trustee's duties, including petitioning the court for approval of accounts and termination and discharge of the trustee;
- (25) Sign and deliver contracts and other instruments that are useful to achieve or facilitate the exercise of the trustee's powers;
- (26) On termination of the trust, exercise the powers appropriate to wind up the administration of the trust and distribute the trust property to the persons entitled to it;
- (27) Divide, sever, or separate a single trust into two or more separate trusts or merge two or more separate trusts into a single trust for administration or tax purposes, including the allocation of the generation-skipping transfer exemption; provided that the terms of the new trust provide, in the aggregate, for the same succession of interests and beneficiaries as are provided in the original trust; and
- (28) Employ persons, including attorneys, auditors, investment advisors, or agents, even if they are associated with the trustee, to advise or assist the trustee in performance of the trustee's administrative duties; act without independent investigation upon their recommendations; and rather than acting personally, employ one or more agents to perform any administrative acts, regardless of whether the acts are discretionary.

§ -817 Distribution upon termination. (a) Upon termination or partial termination of a trust, the trustee may send to the beneficiaries a proposal for distribution. The right of any beneficiary to object to the proposed distribution terminates if the beneficiary does not notify the trustee of an objection within sixty days after the proposal was sent but only if the proposal informed the beneficiary of the right to object and of the time allowed for objection.

(b) Upon the occurrence of an event terminating or partially terminating a trust, the trustee shall proceed expeditiously to distribute the trust property to the persons entitled to it, subject to the right of the trustee to retain a reasonable reserve for the payment of debts, expenses, and taxes.

(c) A release by a beneficiary of a trustee from liability for breach of trust is invalid to the extent:

- (1) It was induced by improper conduct of the trustee; or
- (2) The trustee failed to adequately disclose to the beneficiary, at the time of the release, the material facts relating to the breach or sufficient information to enable the beneficiary to know of a potential claim or to inquire into the existence of a breach or potential claim.

(d) A person who receives a distribution from a trust that has terminated shall be liable to return the distribution to the extent that it is subsequently determined that the person was not entitled to the distribution.

PART IX. UNIFORM PRUDENT INVESTOR ACT

§ -901 Prudent investor rule. (a) Except as otherwise provided in subsection (b), a trustee who invests and manages trust assets owes a duty to the beneficiaries of the trust to comply with the prudent investor rule set forth in this part.

(b) The prudent investor rule, a default rule, may be expanded, restricted, eliminated, or otherwise altered by the provisions of a trust. A trustee shall not be liable to a beneficiary to the extent that the trustee acted in reasonable reliance on the provisions of the trust.

§ -902 Standard of care; portfolio strategy; risk and return objectives. (a) A trustee shall invest and manage trust assets as a prudent investor would by considering the purposes, terms, distribution requirements, and other circumstances of the trust. In satisfying this standard, the trustee shall exercise reasonable care, skill, and caution.

(b) A trustee's investment and management decisions respecting individual assets shall be evaluated not in isolation, but in the context of the trust portfolio as a whole and as a part of an overall investment strategy having risk and return objectives reasonably suited to the trust.

(c) Among circumstances that a trustee shall consider in investing and managing trust assets are the following as are relevant to the trust or its beneficiaries:

- (1) General economic conditions;
- (2) The possible effect of inflation or deflation;
- (3) The expected tax consequences of investment decisions or strategies;
- (4) The role that each investment or course of action plays within the overall trust portfolio, which may include financial assets, interests in closely held enterprises, tangible and intangible personal property, and real property;
- (5) The expected total return from income and the appreciation of capital;
- (6) Other resources of the beneficiaries;
- (7) Needs for liquidity, regularity of income, and preservation or appreciation of capital; and
- (8) An asset's special relationship or special value, if any, to the purposes of the trust or to one or more of the beneficiaries.

(d) A trustee shall make a reasonable effort to verify facts relevant to the investment and management of trust assets.

(e) A trustee may invest in any kind of property or type of investment consistent with the standards of this chapter.

§ -903 Diversification. A trustee shall diversify the investments of the trust unless the trustee reasonably determines that, because of special circumstances or directives of the trust, the purposes of the trust are better served without diversifying.

§ -904 Duties at inception of trusteeship. Within a reasonable time after accepting a trusteeship or receiving trust assets, a trustee shall review the trust assets and make and implement decisions concerning the retention and disposition of assets to bring the trust portfolio into compliance with the purposes, terms, distribution requirements, and other circumstances of the trust and with the requirements of this part.

§ -905 **Reviewing compliance.** Compliance with the prudent investor rule is determined in light of the facts and circumstances existing at the time of a trustee’s decision or action and not by hindsight.

§ -906 **Language invoking standard of part.** The following terms or comparable language in the provisions of a trust, unless otherwise limited or modified, authorizes any investment or strategy permitted under this part: “authorized investments”; “investments permissible by law for investment of trust funds”; “legal investments”; “prudent investor rule”; “prudent man rule”; “prudent person rule”; “prudent trustee rule”; and “using the judgment and care under the circumstances then prevailing that persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital”.

PART X. LIABILITY OF TRUSTEES AND RIGHTS OF PERSONS DEALING WITH TRUSTEE

§ -1001 **Remedies for breach of trust.** (a) A violation by a trustee of a duty the trustee owes to a beneficiary is a breach of trust. A breach of trust may occur by reason of an action or by reason of a failure to act.

(b) To remedy a breach of trust that has occurred or may occur, the court may:

- (1) Compel the trustee to perform the trustee’s duties;
- (2) Enjoin the trustee from committing a breach of trust;
- (3) Compel the trustee to redress a breach of trust by paying money, restoring property, or other means;
- (4) Order a trustee to account;
- (5) Appoint a special fiduciary to take possession of the trust property and administer the trust;
- (6) Suspend the trustee;
- (7) Remove the trustee as provided in section -706;
- (8) Reduce or deny compensation to the trustee;
- (9) Subject to section -1012, void an act of the trustee, impose a lien or a constructive trust on trust property, or trace trust property wrongfully disposed of and recover the property or its proceeds;
- (10) Order that the trustee, not the trust, shall bear the trustee’s attorney’s fees and those incurred by other parties to the trust; or
- (11) Order any other appropriate relief, including punitive damages.

(c) The court, for cause shown, may relieve a trustee from liability for any breach of trust or wholly or partly excuse a trustee who has acted honestly and reasonably from liability for a breach of trust.

§ -1002 **Damages for breach of trust.** (a) A trustee who commits a breach of trust is liable to the beneficiaries affected for the greater of:

- (1) The amount required to restore the value of the trust property and trust distributions to what they would have been had the breach not occurred; or
- (2) The profit the trustee made by reason of the breach.

(b) Except as otherwise provided in this subsection, if more than one trustee is liable to the beneficiaries for a breach of trust, a trustee is entitled to contribution from the other trustee or trustees. In determining the amount of contribution, the court shall consider the degree of fault of each trustee and whether any trustee or trustees acted in bad faith or with reckless indifference

to the purposes of the trust or the interests of the beneficiaries. A trustee who received a benefit from the breach of trust is not entitled to contribution from another trustee to the extent of the benefit received.

§ -1003 No damages in absence of breach. Absent a breach of trust, a trustee shall not be liable to a beneficiary for a loss or depreciation in the value of trust property or for not having made a profit.

§ -1004 Attorney's fees and costs. (a) In a judicial proceeding involving the administration, interpretation, or validity of a trust, the court may award reasonable attorney's fees, costs, and expenses to any party to the trust who has acted in the best interest of the trust as a whole, to be paid by another party or from the trust that is the subject of the controversy.

(b) If a trustee, a nominated trustee, or a beneficiary, if a trustee or a nominated trustee refuses to act, defends or prosecutes any proceeding regarding the validity of a trust in good faith, whether successful or not, that person is entitled to receive from the trust reasonable costs, expenses, and disbursements, including reasonable attorney's fees, regardless of whether counsel has been retained on a contingency fee basis.

§ -1005 Limitation of action against trustee. (a) A beneficiary shall not commence a proceeding against a trustee for breach of trust more than one year after the date the beneficiary or a representative of the beneficiary, as described in part III, was sent a report that adequately disclosed the existence of a potential claim for breach of trust and informed the beneficiary of the time allowed for commencing a proceeding.

(b) A report adequately discloses the existence of a potential claim for breach of trust if it provides sufficient information so that the beneficiary or representative knows or has reason to know of the potential claim or should have inquired into its existence.

(c) If subsection (a) does not apply, a judicial proceeding by a beneficiary against a trustee for breach of trust shall be commenced within three years after the first to occur of:

- (1) The removal or resignation of the trustee;
- (2) The termination of the beneficiary's interest in the trust; or
- (3) The termination of the trust.

(d) If subsection (a) does not apply, a judicial proceeding by a beneficiary against a deceased trustee for breach of trust shall be commenced within the time frames set forth in section 560:3-803(a).

§ -1006 Reliance on trust instrument. A trustee who acts in reasonable reliance on the terms of the trust as expressed in the trust instrument shall not be liable to a beneficiary for a breach of trust to the extent the breach resulted from the reliance.

§ -1007 Event affecting administration or distribution. If the happening of an event, including marriage, divorce, performance of educational requirements, or attainment of a specific age, birth, or death, affects the administration or distribution of a trust, a trustee who has exercised reasonable care to ascertain the happening of the event shall not be liable for a loss resulting from the trustee's lack of knowledge.

§ -1008 Exculpation of trustee. A term of a trust relieving a trustee of liability for breach of trust is unenforceable to the extent that it:

- (1) Relieves the trustee of liability for breach of trust committed in bad faith or with reckless indifference to the purposes of the trust or the interests of the beneficiaries; or
- (2) Was inserted as the result of an abuse by the trustee of either a fiduciary or confidential relationship to the settlor.

§ **-1009 Beneficiary's consent, release, or ratification.** A trustee is not liable to a beneficiary for breach of trust if the beneficiary or the representative of the beneficiary, as described in part III, consented to the conduct constituting the breach, released the trustee from liability for the breach, or ratified the transaction constituting the breach, unless:

- (1) The consent, release, or ratification of the beneficiary was induced by improper conduct of the trustee; or
- (2) At the time of the consent, release, or ratification, the beneficiary did not know of the beneficiary's rights or of the material facts relating to the breach.

§ **-1010 Limitation on personal liability of trustee.** (a) Except as otherwise provided in the contract, a trustee shall not be personally liable on a contract properly entered into in the trustee's fiduciary capacity in the course of administering the trust if the trustee in the contract disclosed the fiduciary capacity.

(b) A trustee shall be personally liable for torts committed in the course of administering a trust or for obligations arising from ownership or control of trust property, including liability for violation of environmental law, only if the trustee is personally at fault.

(c) A claim based on a contract entered into by a trustee in the trustee's fiduciary capacity, on an obligation arising from ownership or control of trust property, or on a tort committed in the course of administering a trust, may be asserted in a judicial proceeding against the trustee in the trustee's fiduciary capacity, regardless of whether the trustee is personally liable for the claim.

(d) Any judgment obtained against the trustee in the trustee's fiduciary capacity may be collected against the trust estate. The questions of liability as between the trust estate and the trustee personally may be determined in a proceeding for accounting, surcharge, or indemnification or other appropriate proceeding.

§ **-1011 Interest as general partner.** (a) Unless personal liability is imposed in the contract, a trustee who holds an interest as a general partner in a general or limited partnership shall not be personally liable on a contract entered into by the partnership after the trust's acquisition of the interest if the fiduciary capacity was disclosed in the contract or in a statement previously filed pursuant to part IV of chapter 425, the Uniform Partnership Act, or chapter 425E, Uniform Limited Partnership Act.

(b) A trustee who holds an interest as a general partner shall not be personally liable for torts committed by the partnership or for obligations arising from ownership or control of the interest unless the trustee is personally at fault.

(c) The immunity provided by this section shall not apply if an interest in the partnership is held by the trustee in a capacity other than that of trustee or is held by the trustee's spouse, one or more of the trustee's descendants, siblings, or parents, or a spouse of any of them.

(d) If the trustee of a revocable trust holds an interest as a general partner, the settlor shall be personally liable for contracts and other obligations of the partnership as if the settlor were a general partner.

§ -1012 Protection of person dealing with trustee. (a) A person, other than a beneficiary, who in good faith assists a trustee or who in good faith and for value deals with a trustee, without actual knowledge that the trustee is exceeding or improperly exercising the trustee's powers, shall be protected from liability as if the trustee properly exercised the power.

(b) A person, other than a beneficiary, who in good faith deals with a trustee shall not be required to inquire into the extent of the trustee's powers or the propriety of their exercise.

(c) A person who in good faith delivers assets to a trustee shall not be required to ensure their proper application.

(d) A person, other than a beneficiary, who in good faith assists a former trustee or who in good faith and for value deals with a former trustee, without actual knowledge that the trusteeship has terminated, shall be protected from liability as if the former trustee were still a trustee.

(e) Comparable protective provisions of other laws relating to commercial transactions or transfer of securities by fiduciaries shall prevail over the protection provided by this section.

§ -1013 Certification of trust. (a) Instead of furnishing a copy of the trust instrument to a person other than a beneficiary, the trustee may furnish to the person a certification of trust containing the following information:

- (1) That the trust exists, the date the trust instrument was executed, and the name of the trust;
- (2) The identity of the settlor;
- (3) The identity and address of the currently acting trustee;
- (4) The powers of the trustee;
- (5) The revocability or irrevocability of the trust and the identity of any person holding a power to revoke the trust;
- (6) The authority of cotrustees to sign or otherwise authenticate and whether all or less than all are required to exercise powers of the trustee; and
- (7) If an action is to be undertaken through an agent, that delegation of the action to an agent is not prohibited by the trust instrument.

(b) A certification of trust may be signed or otherwise authenticated by any trustee.

(c) A certification of trust shall state that the trust has not been revoked, modified, or amended in any manner that would cause the representations contained in the certification of trust to be incorrect.

(d) A certification of trust shall not be required to contain the dispositive terms of a trust.

(e) A recipient of a certification of trust may require the trustee to furnish copies of those excerpts from the original trust instrument and later amendments that designate the trustee and confer upon the trustee the power to act in the pending transaction.

(f) A person who acts in reliance upon a certification of trust without knowledge that the representations contained therein are incorrect shall not be liable to any person for so acting and may assume without inquiry the existence of the facts contained in the certification. Knowledge of the terms of the trust shall not be inferred solely from the fact that a copy of all or part of the trust instrument is held by the person relying upon the certification.

(g) A person who in good faith enters into a transaction in reliance upon a certification of trust may enforce the transaction against the trust property as if the representations contained in the certification were correct.

(h) A person making a demand for the trust instrument in addition to a certification of trust or excerpts shall be liable for damages if the court determines that the person did not act in good faith in demanding the trust instrument.

(i) This section shall not limit the right of a person to obtain a copy of the trust instrument in a judicial proceeding concerning the trust.

PART XI. MISCELLANEOUS PROVISIONS

§ -1101 **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.

§ -1102 **Electronic records and signatures.** The provisions of this chapter governing the legal effect, validity, or enforceability of electronic records or electronic signatures and of contracts formed or performed with the use of those records or signatures conform to the requirements of section 102 of the Electronic Signatures in Global and National Commerce Act (15 U.S.C. 7002) and supersede, modify, and limit the requirements of the Electronic Signatures in Global and National Commerce Act.

§ -1103 **Severability clause.** If any provision of this chapter or its application to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of this chapter that can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

§ -1104 **Application to existing relationships.** (a) Except as otherwise provided in this chapter, on the effective date of this chapter:

- (1) This chapter applies to all trusts created before, on, or after its effective date;
- (2) This chapter applies to all judicial proceedings concerning trusts commenced on or after its effective date;
- (3) This chapter applies to judicial proceedings concerning trusts commenced before its effective date unless the court finds that application of a particular provision of this chapter would substantially interfere with the effective conduct of the judicial proceedings or prejudice the rights of the parties, in which case the particular provision of this chapter shall not apply and the superseded law applies;
- (4) Any rule of construction or presumption provided in this chapter applies to trust instruments executed before the effective date of the chapter unless there is a clear indication of a contrary intent in the terms of the trust; and
- (5) An act done before the effective date of the chapter is not affected by this chapter.

(b) If a right is acquired, extinguished, or barred upon the expiration of a prescribed period that has commenced to run under any other statute before the effective date of the chapter, that statute continues to apply to the right even if it has been repealed or superseded.”

SECTION 3. Section 415A-2, Hawaii Revised Statutes, is amended by amending the definition of “professional service” to read as follows:

““Professional service” means any service [~~which~~] that lawfully may be rendered only by persons licensed under chapters 442, 448, 453, 455, 457, 459, 461, 463E, 465, 466, 471, and 605[~~, and section 554-2~~].”

SECTION 4. Section 554G-4.5, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) Notwithstanding subsection (b), whenever there is a dispute, deadlock, or difference of opinion between a trustee and an advisor, the transferor may direct that the determination of the advisor shall be binding upon the trustee; provided that the trustee shall bear no liability or accountability for any act or transaction entered into or omitted as a result of the enforcement of the advisor’s determination. The trustee’s administrative and non-administrative fiduciary duty to the beneficiaries shall be waived as to the specific act or transaction entered into or omitted as a result of the enforcement of the advisor’s determination; provided that:

- (1) The trustee dissents in writing:
 - (A) Before the act or transaction is completed;
 - (B) To a failure to act; or
 - (C) In a reasonably timely manner to enter into a transaction; or
- (2) If the advisor is appointed by the transferor under the terms of the trust and section [560:7-302] ~~___~~-808(c) applies to the trust and the advisor, the trustee is not required to dissent in writing for the waiver of the trustee’s administrative and [~~nonadministrative~~] non-administrative fiduciary duties to the beneficiaries to take effect.”

SECTION 5. Section 556A-2, Hawaii Revised Statutes, is amended by amending the definition of “court” to read as follows:

““Court” means the circuit court in this State having jurisdiction in matters relating to powers of attorney, in the case of a fiduciary or agent acting under a will or power of attorney; a circuit court in this State having jurisdiction in matters relating to the affairs of decedents, in the case of a personal representative; a circuit court in this State having jurisdiction in matters relating to the affairs of decedents or the family court, depending on which court has subject matter jurisdiction under section 560:5-106, in the case of a conservatorship; or a court that has jurisdiction under section [560:7-204;] ~~___~~-202, in the case of a trustee acting under a trust.”

SECTION 6. Section 560:3-703, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) A personal representative is a fiduciary who shall observe the standards of care applicable to trustees as described by [~~section 560:7-302;~~] sections ___-804, ___-806, and ___-808(c). A personal representative is under a duty to settle and distribute the estate of the decedent in accordance with the terms of any probated and effective will and this chapter, and as expeditiously and efficiently as is consistent with the best interests of the estate. The personal representative shall use the authority conferred upon the personal representative by this chapter, the terms of the will, if any, and any order in proceedings to which the personal representative is party for the best interests of successors to the estate.”

SECTION 7. Section 560:3-913, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Before distributing to a trustee, the personal representative may require that the trust be registered if the [~~State~~] state in which it is to be admin-

istered provides for registration and that the trustee inform the beneficiaries as provided in section ~~[560:7-303.]~~ -813.”

SECTION 8. Section 560:8-101, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Except as provided elsewhere in this chapter, on the effective date of this chapter:

- (1) The chapter applies to any wills of decedents dying thereafter;
- (2) The chapter applies to any proceedings in court then pending or thereafter commenced regardless of the time of the death of decedent except to the extent that in the opinion of the court the former procedure should be made applicable in a particular case in the interest of justice or because of infeasibility of application of the procedure of this chapter;
- (3) Every executor of a will admitted to a probate ~~[prior to]~~ before July 1, 1977, in this State and every administrator appointed ~~[prior to]~~ before July 1, 1977, by a court of this State shall be a supervised personal representative with respect to the estate, and every guardian of the property appointed ~~[prior to]~~ before July 1, 1976, by a court of this State shall be a guardian of the property, with only the powers conferred by this chapter and subject to the duties imposed by this chapter with respect to any act occurring or done thereafter. Every guardian of a person holding an appointment on that date continues to hold the appointment but has only the powers conferred by this chapter and is subject to the duties imposed by this chapter with respect to any act occurring or done thereafter;
- (4) The consequences of an act done before the applicable effective date in any proceeding and any accrued right is not impaired by this chapter. If a right is acquired, extinguished, or barred upon the expiration of a prescribed period of time which has commenced to run by the provisions of any statute before July 1, 1977, the provisions of ~~[such]~~ the statute shall remain in force with respect to that right;
- (5) Any rule of construction or presumption provided in this chapter applies to instruments executed and multiple-party accounts opened before July 1, 1976, unless there is a clear indication of a contrary intent; and
- (6) Notwithstanding any of the above, this chapter shall not affect any property or other rights accrued under the case and statutory law of this State, including but not limited to the law relating to intestacy, dower and curtesy (chapters 532 and 533), which became vested ~~[prior to]~~ before July 1, 1977[;];
- (7) ~~Section 560:7-501 applies to governing instruments executed on or after June 24, 2005[.]”~~

SECTION 9. Chapter 554A, Hawaii Revised Statutes, is repealed.

SECTION 10. Chapter 554C, Hawaii Revised Statutes, is repealed.

SECTION 11. Article VII of chapter 560, Hawaii Revised Statutes, is repealed.

SECTION 12. Section 554-2, Hawaii Revised Statutes, is repealed.

SECTION 13. Section 554-4, Hawaii Revised Statutes, is repealed.

SECTION 14. Statutory material to be repealed is bracketed and stricken.¹ New statutory material is underscored.

SECTION 15. This Act shall take effect on January 1, 2022.

(Approved June 7, 2021.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 33

S.B. NO. 413

A Bill for an Act Relating to Violation of Privacy.

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

SECTION 1. Section 853-4, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) 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;
 provided that the prohibition in this paragraph shall not apply to offenses described in section 709-906(18);
- (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 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 or no contest plea 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 or no

- contest plea 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 or by a witness;
 - (I) Intimidating a witness;
 - (J) Bribery of or by a juror;
 - (K) Intimidating a juror;
 - (L) Jury tampering;
 - (M) Promoting prostitution;
 - (N) Abuse of family or household member except as provided in paragraph (2) and section 709-906(18);
 - (O) Sexual assault in the second degree;
 - (P) Sexual assault in the third degree;
 - (Q) A violation of an order issued pursuant to chapter 586;
 - (R) Promoting child abuse in the second degree;
 - (S) Promoting child abuse in the third degree;
 - (T) Electronic enticement of a child in the first degree;
 - (U) Electronic enticement of a child in the second degree;
 - (V) Prostitution pursuant to section 712-1200(1)(b);
 - (W) Street solicitation of prostitution under section 712-1207(1)(b);
 - (X) Solicitation of prostitution near schools or public parks under section 712-1209;
 - (Y) Habitual solicitation of prostitution under section 712-1209.5; ~~[øf]~~
 - (Z) Solicitation of a minor for prostitution under section 712-1209.1;
 - (AA) Violation of privacy in the first degree under section 711-1110.9; or
 - (BB) Violation of privacy in the second degree under section 711-1111(1)(d), (e), (f), (g), or (h);
- (14) The defendant has been charged with:
- (A) Knowingly or intentionally falsifying any report required under chapter 11, part XIII with the intent to circumvent the law or deceive the campaign spending commission; or
 - (B) Violating section 11-352 or 11-353; 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."

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 its approval.

(Approved June 7, 2021.)

ACT 34

S.B. NO. 970

A Bill for an Act Relating to Telehealth.

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

SECTION 1. The legislature finds that the novel coronavirus disease 2019 (COVID-19) pandemic has substantially impacted the way patients access health care by increasing the demand for and use of telehealth to diagnose, treat, and monitor illness.

In Act 20, Session Laws of Hawaii 2009, the legislature noted that, since 1999, it “has supported the use and expansion of telehealth services and technology in Hawaii” as a way to increase access and reduce delays to health care, particularly in rural areas of the State.

The legislature further finds that the COVID-19 pandemic has resulted in an increased use of telehealth services. However, the existing state law relating to the practice of telehealth is ambiguous regarding whether a patient can use telehealth to establish a relationship with a physician. This could result in delayed access to care in many instances where access to care could be prudently and appropriately initiated through telehealth.

Accordingly, the purpose of this Act is to expand access to care and reduce delays by clarifying that a physician-patient relationship may be established via a telehealth interaction.

SECTION 2. Section 453-1.3, Hawaii Revised Statutes, is amended by amending subsections (e) and (f) to read as follows:

“(e) A ~~physician shall not use telehealth to establish a~~ physician-patient relationship ~~[with a patient in this State without]~~ may be established via a telehealth interaction; provided that the physician has a license to practice medicine in [Hawaii.] the State.

(f) ~~[A physician-patient relationship may be established via telehealth if the patient is referred to the telehealth provider by another health care provider who has conducted an in-person consultation and has provided all pertinent patient information to the telehealth provider.]~~ Once a ~~provider-patient~~ physician-patient relationship is established, a patient or physician licensed in this State may use telehealth for any authorized purpose, including consultation with a medical provider licensed in another state, authorized by this section or as otherwise provided by law.”

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, 2021.

(Approved June 7, 2021.)

A Bill for an Act Relating to Criminal History Record Checks.

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

SECTION 1. The Internal Revenue Service requires that background checks be performed on all current and prospective employees and contractors who receive access to federal tax information. The background checks must be comprehensive and must include a state and Federal Bureau of Investigation fingerprint-based background check. To comply with this requirement, the department of the attorney general requires additional authorization. Multiple other departments and agencies have received this authority.

The purpose of this Act is to authorize the department of the attorney general to search criminal histories and fingerprint records of current and prospective employees and employees or agents of contractors who receive access to federal tax information to allow it to comply with the Internal Revenue Service's requirement.

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

“§28- **Criminal history record checks.** (a) The department of the attorney general shall ensure that a background investigation is completed at the appropriate level designated by the federal government for any person, including any authorized contractor, to have access to federal tax information. This background investigation shall include criminal history record checks in accordance with section 846-2.7. Information obtained pursuant to this subsection shall be used exclusively by the department of the attorney general for the purpose of determining whether the person is suitable for accessing federal tax information in accordance with applicable federal laws.

(b) The department of the attorney general may terminate or deny employment to any current or prospective employee, or terminate or refuse to secure the services of any contractor, if the department of the attorney general finds by reason of the background investigation conducted under subsection (a) that the current or prospective employee or employee or agent of the contractor poses a risk to the security of federal tax information. Termination or denial of employment, or termination or refusal to secure the services of any contractor, under this subsection, shall only occur after appropriate notification to the current or prospective employee or employee or agent of the contractor of the findings of the background investigation, and after the current or prospective employee or employee or agent of the contractor is given an opportunity to meet and rebut the findings. Nothing in this subsection shall abrogate any applicable appeal rights under chapters 76 and 89 or administrative rules of the department of the attorney general.

(c) Investigations conducted by the department of the attorney general pursuant to this section shall be exempt from section 831-3.1.”

SECTION 3. Section 846-2.7, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Criminal history record checks may be conducted by:

- (1) The department of health or its designee on operators of adult foster homes for individuals with developmental disabilities or developmental disabilities domiciliary homes and their employees, as provided by section 321-15.2;

- (2) The department of health or its designee on prospective employees, persons seeking to serve as providers, or subcontractors in positions that place them in direct contact with clients when providing non-witnessed direct mental health or health care services as provided by section 321-171.5;
- (3) The department of health or its designee on all applicants for licensure or certification for, operators for, prospective employees, adult volunteers, and all adults, except adults in care, at healthcare facilities as defined in section 321-15.2;
- (4) The department of education on employees, prospective employees, and teacher trainees in any public school in positions that necessitate close proximity to children as provided by section 302A-601.5;
- (5) The counties on employees and prospective employees who may be in positions that place them in close proximity to children in recreation or child care programs and services;
- (6) The county liquor commissions on applicants for liquor licenses as provided by section 281-53.5;
- (7) The county liquor commissions on employees and prospective employees involved in liquor administration, law enforcement, and liquor control investigations;
- (8) The department of human services on operators and employees of child caring institutions, child placing organizations, and foster boarding homes as provided by section 346-17;
- (9) The department of human services on prospective adoptive parents as established under section 346-19.7;
- (10) The department of human services or its designee on applicants to operate child care facilities, household members of the applicant, prospective employees of the applicant, and new employees and household members of the provider after registration or licensure as provided by section 346-154, and persons subject to section 346-152.5;
- (11) The department of human services on persons exempt pursuant to section 346-152 to be eligible to provide child care and receive child care subsidies as provided by section 346-152.5;
- (12) The department of health on operators and employees of home and community-based case management agencies and operators and other adults, except for adults in care, residing in community care foster family homes as provided by section 321-15.2;
- (13) The department of human services on staff members of the Hawaii youth correctional facility as provided by section 352-5.5;
- (14) The department of human services on employees, prospective employees, and volunteers of contracted providers and subcontractors in positions that place them in close proximity to youth when providing services on behalf of the office or the Hawaii youth correctional facility as provided by section 352D-4.3;
- (15) The judiciary on employees and applicants at detention and shelter facilities as provided by section 571-34;
- (16) The department of public safety on employees and prospective employees who are directly involved with the treatment and care of persons committed to a correctional facility or who possess police powers including the power of arrest as provided by section 353C-5;
- (17) The board of private detectives and guards on applicants for private detective or private guard licensure as provided by section 463-9;

- (18) Private schools and designated organizations on employees and prospective employees who may be in positions that necessitate close proximity to children; provided that private schools and designated organizations receive only indications of the states from which the national criminal history record information was provided pursuant to section 302C-1;
- (19) The public library system on employees and prospective employees whose positions place them in close proximity to children as provided by section 302A-601.5;
- (20) The State or any of its branches, political subdivisions, or agencies on applicants and employees holding a position that has the same type of contact with children, vulnerable adults, or persons committed to a correctional facility as other public employees who hold positions that are authorized by law to require criminal history record checks as a condition of employment as provided by section 78-2.7;
- (21) The department of health on licensed adult day care center operators, employees, new employees, subcontracted service providers and their employees, and adult volunteers as provided by section 321-15.2;
- (22) The department of human services on purchase of service contracted and subcontracted service providers and their employees serving clients of the adult protective and community services branch, as provided by section 346-97;
- (23) The department of human services on foster grandparent program, senior companion program, and respite companion program participants as provided by section 346-97;
- (24) The department of human services on contracted and subcontracted service providers and their current and prospective employees that provide home and community-based services under section 1915(c) of the Social Security Act, title 42 United States Code section 1396n(c), or under any other applicable section or sections of the Social Security Act for the purposes of providing home and community-based services, as provided by section 346-97;
- (25) The department of commerce and consumer affairs on proposed directors and executive officers of a bank, savings bank, savings and loan association, trust company, and depository financial services loan company as provided by section 412:3-201;
- (26) The department of commerce and consumer affairs on proposed directors and executive officers of a nondepository financial services loan company as provided by section 412:3-301;
- (27) The department of commerce and consumer affairs on the original chartering applicants and proposed executive officers of a credit union as provided by section 412:10-103;
- (28) The department of commerce and consumer affairs on:
 - (A) Each principal of every non-corporate applicant for a money transmitter license;
 - (B) Each person who upon approval of an application by a corporate applicant for a money transmitter license will be a principal of the licensee; and
 - (C) Each person who upon approval of an application requesting approval of a proposed change in control of licensee will be a principal of the licensee,
 as provided by sections 489D-9 and 489D-15;

- (29) The department of commerce and consumer affairs on applicants for licensure and persons licensed under title 24;
- (30) The Hawaii health systems corporation on:
 - (A) Employees;
 - (B) Applicants seeking employment;
 - (C) Current or prospective members of the corporation board or regional system board; or
 - (D) Current or prospective volunteers, providers, or contractors, in any of the corporation's health facilities as provided by section 323F-5.5;
- (31) The department of commerce and consumer affairs on:
 - (A) An applicant for a mortgage loan originator license, or license renewal; and
 - (B) Each control person, executive officer, director, general partner, and managing member of an applicant for a mortgage loan originator company license or license renewal, as provided by chapter 454F;
- (32) The state public charter school commission or public charter schools on employees, teacher trainees, prospective employees, and prospective teacher trainees in any public charter school for any position that places them in close proximity to children, as provided in section 302D-33;
- (33) The counties on prospective employees who work with children, vulnerable adults, or senior citizens in community-based programs;
- (34) The counties on prospective employees for fire department positions ~~[which]~~ that involve contact with children or vulnerable adults;
- (35) The counties on prospective employees for emergency medical services positions ~~[which]~~ that involve contact with children or vulnerable adults;
- (36) The counties on prospective employees for emergency management positions and community volunteers whose responsibilities involve planning and executing homeland security measures including viewing, handling, and engaging in law enforcement or classified meetings and assisting vulnerable citizens during emergencies or crises;
- (37) The State and counties on employees, prospective employees, volunteers, and contractors whose position responsibilities require unescorted access to secured areas and equipment related to a traffic management center;
- (38) The State and counties on employees and prospective employees whose positions involve the handling or use of firearms for other than law enforcement purposes;
- (39) The State and counties on current and prospective systems analysts and others involved in an agency's information technology operation whose position responsibilities provide them with access to proprietary, confidential, or sensitive information;
- (40) The department of commerce and consumer affairs on:
 - (A) Applicants for real estate appraiser licensure or certification as provided by chapter 466K;
 - (B) Each person who owns more than ten per cent of an appraisal management company who is applying for registration as an appraisal management company, as provided by section 466L-7; and

- (C) Each of the controlling persons of an applicant for registration as an appraisal management company, as provided by section 466L-7;
- (41) The department of health or its designee on all license applicants, licensees, employees, contractors, and prospective employees of medical cannabis dispensaries, and individuals permitted to enter and remain in medical cannabis dispensary facilities as provided under sections 329D-15(a)(4) and 329D-16(a)(3);
- (42) The department of commerce and consumer affairs on applicants for nurse licensure or license renewal, reactivation, or restoration as provided by sections 457-7, 457-8, 457-8.5, and 457-9;
- (43) The county police departments on applicants for permits to acquire firearms pursuant to section 134-2 and on individuals registering their firearms pursuant to section 134-3;
- (44) The department of commerce and consumer affairs on:
 - (A) Each of the controlling persons of the applicant for licensure as an escrow depository, and each of the officers, directors, and principals who will be in charge of the escrow depository's activities upon licensure; and
 - (B) Each of the controlling persons of an applicant for proposed change in control of an escrow depository licensee, and each of the officers, directors, and principals who will be in charge of the licensee's activities upon approval of ~~such~~ the application, as provided by chapter 449;
- (45) The department of taxation on current or prospective employees or contractors who have access to federal tax information in order to comply with requirements of federal law, regulation, or procedure, as provided by section 231-1.6;
- (46) The department of labor and industrial relations on current or prospective employees or contractors who have access to federal tax information in order to comply with requirements of federal law, regulation, or procedure, as provided by section 383-110;
- (47) The department of human services on current or prospective employees or contractors who have access to federal tax information in order to comply with requirements of federal law, regulation, or procedure, as provided by section 346-2.5;
- (48) The child support enforcement agency on current or prospective employees~~]~~ or contractors who have access to federal tax information in order to comply with federal law, regulation, or procedure, as provided by section 576D-11.5; ~~and~~
- (49) The department of the attorney general on current or prospective employees or employees or agents of contractors who have access to federal tax information to comply with requirements of federal law, regulation, or procedure, as provided by section 28- ; and
- ~~[(49)]~~ (50) Any other organization, entity, or the State, its branches, political subdivisions, or agencies as may be authorized by state law.”

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

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

(Approved June 7, 2021.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 36

S.B. NO. 630

A Bill for an Act Relating to Child Support Enforcement.

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

SECTION 1. Section 657-5.5, Hawaii Revised Statutes, is amended to read as follows:

~~“[§657-5.5] Judgments for support. [Every] Notwithstanding section 657-5 and any other law to the contrary, every judgment for child support, including a judgment for reimbursement or other arrears, shall be [presumed to be paid and discharged on the thirty-third birthday of the child for which the order of support was rendered or by the expiration of the latest period provided in section 657-5, whichever date is later.] enforceable until paid in full.”~~

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 7, 2021.)

ACT 37

S.B. NO. 714

A Bill for an Act Relating to Publicity Rights.

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

SECTION 1. The legislature finds that chapter 482P, Hawaii Revised Statutes, known as the Hawaii Publicity Rights Act, was enacted on July 15, 2009, to recognize the existence of the right of publicity, which is a property right in the commercial use of one’s name, voice, signature, likeness, and other commercially valuable attributes. The legislature also finds that the Hawaii Publicity Rights Act, which prevents the unauthorized use of another individual’s name, voice, signature, or likeness for commercial purposes, is an important law that allows the people of Hawaii to protect their legacy and rights that are not covered by federal copyright law and state and federal trademark laws.

The legislature further finds that the legislature’s intent in enacting the Hawaii Publicity Rights Act in 2009 was to recognize the right of publicity held by all persons, living and dead, including those who predeceased the enactment of the Hawaii Publicity Rights Act.

The purpose of this Act is to clarify that the Hawaii Publicity Rights Act applies retroactively to protect the publicity rights of individuals who died before the date of its enactment.

SECTION 2. Section 482P-1, Hawaii Revised Statutes, is amended by amending the definitions of “deceased individual” and “deceased personality” to read as follows:

““Deceased individual” means any individual, regardless of the individual’s place of domicile, residence, or citizenship at the time of death or otherwise, who has died. “Deceased individual” includes individuals who died before the enactment of this chapter.”

“Deceased personality” means any individual, regardless of the personality’s place of domicile, residence, or citizenship at the time of death or otherwise, whose name, voice, signature, or likeness had commercial value at the time of the individual’s death, whether or not during the lifetime of that individual, the individual used the individual’s name, voice, signature, or likeness on or in products, merchandise, goods, or for purposes of advertising, selling, or soliciting the purchase or sale of products, merchandise, goods, or services. “Deceased personality” includes personalities who died before the enactment of this chapter.”

SECTION 3. Section 482P-2, Hawaii Revised Statutes, is amended to read as follows:

~~“[§482P-2] Property right in use of name, voice, signature, or likeness.~~ Every individual or personality has a property right in the use of the individual’s or personality’s name, voice, signature, and likeness. The right shall be deemed to have existed before the enactment of this chapter, including at and after the time of death of any deceased individual or deceased personality, and shall continue to exist for a fixed period of time after death, as prescribed in section 482P-4. This right shall be freely transferable, assignable, and licensable, in whole or in part, by any otherwise permissible form of inter vivos or testamentary transfer, including without limitation a will or other testamentary instrument, trust, contract, community property agreement, or cotenancy with survivorship provisions or payable-on-death provisions, whether the will or other testamentary instrument, trust, contract, community property agreement, or cotenancy document is entered into or executed by the deceased individual or deceased personality or by any subsequent owner of the deceased individual’s or deceased personality’s rights as recognized by this chapter; or, if none is applicable, then the owner of the rights shall be determined under the laws of intestate succession applicable to interests in intangible personal property. The right exists regardless of whether ~~[or not]~~ it was commercially exploited by the individual or the personality during the individual’s or the personality’s lifetime. The right does not expire upon the death of the individual or personality, regardless of whether the law of the domicile, residence, or citizenship of the individual or personality at the time of death or otherwise recognizes a similar or identical property right. This chapter is intended to apply to all individuals and personalities, living and deceased, including those who died before the enactment of this chapter, regardless of place of domicile or place of domicile at time of death. In the case of a deceased individual or deceased personality, the rights recognized under this chapter shall be deemed to exist at the time of death of any deceased individual or deceased personality or subsequent successor of their rights for the purpose of determining the person or persons entitled to these property rights as provided for in section 482P-3.”

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

SECTION 5. This Act, upon its approval, shall take effect retroactive to July 15, 2009.

(Approved June 7, 2021.)

ACT 38

S.B. NO. 819

A Bill for an Act Relating to the Hospital Sustainability Program.

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

SECTION 1. The legislature finds that the hospital sustainability program, established by Act 217, Session Laws of Hawaii 2012, has served a critical role in strengthening the health care system in Hawaii. In the nine years since its inception, the hospital sustainability program has helped acute care facilities treat the most vulnerable patients in the State, especially low-income individuals who require hospital services. The program has been carried out in a public-private partnership to ensure that patients in Hawaii can access quality, affordable care.

The legislature further finds that, even with this program, hospitals in the State face major financial challenges. These challenges are due in part to the health and financial pressures related to the coronavirus disease 2019 (COVID-19) pandemic. Medicaid is jointly financed by the federal and state governments by statutory formula. The federal government pays between fifty per cent and seventy-four per cent, with assistance levels determined by each state's per capita income. States with the lowest per capita income receive higher federal matching rates. Under federal rules, the state share must be paid from public funds that are not federal funds. The legislature finds that provider fees may be established to provide public funding to help financially sustain Hawaii's hospitals.

The legislature further finds that provider fees are used in forty-nine states and the District of Columbia to draw down federal funds to sustain medicaid programs. The fees have been employed due to rising state budget deficits, increasing health care costs, and expanding medicaid enrollment. Provider fees, which are collected from specific categories of health care providers that agree to the fee, may be imposed on nineteen different classes of health care services, including inpatient and outpatient hospital and nursing facility services.

The legislature therefore finds that, in Hawaii, a hospital provider fee can result in substantial increases in medicaid payments without putting additional constraints on the State's budget. The additional federal funds obtained via the fee program authorized by the hospital sustainability program can maintain access to care for medicaid recipients. This will allow hospitals in the State to continue to serve uninsured or underinsured patients in a timely, effective manner. This helps to ensure the overall sustainability of the health care system in Hawaii during the challenging time of the COVID-19 pandemic.

The purpose of this Act is to preserve access to health care for medicaid recipients by extending the hospital sustainability program.

SECTION 2. Section 346G-4, Hawaii Revised Statutes, is amended by amending subsections (c) and (d) to read as follows:

“(c) Moneys in the hospital sustainability program special fund shall be used exclusively as follows:

- (1) No less than ~~[eighty-eight]~~ ninety per cent of the revenue from the hospital sustainability fee shall be used for one or more of the following~~[:]~~ purposes:
 - (A) ~~[Match]~~ To match federal medicaid funds, with the combined total to be used to enhance capitated rates to medicaid managed care health plans for the sole purpose of increasing medicaid payments to private hospitals;

- (B) ~~[Match]~~ To match federal medicaid funds for Hawaii’s medicaid disproportionate share hospital allotment, as authorized by current federal law for private hospitals;
 - (C) ~~[Match]~~ To match federal medicaid funds for a private hospital upper payment limit pool; or
 - (D) ~~[Match]~~ To match federal medicaid funds with the combined total to be used to enhance capitated rates to medicaid managed care health plans for the purpose of increasing medicaid payments to private hospitals through [a] quality or access incentive ~~[pool;]~~ programs.
- (2) ~~[Twelve]~~ Ten per cent of the moneys in the hospital sustainability program special fund may be used by the department for other departmental purposes; and
 - (3) Any money remaining in the hospital sustainability program special fund six months after the repeal of this chapter, shall be distributed to hospitals within thirty days in the same proportions as received from the hospitals.

(d) The department shall ~~[utilize]~~ use federal funds derived from state hospital certified expenditures to make supplemental payments to state hospitals and ~~[is authorized to]~~ may receive intergovernmental transfers from the state hospitals to support direct supplemental payments and increased capitation rates to health plans for the benefit of the state hospitals. During any period in which the hospital sustainability fee is in effect, certified expenditures of state hospitals shall not be used to make or support direct payments to private hospitals.”

SECTION 3. Section 346G-5, Hawaii Revised Statutes, is amended by amending subsections (c) and (d) to read as follows:

“(c) The hospital sustainability fee for inpatient care services may differ from the fee for outpatient care services but the fees charged to the hospital shall not in the aggregate exceed ~~[four]~~ five and one-half per cent of the hospital’s net patient service revenue. The inpatient hospital sustainability fee shall not exceed ~~[four]~~ five and one-half per cent of net inpatient hospital service revenue. The outpatient hospital sustainability fee shall not exceed ~~[four]~~ five and one-half per cent of net outpatient hospital service revenue. Each fee shall be the same percentage for all affected hospitals, subject to subsection (d).

(d) The department shall exempt ~~[children’s hospitals,]~~ federal hospitals~~[-]~~ and public hospitals~~[- and psychiatric hospitals]~~ from the hospital sustainability fees on inpatient services~~[- In addition, the department shall exempt from the hospital sustainability fee on]~~ and outpatient care services ~~[federal hospitals and public hospitals; provided that the].~~

Children’s hospitals, psychiatric hospitals, and rehabilitation hospitals may be assessed hospital sustainability fees on inpatient and outpatient services at a different rate than other private hospitals. The department may also exclude any facility from the hospital sustainability fee if it is determined that its exclusion is required to meet federal standards of approval.”

SECTION 4. Section 346G-6, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The department shall collect, and each hospital shall pay, if so required, the hospital sustainability fee ~~[not]~~ no later than the ~~[thirtieth]~~ sixtieth day after the end of each calendar month; provided that if required federal approvals have not been secured by the end of a calendar month, the fees for that month shall be paid within ten days after notification to the hospitals that the required approvals have been received.”

SECTION 5. Section 346G-10, Hawaii Revised Statutes, is amended as follows:

1. Amending subsection (b) to read:

“(b) In accordance with title 42 Code of Federal Regulations part 438, the department shall use revenues from the hospital sustainability fee and federal matching funds to enhance the capitated rates paid to medicaid managed care health plans for ~~[state fiscal years 2019-2020 and 2020-2021,]~~ the period of July 1 through December 31, 2021, and calendar years 2022 and 2023, consistent with the following objectives:

- (1) The rate enhancement shall be used exclusively for increasing reimbursements to private hospitals, to support the availability of services and to ensure access to care to the medicaid managed care health plan enrollees;
- (2) The rate enhancement shall be made part of the monthly capitated rates by the department to medicaid managed care health plans, which shall provide documentation to the department and the hospital trade association located in Hawaii certifying that the revenues received under paragraph (1) are used in accordance with this section;
- (3) The rate enhancement shall be actuarially sound and approved by the federal government for federal fund participation;
- (4) The rate enhancements shall be retroactive to July 1, 2012, or the effective date approved by the federal government, whichever is later. Retroactive rate enhancements shall be paid within thirty days of notification by the Centers for Medicare and Medicaid Services to the department of all necessary approvals; and
- (5) Payments made by the medicaid managed care health plans shall be made within thirty business days upon receipt of monthly capitation rates from the department.”

2. Amending subsection (d) to read:

“(d) To the extent the hospital sustainability program is not effective for the entire year, the hospital sustainability fee, the state medicaid expenses and administrative fee, and the corresponding ~~[medicaid managed care health plan]~~ payments to fulfill the requirements of section 346G-4(c) shall be based on the proportion of the fiscal year the program is in effect.”

SECTION 6. Section 346G-12, Hawaii Revised Statutes, is amended to read as follows:

“**§346G-12 Termination.** (a) Collection of the hospital sustainability fee established by section 346G-5 shall be discontinued if:

- (1) The required federal approvals specified in section 346G-7 are not granted or are revoked by the Centers for Medicare and Medicaid Services;
- (2) The department reduces funding for hospital services below the state appropriation in effect as of July 1, ~~[2020;]~~ 2021;
- (3) The department or any other state agency uses the money in the hospital sustainability program special fund for any use other than the uses permitted by this chapter; or
- (4) Federal financial participation to match the revenue from the hospital sustainability fee becomes unavailable under federal law; provided that the department shall terminate the imposition of the hospital sustainability fee beginning on the date the federal statutory, regulatory, or interpretive change takes effect.

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(b) ~~[Notwithstanding section 346G-4(e), if]~~ If collection of the hospital sustainability fee is discontinued as provided in this section, any remaining moneys in the hospital sustainability program special fund shall be distributed ~~[within thirty days to the private hospitals on the same basis as the hospital sustainability fee was collected.]~~ pursuant to section 346G-4(c).”

SECTION 7. Act 217, Session Laws of Hawaii 2012, as amended by section 2 of Act 141, Session Laws of Hawaii 2013, as amended by section 2 of Act 123, Session Laws of Hawaii 2014, as amended by Section 2 of Act 70, Session Laws of Hawaii 2015, as amended by section 3 of Act 60, Session Laws of Hawaii 2016, as amended by section 5 of Act 59, Session Laws of Hawaii 2017, as amended by section 6 of Act 173, Session Laws of Hawaii 2019, is amended by amending section 5 to read as follows:

“SECTION 5. This Act shall take effect on July 1, 2012, and shall be repealed on ~~[June 30, 2021;]~~ December 31, 2023; provided that section -4, Hawaii Revised Statutes, in section 2 of this Act, and the amendment to section 36-30(a), Hawaii Revised Statutes, in section 3 of this Act, shall be repealed on ~~[December 31, 2021;]~~ June 30, 2024.”

SECTION 8. Act 123, Session Laws of Hawaii 2014, as amended by section 3 of Act 70, Session Laws of Hawaii 2015, as amended by section 4 of Act 60, Session Laws of Hawaii 2016, as amended by section 6 of Act 59, Session Laws of Hawaii 2017, as amended by section 7 of Act 173, Session Laws of Hawaii 2019, is amended by amending section 7 to read as follows:

“SECTION 7. This Act shall take effect on June 29, 2014; provided that:

- (1) Section 5 shall take effect on July 1, 2014; and
- (2) The amendments made to sections 36-27(a) and 36-30(a), Hawaii Revised Statutes, in sections 3 and 4 of this Act shall be repealed on ~~[December 31, 2021;]~~ June 30, 2024.”

SECTION 9. There is appropriated out of the hospital sustainability program special fund the sum of \$100,000,000 or so much thereof as may be necessary for fiscal year 2021-2022 and the same sum or so much thereof as may be necessary for fiscal year 2022-2023 for the purposes of the hospital sustainability program special fund.

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

SECTION 10. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 11. This Act shall take effect on June 29, 2021; provided that sections 8 and 9 of this Act shall take effect on July 1, 2021.

(Approved June 7, 2021.)

ACT 39

H.B. NO. 125

A Bill for an Act Relating to the Uniform Employee and Student Online Privacy Protection Act.

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

SECTION 1. The legislature considers this Act to be of statewide concern.

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

**“CHAPTER
UNIFORM EMPLOYEE AND STUDENT ONLINE PRIVACY
PROTECTION ACT**

§ -1 **Short title.** This chapter shall be known and may be cited as the Uniform Employee and Student Online Privacy Protection Act.

§ -2 **Definitions.** As used in this chapter:

“Content” means information, other than login information, that is contained in a protected personal online account, accessible to the account holder, and not publicly available.

“Educational institution” means a person that provides students an organized program of study or training that is academic, technical, trade-oriented, or preparatory for gaining employment and for which the person gives academic credit. “Educational institution” includes:

- (1) A public or private institution; and
- (2) An agent or designee of the educational institution.

“Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

“Employee” means an individual who provides services or labor to an employer in exchange for salary, wages, or the equivalent or, for an unpaid intern, academic credit or occupational experience. “Employee” includes:

- (1) A prospective employee who has:
 - (A) Expressed to the employer an interest in being an employee; or
 - (B) Applied for or is applying for employment by, or is being recruited for employment by, the employer; and
- (2) An independent contractor.

“Employer” means a person that provides salary, wages, or the equivalent to an employee in exchange for services or labor or engages the services or labor of an unpaid intern. “Employer” includes an agent or designee of the employer.

“Login information” means a username and password, password, or other means or credentials of authentication required to access or control:

- (1) A protected personal online account; or
- (2) An electronic device, which the employee’s employer or the student’s educational institution has not supplied or paid for in full, that itself provides access to or control over the account.

“Login requirement” means a requirement that login information be provided before a protected personal online account or electronic device can be accessed or controlled.

“Online” means accessible by means of a computer network or the Internet.

“Person” means an individual; estate; business or nonprofit entity; public corporation; government or governmental subdivision, agency, or instrumental-ity; or other legal entity.

“Protected personal online account” means any online account main-tained by an employee or a student, including social media or electronic mail accounts, that is protected by a login requirement. “Protected personal online account” does not include an account, or the discrete portion of an account, that was:

- (1) Opened at an employer’s behest, or provided by an employer and intended to be used solely or primarily on behalf of or under the direction of the employer; or
- (2) Opened at an educational institution’s behest, or provided by an educational institution and intended to be used solely or primarily on behalf of or under the direction of the educational institution.

“Publicly available” means available to the general public.

“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.

“Specifically identified content” means data or information stored in a protected personal online account that is identified with sufficient particularity to distinguish the discrete individual pieces of content being sought from a substantial percentage of other data or information stored in the account with which it may share similar characteristics. The identification may be based on identification or verification by an individual creator, poster, sender, viewer or recipient of characteristics of that content that in the aggregate allow the employee or student requested to provide access to that content to distinguish that content with reasonable certainty from any other data or information stored in the account with which it may share similar characteristics.

“State” means a state of the United States, the District of Columbia, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

“Student” means an individual who participates in an educational institution’s organized program of study or training. “Student” includes:

- (1) A prospective student who expresses to the institution an interest in being admitted to, applies for admission to, or is being recruited for admission by, the educational institution; and
- (2) A parent or legal guardian of a student under the age of eighteen years.

§ -3 Protection of employee online account. (a) Subject to the exceptions in subsection (b), an employer shall not:

- (1) Require, coerce, or request an employee to:
 - (A) Disclose the login information for a protected personal online account;
 - (B) Disclose the content of the account, except that, without coercion and pursuant to a clear statement that acceptance is voluntary and not required, an employer may request an employee to add the employer to, or to not remove the employer from, the set of persons to which the employee grants access to the content;
 - (C) Alter the settings of the account in a manner that makes the login information for or content of the account more accessible to others;
 - (D) Access the account in the presence of the employer in a manner that enables the employer to observe the login information for or content of the account; or
 - (E) Turn over to the employer an unlocked personal technological device for purposes of gaining access to a protected personal online account; or
- (2) Take, or threaten to take, adverse action against an employee for failure to comply with an employer’s:

- (A) Requirement, coercive action, or request that violates paragraph (1); or
 - (B) Request under paragraph (1)(B) to add the employer to, or to not remove the employer from, the set of persons to which the employee grants access to the content of a protected personal online account.
- (b) Nothing in subsection (a) shall prevent an employer from:
- (1) Accessing information about an employee that is publicly available;
 - (2) Complying with a federal or state law, court order, or rule of a self-regulatory organization established by federal or state statute, including a self-regulatory organization as defined in section 3(a)(26) of the Securities Exchange Act of 1934, title 15 United States Code section 78c(a)(26);
 - (3) Implementing and enforcing a policy pertaining to the use of an employer-issued electronic communications device or the use of an employee-owned electronic communications device that will be used for business purposes; or
 - (4) Without requesting or requiring an employee to provide login information for or other means of authentication that provides access to the employee's protected personal online account, requesting or requiring an employee to share specifically identified content for the purpose of:
 - (A) Enabling an employer to comply with its own legal and regulatory obligations;
 - (B) Investigating an allegation, based on specific facts regarding specifically identified content, of:
 - (i) Noncompliance with an employer prohibition against work-related employee misconduct of which the employee has reasonable notice, is in a record, and was not created primarily to gain access to a protected personal online account; or
 - (ii) The disclosure of information in which the employer has a proprietary interest or information the employer has a legal obligation to keep confidential; and
 - (C) Investigating threats to safety, including:
 - (i) Unlawful harassment or threats of violence in the workplace;
 - (ii) Threats to employer information technology or communications technology systems; or
 - (iii) Threats to employer property.
- (c) An employer with whom content is shared by an employee for a purpose specified in subsection (b)(4) shall:
- (1) Not access or view unshared content;
 - (2) Use the shared content only for the specified purpose; and
 - (3) Not alter the shared content.
- (d) An employer that acquires the login information for an employee's protected personal online account by means of otherwise lawful technology that monitors the employer's network, or employer-provided devices, for a network security, data confidentiality, or system maintenance purpose:
- (1) Shall not be held liable for violation of this chapter on the sole basis of having the login information;
 - (2) Shall not use the login information to access or enable another person to access the account;
 - (3) Shall make reasonable effort to keep the login information secure;

- (4) Shall not share the login information with any other person; and
- (5) Shall dispose of the login information as soon as, as securely as, and to the extent reasonably practicable; provided that if the employer is retaining the login information for use in:
 - (A) An ongoing investigation of an actual or suspected breach of computer, network, or data security; or
 - (B) A specific criminal complaint or civil action, or the investigation thereof,the employer shall make a reasonable effort to keep the login information secure and dispose of it as soon as, as securely as, and to the extent reasonably practicable after completion of the investigation, complaint, or action.
- (e) Nothing in subsection (a) shall be construed to diminish the authority or obligation of an employer to investigate complaints, allegations, or the occurrence of prohibited discriminatory practices, including harassment, based on race, sex, or other characteristics protected under part I of chapter 378.

§ -4 **Protection of student online account.** (a) Subject to the exceptions in subsection (b), an educational institution shall not:

- (1) Require, coerce, or request a student to:
 - (A) Disclose the login information for a protected personal online account;
 - (B) Disclose the content of the account, except that, without coercion and pursuant to a clear statement that acceptance is voluntary and not required, an educational institution may request a student to add the educational institution to, or to not remove the educational institution from, the set of persons to which the student grants access to the content;
 - (C) Alter the settings of the account in a manner that makes the login information for or content of the account more accessible to others;
 - (D) Access the account in the presence of the educational institution in a manner that enables the educational institution to observe the login information for or content of the account; or
 - (E) Turn over to the educational institution an unlocked personal technological device for purposes of gaining access to a personal online account; or
- (2) Take, or threaten to take, adverse action against a student for failure to comply with an educational institution's:
 - (A) Requirement, coercive action, or request that violates paragraph (1); or
 - (B) Request under paragraph (1)(B) to add the educational institution to, or to not remove the educational institution from, the set of persons to which the student grants access to the content of a protected personal online account.
- (b) Nothing in subsection (a) shall prevent an educational institution from:
 - (1) Accessing information about a student that is publicly available;
 - (2) Complying with a federal or state law, court order, or rule of a self-regulatory organization established by federal or state statute; or
 - (3) Without requesting or requiring a student to provide login information for or other means of authentication that provides access to the student's protected personal online account, requesting or requiring a student to share specifically identified content for the purpose of:

- (A) Enabling an educational institution to comply with its own legal and regulatory obligations;
 - (B) Investigating an allegation, based on specific facts regarding specifically identified content, of:
 - (i) Noncompliance with an educational institution's prohibitions against education-related student misconduct of which the student has reasonable notice, is in a record, and was not created primarily to gain access to a protected personal online account; or
 - (ii) The disclosure of any interest or information the educational institution has a legal obligation to keep confidential; and
 - (C) Investigating threats to safety, including:
 - (i) Unlawful harassment or threats of violence at the educational institution;
 - (ii) Threats to the educational institution's information technology or communications technology systems; or
 - (iii) Threats to the educational institution's property.
- (c) An educational institution with whom content is shared by a student for a purpose specified in subsection (b)(3) shall:
- (1) Not access or view unshared content;
 - (2) Use the shared content only for the specified purpose; and
 - (3) Not alter the shared content.
- (d) An educational institution that acquires the login information for a student's protected personal online account by means of otherwise lawful technology that monitors the educational institution's network, or educational institution-provided devices, for a network security, data confidentiality, or system maintenance purpose:
- (1) Shall not be held liable for violation of this chapter on the sole basis of having the login information;
 - (2) Shall not use the login information to access or enable another person to access the account;
 - (3) Shall make reasonable effort to keep the login information secure;
 - (4) Shall not share the login information with any other person; and
 - (5) Shall dispose of the login information as soon as, as securely as, and to the extent reasonably practicable; provided that if the educational institution is retaining the login information for use in:
 - (A) An ongoing investigation of an actual or suspected breach of computer, network, or data security; or
 - (B) A specific criminal complaint or civil action, or the investigation thereof,
 the educational institution shall make a reasonable effort to keep the login information secure and dispose of it as soon as, as securely as, and to the extent reasonably practicable after completion of the investigation, complaint, or action.

§ -5 Civil action. (a) The attorney general may bring a civil action in district court against an employer or educational institution for a violation of this chapter. A prevailing attorney general may obtain:

- (1) Injunctive and other equitable relief; and
- (2) A civil penalty of up to \$1,000 for each violation, but not exceeding \$100,000 for all violations caused by the same event.

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(b) An employee or student may bring a civil action against the employee's employer or student's educational institution for a violation of this chapter. A prevailing employee or student may obtain:

- (1) Injunctive and other equitable relief;
- (2) Actual and general damages; and
- (3) Costs and reasonable attorney's fees.

(c) An action under subsection (a) shall not preclude an action under subsection (b), and an action under subsection (b) shall not preclude an action under subsection (a).

(d) This chapter shall not affect a right or remedy available under any law other than this chapter.

§ -6 Relation to Electronic Signatures in Global and National Commerce Act. This chapter modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, title 15 United States Code section 7001 et seq., but does not modify, limit, or supersede section 101(c) of that Act, title 15 United States Code section 7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that Act, title 15 United States Code section 7003(b).

§ -7 Relation to other state laws. In case of any conflict between any provision of this chapter and a provision of any other chapter, this chapter shall control.

§ -8 Severability. If any provision of this chapter or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.”

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 upon its approval.

(Approved June 7, 2021.)

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S.B. NO. 1042

A Bill for an Act Relating to Covered Offender Registration.

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

SECTION 1. The Hawaii supreme court, in its ruling in *Doe v. Connors*, 145 Haw. 469, 454 P. 3d 410 (2019), held that Doe, who was required to register as a sex offender in the State of Washington, was not required to register as a covered sex offender under Hawaii law. Doe had been convicted in Washington for communication with a minor for an immoral purpose. The Hawaii supreme court held that the offense did not match any of Hawaii's covered offenses, including solicitation to engage in sexual conduct with a minor who is less than fourteen years old.

As a result of the *Doe* decision, a person who visits Hawaii for more than ten days or visits Hawaii for an aggregate period exceeding thirty days per year

does not need to register as a covered offender in Hawaii if the person's out-of-state conviction does not correspond to a covered offense under Hawaii law.

The purpose of this Act is to require those persons who have been designated as a covered offender, sex offender, offender against minors, repeat covered offender, sexually violent predator, or any other sexual offender designation in another state or jurisdiction, and were, as a result, subject to registration in that state or jurisdiction, or would be if residing in that state or jurisdiction, to be subject to registration requirements in Hawaii.

SECTION 2. Section 846E-2, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) A person who establishes or maintains a residence in this State or who remains in this State for more than ten days or for an aggregate period exceeding thirty days in one calendar year, and who has not been designated as a covered offender by a court of this State but who has been designated as a covered offender, sex offender, offender against minors, repeat covered offender, sexually violent predator, or any other sexual offender designation in another state or jurisdiction and was, as a result of ~~[such]~~ the designation, subjected to registration or community or public notification, or both, or would be if the person was a resident of that state or jurisdiction, without regard to whether the person otherwise meets the criteria for registration as a covered offender, shall register in the manner provided in this section ~~[and shall be subject to community and public notification as provided in section 846E-3]~~. A person who meets the criteria of this subsection is subject to the requirements of this chapter for covered offenders and penalty provisions of section 846E-9 until the person successfully petitions ~~[the attorney general for termination of registration requirements by]~~:

- (1) ~~[Providing]~~ The attorney general for termination of registration requirements by providing an order issued by the court that designated the person as a covered offender, sex offender, offender against minors, repeat covered offender, sexually violent predator, or any other sexual offender designation in the state or jurisdiction in which the order was issued, which states that ~~[such]~~ the designation has been removed or demonstrates to the attorney general that ~~[such]~~ the designation, if not imposed by a court, has been removed by operation of law or court order in the state or jurisdiction in which the designation was made, and ~~[such]~~ the person does not meet the criteria for registration as a covered offender under the laws of this State; provided that if the person is not satisfied with the decision of the attorney general on the request for termination of registration requirements, the person may appeal the decision pursuant to chapter 91; or
- (2) ~~[Demonstrating that the out-of-state convictions upon which the sexual offender designation was established are not covered offenses under section 846E-1, thereby showing that such person does not meet the criteria for registration as a covered offender under the laws of this State.]~~ The court for termination of registration requirements pursuant to section 846E-10.

~~[If the covered offender is not satisfied with the decision of the attorney general on the request for termination of registration requirements, the covered offender may appeal the decision pursuant to chapter 91.]”~~

SECTION 3. Section 846E-10, Hawaii Revised Statutes, is amended to read as follows:

“§846E-10 Termination of registration requirements. (a) Tier 3 offenses. A covered offender whose covered offense is any of the following offenses shall register for life and, except as provided in subsection (e), may not petition the court, in a civil proceeding, for termination of registration requirements:

- (1) Any offense set forth in section 707-730(1)(a), (b), (d), or (e); 707-731(1)(a) or (b); 707-732(1)(a), (b), or (f); or 707-733.6;
- (2) An offense set forth in section 707-720; provided that the offense involves kidnapping of a minor by someone other than a parent;
- (3) An offense that is an attempt, criminal solicitation, or criminal conspiracy to commit any of the offenses in paragraph (1) or (2);
- (4) Any criminal offense that is comparable to one of the offenses in paragraph (1), (2), or (3); or
- (5) Any federal, military, out-of-state, tribal, or foreign offense that is comparable to one of the offenses in paragraph (1), (2), or (3).

(b) A repeat covered offender shall register for life and, except as provided in subsection (e), may not petition the court, in a civil proceeding, for termination of registration requirements.

(c) Tier 2 offenses. A covered offender who has maintained a clean record for the previous twenty-five years, excluding any time the offender was in custody or civilly committed, and who has substantially complied with the registration requirements of this chapter for the previous twenty-five years, or for the portion of that twenty-five years that this chapter has been applicable, and who is not a repeat covered offender may petition the court, in a civil proceeding, for termination of registration requirements; provided that the covered offender’s most serious covered offense is one of the following:

- (1) Any offense set forth in section 707-730(1)(c), 707-731(1)(c), 707-732(1)(c), 707-750, 707-751, 712-1202, or 712-1203(1)(b), as section 712-1203(1)(b) read ~~prior to~~ before its amendment pursuant to section 9 of Act 147, Session Laws of Hawaii 2008;
- (2) An offense set forth in section 707-720; provided that the charging document for the offense for which there has been a conviction alleged intent to subject the victim to a sexual offense;
- (3) An offense set forth in section 707-756 that includes an intent to promote or facilitate the commission of another felony covered offense as defined in section 846E-1;
- (4) An offense that is an attempt, criminal solicitation, or criminal conspiracy to commit any of the offenses in paragraph (1), (2), or (3);
- (5) Any criminal offense that is comparable to one of the offenses in paragraph (1), (2), (3), or (4); or
- (6) Any federal, military, out-of-state, tribal, or foreign offense that is comparable to one of the offenses in paragraph (1), (2), (3), or (4).

(d) Tier 1 offenses. A covered offender who has maintained a clean record for the previous ten years, excluding any time the offender was in custody or civilly committed, and who has substantially complied with the registration requirements of this chapter for the previous ten years, or for the portion of that ten years that this chapter has been applicable, and who is not a repeat covered offender may petition the court, in a civil proceeding, for termination of registration requirements; provided that the covered offender’s most serious covered offense is one of the following:

- (1) Any offense set forth in section 707-732(1)(d) or (e), 707-733(1)(a), 707-752, 707-759, 711-1110.9, 712-1203(1), or 712-1209.1;
- (2) An offense set forth in section 707-721 or 707-722; provided that the offense involves unlawful imprisonment of a minor by someone other than a parent;

- (3) An offense set forth in section 707-757 that includes an intent to promote or facilitate the commission of another covered offense as defined in section 846E-1;
 - (4) An offense that is an attempt, criminal solicitation, or criminal conspiracy to commit any of the offenses in paragraph (1), (2), or (3);
 - (5) Any criminal offense that is comparable to one of the offenses in paragraph (1), (2), (3), or (4);
 - (6) Any federal, military, out-of-state, tribal, or foreign offense that is comparable to one of the offenses in paragraph (1), (2), (3), or (4); or
 - (7) Any other covered offense that is not specified in subsection (a) or (c) or paragraph (1), (2), (3), (4), (5), or (6).
- (e) Notwithstanding any other provisions in this section, any covered offender, forty years after the covered offender's date of release or sentencing, whichever is later, for the covered offender's most recent covered offense, may petition the court, in a civil proceeding, for termination of registration requirements.

(f) In the civil proceeding for termination of registration requirements, the State shall be represented by the attorney general; provided that the attorney general, with the prosecuting agency's consent, may designate the prosecuting agency that prosecuted the covered offender for the most recent covered offense within the State to represent the State. For covered offenders who have never been convicted of a covered offense within the State [of Hawaii], the attorney general shall represent the State; provided that the attorney general, with the prosecuting agency's consent, may designate the prosecuting agency for the county in which the covered offender resides to represent the State. The court may order this termination upon substantial evidence and more than proof by a preponderance of the evidence that:

- (1) The covered offender has met the statutory requirements of eligibility to petition for termination;
- (2) The covered offender has substantially complied with registration requirements;
- (3) The covered offender is very unlikely to commit a covered offense ever again; and
- (4) Registration by the covered offender will not assist in protecting the safety of the public or any member thereof.

~~[(g) A denial by the court for relief pursuant to a petition under this section shall preclude the filing of another petition for five years from the date of the last denial.]~~

(g) A person who does not meet the criteria for registration as a covered offender under the laws of this State, but is subject to registration pursuant to section 846E-2(b), may petition the court, in a civil proceeding, for termination of registration requirements; provided that the person has maintained a clean record for the previous ten years, excluding any time the person was in custody or civilly committed; has substantially complied with the registration requirements of this chapter for the previous ten years; and was not designated a repeat covered offender in any state or jurisdiction. The attorney general shall represent the State; provided that the attorney general, with the prosecuting agency's consent, may designate the prosecuting agency for the county in which the person resides to represent the State. The court may order this termination upon substantial evidence and more than proof by a preponderance of the evidence that:

- (1) The person has met the statutory requirements of eligibility to petition for termination;

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- (2) The person has substantially complied with registration requirements;
- (3) The person is very unlikely to commit a covered offense; and
- (4) Registration by the person will not assist in protecting the safety of the public or any member thereof.

(h) A denial by the court for relief pursuant to a petition under this section shall preclude the filing of another petition for five years from the date of the most recent denial.”

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 7, 2021.)

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H.B. NO. 1036

A Bill for an Act Relating to Public Safety.

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

SECTION 1. Chapter 353C, Hawaii Revised Statutes, is amended by adding a new section to be designated and to read as follows:

“§353C- **Service of process; list.** (a) For service of process, the director shall maintain a list of independent civil process servers to process:

- (1) Orders to show cause pursuant to chapters 603, 604, and 633;
- (2) Garnishment pursuant to chapter 652;
- (3) Writs of replevin and attachment pursuant to chapter 634;
- (4) Writs of possession pursuant to chapters 501 and 666;
- (5) Orders for examination pursuant to chapter 636; and
- (6) Writs of attachment or execution pursuant to chapter 651.

(b) Any independent civil process server may submit the server’s name to the director to be placed on the list;

provided that a person shall not be placed on the list if the person:

- (1) Is serving a criminal sentence;
- (2) Has been convicted of a crime within the previous ten years;
- (3) Is required to register as a sex offender;
- (4) Is subject to any other legal restriction, including a temporary restraining order, that prevents the person from serving process; or
- (5) Cannot provide a copy of a current State of Hawaii general excise tax license.

(c) The department, the State, and the agencies, officers, and employees of the department or the State shall not be responsible or liable for the actions of any independent civil process servers on the list. The maintenance of the list shall not create a private cause of action against the department, the State, or the agencies, officers, and employees of the department or the State.

(d) Placement of a person’s name on the list shall not make the person a law enforcement officer, sheriff or deputy sheriff, or an employee or agent of the State.”

SECTION 2. Section 501-154, Hawaii Revised Statutes, is amended to read as follows:

“§501-154 Writ of possession, service, time limit for registration. When in any action in the nature of an action of ejectment an execution or writ of possession has been issued and served by the sheriff, deputy sheriff, police officer, or independent civil process server from the department of public safety’s list under section 353C-, the ~~[officer]~~ sheriff, deputy sheriff, police officer, or independent civil process server shall cause a copy of the writ, with a return of the ~~[officer’s]~~ doings of the sheriff, deputy sheriff, police officer, or independent civil process server thereon, to be filed and registered within three months after the service and before the return of the writ into the clerk’s office. The plaintiff, in case the judgment was that the plaintiff was entitled to an estate in fee simple in the demanded premises, or in any part thereof, and for which execution or writ of possession issued, is thereupon entitled to the entry of a new certificate of title.”

SECTION 3. Section 603-29, Hawaii Revised Statutes, is amended to read as follows:

“§603-29 Order to show cause. Whenever a complaint has been filed in circuit court alleging leased or rented personal property the value of which is \$5,000 or more, has been retained by the defendant fourteen days after the termination of the lease or rental contract, either by passage of time or by reason of any default under the terms and conditions of the lease or rental contract, the plaintiff may petition the court for an order to show cause.

Upon the filing of the petition with a copy of the lease or rental contract and an affidavit sworn to by the plaintiff or some competent affiant setting forth a statement of facts sufficient to show the termination of the lease or rental contract, the court may issue an order directing the defendant to either return the leased or rented personal property to the plaintiff or to appear and show cause for the possession at such time as the court shall direct but ~~[not]~~ no later than ten days from the date of service of the order to show cause. The order to show cause shall also provide that if the leased or rented personal property is not returned to the plaintiff ~~[prior to]~~ before the hearing, the defendant shall, if reasonably feasible, produce the property at the hearing. If, at the hearing, it is proved to the satisfaction of the court that the plaintiff is entitled to possession of the leased or rented personal property, it shall issue an order directed to the sheriff, deputy sheriff, ~~[or person authorized by the rules of court,]~~ police officer, or independent civil process server from the department of public safety’s list under section 353C- commanding the sheriff, deputy sheriff, ~~[or other person authorized by the rules of court]~~ police officer, or independent civil process server to seize the personal property therein described and to deliver the same to the plaintiff or the plaintiff’s agent. Service of the order to show cause shall be as provided by law or rule of court for cases in the circuit courts, or by registered mail or by certified mail with return receipt showing delivery within the circuit.”

SECTION 4. Section 604-6.2, Hawaii Revised Statutes, is amended to read as follows:

“§604-6.2 Order to show cause. Upon the filing of a complaint with a copy of a lease or rental contract and an affidavit sworn to by the plaintiff or some competent affiant setting forth a statement of facts sufficient to show that the leased or rented personal property has been in the defendant’s possession at least fourteen days after the termination of the lease or rental contract, either by passage of time or by reason of any default under the terms and conditions of the lease or rental contract, the court may issue an order directing the defendant to either return the leased or rented personal property to the plaintiff or to appear and show cause for the possession at such time as the court shall direct, but ~~[not]~~ no later than ten days from the date of service of the order to show cause.

The order to show cause shall also provide that, if the leased or rented personal property is not returned to the plaintiff [~~prior to~~] before the hearing, the defendant shall, if reasonably feasible, produce the property at the hearing. If, at the hearing, it is proved to the satisfaction of the court that the plaintiff is entitled to possession of the leased or rented personal property, it shall issue an order directed to the sheriff, deputy sheriff, [~~or other person authorized by the rules of court~~] police officer, or independent civil process server from the department of public safety's list under section 353C- _____ commanding the sheriff, deputy sheriff, [~~or a person authorized by the rules of court~~] police officer, or independent civil process server to seize the personal property therein described and to deliver the same to the plaintiff or the plaintiff's agent. Service of the order to show cause shall be as provided by law or rule of court for cases in the district courts, or by registered mail or by certified mail with return receipt showing delivery within the State."

SECTION 5. Section 607-4, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) Fees of sheriff, deputy sheriff, police officer, or [~~other person authorized by the rules of court~~] independent civil process server from the department of public safety's list under section 353C- _____ shall be as provided under section 607-8(a)."

SECTION 6. Section 607-8, Hawaii Revised Statutes, is amended by amending its title and subsection (a) to read as follows:

"~~§607-8 Fees of sheriff, deputy sheriff, police officer, serving or levying officer, or [other person authorized by the rules of court in circuit court, intermediate appellate court, or supreme court.] independent civil process server.~~ (a) For all necessary travel in making the service, per mile for every mile more than one.....60 cents; provided that:

- (1) No allowance shall be made where the serving individual uses a conveyance furnished to the serving individual by the State, or any political or municipal subdivision thereof;
- (2) Where the serving individual serves more than one person in the course of one trip, the serving individual shall not charge, in the aggregate for all services more than the mileage for the entire trip; and
- (3) As far as practicable, in order to minimize the mileage fees for the service, the sheriff or [~~other~~] chief of police of the serving police officers, or [~~other person authorized by the rules of court where service of process is to be made upon an island other than that upon which is situated the court issuing the process.~~] independent civil process server from the department of public safety's list under section 353C- _____ shall cause the process to be transmitted to the sheriff, a deputy sheriff, the chief of police, [~~other person authorized by the rules of court, or other serving individual~~] a police officer, or an independent civil process server upon the island of service who shall make the service upon receipt of the process; and the service shall be valid, notwithstanding that the process may not be addressed to the individual actually making the service or to the individual's superior.

For serving criminal summons or any other criminal process except a subpoena, for each person served therewith.....\$30 effective July 1, 2001. Service of criminal summons or any other criminal process shall be made only by persons authorized to serve criminal summons [~~in accordance with rules of court~~].

For serving civil summons, subpoena, subpoena duces tecum, or any other civil process, except a subpoena or a¹ garnishee summons, for each person served therewith.....\$43 effective July 1, 2015.

For serving: garnishee summons, for each person.....\$30 effective July 1, 2015.

For returning as unserved after due and diligent search any process when it has been found that the person to be served has left the State.....\$10 effective July 1, 2015.

For serving any execution or other process for the collection of money, for every dollar collected up to \$10,000.....5 cents.

And for every dollar over \$10,000.....2-1/2 cents.

All fees paid to any printer for publishing an advertisement of the sale of any property.

For every bill of sale.....\$4.

For executing and acknowledging a deed pursuant to a sale of real estate to be paid by the grantee in the deed....\$10.

For drawing any bond required by law.....\$4.

For serving writ of possession or restitution, putting any person entitled into the possession of premises, and removing a tenant pursuant to order of court.....\$40.

Together [~~wi~~th] with¹ all necessary expenses incurred by the individual serving the writ, incident to the eviction.

For selling any property on an order from the court other than an execution, the same allowance as for service and sales by execution.

The fees for service of executions, attachments, and collection of judgments, together with all costs incurred after judgment rendered, not included in the judgment, in all courts of the State, shall be collected in addition to the sum directed to be levied and collected in the writ.

In lieu of any fee under this subsection, the fee may be an hourly rate of [~~not~~] no less than \$50 per hour agreed upon in advance between the party requesting the service and the sheriff, deputy sheriff, police officer, or [~~other person authorized by the rules of court~~] independent civil process server performing the service."

SECTION 7. Section 633-8, Hawaii Revised Statutes, is amended to read as follows:

“§633-8 Order to show cause. Upon the filing of a complaint with a copy of a lease or rental contract and an affidavit sworn to by the plaintiff or some competent affiant setting forth a statement of facts sufficient to show that the leased or rented personal property has been in the defendant’s possession at least fourteen days after the termination of the lease or rental contract, either by passage of time or by reason of any default under the terms and conditions of the lease or rental contract, the court may issue an order directing the defendant to either return the leased or rented personal property to the plaintiff or to appear and show cause for the possession at such time as the court shall direct, but [~~not~~] no later than five days from the date of service of the order to show cause. The order to show cause shall also provide that, if the leased or rented personal property is not returned to the plaintiff [~~prior to~~] before the hearing, the defendant shall, if reasonably feasible, produce the property at the hearing. If, at the hearing, it is proved to the satisfaction of the court that the plaintiff is entitled to possession of the leased or rented personal property, it shall issue an order directed to the sheriff, deputy sheriff, [~~or other person authorized by the rules of court~~] police officer, or independent civil process server from the department of public safety’s list under section 353C- commanding the sheriff, deputy

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sheriff, ~~[or other person authorized by the rules of court]~~ police officer, or independent civil process server to seize the personal property therein described and to deliver the same to the plaintiff or the plaintiff's agent. Service of the order to show cause shall be as provided by law or rule of court for cases in the district courts, or by registered mail or by certified mail with return receipt showing delivery within the circuit."

SECTION 8. Section 634-11, Hawaii Revised Statutes, is amended to read as follows:

"§634-11 Interpleader; application for order by sheriff ~~[or other person authorized by the rules of court], deputy sheriff, police officer, or independent civil process server.~~ When, in the execution of process against goods and chattels issued by or under the authority of the courts of the State, by reason of claims made to such goods and chattels by assignees of bankrupts and other persons not being the parties against whom such process had issued, whereby the sheriff, deputy sheriffs, ~~[other]~~ police officers, or ~~[persons authorized by the rules of court]~~ independent civil process servers from the department of public safety's list under section 353C- are exposed to the hazard and expense of actions, any such claim shall be made to any goods or chattels taken or intended to be taken in execution under any such process or to the proceeds or value thereof, it shall be lawful for the court, out of which the execution shall have issued, or any judge thereof, upon application of the sheriff, deputy sheriff, ~~[other]~~ police officer, or ~~[other person authorized by the rules of court,]~~ independent civil process server made before or after the return of such process, and as well before as after any action brought against the sheriff, deputy sheriff, ~~[other]~~ police officer, or ~~[other person authorized by the rules of court,]~~ independent civil process server to call before it or the judge by rule, order, or summons, as well the party issuing such process as the party making the claim. Thereupon the court or judge shall, for the adjustment of the claims and the relief and protection of the sheriff, deputy sheriff, ~~[other]~~ police officer, or ~~[other person authorized by the rules of court,]~~ independent civil process server, make such rules, orders, and decisions as shall appear to be just according to the circumstances of the case. The costs of all such proceedings shall be in the discretion of the court or judge."

SECTION 9. Section 634-12, Hawaii Revised Statutes, is amended to read as follows:

"§634-12 Sale of property seized on execution, when. When goods or chattels have been seized in execution by the sheriff, deputy sheriff, ~~[other]~~ a police officer, or ~~[other person authorized by the rules of court,]~~ an independent civil process server from the department of public safety's list under section 353C- under process of any court, and some third person claims to be entitled under a bill of sale, chattel mortgage, or otherwise, to the goods and chattels by way of security for a debt, the court or a judge may order a sale of the whole or part thereof, upon such terms as to the payment of the whole or part of the secured debt or otherwise as it or the judge shall think fit; and may direct the application of the proceeds of sale in such manner and upon such terms as to the court or judge may seem just."

SECTION 10. Section 634-22, Hawaii Revised Statutes, is amended to read as follows:

"§634-22 Return. In all cases where any process or order of a court is served by any officer of the court or of the police force or the sheriff, a deputy sheriff, an independent civil process server from the department of public safety's list under section 353C-, or any investigator appointed and commissioned

by the director of commerce and consumer affairs pursuant to section 26-9(j), a record thereof shall be endorsed upon the back of the process, complaint, order, or citation. The record shall state the name of the person served and the time and place of service and shall be signed by the sheriff, deputy sheriff, police officer, independent civil process server, or investigator making the service. If the ~~[officer]~~ sheriff, deputy sheriff, police officer, independent civil process server, or investigator fails to make service, the ~~[officer]~~ sheriff, deputy sheriff, police officer, independent civil process server, or investigator in like manner, shall endorse the reason for the ~~[officer's]~~ sheriff's, deputy sheriff's, police officer's, independent civil process server's, or investigator's failure and sign this record. When service is made by a person specially appointed by the court, or ~~[a person authorized by the rules of court, the person]~~ an independent civil process server, that person shall make declaration or affidavit of that service.

The record, declaration, or ~~[the]~~ affidavit shall be prima facie evidence of all it contains, and no further proof thereof shall be required unless either party desires to examine the sheriff, deputy sheriff, police officer ~~[or person]~~, independent civil process server, or investigator making service, in which case the sheriff, deputy sheriff, police officer ~~[or person]~~, independent civil process server, or investigator shall be notified to appear for examination.”

SECTION 11. Section 634-29, Hawaii Revised Statutes, is amended to read as follows:

“~~[[[~~**§634-29**~~]]]~~ **In case of attachment, etc., of real property.** In all cases of attachment, sequestration, or injunction of real property, the sheriff, deputy sheriff, police officer, or independent civil process server from the department of public safety's list under section 353C- serving the writ shall, in addition to personal delivery of a copy thereof to the defendant, post upon the premises a copy of the process, and a notice of the day and hour when attached, sequestrated, or enjoined, and shall also give notice thereof in a newspaper or newspapers suitable for the advertisement of judicial proceedings. But in all cases where a writ of attachment is issued in accordance with chapter 651 relating to attachments, and the defendant in attachment was never a resident of the State or has departed from the State or secretes oneself so that the writ of attachment cannot be personally served upon the defendant, personal service of the writ upon the defendant may be dispensed with. All after-leases, mortgages, sales, devises, assignments, trusts, or other conveyances of the property, until the dissolution of the process, shall be void in law as against the plaintiff in such cases.”

SECTION 12. Section 651-1, Hawaii Revised Statutes, is amended to read as follows:

“**§651-1 General provisions.** (a) This chapter shall apply to circuit and district courts. A judge of any court of record may make any order at chambers which may by the provisions of this chapter be made by the court in term time. When the proceedings are before a district judge, the judge shall be regarded as the clerk of the court for all purposes contemplated herein. ~~[The phrase “police officer”, as used in this chapter, means the director of public safety or the director's duly authorized representative, any chief of police or subordinate police officer, or a person authorized by the rules of court.]~~ Nothing in this chapter shall be construed to permit a district judge to issue a writ of attachment to be served out of the circuit in which the judge's court is situated, or to permit an attachment of real estate, or any interest therein, under a writ issued by a district court judge.

(b) The department of public safety, the State, and the agencies, officers, and employees of the department of public safety or the State shall not

be responsible or liable for the actions of any independent civil process server on the list maintained by the department of public safety pursuant to section 353C- . The maintenance of the list pursuant to section 353C- shall not create a private cause of action against the department of public safety, the State, or the agencies, officers, and employees of the department of public safety or the State.

(c) Nothing in this chapter shall be construed to make an independent civil process server a law enforcement officer, sheriff, or deputy sheriff, or an employee or agent of the department of public safety or the State.

(d) As used in this chapter, “police officer” means the director of public safety or the director’s duly authorized representative, any chief of police or subordinate police officer, or an independent civil process server on the list maintained by the department of public safety pursuant to section 353C- .”

SECTION 13. Section 652-1.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Except as provided in subsection (e), any creditor desiring to secure a garnishment process before judgment shall attach the creditor’s petition for process, summons, and direction to the following documents:

- (1) An application, directed to the court to which such action is made returnable, for garnishee process to issue under section 652-1(a);
- (2) An affidavit sworn to by the creditor or some competent affiant setting forth a statement of facts sufficient to show that probable validity exists to sustain the validity of the creditor’s claim;
- (3) An order that a hearing be held before the court or a judge thereof to determine whether or not the garnishee process should be granted and that notice of such hearing be given to the defendant debtor; [and]
- (4) A summons directed to ~~[a proper officer]~~ the sheriff, deputy sheriff, a police officer, or an independent civil process server from the department of public safety’s list under section 353C- ___ commanding the ~~[officer]~~ sheriff, deputy sheriff, police officer, or independent civil process server to serve upon the debtor at least four days ~~[prior to]~~ before the date of the hearing, pursuant to chapter 634, the application~~[-];~~; a true and attested copy of the petition, summons, and direction~~[-];~~; the affidavit~~[-];~~; and the order and notice of hearing.”

SECTION 14. Section 652-2, Hawaii Revised Statutes, is amended to read as follows:

“**§652-2 Garnishee, rights, duties; collection by ~~[levying officer.]~~ sheriff, deputy sheriff, police officer, or independent civil process server.** (a) The garnishee shall, when summoned before judgment rendered against ~~[his]~~ the garnishee’s principal, if ~~[he]~~ the garnishee desires, be admitted to defend ~~[his]~~ the garnishee’s principal in the action.

(b) If judgment is rendered in favor of the plaintiff, and likewise in all cases in which the garnishee is summoned after judgment, the garnishee fund, or such part thereof as may be sufficient for that purpose, shall be liable to pay the same. The plaintiff on praying out execution shall be entitled to have included in the execution an order directing the sheriff, deputy sheriff, police officer, or independent civil process server from the department of public safety’s list under section 353C- ___ serving the same to make demand of the garnishee for the goods and effects of the defendant secured in ~~[his]~~ the garnishee’s hands, whose duty it will be to expose the same to be taken on execution, and also to make demand of the garnishee for the debt or wages secured in ~~[his]~~ the garnishee’s hands or

the moneys held by ~~[him]~~ the garnishee for safekeeping, or such part thereof as may satisfy the judgment. It shall be the duty of the garnishee to pay the same. If the garnishee has in any manner disposed of the goods and effects or does not expose and subject the same to be taken on execution, or if the garnishee does not pay to the sheriff, deputy sheriff, police officer, or independent civil process server when demanded, the debt or wages or moneys held for safekeeping, the garnishee shall be liable to satisfy the judgment out of ~~[his]~~ the garnishee's own estate, as ~~[his]~~ the garnishee's own proper debt, if the goods or effects or debt or wages or moneys held for safekeeping, be of sufficient value or amount and, if not, then to the value of the same; provided that every garnishee, whether summoned before or after judgment, shall be allowed to retain or deduct from the goods, effects, and credits of the defendant in ~~[his]~~ the garnishee's hands at the time of service all demands against the defendant of which ~~[he]~~ the garnishee could have availed ~~[himself]~~ the garnishee's self if ~~[he]~~ the garnishee had not been ~~[garnisheed;]~~ garnished, whether the same are at the time due or not, and whether by setoff on a trial or by setoff of judgments or executions between ~~[himself]~~ the garnishee and the defendant, and shall be liable only for the balance after adjustment of all mutual demands between ~~[himself]~~ the garnishee and the defendant; provided further that in such adjustment, no demands for unliquidated damages for wrongs or injuries shall be included, and that the judgment shall show the amount of any setoff.

(c) No garnishee shall be liable to anyone for the nonpayment of any sum or for the nondelivery of any goods or effects when the garnishee in good faith believes, or has reason to believe, that garnishment or other process affects the same, though such be not the case, but this ~~[paragraph]~~ subsection shall not supersede section 652-9 where the same are applicable.”

SECTION 15. Section 652-2.5, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§652-2.5]]~~ **Service on garnishee.** Service of the copy upon the garnishee may be made in any of the manners here described, namely:

- (1) If the garnishee lives or has an office in the district in which process is issued, by the ~~[serving officer's]~~ sheriff, deputy sheriff, police officer, or independent civil process server from the department of public safety's list under section 353C- _____ handing a copy to the garnishee in person or leaving it in the garnishee's office in charge of some deputy or clerk or other employees or attache of the office; or
- (2) If the garnishee lives in a district other than that in which the process was issued, by the ~~[serving officer's]~~ sheriff, deputy sheriff, police officer, or independent civil process server handing a copy to the garnishee in person, or by mailing it in a sealed envelope, registered or certified, postage prepaid, return receipt requested, and addressed to the garnishee's last known home or business address.”

SECTION 16. Section 652-2.6, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) In case of service upon the garnishee, the ~~[serving officer's]~~ certificate of service or, if by mail, a copy of the return receipt provided by the sheriff, deputy sheriff, police officer, or independent civil process server from the department of public safety's list under section 353C- _____ shall be prima facie proof of the service.”

SECTION 17. Section 654-2, Hawaii Revised Statutes, is amended to read as follows:

“§654-2 **Bond.** (a) When the plaintiff desires the immediate delivery of the property, the plaintiff shall execute a bond to the defendant in possession of the property, and to all persons having an interest in the property, of such amount and with such sureties as are approved by the court, conditioned that the plaintiff will prosecute the plaintiff’s action to judgment without delay, and deliver the property to the defendant in possession or any other person, if such delivery is adjudged, and pay all costs and damages that may be adjudged against the plaintiff. Upon the filing of the verified complaint or affidavit with the bond and a motion for immediate consideration of the matter, the court shall forthwith inquire into the matter, ex parte or otherwise, as in its discretion it determines. If thereupon the court finds that a prima facie claim for relief has been established, it shall issue an order directed to the sheriff, ~~or the~~ sheriff’s deputy, ~~or the~~ chief of police, ~~or~~ an authorized police officer of any county, or ~~a person authorized by the rules of court,~~ an independent civil process server from the department of public safety’s list under section 353C-___ to take the property therein described and deliver the same to the plaintiff.

(b) Copies of the verified complaint or affidavit, and, if a bond for immediate seizure has been filed, of the bond, and, if an order for the taking has been issued on an ex parte hearing, of the order, shall forthwith be served upon the defendant in possession and each person having or claiming a possessory interest in the property, in the same manner as is provided for service of summons unless the party to be served has appeared in the action, in which case service may be made in the same manner as is provided for service of papers other than the summons. In a proper case, either before or after issuance of an order for the taking, the required service may be combined with the publication of the summons, in which event the giving of notice of the substance of the proceeding shall be sufficient.

(c) Upon the application of any party, the proceeding shall be advanced and assigned for hearing at the earliest possible date.”

SECTION 18. Section 666-11, Hawaii Revised Statutes, is amended to read as follows:

“§666-11 **Judgment; writ of possession.** If it is proved to the satisfaction of the court that the plaintiff is entitled to the possession of the premises, the plaintiff shall have judgment for possession, and for the plaintiff’s costs. Execution shall issue accordingly. The writ of possession shall issue to the sheriff, deputy sheriff, police officer, or ~~other person authorized by the rules of court of the circuit where the premises are situated,~~ independent civil process server from the department of public safety’s list under section 353C-___, commanding the sheriff, deputy sheriff, police officer, or ~~other person authorized by the rules of court~~ independent civil process server to remove all persons from the premises, and to put the plaintiff, or the plaintiff’s agent, into the full possession thereof.”

SECTION 19. Section 666-21, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) If the tenant is unable to comply with the court’s order under subsection (a) in paying the required amount of rent to the court, the landlord shall have judgment for possession and execution shall issue accordingly. The writ of possession shall issue to the sheriff, deputy sheriff, police officer, or ~~other person authorized by the rules of court of the circuit where the premises are situated,~~ independent civil process server from the department of public safety’s list under section 353C-___, ordering the sheriff, deputy sheriff, police officer, or ~~other person authorized by the rules of court~~ independent civil process server to remove

all persons and possessions from the premises, and to put the landlord, or the landlord's agent, into full possession of the premises.”

SECTION 20. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 21. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.²

SECTION 22. This Act shall take effect upon its approval.

(Approved June 7, 2021.)

Notes

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

ACT 42

S.B. NO. 795

A Bill for an Act Relating to State Small Boat Harbor Fees.

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

SECTION 1. The legislature finds that the department of land and natural resources' division of boating and ocean recreation is responsible for operating and maintaining dozens of facilities and installations for the boating public in addition to regulating ocean recreation activities in state ocean waters from the shoreline to three nautical miles from shore.

The division of boating and ocean recreation is responsible for operating and maintaining seventeen small boat harbors statewide. The small boat harbor program, which had a \$300,000,000 backlog in deferred maintenance projects, was transferred from the department of transportation to the department of land and natural resources in 1991. Adjusted for inflation, the deferred maintenance balance is equivalent to approximately \$570,000,000 in 2021. The current deferred maintenance balance of the state small boat harbor program is approximately \$310,000,000, a roughly forty-six per cent decrease since 1991, when adjusted for inflation. While the department of land and natural resources has been able to incrementally decrease the deferred maintenance balance, inflation and rising costs have outpaced, and continue to outpace, the division of boating and ocean recreation's revenue generation capabilities and the legislature's ability to fund maintenance projects through capital funds. The legislature recognizes that the coronavirus disease 2019 (COVID-19) pandemic has exacerbated economic issues statewide, affecting the boating and ocean recreation program just as much as other government programs.

Generally, the small boat harbor program operates at a loss, with only a few small boat harbors generating revenue from mooring fees sufficient to offset costs. The legislature notes that the inability to collect adequate small boat harbor fees is one of the factors preventing the division of boating and ocean recreation from generating sufficient revenue. Continuing inadequate revenue generation will lead to a reduction in services offered by the division of boating and ocean recreation, increased delays in addressing maintenance needs at small

boat harbors, and a potential inability to maintain clean and sanitary facilities for the public.

The legislature further finds that public health and safety are at risk if the small boat harbor program cannot increase revenues. Enforcement patrols are necessary to reduce criminal activity and provide regular police presence in division of boating and ocean recreation facilities.

Additionally, the legislature recognizes that improving the division of boating and ocean recreation's ability to generate revenue will help the division to better maintain and repair small boat harbors and fund enforcement efforts through the department of land and natural resources' division of conservation and resources enforcement.

Accordingly, the purpose of this Act is to:

- (1) Require the division of boating and ocean recreation to set its small boat harbor mooring and liveboard fees at fair market value, as determined by a state-licensed appraiser, without separate nonresident fees and cost-of-living adjustments; and
- (2) Allow the division of boating and ocean recreation an additional option in determining commercial ocean operation fees.

SECTION 2. Section 200-10, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The permittee shall pay moorage fees to the department for the use permit that shall be based on but not limited to the use of the vessel, ~~[its] the vessel's~~ effect on the harbor, use of facilities, and the cost of administering [this] the mooring program; ~~[and, furthermore:]~~ provided that:

- (1) Except for commercial maritime activities ~~[where there is]~~ in which a tariff is established by the department of transportation, moorage fees shall be established by appraisal by a state-licensed appraiser approved by the department ~~[and shall be higher for nonresidents than for residents. The moorage fees shall be set by appraisal categories schedule A and schedule B, to be determined by the department, and may be increased annually by the department, to reflect a cost of living index increase; provided that:~~
 - (A) Schedule A shall include existing mooring permittees; and
 - (B) Schedule B shall apply to all new mooring applicants and transient slips on or after July 1, 2011;

~~provided further that schedule A rates shall be increased by the same amount each year so that schedule A rates equal schedule B rates by July 1, 2014];~~
- (2) For commercial maritime activities ~~[where there is]~~ in which a tariff is established by the harbors division of the department of transportation, the department may adopt the published tariff of the harbors division of the department of transportation or establish the fee by appraisal by a state-licensed appraiser approved by the department;
- (3) An application fee shall be collected when applying for moorage in state small boat harbors and shall thereafter be collected annually when the application is renewed~~[- The];~~ provided that the application fee shall be:
 - (A) ~~Set]~~ set by the department; ~~[and~~
 - (B) ~~Not less than \$100 for nonresidents;]~~
- (4) If a recreational vessel is used as a place of principal habitation, the permittee shall pay, in ~~[addition to]~~ in lieu of the moorage fee~~[:]~~

required by paragraph (1), a monthly liveaboard fee that shall be ~~calculated at a rate of:~~

(A) ~~\$5.20 a foot of vessel length a month if the permittee is a state resident; and~~

(B) ~~\$7.80 a foot of vessel length a month if the permittee is a nonresident;~~

~~provided that the liveaboard fees established by this paragraph may be increased by the department at the rate of the annual cost of living index, but not more than five per cent in any one year, beginning July 1 of each year;] two times the moorage fee that would otherwise be assessed for a vessel of the same size:~~

(5) If a vessel is used for commercial purposes from [its] the vessel's permitted mooring, the permittee shall pay, in lieu of the moorage ~~[and liveaboard] fee[-]~~ required by paragraph (1), a monthly fee ~~[based on three] that shall be the greater of:~~

(A) ~~Three per cent of the gross revenues derived from the use of the vessel; [or two]~~

(B) \$1.50 per passenger carried for hire; or

(C) Two times the moorage fee that would otherwise be assessed for a recreational vessel of the same size[-, whichever is greater; and];

(6) The department is authorized to assess and collect utility fees, including electrical and water charges, and common-area maintenance fees in small boat harbors[-]; and

(7) All fees established by appraisal pursuant to this subsection shall be set at fair market value."

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 8, 2021.)

ACT 43

H.B. NO. 1016

A Bill for an Act Relating to the Taking of Marine Life.

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

SECTION 1. The legislature finds that fishing is an important pastime for many Hawaii residents, providing not only recreational and subsistence benefits, but also an additional source of income for many small-scale commercial fishers who often sell a portion of their catch to cover costs of fuel or fishing gear.

The legislature further finds that the existing commercial marine license laws can be unnecessarily burdensome on boat-based fishers due to the requirement that each individual on a fishing vessel must have a commercial marine license to participate in a commercial fishing trip where any portion of the resulting catch may be sold. The legislature additionally finds that this requirement places logistical and financial burdens on vessel captains when part-time crew members are needed for a commercial fishing trip or when unscheduled or infrequent visitors are invited aboard. It can also lead to confusion regarding

who is responsible for submitting commercial catch reports for fishing activities aboard a vessel.

The legislature also finds that although existing statutory language requires vessel-based fishing charters to obtain a commercial marine license, it is unclear whether shore-based charters are also required to obtain a commercial marine license.

The purpose of this Act is to:

- (1) Specify that a single commercial marine vessel license satisfies the commercial marine license requirement for all persons aboard a licensed vessel;
- (2) Require each commercial marine vessel licensee for a Hawaii longline vessel that satisfies the commercial marine license requirement by obtaining the vessel license to file an annual report with the department of land and natural resources that contains certain information on the crew members;
- (3) Require any person providing fishing charter services to obtain a commercial marine license;
- (4) Allow any vessel used for or engaged in the taking of marine life for commercial purposes to be eligible to obtain a commercial marine vessel license;
- (5) Authorize the department of land and natural resources to establish rules and fees for obtaining a commercial marine vessel license; and
- (6) Require the department of land and natural resources to submit a report to the legislature regarding the status of its administrative rules establishing a new commercial marine vessel license category.

SECTION 2. Section 189-2, Hawaii Revised Statutes, is amended to read as follows:

“§189-2 Commercial marine license~~[-]~~ and commercial marine vessel license. (a) No person shall take marine life for commercial purposes whether the marine life is caught or taken within or outside of the State, without first obtaining a commercial marine license as provided in this section~~[-]~~; provided that a single valid commercial marine vessel license shall satisfy the commercial marine license requirement for all persons taking marine life for commercial purposes aboard a validly-licensed vessel. If a Hawaii longline vessel satisfies the commercial marine license requirement by obtaining a single commercial marine vessel license, the commercial marine vessel licensee shall file an annual report with the department that contains the following information: identity, nationality, arrival date, and departure date of the crew members.

(b) ~~[Additionally, any]~~ Any person providing ~~[vessel]~~ charter services in the State for the taking of marine life in or outside of the State shall obtain a commercial marine license.

(c) Any vessel used for or engaged in the taking of marine life for commercial purposes shall be eligible to obtain a commercial marine vessel license.

~~[(e)]~~ (d) The department may adopt rules pursuant to chapter 91 necessary for the purpose of this section and to set fees for commercial marine ~~[licensing]~~ and commercial marine vessel licenses.

~~[(d)]~~ (e) The fees for commercial marine and commercial marine vessel licenses and duplicate commercial marine and commercial marine vessel licenses shall be established by the department by rules adopted in accordance with chapter 91.

~~[(e)]~~ (f) The department shall suspend, shall refuse to renew, reinstate, or restore, or shall deny any license issued under this section if the department has received certification from the child support enforcement agency pursuant

to section 576D-13 that the licensee or applicant is not in compliance with an order of support or has failed to comply with a subpoena or warrant relating to a paternity or child support proceeding. The department shall issue, renew, reinstate, or restore an affected license only upon receipt of authorization from the child support enforcement agency, the office of child support hearings, or the family court.”

SECTION 3. The department of land and natural resources shall submit a report, including any proposed legislation, to the legislature no later than thirty days prior to the convening of the regular session of 2022, concerning the status of its administrative rules establishing a new commercial marine vessel license category.

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 8, 2021.)

ACT 44

H.B. NO. 1017

A Bill for an Act Relating to Crustaceans.

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

SECTION 1. The legislature finds that the management of natural resources requires constant monitoring and, when necessary, the amending of regulations to adjust to the changing environment. The most effective way to amend and implement specific provisions is through the administrative rule process in chapter 91, Hawaii Revised Statutes. The administrative rules process provides a mechanism for the department of land and natural resources (department) to discuss proposed changes to administrative rules through a public process that is transparent, provides the public ample opportunities for comment, and helps to ensure due process. Administrative rules would also enable the department to adopt more comprehensive changes for the management of new species.

Since the 2006 enactment of section 188-58.5, Hawaii Revised Statutes, the information about the Kona crab has grown to the point where changes to the management measures for this species needs updating. The department has since adopted administrative rules that prohibit the taking, killing, or possession of female spiny lobster (ula), Kona crab (ranina ranina), and Samoan crab (Scylla serrata).

The purpose of this Act is to repeal section 188-58.5, Hawaii Revised Statutes, to allow the department to regulate the taking, killing, or possession of female spiny lobster (ula), Kona crab (ranina ranina), and Samoan crab (Scylla serrata) through administrative rules.

SECTION 2. Section 188-58.5, Hawaii Revised Statutes, is repealed.

SECTION 3. Statutory material to be repealed is bracketed and stricken.¹

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

(Approved June 8, 2021.)

Note

1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to Lay Nets.

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

SECTION 1. The legislature finds that despite detailed lay net rules implemented by the department of land and natural resources, including lay net registration and identification requirements and restrictions on lay net dimensions, mesh size, soak time, time of day, frequency between sets, water depth, and location, the illegal and irresponsible use of lay nets continues with adverse impacts to both fishery resources and protected species.

The legislature further finds that lay net violations are primarily fishery-related infractions that the department of land and natural resources investigates and that a lay net permit system is necessary to better regulate this gear type.

The purpose of this Act is to authorize the department of land and natural resources to adopt rules to establish a lay net permit for the use or possession of lay nets, including reasonable permit fees and provisions for revocation, suspension, and withholding of permits for noncompliance with lay net rules.

SECTION 2. Section 187A-5, Hawaii Revised Statutes, is amended to read as follows:

“**§187A-5 Rules.** Subject to chapter 91, the department shall adopt, amend, and repeal rules for and concerning the protection and propagation of introduced and transplanted aquatic life[;] or the conservation and allocation of the natural supply of aquatic life in any area. The rules may include the following:

- (1) Size limits;
- (2) Bag limits;
- (3) Open and closed fishing seasons;
- (4) Permits for the use and possession of lay nets, including reasonable permit fees and provisions for revocation, suspension, and withholding of permits for noncompliance with lay net rules;
- (4) (5) Specifications and numbers of fishing or taking gear [~~which~~] that may be used or possessed; and
- (5) (6) [~~Prescribe~~] Prescriptions and [~~limit~~] limits on the kind and amount of bait that may be used in taking aquatic life[;] and the conditions for entry into areas for taking aquatic life.

The rules may vary from one county to another and may specify certain days of the week or certain hours of the day in designating open seasons. All rules shall have the force and effect of law. Any person who violates any of the rules adopted pursuant to this section shall be guilty of a petty misdemeanor and upon conviction thereof shall be punished as provided by section 188-70.”

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 8, 2021.)

A Bill for an Act Relating to Ocean Stewardship.

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

SECTION 1. The legislature finds that Hawaii's ocean waters and the marine resources contained within are some of the State's most ecologically, economically, and culturally valuable environmental assets.

The legislature further finds that the increasing popularity of marine ecotourism requires greater measures to ensure the continued health of marine ecosystems. The broad range of recently documented anthropogenic impacts on coral reef health, including coral bleaching, vessel groundings, anchoring and mooring, diving activities, poaching, land-based and water-based pollutant discharges, and other direct and indirect uses of the State's coral reefs, indicate that the department of land and natural resources may need a more consistent and reliable source of funding to manage, protect, and restore marine resources throughout the State. A sustainable funding source is especially critical for successful implementation of the State's 30x30 marine management process, which aims to create a cohesive network of nearshore marine managed areas that benefits fisheries and ecosystem resilience.

The purpose of this Act is to establish the ocean stewardship special fund for the collection and use of moneys for the conservation, restoration, and enhancement of the State's marine resources, and to authorize the department of land and natural resources to collect fees for the use and enjoyment of the State's ocean resources.

SECTION 2. Chapter 187A, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

“PART . OCEAN STEWARDSHIP

§187A-A Ocean stewardship special fund. (a) There is established in the treasury of the State the ocean stewardship special fund to be administered by the department.

(b) The following shall be deposited into the ocean stewardship special fund:

- (1) Moneys collected as user fees pursuant to section 187A-B;
- (2) Revenues due to the State from leases of any lands, facilities, equipment, and other property owned by the department and used for or dedicated to the management, research, restoration, and enhancement of aquatic resources;
- (3) Moneys collected as fines, bail forfeitures, attorney's fees, and administrative costs for violations of subtitle 5 of title 12 or any rule adopted thereunder, except:
 - (A) Informer's fees authorized under section 187A-14;
 - (B) Fines or bail forfeitures for sport fishing violations of this chapter and chapters 188, 189, and 190 pursuant to section 187A-9.5(b)(3); and
 - (C) Fines, bail forfeitures, or administrative fines for violations of chapter 189 pursuant to section 189-2.4(b)(3);
- (4) Moneys collected for the purposes of compensatory mitigation from federal or state permitted impacts to the marine environment;

- (5) Grants, awards, donations, gifts, transfers, or moneys derived from private or public services for the purposes of subtitle 5 of title 12, except:
 - (A) Monetary contributions or moneys collected from the sale of non-monetary gifts to benefit sport fish or sport fishing pursuant to section 187A-9.5(b)(5); and
 - (B) Monetary contributions or moneys collected from the sale of non-monetary gifts to benefit aquatic life used for commercial purposes or fishing for commercial purposes pursuant to section 189-2.4(b)(5); and
- (6) Moneys derived from interest, dividend, or other income from the above sources.
- (c) Subject to subsection (d), the ocean stewardship special fund shall be used to:
 - (1) Develop and carry out marine resource conservation, restoration, enhancement, research, regulatory measures, enforcement actions, educational activities, or any other management measure intended to conserve, restore, and enhance marine resources under the jurisdiction of the State;
 - (2) Develop and carry out restoration and compensatory mitigation measures for impacts to the marine environment, including impacts to the marine environment from federal or state permitted actions, or violations of subtitle 5 of title 12 or any rule adopted thereunder; and
 - (3) Install, maintain, and replace day use mooring buoys and other infrastructure to reduce impacts to the marine ecosystem.
- (d) The ocean stewardship special fund shall be held separate and apart from all other moneys, funds, and accounts in the department; provided that any moneys received from the federal government, through federal programs, or from private contributions, shall be deposited and accounted for in accordance with conditions established by the agency or private entity from whom the moneys are received; provided further that twenty per cent of all gross revenues collected under paragraphs (b)(1) and (2) shall be payable to the office of Hawaiian affairs as ceded lands revenues. Any balance remaining in the fund at the end of any fiscal year shall be carried forward in the fund for the next fiscal year.
- (e) The proceeds of the ocean stewardship special fund shall not be used as security for, or pledged to the payment of principal or interest on, any bonds or instruments of indebtedness.
- (f) Nothing in this section shall be construed to prohibit the use of general funds or the funds of other programs and activities to implement or enforce subtitle 5 of title 12 or any rule adopted thereunder, concerning management and conservation of the State's ocean waters and the resources therein.

§187A-B Ocean stewardship user fee. (a) All operators of commercial vessels, water craft, or water sports equipment that are required to have a commercial operator permit pursuant to section 13-256-3(a), Hawaii Administrative Rules, shall collect an ocean stewardship user fee from each passenger carried or customer served.

(b) The ocean stewardship user fee shall be \$1 per passenger or customer and shall be adjusted every five years to match changes in the Consumer Price Index in the Honolulu area as reported by the United States Bureau of Labor Statistics; provided that the fee shall not be adjusted more than ten per cent every five years. Fees collected pursuant to this section shall not be counted toward gross revenues for purposes of section 200-10(c)(5).

(c) All fees collected pursuant to this section shall be transferred to the department on a monthly basis and shall be deposited into the ocean stewardship special fund; provided that any fees collected on or after January 1, 2029, shall be deposited into the general fund.

(d) The department shall adopt rules pursuant to chapter 91 to implement this part.”

SECTION 3. Section 187A-A, Hawaii Revised Statutes, established in section 2 of this Act to create the ocean stewardship special fund, shall be repealed and the ocean stewardship special fund shall be abolished on January 1, 2029, and any remaining balance shall lapse to the general fund.

SECTION 4. 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 5. This Act shall take effect upon its approval; provided that the collection of the ocean stewardship user fee established in section 2 of this Act shall begin on January 1, 2024.

(Approved June 8, 2021.)

ACT 47

H.B. NO. 1022

A Bill for an Act Relating to the Taking of Natural Resources.

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

SECTION 1. The legislature finds that the State has shown a substantial interest in regulating the extraction of its natural resources under the Hawaii State Constitution and its general statutory and administrative regulatory scheme to conserve, protect, and even propagate public natural resources, including their development and use, for the benefit of the people of the State and future generations. In particular, many laws and administrative rules are in place for the purpose of regulating the extraction of natural resources associated with hunting and fishing, establishing the taking of such resources as highly regulated activities, including commercial and sport harvesting, and the subsequent use or trade and distribution of wildlife and aquatic resources and products.

The legislature also finds that the regulatory regime includes such aspects as licensing and permitting; bag, size, gender, seasonal, and species limitations for wildlife and fisheries; gear restrictions and limits on method of harvest; recognition of traditional practices related to the use of cultural resources; prohibition on the introduction of potentially competitive, harmful, noxious, or predatory non-native species; educational and scientific study permitting; and establishment of protected areas, wildlife sanctuaries, game management areas, and limited entry areas, including freshwater reservoirs, game and fisheries management areas, and even privately owned lands subject to agreement as a state game management area. Additionally, the regulatory scheme for natural resources associated with hunting and fishing in Hawaii is extensive and pervasive and often involves the overlapping of regimes. As a result, in light of the number and nature of regulations that apply and the procedures needed to enforce such regulations, the legislature further finds that persons having voluntarily acquiesced to the regulatory environment in order to participate in natural resource extractive activities, especially for commercial uses of economically important

species, have a reduced expectation of privacy under the Fourth Amendment of the Constitution of the United States, particularly while engaged in such activities and while present in the immediate area near where the activity took place.

These regulations, whether addressing extractive or even non-extractive activities, cannot be effectively enforced without a proper inspection authority as a check and balance against unfettered harvesting, particularly for the often solitary, distant, or far-flung pursuits of local and visitor participants in fishing or hunting, given the expansive milieu of Hawaii's ocean surface, submerged areas, coastlines, forests, and valley terrain and limited enforcement personnel available to police such areas. The geographical complexity of the natural environment of an island state is overlaid by the multitude of recreational, sport, aesthetic, political, cultural, religious, and other non-extractive pursuits of persons in the same areas as hunters and fishers.

Existing Hawaii law gives the department of land and natural resources division of conservation and resources enforcement officers express statutory authority to inspect, upon demand, a required hunting license; for those persons with a hunting license, inspect a person's game bag, container, hunting coat or jacket, carrier, or vehicle that may conceal game; upon probable cause, inspect, upon demand, the contents of any bag, container, vehicle, or conveyance used to carry aquatic life; and search and seize diverse things such as "any equipment, article, instrument, aircraft, vehicle, vessel, business records, or [a] natural resource used or taken in violation of . . . title 12, or any rules adopted thereunder", but only if there is probable cause to believe that a violation of a rule or statute has occurred. The probable cause requirement makes effective enforcement unlikely, as officers are rarely able to meet this standard without having personally observed the hunter or fisher actually taking proscribed wildlife or aquatic life. For example, a fisher could have a cooler of undersized fishes, but even if at a distance the officer observed the take of an undersized fish or fishes, the officer would likely lack probable cause to inspect the contents of the cooler, and these violations would go undetected. Specialized training is necessary to identify regulated species from those that are not subject to regulation, and the difficulty of being able to discern subtle differences in length, gender, color, or other marks or measures from a distance or under less than suitable lighting conditions decreases the likelihood of a positive identification.

The purpose of this Act is to allow division of conservation and resources enforcement officers, upon reasonable belief that a person is or was recently engaged in hunting or fishing, to briefly detain that person as necessary to review any relevant licenses, permits, or related documents to allow conduct of the activity and inspect the wildlife or aquatic life in that person's possession. Instead of an officer spending long enforcement activity hours observing a single hunter or fisher as a prerequisite to establishing probable cause for an inspection, this Act would further enable the officer to inspect the bag or catch of dozens of hunters or fishers, protecting an entire coastline or valley. The limited inspections authorized by this Act include the purpose of recovering illicitly obtained wildlife and aquatic life and either returning them to the natural environment before they expire, if feasible, or recovering them for any economic value. Being able to conduct inspections with greater immediacy than Hawaii's law currently allows increases the chance the natural resource could survive a return to the wild.

SECTION 2. Chapter 199, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§199- Inspection; exhibit upon demand; penalty. (a) Notwithstanding section 199-7, any conservation and resources enforcement officer of the

department of land and natural resources upon whom the board of land and natural resources has conferred police powers may, in the performance of the officer's official duties, stop and temporarily detain any person who the officer reasonably believes is, or recently has been, engaged in hunting or fishing. During this brief detention, the officer, upon lawful demand, may inspect any license, permit, stamp, tag, or other documentation required for hunting or the taking of aquatic resources, as well as any game or aquatic life in the person's possession, including the contents of any receptacle or container of any kind that could reasonably be used to carry the regulated game or aquatic life, and any equipment, article, or device capable of taking the game or aquatic life, while reasonably proximate to the respective hunting or fishing area, to determine whether the person is in compliance with any provision of title 12 and any rules adopted thereunder regulating hunting or aquatic life and conservation of wildlife or aquatic resources. Unless otherwise allowable under section 183D-25, upon probable cause, or incident to arrest, the officer shall not inspect the clothing upon the person who is subject to a natural resource inspection related to hunting or fishing, nor shall the officer inspect the contents of any receptacle or container that could not reasonably be used to carry game or aquatic life.

(b) Any inspection shall be conducted within a reasonable distance from the environment in which the hunting or fishing took place and shall not include vehicular inspections beyond a reasonable distance unless upon probable cause or failure to heed a demand to stop when requested to submit to an administrative inspection for title 12 resources or equipment used for the capture or take of wildlife or aquatic resources as used in hunting or fishing. Inspections shall be conducted by any person authorized by the department of land and natural resources to enforce title 12 and any rule adopted thereunder.

(c) For violations of this section, the administrative fines shall be as follows:

- (1) For a first violation, a fine of not more than \$1,000;
- (2) For a second violation within five years of a previous violation, a fine of not more than \$2,000; and
- (3) For a third or subsequent violation within five years of a previous violation, a fine of not more than \$3,000.

(d) For the purposes of this section:

“Fishing” means the taking of any regulated aquatic life, as defined in section 187A-1.

“Game” or “wildlife” includes any animal parts thereof.”

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.¹

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

(Approved June 8, 2021.)

Note

1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to a Nonresident Recreational Marine Fishing License.

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

SECTION 1. The legislature finds that fishing in marine waters is an important pastime for the people of Hawaii, providing valuable opportunities for outdoor recreation, subsistence, and transmission of cultural practices and values. Hawaii's marine fishing opportunities also attract thousands of visitors each year, from professional anglers who participate in big game fishing tournaments to weekend fishing enthusiasts seeking to enjoy their favorite recreational activity while on vacation. With ever increasing pressure on the State's marine resources, it is critical that the State identify and develop sustainable sources of funding to effectively manage its fisheries.

The legislature further finds that the department of land and natural resources issues commercial marine fishing licenses and freshwater game fishing licenses. The department uses these license fees toward management of commercial marine fisheries and recreational freshwater fisheries. Additionally, Hawaii residents pay taxes that support state fisheries management programs. In contrast, nonresident recreational fishers directly benefit from enjoyment of Hawaii's marine fishery resources without directly contributing to management of those resources.

The legislature also finds that a nonresident recreational marine license and associated fees would provide an additional source of revenue to the State for marine fishery management. Fees would be deposited into the department's sport fish special fund pursuant to section 187A-9.5, Hawaii Revised Statutes.

The purpose of this Act is to:

- (1) Establish a nonresident recreational marine fishing license requirement and fees to enable the department of land and natural resources to more effectively manage the marine fishery resources of the State; and
- (2) Require the department of land and natural resources to adopt rules to implement this license.

SECTION 2. Chapter 188, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§188- Nonresident recreational marine fishing license; application; fees; restrictions. (a) It shall be unlawful for any nonresident of the State who has attained the age of fifteen, except members of the armed forces of the United States on active duty in the State and their spouse and minor children, to fish for, take, or catch any marine life for noncommercial or recreational purposes without first obtaining a nonresident recreational marine fishing license. The department shall adopt rules pursuant to chapter 91 necessary for the purposes of this section.

(b) Nonresident recreational marine fishing licenses shall be issued by agents of the department upon written application in a form prescribed by the department and upon payment of a fee. The fees for a nonresident recreational marine fishing license shall be as follows:

- (1) For a one-day fishing license - \$20;
- (2) For a seven-day fishing license - \$40; and
- (3) For an annual fishing license - \$70.

Fees established by this subsection may be increased by the department no more frequently than once every five years, at the rate of the consumer price index

change from July 2021, compounded annually, rounded to the nearest dollar.

(c) No person to whom a license has been issued under this section shall permit any other person to carry, display, or use the license for any purpose. Each person to whom a license has been issued under this section shall show the license upon demand of any officer authorized to enforce the fishing laws of the State.

(d) It shall be illegal to sell or offer for sale any marine life taken under a nonresident recreational marine fishing license; provided that marine life taken by nonresident licensees on board a charter fishing vessel owned or operated by a person with a valid commercial marine license pursuant to section 189-2(b) may be sold.

(e) The department may revoke any nonresident recreational marine fishing license for any violation of the terms and conditions of the license. Any person whose nonresident recreational marine fishing license has been revoked shall not be eligible to apply for another nonresident recreational marine fishing license until one year after the date of revocation.

(f) For the purposes of this section:

“Marine life” has the same meaning as defined in section 187A-1.

“Nonresident” means any individual who is not a resident of Hawaii.

“Resident of Hawaii” means an individual who has:

- (1) Established primary residence and worked in the State continuously for a period of twelve months or longer immediately prior to applying for, or obtaining a license;
- (2) Filed or paid state income taxes for the previous tax period; or
- (3) Established domicile in the State, as evidenced by documentation showing the individual’s address, including:
 - (A) A valid driver’s license;
 - (B) A valid identification card;
 - (C) A valid school identification card; or
 - (D) Any other official document issued to the individual within the last thirty days from a government agency, financial institution, insurance company, or utility company in the State.

(g) Any person violating this section or any rule adopted pursuant to this section shall be subject to administrative penalties as provided by section 187A-12.5.”

SECTION 3. New statutory material is underscored.¹

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

(Approved June 8, 2021.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 49

H.B. NO. 1020

A Bill for an Act Relating to Adaptive Natural Resource Management.

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

SECTION 1. The legislature finds that the department of land and natural resources is responsible for managing and administering the aquatic and

terrestrial wildlife resources of the State. These natural resources are impacted by a variety of environmental and anthropogenic factors, some of which may change rapidly and frequently. To effectively manage these natural resources, the department needs the flexibility to quickly and efficiently implement temporary adaptive management measures that are based on the best available scientific information.

The legislature further finds that the administrative rule-making process prescribed by chapter 91, Hawaii Revised Statutes, serves the important function of providing opportunity for public review and input. However, it is not designed for implementation of adaptive management measures in response to rapidly changing resource conditions.

The legislature also finds that an alternative process with fewer procedural steps would enable the department of land and natural resources to quickly implement certain temporary adaptive management measures, while also providing opportunity for public review and input.

The purpose of this Act is to:

- (1) Authorize the board of land and natural resources to temporarily adopt, amend, and repeal certain natural resource rules by formal board action at a public noticed meeting if the board finds that such adoption, amendment, or repeal is necessary to implement effective and adaptive management measures in response to rapidly changing resource conditions; and
- (2) Require the department of land and natural resources to submit a report, regarding its actions and findings on the temporary adoption, amendment, and repeal of certain natural resource rules through formal action at public meetings, to the legislature no later than twenty days prior to the convening of the regular session of 2023.

SECTION 2. Section 183D-3, Hawaii Revised Statutes, is amended to read as follows:

“§183D-3 Rules. (a) Subject to chapter 91, the department shall adopt, amend, and repeal rules:

- (1) Concerning the preservation, protection, regulation, extension, and utilization of, and conditions for entry into wildlife sanctuaries, game management areas, and public hunting areas designated by the department;
- (2) Protecting, conserving, monitoring, propagating, and harvesting wildlife;
- (3) Concerning size limits, bag limits, open and closed seasons, and specifications of hunting gear which may be used or possessed; and
- (4) Setting fees for activities permitted under this chapter, unless otherwise provided for by law.

The rules may vary from county to county or in any part of the county and may specify certain days of the week or certain hours of the day in designating open and closed hunting seasons, except that any fees established by rule shall be the same for each county. All rules shall have the force and effect of law.

(b) Notwithstanding any law to the contrary, the board may adopt, amend, or repeal any rule pertaining to bag limits, size limits, open or closed hunting seasons, or gear restrictions by formal board action at a publicly noticed meeting; provided that:

- (1) The board finds that the timely adoption, amendment, or repeal of the rule is necessary to implement effective and adaptive management measures in response to rapidly changing resource conditions;
- (2) Notice of the rulemaking shall:

- (A) Be given at least once statewide at least thirty days in advance of the public meeting;
 - (B) Include a statement of the topic of the proposed rule to be adopted, amended, or repealed or a general description of the subjects involved;
 - (C) Include a statement that a copy of the proposed rule to be adopted, the proposed rule amendment, or the rule proposed to be repealed will be mailed to any interested person who requests a copy and pays the required fees for the copy and the postage, if any, together with a description of where and how the requests may be made;
 - (D) Include a statement of when, where, and during what times the proposed rule to be adopted, the proposed rule amendment, or the rule proposed to be repealed may be reviewed;
 - (E) Include the date, time, and place where the public meeting will be held and where interested persons may be heard on the proposed rule adoption, amendment, or repeal; and
 - (F) Be mailed to all persons who have made a timely written request of the board for advance notice of its rule-making proceedings; and
- (3) The adoption, amendment, or repeal of the rule shall be effective for an initial period of no longer than two years, subject to legislative approval and renewal by the board; provided that renewal by the board shall extend for up to one year at a time.

Each rule hereafter adopted, amended, or repealed under this subsection shall become effective ten days after formal action by the board; provided that if a later effective date is specified in the rule, the later date shall be the effective date. The department shall post the final adopted, amended, or repealed rule on its website for the duration of time that the rule is in effect.

Any such rule established by such action of the board pursuant to this subsection shall have the force and effect of law. Any person who violates any rule established by such action of the board shall be subject to administrative penalties as provided by section 183D-12.”

SECTION 3. Section 187A-5, Hawaii Revised Statutes, is amended to read as follows:

“§187A-5 Rules. (a) Subject to chapter 91, the department shall adopt, amend, and repeal rules for and concerning the protection and propagation of introduced and transplanted aquatic life, or the conservation and allocation of the natural supply of aquatic life in any area. The rules may include the following:

- (1) Size limits;
- (2) Bag limits;
- (3) Open and closed fishing seasons;
- (4) Specifications and numbers of fishing or taking gear which may be used or possessed; and
- (5) Prescribe and limit the kind and amount of bait that may be used in taking aquatic life, and the conditions for entry into areas for taking aquatic life.

The rules may vary from ~~[one county to another]~~ county to county or in any part of a county and may specify certain days of the week or certain hours of the day in designating open and closed fishing seasons. All rules shall have the force and effect of law. ~~[Any]~~ Except as provided by subsection (b), any person who violates any of the rules adopted pursuant to this section shall be guilty of

a petty misdemeanor and upon conviction thereof shall be punished as provided by section 188-70.

(b) Notwithstanding any law to the contrary, the board may adopt, amend, or repeal any rule pertaining to bag limits, size limits, open or closed fishing seasons, or gear restrictions by formal board action at a publicly noticed meeting; provided that:

- (1) The board finds that the timely adoption, amendment, or repeal of the rule is necessary to implement effective and adaptive management measures in response to rapidly changing resource conditions;
- (2) Notice of the rulemaking shall:
 - (A) Be given at least once statewide at least thirty days in advance of the public meeting;
 - (B) Include a statement of the topic of the proposed rule to be adopted, amended, or repealed or a general description of the subjects involved;
 - (C) Include a statement that a copy of the proposed rule to be adopted, the proposed rule amendment, or the rule proposed to be repealed will be mailed to any interested person who requests a copy and pays the required fees for the copy and the postage, if any, together with a description of where and how the requests may be made;
 - (D) Include a statement of when, where, and during what times the proposed rule to be adopted, the proposed rule amendment, or the rule proposed to be repealed may be reviewed;
 - (E) Include the date, time, and place where the public meeting will be held and where interested persons may be heard on the proposed rule adoption, amendment, or repeal; and
 - (F) Be mailed to all persons who have made a timely written request of the board for advance notice of its rule-making proceedings; and
- (3) The adoption, amendment, or repeal of the rule shall be effective for an initial period of no longer than two years, subject to legislative approval and renewal by the board; provided that renewal by the board shall extend for up to one year at a time.

Each rule hereafter adopted, amended, or repealed under this subsection shall become effective ten days after formal action by the board; provided that if a later effective date is specified in the rule, the later date shall be the effective date. The department shall post the final adopted, amended, or repealed rule on its website for the duration of time the rule is in effect.

Any such rule established by such action of the board pursuant to this subsection shall have the force and effect of law. Any person who violates any rule established by such action of the board shall be subject to administrative penalties as provided by section 187A-12.5.”

SECTION 4. The department of land and natural resources shall submit a report, regarding its actions and findings on the temporary adoption, amendment, and repeal of certain natural resource rules through formal action at public meetings over the past two years, to the legislature no later than twenty days prior to the convening of the regular session of 2023.

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

SECTION 6. This Act shall take effect on October 1, 2021.

(Approved June 8, 2021.)

A Bill for an Act Relating to Transportation.

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

SECTION 1. The legislature finds that Hawaii is one of the most beautiful places on the planet, with breathtaking landscapes, lush tropical forests, and rich ocean resources. The State is home to amazing ecosystems that include a unique mix of flora and fauna, including dozens of endemic Hawaiian birds that can be found nowhere else on earth; approximately one thousand four hundred species of native plants, ninety per cent of which are endemic to the State; and familiar marine mammals that are closely associated with the State, including the Hawaiian monk seal and humpback whale.

The legislature also finds that state residents understand the importance of these unique resources and appreciate their value. More specifically, residents appreciate the beloved native and endemic plants and animals of Hawaii, strongly believe that these resources must be preserved for future generations, and support opportunities to directly contribute to the conservation of these critical resources.

Accordingly, the purpose of this Act is to:

- (1) Establish special number motor vehicle license plates that commemorate the importance of environmental conservation, and use proceeds from the special number plate program to fund conservation and protection efforts; and
- (2) Increase initial application and renewal fees for special number plates.

SECTION 2. Chapter 249, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§249- Special number plates for environmental conservation; authorized.

(a) Notwithstanding any law to the contrary, the director of finance shall issue to any registered owner of a motor vehicle, who is a resident of the State and has completed the application and paid the required fees, special number plates that commemorate the importance of environmental conservation, for the registered owner's motor vehicle.

(b) The director of finance of the city and county of Honolulu shall establish special number plate designs that commemorate the importance of environmental conservation. The design shall:

- (1) Contain words or images, or both, that indicate that the special number plate is being issued to commemorate the importance of environmental conservation;
- (2) Be similar in shape and size to the uniform state number plate prescribed by law; and
- (3) Be readily identifiable and distinguishable under actual traffic conditions.

The director of finance of the city and county of Honolulu shall consult with the directors of finance of the counties of Kauai, Maui, and Hawaii; the chiefs of police of the city and county of Honolulu and the counties of Kauai, Maui, and Hawaii; and the chairperson of the board of land and natural resources in establishing the special number plate design, which shall be visually attractive and highlight Hawaii's environment, native species, or both.

(c) Each special number plate design shall not:

- (1) Infringe upon or otherwise violate any trademark, trade name, service mark, copyright, or other proprietary or property right;

- (2) Represent any obscene or degrading image, idea, word, or phrase;
- (3) Advertise or endorse a product, brand, or service that is provided for sale;
- (4) Promote any religious belief;
- (5) Promote any philosophy based on prejudice or that is contrary to state civil rights laws; or
- (6) Obstruct the visibility of the number plate's numbers or letters or any other information that is required by law to be on a number plate.

(d) Each special number plate shall be securely fastened to the motor vehicle in lieu of the uniform state number plate.

(e) The director of finance shall charge a special number plate fee at least equal to the county's cost of providing the special number plate and administrative costs, if any, plus a fundraising fee to be set by the department of land and natural resources. The fundraising fee established by this subsection shall be in addition to any other state or county fees collected for a motor vehicle registration or license plates.

(f) The revenue generated by the fundraising fees established pursuant to subsection (e) shall be deposited into the conservation and resources enforcement special fund established under section 199-1.5.

(g) The director of finance may revoke all special number plates issued pursuant to this section if the total number of registered owners of motor vehicles that obtain the special number plates is less than one hundred fifty within three years of issuance of the first special number plate.

(h) Nothing in this section shall be construed to apply to any plates issued pursuant to section 249-9.2.

(i) For the purposes of this section, unless a different meaning appears from the context, "special number plate" means a license plate that is not a uniform state number plate."

SECTION 3. Section 199-1.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The following shall be deposited into the conservation and resources enforcement special fund:

- (1) Grants, awards, donations, gifts, transfers, or moneys derived from public or private sources for the purposes of enforcing the provisions of title 12; chapters 6D, 6E, and 6K; or any rule adopted thereunder;
 - (2) Fees, reimbursements, administrative charges, and penalties collected for activities related to the enforcement of natural, cultural, and historic resources protection laws and rules, except as otherwise provided by law that provides for deposits into other special funds administered by the department;
 - (3) Moneys derived from interest, dividends, or other income from the above-mentioned sources; ~~and~~
 - (4) Revenues generated from section 249-_____ ; and
- [~~(4)~~] (5) Appropriations by the legislature to the special fund."

SECTION 4. Section 249-9.1, Hawaii Revised Statutes, is amended to read as follows:

"**§249-9.1 Special number plates.** In addition to the number plates contracted on behalf of the counties by the director of finance of the city and county of Honolulu, the director of finance may provide, upon request, special number plates. The special number plates shall conform to the requirements

provided for the uniform number plates except that the owner may request the choice and arrangement of letters and numbers. The maximum number of letters and numbers shall be six and only one hyphen will be allowed in addition to and in lieu of the six letters and numerals. No other punctuation marks shall be allowed. The director of finance shall not issue special number plates which have the letter and numeral combination of regular plates, are misleading or publicly objectionable. The fee for special number plates shall be [~~\$25~~] \$60 upon initial application and [~~\$25~~] \$60 upon each annual renewal of the vehicle registration. This fee shall not be refundable. Re-application for special number plates must be made upon a change in design of regular plates. The director of finance may discard and allow for new applications of inactive special number plates that have not been assigned or registered during the preceding three years. The director of finance shall adopt rules pursuant to chapter 91 to carry out this section.”

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 6. This Act shall take effect upon its approval; provided that section 4 shall take effect on January 1, 2022.

(Approved June 8, 2021.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 51

H.B. NO. 553

A Bill for an Act Relating to the Protection of Sharks.

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

SECTION 1. The legislature finds that sharks, known as manō in the Hawaiian language, are extremely important to ocean ecosystems. As ocean predators near the top of the food chain, sharks keep the ecosystem balanced, regulate populations of other marine life, and ensure healthy fish stock and reefs.

The legislature further finds that there have been numerous incidents reported where young sharks, such as hammerhead shark pups, are killed by being entangled in gill nets set in shark nursery habitats. The legislature also finds that prohibiting the placement of gill nets in areas determined to be shark nursery habitats would be an effective tool to protect shark populations.

The purpose of this Act is to protect sharks for their ecological value while not criminalizing the accidental capture and release of sharks that may be captured while fishing for other species as allowed by statute or rule.

SECTION 2. Chapter 188, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§188- Sharks; manō; prohibitions; exceptions; penalties and fines. (a) Except as provided in subsection (f), or as otherwise provided by law, no person shall intentionally or knowingly capture or entangle any shark, whether alive or dead, or kill any shark, within state marine waters.

(b) Any person violating this section or any rule adopted pursuant to this section shall be guilty of a misdemeanor; provided that the fine for violating this section shall be:

ACT 51

- (1) \$500 for a first offense;
- (2) \$2,000 for a second offense; and
- (3) \$10,000 for a third or subsequent offense.
- (c) A person convicted of violating this section may be sentenced to pay a civil fine not exceeding \$10,000 per offense.
- (d) In addition to any other penalty imposed under this section, a person violating this section shall be subject to:
 - (1) An administrative fine of no more than \$10,000 for each shark captured or entangled, whether alive or dead, or killed in violation of this section;
 - (2) Seizure and forfeiture of any captured sharks or any part or product therefrom, commercial marine license, vessel, and fishing equipment; and
 - (3) Assessment of administrative fees and costs, and attorney's fees and costs.
- (e) The criminal penalties and administrative fines, fees, and costs shall be assessed per shark captured or entangled, whether dead or alive, or killed in violation of this section.
- (f) This section shall not apply to:
 - (1) Special activity permits issued under section 187A-6;
 - (2) The department of land and natural resources or its designated agent if the capture or entanglement, whether alive or dead, or killing is for the protection of public safety;
 - (3) Sharks taken outside of state marine waters and possessed on a vessel in state marine waters pursuant to any federally managed fishery, with the required documentation of the location where the capture occurred;
 - (4) Any person if the capture or entanglement, whether alive or dead, or killing is the result of self-defense, or the defense of another, against death or bodily harm; and
 - (5) Any person who captures or kills a shark pursuant to a permit issued by the department of land and natural resources under subsection (i).
- (g) Nothing in this section shall be construed to restrict the exercise of traditional and customary rights protected pursuant to article XII, section 7, of the Hawaii State Constitution.
- (h) The department of land and natural resources may adopt rules pursuant to chapter 91 to implement this section for purposes including but not limited to:
 - (1) Ensuring that the incidental capture and release of sharks while targeting other species is not a violation;
 - (2) Preventing the wanton waste of sharks; and
 - (3) Limiting gear, such as gill nets, in areas identified as shark nursery habitats.
- (i) The department of land and natural resources may issue a non-commercial permit for the take of sharks, subject to permit conditions that shall include native Hawaiian cultural protocol, size and species restrictions, and a prohibition on species listed as endangered or threatened pursuant to section 195D-4.
- (j) For the purposes of this section, "shark" means any species of shark within the subclass Elasmobranchii."

SECTION 3. Section 188-70, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Any person violating any provision of or any rule adopted pursuant to this chapter, except sections 188-23 [~~and~~], 188-39.5, and 188-____, is guilty of a petty misdemeanor and, in addition to any other penalties, shall be fined [~~not~~] no less than:

- (1) \$100 for a first offense;
- (2) \$200 for a second offense; and
- (3) \$500 for a third or subsequent offense.”

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.¹

SECTION 6. This Act shall take effect on January 1, 2022.

(Approved June 8, 2021.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 52

S.B. NO. 697

A Bill for an Act Relating to Kalaupapa Month.

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

SECTION 1. The legislature finds that the month of January is significant in the history of Kalaupapa on the island of Molokaʻi.

In 1865, the Kingdom of Hawaiʻi passed “An Act to Prevent the Spread of Leprosy”, which required the board of health to “cause to be isolated and confined . . . all leprosy patients who shall be deemed capable of spreading the disease of leprosy.” Accordingly, to prevent the spread of leprosy, the Kingdom bought eight hundred acres of land on the remote Kalaupapa peninsula of Molokaʻi in order to forcibly remove individuals believed to have leprosy from the general population.

On January 6, 1866, twelve citizens of Hawaiʻi arrived at Kalaupapa, the first of an estimated eight thousand people who were taken from their families and forced into isolation. These first twelve women and men were J. N. Loe, Kahauliko, Liilii, Puha, Kini, Lono, Waipio, Kainana, Kaaumoana, Nahuina, Lakapu, and Kepihe. The original inhabitants of Kalaupapa played a critical role in helping these leprosy patients who faced tremendous difficulties. If not for their kindness and compassion, life would have been far worse for those who had been banished to the peninsula. The government provided very little support or supplies to the early settlement of isolated leprosy patients, including no doctor or hospital, and expected the patients to be self-sufficient.

The peak of leprosy in Hawaiʻi came in the 1880s, when more than one thousand individuals lived at Kalaupapa. As the settlement grew and became overcrowded, the government ordered the original inhabitants to leave the land they had occupied for generations. The last of the original inhabitants of Kalaupapa were evicted in January 1895, a year after the Republic of Hawaiʻi was established.

The legislature further finds that Hale Mohalu, a collection of World War II barracks on eleven acres of land at the edge of Pearl City, Oahu, was converted into a treatment center for leprosy patients registered at Kalaupapa and became a “second home” for many of its patients. Beginning in the 1950s, state officials let Hale Mohalu fall into disrepair, and in 1978, the State began relocating patients to Leahi Hospital, its designated Honolulu treatment center. On January 26, 1978, eight residents of Hale Mohalu were relocated to Leahi Hospital against their wishes. Twelve others refused to leave and remained behind, including Bernard Punikai‘a, Clarence Naia, and Frank and Mary Duarte. This began a nearly six year occupation of Hale Mohalu by these residents, who together with their supporters, protested policies imposed by the then governor and board of health. Punikai‘a, Naia, and several of their supporters were arrested on September 21, 1983, when the buildings of Hale Mohalu were bulldozed.

The legislature additionally finds that two key individuals who committed their lives to serving those affected by leprosy also share significant dates in the month of January.

On January 3, 1840, Jozef De Veuster was born in Belgium. He later joined the Congregation of the Sacred Hearts of Jesus and Mary. Known as Father Damien, he was ordained in Honolulu. Father Damien arrived at Kalaupapa in 1873 and spent sixteen years of his life caring for the people of Kalaupapa, ministering to them, building houses and churches, and tending to their medical needs, until his death at age forty-nine in 1889. He was canonized by the Catholic Church as Saint Damien of Moloka‘i in 2009.

On January 23, 1838, Barbara Koob was born in Germany. She later became a member of the Sisters of St. Francis of Syracuse, New York, and eventually became known as Mother Marianne Cope. She was a respected health administrator and answered the call of King Kalākaua and Queen Kapi‘olani to help people affected by leprosy in Hawai‘i. She spent thirty years at Kalaupapa, supervising the Bishop Home for Single Women and Girls and serving as a leader in the community. She was canonized by the Catholic Church as Saint Marianne in 2012.

Many of the people banished to Kalaupapa became great leaders of the community. On January 5, 1879, Ambrose Kanewalii Hutchison arrived at Kalaupapa where he lived for the next fifty-three years. He served as resident superintendent for a total of ten years, from 1884 to 1894, longer than any other person facing the challenges of leprosy.

The legislature further finds that since 2014, on the fourth Sunday of January, the Hawaii Conference of the United Church of Christ observes “Kalaupapa Sunday”, where Hawaii Conference of the United Church of Christ churches across the State remember the people of Kalaupapa, particularly the thirty-five men and women who founded Siloama Church less than six months after the first leprosy patients were sent to Kalaupapa in 1866.

In 1946, leprosy patients in Hawai‘i began being treated with sulfone drugs, which meant they did not need to be isolated from others. Forced isolation at Kalaupapa ended in 1949 though it took until 1969 for the State’s policy to officially end. In 1976, Kalaupapa was designated a National Historic Landmark by the United States government. The Kalaupapa National Historic Park was then established in 1980 to recognize and preserve the history of the peninsula and support the remaining residents.

In 2003, Ka Ohana O Kalaupapa was formed by many of the remaining residents of Kalaupapa, their extended ohana, and descendants and long-time friends of the community, who felt that as the number of residents dwindled, the residents needed an organization to ensure their voices would continue to be heard. In 2009, the United States government approved the Kalaupapa Memo-

rial Act of 2009, making Ka Ohana O Kalaupapa the only organization, other than the National Park Service, to be authorized by the United States government to operate at Kalaupapa.

The legislature finds that the people of Kalaupapa today are viewed as valuable members of society who are some of Hawai'i's finest citizens, having overcome the most difficult of circumstances. Mercy Hutchison Bacon, great niece of Kalaupapa leader Ambrose Hutchison, called the people of Kalaupapa "the pride of a nation".

The purpose of this Act is to establish January of each year as "Kalaupapa Month" to serve as an annual reminder of the importance of Kalaupapa and the significant sacrifices and contributions of its residents throughout the history of Hawai'i.

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

"§8- Kalaupapa Month. The month of January shall be known and designated as "Kalaupapa Month", to serve as an annual reminder of the importance of Kalaupapa and the significant sacrifices and contributions of its residents throughout the history of Hawaii. This month is not and shall not be construed as a state holiday."

SECTION 3. New statutory material is underscored.¹

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

(Approved June 16, 2021.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 53

S.B. NO. 939

A Bill for an Act Relating to Juneteenth Day.

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

SECTION 1. The legislature finds that Juneteenth, also known as Emancipation Day, Juneteenth Independence Day, and Black Independence Day, is a celebration of emancipation from slavery in the United States. June 19, 1865, marks the date that Major General Gordon Granger arrived in Galveston, Texas, and announced the end of the Civil War and the end of slavery.

The legislature further finds that although the Emancipation Proclamation came two and a half years earlier on January 1, 1863, many slave owners continued to hold their slaves captive after the announcement, so Juneteenth became a symbolic date representing African American freedom.

Texans celebrated Juneteenth beginning in 1866, and on January 1, 1980, Juneteenth officially become a Texas state holiday. The legislature finds that although Juneteenth is not a federal holiday, most states and the District of Columbia have passed legislation recognizing Juneteenth as a holiday or observance. Hawaii is one of three states that does not recognize Juneteenth as a state holiday or a special day of observance.

The purpose of this Act is to establish June 19 of each year as Juneteenth in recognition of the history and legacy of slavery in the United States and in

ACT 54

honor of the significant roles and contributions of African Americans in the history of the United States.

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

“§8- Juneteenth. June 19 of each year shall be known and designated as Juneteenth to commemorate the end of slavery in the United States and in honor and recognition of the significant roles and contributions of African Americans in the history of the United States. Juneteenth is not and shall not be construed to be a state holiday.”

SECTION 3. New statutory material is underscored.¹

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

(Approved June 16, 2021.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 54

H.B. NO. 940

A Bill for an Act Relating to Securities.

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

SECTION 1. Chapter 485A, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

“PART . PROTECTION OF ELDERS AND VULNERABLE ADULTS FROM FINANCIAL EXPLOITATION

§485A-A Definitions. As used in this part, unless the context otherwise requires:

“Elder” means an individual sixty-two years of age or older.

“Financial exploitation” means:

- (1) The wrongful or unauthorized taking, withholding, appropriation, or use of money, assets, or property of an elder or a vulnerable adult; or
- (2) Any act or omission by a person, including through the use of a power of attorney, guardianship, or conservatorship of an elder or a vulnerable adult, to:
 - (A) Obtain control through deception, intimidation, or undue influence over the elder’s or vulnerable adult’s money, assets, or property to deprive the elder or vulnerable adult of the ownership, use, benefit, or possession of the elder’s or vulnerable adult’s money, assets, or property; or
 - (B) Convert money, assets, or property of the elder or vulnerable adult to deprive the elder or vulnerable adult of the ownership, use, benefit, or possession of the elder’s or vulnerable adult’s money, assets, or property.

“Qualified person” means any agent, broker-dealer, investment adviser representative, investment adviser, or person who serves in a supervisory or compliance capacity for a broker-dealer or an investment adviser.

“Reasonably associated individual” means any person known to the qualified person to be reasonably associated with the elder, vulnerable adult, or account.

“Vulnerable adult” means a person eighteen years of age or older who, because of mental, developmental, or physical impairment, is unable to:

- (1) Communicate or make responsible decisions to manage the person’s own care or resources;
- (2) Carry out or arrange for essential activities of daily living; or
- (3) Protect oneself from abuse.

§485A-B Governmental disclosures. If a qualified person reasonably believes that financial exploitation of an elder or a vulnerable adult may have occurred, may have been attempted, or is being attempted, the qualified person shall promptly notify the commissioner.

§485A-C Immunity for governmental disclosures. A qualified person who, in good faith and exercising reasonable care, makes a disclosure of information pursuant to section 485A-B shall be immune from administrative or civil liability that might otherwise arise from the disclosure or for any failure to notify the commissioner of the disclosure.

§485A-D Third-party disclosures. If a qualified person reasonably believes that financial exploitation of an elder or a vulnerable adult may have occurred, may have been attempted, or is being attempted, a qualified person may notify a reasonably associated individual or any third party previously designated by the elder or vulnerable adult. Disclosure shall not be made to any reasonably associated individual or previously designated third party who is suspected of financial exploitation or other abuse of the elder or vulnerable adult.

§485A-E Immunity for third-party disclosures. A qualified person who, in good faith and exercising reasonable care, makes a disclosure of information pursuant to section 485A-D shall be immune from any administrative or civil liability that might otherwise arise from the disclosure.

§485A-F Delaying disbursements or transactions. (a) A qualified person may delay a disbursement from, or a transaction in connection with, an account of an elder or a vulnerable adult, or an account on which an elder or a vulnerable adult is a beneficiary, if:

- (1) The qualified person reasonably believes that the requested disbursement or transaction may result in financial exploitation of the elder or vulnerable adult after initiating an internal review of the requested disbursement or transaction and the suspected financial exploitation; and
- (2) The qualified person:
 - (A) Immediately, but in no event more than two business days after the requested disbursement or transaction is delayed, provides written notification of the delay and the reason for the delay to all parties authorized to transact business on the account, unless any party is reasonably believed to have engaged in suspected or attempted financial exploitation of the elder or vulnerable adult;

- (B) Immediately, but in no event more than two business days after the requested disbursement or transaction is delayed, notifies the commissioner; and
 - (C) Continues its internal review of the suspected or attempted financial exploitation of the elder or vulnerable adult, as necessary, and provides status updates to the commissioner upon request.
- (b) Any delay of a requested disbursement or transaction as authorized by this section shall expire upon the sooner of:
- (1) A determination by the qualified person that the requested disbursement or transaction will not result in financial exploitation of the elder or vulnerable adult; or
 - (2) Fifteen business days after the date on which the qualified person first delayed the requested disbursement or transaction, unless the commissioner requests that the qualified person extend the delay, in which case the delay shall expire no later than twenty-five business days after the date on which the qualified person first delayed the requested disbursement or transaction, unless sooner terminated or further extended by the commissioner or by an order of a court of competent jurisdiction.
- (c) A court of competent jurisdiction may enter an order extending the delay of the requested disbursement or transaction, or may order other protective relief based on the petition of the commissioner, the qualified person who initiated the delay under this section, or other interested party.

§485A-G Immunity for delaying disbursements or transactions. A qualified person who, in good faith and exercising reasonable care, complies with section 485A-F shall be immune from any administrative or civil liability that might otherwise arise from a delay of a requested disbursement or transaction in accordance with that section.

§485A-H Records. A qualified person shall provide access to or copies of records that are relevant to the suspected or attempted financial exploitation of an elder or a vulnerable adult to the commissioner or law enforcement, either as part of a referral to the commissioner or law enforcement, or upon request of the commissioner or law enforcement pursuant to an investigation. The records may include historical records as well as records relating to the most recent transaction or transactions that may comprise financial exploitation of an elder or a vulnerable adult. All records made available under this section shall be exempt from disclosure under chapter 92F.

Nothing in this section shall limit or otherwise impede the authority of the commissioner to access or examine the books and records of a qualified person as otherwise provided by law.

§485A-I Multiple duties to report. Compliance with this part shall not discharge the duty to report suspected abuse under any other law.”

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. This Act shall take effect upon its approval.

(Approved June 16, 2021.)

ACT 55

S.B. NO. 793

A Bill for an Act Relating to the Minimum Wage.

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

SECTION 1. The legislature finds that the real problems of disability arise not from the medical conditions themselves, but rather from the low expectations, misinformation, and socially-constructed systemic barriers associated with the conditions. Individuals with disabilities are subject to low expectations particularly in employment and the system preparing them for employment, such as education and rehabilitation programs.

Section 14(c) of the Fair Labor Standards Act (Section 14(c)) denies people the guarantee of a minimum wage for potentially any job and at any point in their career, based on their disability status. As reported by the Arizona Advisory Committee on the U.S. Commission on Civil Rights in its 2020 submittal, “Subminimum Wages for Persons with Disabilities Under Section 14(c) of the Fair Labor Standards Act,” in a world after the enactment of the Americans with Disabilities Act, Section 14(c) can be considered a federal law that discriminates against individuals with disabilities. Section 14(c) is different from its counterpart sections 14(a) and 14(b) in that the bases for allowing payment of below minimum wage in those sections are the job being performed or the particular stage in the individual’s career, which can be temporary, whereas an individual’s disability status can be lifelong.

The original intent of Section 14(c) was to serve as a platform to train and prepare individuals with disabilities to gain open-market competitive jobs. However, the Arizona Advisory Committee reported that Section 14(c) cannot be justified as a policy to increase open-market employment opportunities for individuals with disabilities. It has been shown that Section 14(c) simply provided a subsidy for sheltered workshops that do not support movement of their workers to competitive employment. Section 14(c) no longer fulfills its original intent and runs contrary to the American with Disabilities Act, which was enacted subsequently. Section 14(c) is an outdated law that only serves to perpetuate misinformation, stigma, and stereotypes of individuals with disabilities.

The purpose of this Act is to repeal existing law that exempts individuals with disabilities from minimum wage requirements as a cost neutral initiative with great positive impact on the lives of individuals with disabilities.

SECTION 2. Section 103D-1001, Hawaii Revised Statutes, is amended by amending the definition of “qualified community rehabilitation program” to read as follows:

““Qualified community rehabilitation program” means a nonprofit community rehabilitation program for ~~[persons]~~ individuals with disabilities that:

- (1) Is organized and incorporated under the laws of the United States or this State, and located in this State;
- (2) Is operated in the interest of and ~~[[employs]~~~~[persons]~~ individuals with disabilities;
- (3) Does not inure any part of its net income to any shareholder or other individual;
- (4) Complies with all applicable occupational health and safety standards required by the federal, state, and county governments; and
- (5) ~~[Holds a current certificate from the United States Department of Labor pursuant to the Fair Labor Standards Act, Title 29 United States Code section 214(c), and is certified by the state department~~

~~of labor and industrial relations under section 387-9 and applicable administrative rules relating to the employment of persons with disabilities.] Maintains a disabled to non-disabled employee ratio equal to or greater than one to three at all times. To ensure integrated employment of individuals with disabilities, this one-to-three ratio is to include all levels of employment, management, and sub-contracting.~~”

SECTION 3. Section 387-9, Hawaii Revised Statutes, is amended by amending its title and subsection (a) to read as follows:

“§387-9 Special minimum wages for learners; apprentices; full-time students; paroled wards of Hawaii youth correctional facility[; ~~handicapped workers~~].

(a) Notwithstanding the provisions of section 387-2, the director ~~[may]~~^{is} by rule, may provide for the employment[:

- (1) ~~Of~~ learners[~~;~~]; apprentices[~~;~~]; part-time employees who are full-time students attending public or private schools other than colleges, universities, business schools, or technical schools[~~;~~]; and [~~of~~] wards paroled from the Hawaii youth correctional facility, under special certificates issued by the director, at [~~such~~] wages lower than the applicable minimum wage and subject to [~~such~~] limitations as to time, number, proportion, and length of service as the director shall prescribe[~~;~~ and
- (2) ~~Of individuals whose earning capacity is impaired by old age or physical or mental deficiency or injury, under special certificates issued by the director, at such wages lower than the applicable minimum wage and for such period as shall be fixed in the certificates].”~~

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 16, 2021.)

ACT 56

H.B. NO. 1192

A Bill for an Act Relating to Consumer Protection.

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

PART I

SECTION 1. The legislature finds that there has been a shift in the market from deferred deposit agreements, commonly referred to as payday loans, toward small dollar installment loans, which are repayable over time and secured by access to the borrower’s checking account. Unfortunately, due to the State’s current deferred deposit laws, the payday lending industry can engage in practices that trap consumers in unsustainable cycles of debt. Payday lenders structure loans with unrealistically short repayment terms, unaffordable payments, and excessive fees, resulting in long-term, high-cost debt and harm to the

consumer. Lenders are also granted access to the borrower's checking account to ensure that the lender gets repaid, even if the borrower cannot cover rent, utilities, and other basic living expenses. The Pew Charitable Trusts has reported that the average Hawaii payday borrower incurs \$529 in fees to borrow \$300 over five months. Research also shows that this amount is nearly three times higher than what the same lenders charge similarly situated consumers in other states.

The legislature notes that there has been a growing trend around the country to provide more consumer protections, which benefit consumers and encourage responsible and transparent lending, for deferred deposit transactions and installment loans within the alternative financial service products industry. Hawaii has not yet joined in these reform efforts. In 2017, the Consumer Financial Protection Bureau released new rules that, among other things, targeted loans with a thirty-six per cent annual interest rate or higher and restricted payday lenders from extracting money from the borrower's account, without explicit consent, if they failed to repay twice in a row. However, the Consumer Financial Protection Bureau also rescinded the mandatory underwriting provisions of its payday lending rules. It is critical that the State take action now to address these harmful practices in light of this delay and the weakening of the federal consumer protections for payday and similar loans.

The legislature acknowledges that there is a market for installment loans. However, the legislature finds that if installment loans are going to be offered to Hawaii consumers, there must be appropriate consumer protections in place to ensure these loans contain reasonable terms and fees, provide sufficient protections that allow borrowers to avoid extending or adding additional loans, and allow borrowers to meet their basic living expenses.

Accordingly, the purpose of this Act is to:

- (1) Establish a framework for providing new, viable installment loan transactions; and
- (2) Repeal the statutory authorization for deferred deposit transactions in the State.

PART II

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

“CHAPTER INSTALLMENT LOANS

PART I. GENERAL PROVISIONS

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

“Annual percentage rate” means an annual percentage rate as determined pursuant to section 107 of the Truth in Lending Act, title 15 United States Code section 1606. For the purposes of this definition, all fees and charges, including interest and monthly maintenance fees authorized by this chapter, shall be included in the calculation of the annual percentage rate.

“Arranger” means a provider of funds in the syndication of a debt.

“Branch office” means any location in the State that is identified by any means to the public or consumers as a location at which the licensee holds itself out as an installment lender.

“Commissioner” means the commissioner of financial institutions.

“Consumer” means a natural person who is the buyer, lessee, or debtor to whom credit is granted in a transaction that is primarily for that natural person’s personal, family, or household purposes.

“Control” means the power, either directly or indirectly, to direct management or policies of a company, whether through ownership of securities, by contract, or otherwise.

“Control person” means any person who directly or indirectly exercises control of a licensee or applicant.

“Default” means a consumer’s failure to repay an installment loan in compliance with the terms contained in an installment loan agreement.

“Department” means the department of commerce and consumer affairs.

“Division” means the division of financial institutions of the department of commerce and consumer affairs.

“Elder” means an individual who is sixty-two years of age or older.

“Finance charges” means the cost of credit or cost of borrowing, including the interest and other fees authorized by this chapter.

“Financial institution” means any bank, savings bank, savings and loan association, financial services loan company, or credit union doing business in the State whose accounts are insured by the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund, or other similar or successor program of federal insurance.

“Installment lender” or “lender” means any person who is in the business of offering or making a consumer loan, who arranges a consumer loan for a third party, or who acts as an agent for a third party, regardless of whether the third party is exempt from licensure under this chapter or whether approval, acceptance, or ratification by the third party is necessary to create a legal obligation for the third party, through any method including mail, telephone, the Internet, or any electronic means.

“Installment loan” means a loan made pursuant to this chapter.

“Instrument” means a method of payment that may include a debit card payment, Automated Clearing House transfer, electronic check or other forms of electronic transfers, money order, cash, personal check signed by the consumer, or any other method of loan payment authorized by this part or by rule adopted by the commissioner pursuant to chapter 91 and made payable to a person subject to this chapter.

“Interest” means all charges payable directly or indirectly by a borrower to a licensee as a condition to a loan or an application for a loan, however denominated. “Interest” does not include default charges, deferment charges, insurance charges or premiums, court costs, loan origination charges, check collection charges, credit line charges, credit report charges, or other fees and charges specifically authorized by law.

“Licensee” means a person who is licensed or required to be licensed under this chapter.

“Loan amount” means the amount financed, as that term is defined in Truth in Lending (Regulation Z), title 12 Code of Federal Regulations, chapter X, part 1026, as amended, or supplemented by this chapter.

“Loan charges” means the total of all charges made in connection with a loan except for insufficient funds charges authorized by section 11 and default charges authorized by section 4(i).

“Maintenance fee” means a monthly fee paid to a licensee to maintain an installment loan.

“NMLS” means the Nationwide Multistate Licensing System and Registry, which is a licensing system developed and maintained by the Conference of State Bank Supervisors for the state licensing and registration of state-licensed

loan originators and other financial services providers, or any system provided by the Consumer Financial Protection Bureau.

“Nonprofit organization” means an organization that:

- (1) Has the status of a tax-exempt organization under section 501(c)(3) of the Internal Revenue Code of 1986, as amended;
- (2) Conducts its activities in a manner that serves public or charitable purposes, rather than commercial purposes;
- (3) Receives funding, revenue, and charge fees in a manner that does not incentivize its organization or its employees to act other than in the best interests of its clients; and
- (4) Compensates its employees in a manner that does not incentivize employees to act other than in the best interests of its clients.

“Person” means an individual, sole proprietorship, partnership, corporation, limited liability company, limited liability partnership, or other association of individuals, however organized.

“Place of business” means a location where installment loans are offered or made and includes each website through which a consumer may apply for an installment loan from an installment lender.

“Precomputed interest” means an interest method that uses the original payment schedule to calculate interest.

“Renewal” means the refinancing of an installment loan that occurs during the period between the original maturity date and the immediately preceding installment payment due date. “Renewal” does not include the refinancing of an installment loan that occurs prior to the penultimate installment payment due date.

“Truth in Lending Act” means the federal Truth in Lending Act, title 15 United States Code section 1601 et seq., as may be amended, and regulations adopted thereunder, as may be amended.

§ -2 Installment loans; requirements; payments. (a) Each installment loan transaction and renewal shall meet the following requirements:

- (1) Any transaction and renewal shall be documented in a written agreement pursuant to section -3;
- (2) The total amount of the installment loan shall not be greater than \$1,500 pursuant to section -5(a);
- (3) The total amount of loan charges an installment lender may charge, collect, or receive in connection with an installment loan shall not exceed fifty per cent of the principal loan amount;
- (4) Subject to paragraph (3), a monthly maintenance fee may be charged by the lender, not to exceed the following:
 - (A) \$25 on a loan of an original principal loan amount up to \$299.99;
 - (B) \$30 on a loan of an original principal loan amount of at least \$300.00 and up to \$699.99; and
 - (C) \$35 on a loan of an original principal loan amount of at least \$700.00 and greater;

provided that the monthly maintenance fee shall not be added to the loan balance upon which the interest is charged; provided further that an installment lender shall not charge, collect, or receive a monthly maintenance fee if the borrower is a person on active duty in the armed forces of the United States or a dependent of that person;

- (5) The minimum contracted repayment term of the installment loan shall be two months if the contracted loan amount is \$500 or less,

or four months if the contracted loan amount is \$500.01 or more; provided that, for purposes of meeting the required minimum contracted repayment term, an installment lender may calculate one month as twenty-eight days or longer;

- (6) All repayment schedule due dates shall be dates upon which an installment lender is open for business to the public at the place of business where the installment loan was made;
- (7) An installment lender shall accept prepayment in full or in part from a consumer prior to the loan due date and shall not charge the consumer a fee or penalty if the consumer opts to prepay the loan; provided that to make a prepayment, all past due interest and fees shall be paid first;
- (8) The loan amount shall be fully amortized over the term of the loan, and maintenance fees shall be applied in arrears on a monthly basis;
- (9) A consumer's repayment obligations shall not be secured by a lien on any real or personal property;
- (10) An installment lender shall not charge a consumer any loan charges for an installment loan, other than the fees permitted by this chapter;
- (11) The written agreement required under section -3 shall not require a consumer to purchase add-on products, such as credit insurance; and
- (12) The maximum contracted repayment term of the installment loan shall be twelve months.

(b) In an installment loan, a lender may contract for a once-every-two-weeks, twice-monthly, or monthly payment of the loan balance due, including the applicable portion of the interest, and earned monthly maintenance fee.

(c) For each payment made by a consumer, a lender shall give the consumer a written receipt with the lender's name and address, payment date, amount paid, consumer's name, and sufficient information to identify the account to which the payment is applied.

(d) Upon prepayment in full by the consumer, the lender shall refund:

- (1) Any unearned and unaccrued portion of the interest charged; and
- (2) Any unearned monthly maintenance fees.

(e) Upon request from a consumer or a consumer's agent, an installment lender shall provide confirmation of the amount required to discharge the installment loan obligation in full. When responding to a request under this subsection, the installment lender, at a minimum, shall include a statement of the amount required to discharge the consumer's obligation fully as of the date the notice is provided and for each of the next three business days following that date. The installment lender shall make the information required under this subsection available verbally and in writing and shall provide it in an expeditious manner but no later than five business days after receiving the request.

§ -3 Written agreement; requirements; disclosure. (a) Each installment loan transaction and renewal shall be documented by a written agreement signed by the installment lender and consumer. The written agreement shall contain the following information:

- (1) The name and address of the consumer and the lender;
- (2) The transaction date;
- (3) The loan amount;
- (4) The authorized interest rate;
- (5) A statement of the total amount of finance charges charged, expressed as a dollar amount and an annual percentage rate;

- (6) The installment payment schedule setting out the amount due on specific due dates;
 - (7) A statement that an installment lender shall not require a consumer to purchase add-on products;
 - (8) The name, address, electronic mail address, and telephone number of any agent or arranger involved in the installment loan transaction;
 - (9) A notice to the consumer that the consumer has the right to rescind the installment loan before 5:00 p.m., Hawaii-Aleutian Standard Time, by the third business day after the date the loan was originated and at the location where the loan was originated;
 - (10) A statement that it shall not be considered a violation of law if the consumer obtains an installment loan voluntarily and separately from the consumer's spouse if the consumer documents the action in writing, either in the written agreement or in a subsequent agreement;
 - (11) A notice to the consumer that a returned instrument may result in a dishonored instrument charge, not to exceed \$25; and
 - (12) A description of the methods by which installment loan payments may be made, which may include a debit card payment, Automated Clearing House transfer, electronic check, other forms of electronic transfers, money order, cash, check, or any additional method of loan payment authorized by this chapter or by rule adopted by the commissioner pursuant to chapter 91.
- (b) The written agreement shall also comply with the disclosure requirements of the Truth in Lending Act and any regulation adopted thereunder.
- (c) The installment lender shall provide to the consumer a printed written disclosure prior to signing the written agreement that accurately discloses the types of information in the chart below, in at least twelve-point type:

**“MULTIPLE
INSTALLMENT
LOAN PAYMENT**

Amount Financed
 Term (months)
 Authorized Interest Rate
 Monthly Maintenance Fee
 Total of All Permitted Charges
 Total You Will Pay for This Loan If Paid on Time
 (Amount Financed, Interest, and Monthly Maintenance Fee)
ANNUAL PERCENTAGE RATE
 Payment Schedule”

Included in the chart above, an installment lender may include any other information the lender believes will benefit the consumer, such as an explanation of annual percentage rate and how it is calculated.

(d) The consumer shall sign and date each of two copies of the written disclosure required pursuant to subsection (c), one of which shall be given to the consumer and the other of which shall be retained by the lender as part of its records of the installment loan. This requirement may also be accomplished by electronically signing an electronic copy of the disclosure and making the disclosure electronically available to the consumer if the consumer is applying for the loan over the Internet. For purposes of preparing the written disclosure, the installment loan shall be structured on a precomputed basis (total of payments) with the assumption that all payments will be made as scheduled.

(e) The written agreement may include a demand feature that permits the lender or any other person, if the consumer fails to make any payment when due, to terminate the installment loan in advance of the original maturity date, but no earlier than ten days after the missed payment, and demand repayment of the entire outstanding balance. If the written agreement includes a demand feature and the demand feature is exercised, the lender shall be entitled to collect only the outstanding balance and a prorated portion of the unpaid interest and fees earned up to the date of termination. For purposes of this subsection, the outstanding balance and prorated portion of the unpaid interest and fees shall be calculated as if the consumer had voluntarily prepaid the loan in full on the date of termination.

§ -4 Authorized interest rate. (a) Subject to section -2(a)(3), an installment lender may contract for and receive interest at a rate not exceeding thirty-six per cent per year on that portion of the unpaid principal balance of the installment loan. Loans shall be precomputed. Any loan charges assessed in compliance with this chapter shall be exempt from chapter 478.

(b) For the purposes of computing precomputed loans, including calculating interest, a month shall be considered one-twelfth of a year and a day shall be considered one three hundred sixty-fifth of a year when calculation is made for a fraction of a month.

(c) Subject to section -2(b), installment loans shall be repayable in substantially equal and consecutive installments of principal and interest combined; provided that the first installment period may exceed one month by not more than fifteen days, and the first installment payment amount may be larger than the remaining payments by the amount of interest charged for the extra days; provided further that monthly installment payment dates may be omitted if the parties agree in writing, either in the written agreement required under section -3 or in a subsequent agreement, to accommodate consumers with seasonal income.

(d) Payments may be applied to the combined total of principal and precomputed interest until maturity of the installment loan, with priority given to any past due interest before applying payments to loan charges and then to the principal.

(e) If an installment loan is prepaid in full or renewed prior to the loan's maturity date, the lender shall refund to the consumer a prorated portion of the unearned and unaccrued interest and monthly maintenance fees based on a ratio of the number of days the loan was outstanding and the number of days for which the loan was originally contracted.

(f) The parties may agree in writing, either in the written agreement required under section -3 or in a subsequent agreement, to a deferment of wholly unpaid installments; provided that:

- (1) A deferment shall postpone the scheduled due date of the earliest unpaid installment and all subsequent installments as originally scheduled, or as previously deferred, for a period equal to the deferment period;
- (2) The deferment period shall be that period during which no installment is scheduled to be paid by reason of the deferment; and
- (3) The lender shall not charge or collect a deferment fee.

(g) Other than the interest and loan charges permitted under this section, no further or other amount shall be charged or required by the installment lender.

(h) A lender shall not charge or receive loan origination fees.

(i) A lender shall not collect a default charge on any installment not paid in full within ten days after its due date. A lender may charge a default charge of \$30 on an installment not paid in full after ten days have passed since its due date. For purposes of this subsection, all installments shall be considered paid in the order in which they become due.

§ -5 Maximum loan amount; prohibition against multiple loans. (a) A lender shall not lend an amount greater than \$1,500 nor shall the amount financed exceed \$1,500 by any one lender at any time to a consumer.

(b) Except as otherwise provided in section -8, an installment lender shall take reasonable measures to ensure that no consumer has more than one installment loan outstanding at a time from any of the following:

- (1) The installment lender;
- (2) A person related to the installment lender by common ownership or control;
- (3) A person in whom the installment lender has any financial interest of ten per cent or more; or
- (4) Any employee or agent of the installment lender.

(c) An installment lender that receives written or electronic confirmation from each consumer that the consumer does not have any outstanding installment loans from the entities listed in subsection (b) as of the date the consumer enters into an installment loan with the installment lender shall be deemed to have met the requirements of this section.

(d) If a consumer's spouse obtains an installment loan voluntarily and separately from the consumer, and subsequently the consumer obtains an installment loan voluntarily and separately from the consumer's spouse, where neither the consumer nor the consumer's spouse are coborrowers with each other on either loan, and the consumer's action is documented in writing, either in the written agreement required under section -3 or in a subsequent agreement, signed by the consumer, and retained by the lender, the secondary transaction shall not be considered a violation of this section.

(e) Upon a consumer's payment in full of any installment loan, an installment lender shall wait a period of three days before the lender may make another installment loan to the same consumer.

§ -6 Right of rescission. (a) A consumer shall have the right to rescind an installment loan, at or before 5:00 p.m., Hawaii-Aleutian Standard Time, on the third business day after the date the loan was originated and at the location where the loan was originated, by returning the principal in cash, the original check or money order disbursed by the lender, or the other disbursement of loan proceeds from the lender to fund the loan. The lender shall not charge the consumer for rescinding the loan.

(b) At the time of rescission, the lender shall refund any loan fees and interest received associated with the rescinded loan and shall return to the consumer the originally signed written agreement, clearly marked across the face:

“RESCINDED BY [lender's name; license number], [date]”

and below which the lender's authorized representative shall sign.

§ -7 Notice to consumers; general requirements; right to prepay; loan limits; right to rescind. An installment lender shall provide the following notice on each written agreement for an installment loan. The notice shall be in a prominent place and in at least twelve-point type:

“THIS INSTALLMENT LOAN IS NOT INTENDED TO MEET LONG-TERM FINANCIAL NEEDS.

THIS INSTALLMENT LOAN SHOULD BE USED ONLY TO MEET SHORT-TERM CASH NEEDS.

YOU HAVE THE RIGHT TO PREPAY THIS INSTALLMENT LOAN IN FULL OR IN PART WITHOUT A PENALTY.

RENEWING THIS INSTALLMENT LOAN RATHER THAN PAYING THE DEBT IN FULL MAY REQUIRE ADDITIONAL FEES OR CHARGES.

STATE LAW PROHIBITS THE PRINCIPAL OF THIS INSTALLMENT LOAN FROM EXCEEDING ONE THOUSAND FIVE HUNDRED DOLLARS (\$1,500). EXCEEDING THIS AMOUNT MAY CREATE FINANCIAL HARDSHIPS FOR YOU AND YOUR FAMILY.

YOU HAVE THE RIGHT TO RESCIND THIS TRANSACTION AT OR BEFORE 5:00 P.M. [SPECIFY HERE THE CLOSE OF THE THIRD BUSINESS DAY BY DAY OF WEEK AND DATE].”

§ -8 Renewal; new loan requirements; consecutive loans; payment plan.

(a) An installment loan may be renewed only once. After one renewal, the consumer shall pay the debt in cash or its equivalent.

(b) Upon renewal of an installment loan, the lender may renew up to \$1,500 of the remaining unpaid principal balance. If the unpaid balance on renewal is more than \$1,500, the consumer may be required to pay the remaining balance; provided that the lender shall not finance any amount over \$1,500. The total amount of loan charges for the renewed loan shall meet the requirements of section -2, with the understanding that the total amount of loan charges an installment lender may charge, collect, or receive in connection with the renewal of an installment loan shall not exceed fifty per cent of the renewal principal loan amount. If the installment loan is renewed prior to the maturity date, the lender shall refund to the consumer a prorated portion of the finance charge based upon the ratio of time left before maturity to the loan term.

§ -9 Form of loan proceeds; endorsement of instrument; redemption of instrument.

(a) An installment lender may pay the proceeds from or otherwise fund an installment loan to the consumer in the form of a monetary instrument, prepaid debit card, Automated Clearing House transfer, electronic check, other form of electronic transfer, money order, or cash.

(b) An installment lender shall not negotiate or present an instrument for payment unless the instrument is endorsed with the actual business name of the lender.

(c) Prior to an installment lender negotiating or presenting the instrument, a consumer may redeem any instrument held by the lender as a result of an installment loan if the consumer pays the full amount of the instrument to the lender.

§ -10 Delinquent installment loans; restrictions on collection by lender or third party.

(a) An installment lender shall comply with all applicable state and federal laws when collecting a delinquent installment loan. A lender may take civil action to collect principal, interest, fees, and costs allowed under this chapter. A lender shall not threaten criminal prosecution as a method of collecting a delinquent installment loan or threaten to take any legal action against the consumer that is not otherwise permitted by law.

(b) Unless invited by the consumer, a lender shall not visit a consumer’s residence or place of employment for the purpose of collecting a delinquent in-

stallment loan. A lender shall not impersonate a law enforcement officer or make any statements that might be construed as indicating an official connection with any federal, state, or county law enforcement agency or any other governmental agency while engaged in collecting an installment loan.

(c) A lender shall not communicate with a consumer in a manner intended to harass, intimidate, abuse, or embarrass a consumer, including communication at an unreasonable hour, with unreasonable frequency, by threats of force or violence, or by use of offensive language. A communication shall be presumed to have been made for the purposes of harassment if it is initiated by the lender for the purposes of collection and the communication is made:

- (1) With the consumer's spouse or the consumer's domestic partner in any form, manner, or place, on more than one occasion, except when:
 - (A) Calling a shared phone number and asking to speak to the consumer;
 - (B) Sending a text message to a shared phone number;
 - (C) Sending an electronic mail to a shared electronic mail address; or
 - (D) Sending any other electronic writing to a shared electronic account;
- (2) With a consumer at the consumer's place of employment on more than one occasion;
- (3) With the consumer, the consumer's spouse, or the consumer's domestic partner at the consumer's place of residence between the hours of 9:00 p.m. and 8:00 a.m., Hawaii-Aleutian Standard Time; or
- (4) To a party other than the consumer, the consumer's attorney, the lender's attorney, or a consumer credit reporting agency if otherwise permitted by law, except for the purposes of acquiring location or contact information about the consumer.

(d) A lender shall maintain, in accordance with applicable law, an accurate and complete communication log of all telephone and written communications with a consumer initiated by the lender regarding any collection efforts, including date, time, and the nature of each communication.

(e) For purposes of collecting a dishonored check, this section shall apply to any employee, arranger, or third-party assignee of a lender.

(f) For purposes of this section, "communication" includes any contact with a consumer initiated by a lender in person, by telephone, or in writing, including via electronic mail, text message, or other electronic writing; provided that:

- (1) "Communication" includes the time the lender initiates contact with a consumer, regardless of whether the communication is received or accessed by the consumer; and
- (2) "Communication" does not include:
 - (A) Verbal communication with the consumer while the consumer is physically present in the lender's place of business;
 - (B) An unanswered telephone call in which no message, other than a caller identification, is left, unless the telephone call is in violation of subsection (c)(3); or
 - (C) An initial letter to the consumer that includes disclosures under the federal Fair Debt Collection Practices Act.

§ -11 Authorized insufficient funds charge. (a) Regardless of the number of instances where a consumer's payment is rejected due to insufficient

funds, an installment lender may contract for and collect one insufficient funds charge for each payment due on an installment loan, not to exceed \$25. The lender shall not collect any other fees as a result of the insufficient funds of the consumer.

(b) If the loan proceeds instrument delivered by the installment lender to the consumer is dishonored by the financial institution, the installment lender shall cover any fees and charges incurred by the consumer as a direct result of the dishonored loan proceeds instrument.

§ -12 Posting of license and loan charges. Any installment lender offering an installment loan shall conspicuously and continuously post, at any place of business where installment loans are made, the license required pursuant to this chapter and a notice of the loan charges imposed for installment loans.

§ -13 Internet lending. (a) An installment lender may advertise and accept applications for installment loans by any lawful medium, including the Internet, and shall provide all required notices and disclosures via the Internet, and the consumer may provide a valid electronic signature on the disclosures and loan agreement, subject to subsection (b).

(b) Installment lenders shall not advertise or make installment loans via the Internet without first having obtained a license pursuant to part II of this chapter.

(c) The unique identifier of any installment lender originating an installment loan, except a person who is exempt from licensure under this chapter, shall be clearly shown on all solicitations, including websites, and all other documents, as established by rule or order of the commissioner.

§ -14 Notice on assignment or sale of contract. (a) No licensee shall pledge, negotiate, sell, or assign a current and performing installment loan, except to another licensee or to a bank, savings bank, trust company, financial services loan company, or credit union organized under the laws of this State or the laws of the United States.

(b) Prior to sale or assignment of a current and performing installment loan contract held by the installment lender, the lender shall place a notice on the installment loan contract in at least twelve-point type that reads:

“INSTALLMENT LOAN

No licensee shall pledge, negotiate, sell, or assign an installment loan, except to another licensee or to a bank, savings bank, trust company, financial services loan company, or credit union organized under the laws of Hawaii or the laws of the United States.”

(c) This section shall not apply to:

- (1) The transfer of an installment loan to a company affiliated with the installment lender that securitizes the installment lender’s loan receivables; and
- (2) The pledge or other granting of a security interest in the installment loan to a financial institution in connection with asset back financing or similar lending facility of the installment lender.

§ -15 Maintenance of books and records. (a) Every installment lender shall keep in a safe and secure place those books and records that directly relate to any installment loan made within the State, and other books and records as may be necessary for the commissioner to ensure full compliance with the laws of the State.

(b) All books and records may be maintained as originals or photocopies; on microfilm or microfiche; on computer disks, including related cloud storage devices, or tapes; or similar forms; provided that the books and records are readily accessible and may be easily examined.

(c) All records, statements, and reports required or authorized by this chapter shall be made in writing in the English language.

(d) Every lender shall preserve all of its records for a minimum of six years or for a period the commissioner may prescribe by rules adopted pursuant to chapter 91.

PART II. LICENSING

§ -31 License required. (a) No person, except those exempt under this chapter, shall act as an installment lender in this State unless licensed to do so by the commissioner.

(b) Any loan made in violation of this section is void, and no person shall have the right to collect, receive, or retain any principal, interest, fees, or other charges in connection with the loan.

§ -32 Exemptions; relation to other laws. (a) This chapter shall not apply to the following:

- (1) A financial institution;
 - (2) A nondepository financial services loan company;
 - (3) An “open end credit plan”, as defined in the Truth in Lending Act, title 15 United States Code section 1602(j); or
 - (4) A tax refund anticipation loan.
- (b) Persons licensed under this chapter shall not be subject to chapter

443B.

§ -33 License; application; issuance. (a) The commissioner shall require all licensees to register with NMLS.

(b) Applicants for a license shall apply in a form prescribed by NMLS or by the commissioner. The application shall contain, at a minimum, the following information:

- (1) The legal name, trade names, and business address of:
 - (A) The applicant; and
 - (B) Every member, officer, principal, or director thereof, if the applicant is a partnership, association, limited liability company, limited liability partnership, or corporation;
- (2) The principal place of business;
- (3) The complete address of any other branch offices at which the applicant proposes to engage in making installment loans; and
- (4) Any other data, financial statements, and pertinent information the commissioner may require with respect to the applicant or, if an applicant is not an individual, each of the applicant’s control persons, executive officers, directors, general partners, and managing members.

(c) To fulfill the purposes of this chapter, the commissioner may enter into agreements or contracts with NMLS or other entities to use NMLS to collect and maintain records and process transaction fees or other fees related to licensees or other persons subject to this chapter.

(d) For the purpose and to the extent necessary to participate in NMLS, the commissioner may waive or modify, in whole or in part, by rule or order,

any or all of the requirements of this chapter and establish new requirements as reasonably necessary to participate in NMLS.

(e) In connection with an application for a license under this chapter, the applicant, at a minimum, shall furnish to NMLS information or material verifying the applicant's identity, including:

- (1) Fingerprints of the applicant or, if an applicant is not an individual, fingerprints of each of the applicant's control persons, executive officers, directors, general partners, and managing members for submission to the Federal Bureau of Investigation and any governmental agency or entity authorized to receive the fingerprints for a state, national, and international criminal history background check, accompanied by the applicable fee charged by the entities conducting the criminal history background check; and
- (2) Information verifying the personal history and experience of the applicant or, if an applicant is not an individual, the personal history and experiences of each of the applicant's control persons, executive officers, directors, general partners, and managing members in a form prescribed by NMLS, including authorization for NMLS and the commissioner to obtain:
 - (A) An independent credit report from a consumer reporting agency described in section 603(p) of the Fair Credit Reporting Act, title 15 United States Code section 1681a(p); and
 - (B) Information related to any administrative, civil, or criminal findings by any governmental jurisdiction;

provided that the commissioner may use any information obtained pursuant to this subsection or through NMLS to determine an applicant's demonstrated financial responsibility, character, and general fitness for licensure.

(f) The commissioner may use NMLS as an agent for requesting information from and distributing information to the United States Department of Justice or any governmental agency.

(g) The commissioner may use NMLS as an agent for requesting information from and distributing information to any source directed by the commissioner.

(h) An applicant for a license as an installment lender shall be registered with the business registration division of the department to do business in this State before a license pursuant to this chapter may be granted.

§ -34 License; grounds for denial. (a) The commissioner shall conduct an investigation of every applicant to determine the applicant's financial responsibility, character, and general fitness. The commissioner shall issue the applicant a license to engage in the business of making installment loans if the commissioner determines that the applicant or, in the case of an applicant that is not an individual, each of the applicant's control persons, executive officers, directors, general partners, and managing members:

- (1) Has never had an installment lender license revoked in any jurisdiction; provided that a subsequent formal vacation of a revocation shall not be deemed a revocation;
- (2) Has not been convicted of, pled guilty or nolo contendere to, or been granted a deferred acceptance of a guilty plea under any federal law or under chapter 853 to a felony in a domestic, foreign, or military court, either:
 - (A) During the seven-year period preceding the date of the application for licensing; or

- (B) At any time preceding the date of application, if the felony involved an act of fraud, dishonesty, breach of trust, or money laundering;
provided that any pardon of a conviction shall not be deemed a conviction for the purposes of this section;
- (3) Has demonstrated sufficient financial responsibility, good character, and general fitness to command the confidence of the community and to warrant a determination that the applicant will operate honestly, fairly, and efficiently, pursuant to this chapter. For the purposes of this paragraph, a person is not financially responsible when the person has shown disregard in the management of the person's own financial condition. A determination that a person has shown disregard in the management of the person's own financial condition may be based upon:
- (A) Current outstanding judgments, except judgments solely as a result of medical expenses;
- (B) Current outstanding tax liens or other government liens and filings, subject to applicable disclosure laws and administrative rules;
- (C) Foreclosures within the prior three years; and
- (D) A pattern of seriously delinquent accounts within the prior three years;
- (4) Has not been convicted of, pled guilty or nolo contendere to, or been granted a deferred acceptance of a guilty plea under federal law or chapter 853 to any misdemeanor involving an act of fraud, dishonesty, breach of trust, or money laundering;
- (5) Has satisfied the licensing requirements of this chapter; and
- (6) Has provided the bond required by section -35.
- (b) The applicant or, in the case of an applicant that is not an individual, each of the applicant's control persons, executive officers, directors, general partners, and managing members shall submit authorization to the commissioner to conduct background checks to determine or verify the information in subsection (a) in each state where the person has made installment loans. Authorization pursuant to this subsection shall include consent to provide additional fingerprints, if necessary, to law enforcement or regulatory bodies in other states.
- (c) A license shall not be issued to an applicant:
- (1) Whose license to conduct business under this chapter, or any similar statute in any other jurisdiction, has been suspended or revoked within five years of the filing of the present application;
- (2) Whose license to conduct business in the installment loan or payday industry has been revoked by an administrative order issued by the commissioner or the commissioner's designee, or the licensing authority of another state or jurisdiction, for the period specified in the administrative order;
- (3) Who has advertised directly and purposefully to Hawaii consumers or made internet loans in violation of this chapter; or
- (4) Who has failed to complete an application for licensure.
- (d) A license issued in accordance with this chapter shall remain in force and effect until surrendered, suspended, or revoked, or until the license expires as a result of nonpayment of the annual license renewal fee required by this chapter.

§ -35 **Fees; bond.** (a) An installment lender shall pay the following fees to the division to obtain and maintain a valid license under this chapter:

- (1) An initial application fee of \$1,000;
- (2) A processing fee of \$35 for each control person;
- (3) An annual license renewal fee of the greater of:
 - (A) \$1,000; or
 - (B) An amount equal to the sum of \$0.15 per installment loan originated during the previous year plus 0.08 per cent of the dollar volume of loans originated during the previous year; provided that for the purposes of calculating the renewal fee, all installment loans originated by the installment lender between the third quarter of the previous year and third quarter of the current year shall be considered.
- (4) Any applicable fee charged by the entities conducting the criminal history background check for each of the applicant's control persons, executive officers, directors, general partners, and managing members for submission to the Federal Bureau of Investigation and any governmental agency or entity authorized to receive the fingerprints for a state, national, and international criminal history background check; and
- (5) Any applicable fee charged by the entities obtaining an independent credit report from a consumer reporting agency as described in section 603(p) of the Fair Credit Reporting Act, title 15 United States Code section 1681a(p);

provided that the application fee and annual license renewal fee shall not apply to a nonprofit organization acting as an installment lender.

(b) A nonprofit organization acting as an installment lender shall pay the following fees to maintain a valid registration as a nonprofit organization in NMLS:

- (1) An initial registration fee of \$200;
- (2) An annual registration renewal fee of \$150; and
- (3) A late fee of \$25 per day if the nonprofit registration expires and the nonprofit organization continues to act as an installment lender.

(c) The applicant shall file and maintain a surety bond that is approved by the commissioner and executed by the applicant as obligor and by a surety company authorized to operate as a surety in this State, whose liability as a surety does not exceed, in the aggregate, the penal sum of the bond. The penal sum of the bond shall be a minimum of \$30,000 and a maximum of \$250,000, based upon the annual dollar amount of loans originated.

(d) The surety bond required by subsection (c) shall run to the State of Hawaii as obligee for the use and benefit of the State and of any person or persons who may have a cause of action against the licensee as obligor under this chapter. The bond shall be conditioned upon the following:

- (1) The licensee as obligor shall faithfully conform to and abide by this chapter and all rules adopted under this chapter; and
- (2) The bond shall pay to the State and any person or persons having a cause of action against the licensee as obligor all moneys that may become due and owing to the State and those persons under and by virtue of this chapter.

(e) Each installment lender shall pay a nonrefundable fee of \$100 to the division for each office that is relocated.

§ -36 License renewal; annual report. (a) On or before December 31 of each year, each licensee shall pay a renewal fee pursuant to section -35.

(b) The annual license renewal fee shall be accompanied by a report, in a form prescribed by the commissioner, that shall include:

- (1) A copy of the licensee's most recent audited annual financial statement, including:
 - (A) Balance sheets;
 - (B) A statement of income or loss;
 - (C) A statement of changes in shareholders' equity; and
 - (D) A statement of cash flows, or if a licensee is a wholly owned subsidiary of another corporation, the consolidated audited annual financial statement of the parent corporation in lieu of the licensee's audited annual financial statement;
 - (2) A report detailing the installment lender's activities in this State since the prior reporting period, including:
 - (A) The number of installment loans made;
 - (B) The number of installment loans that have defaulted; and
 - (C) Any other information the commissioner may reasonably require related to performance metrics and the efficacy of the installment loan program;
 - (3) A report of any material changes to any of the information submitted by the licensee on its original application that have not previously been reported to the commissioner on any other report required to be filed under this chapter;
 - (4) A list of the principal place of business and branch locations, if any, within this State where business regulated by this chapter is being conducted by the licensee;
 - (5) Disclosure of any pending or final suspension, revocation, or other enforcement action by any state or governmental authority; and
 - (6) Any other information the commissioner may require.
- (c) A licensee may renew by:
- (1) Continuing to meet the licensing requirements of sections -33, -34, and -35;
 - (2) Filing a completed renewal statement on a form prescribed by NMLS or by the commissioner;
 - (3) Paying a renewal fee; and
 - (4) Meeting all other requirements of this section.
- (d) A licensee that has not filed an annual report deemed complete by

the commissioner or paid the annual renewal fee by the renewal filing deadline, and has not been granted an extension of time to do so by the commissioner, shall have its license suspended on the renewal date. The licensee shall have thirty days after its license is suspended to file an annual report and pay the annual renewal fee, plus a late filing fee of \$250 for each day that has passed since suspension; provided that the late filing fee for a nonprofit organization acting as an installment lender shall be \$25 per day. The commissioner, for good cause, may grant an extension of the renewal date or reduce or suspend the late filing fees.

§ -37 Enforcement; violations; penalties. (a) To ensure the effective supervision and enforcement of this chapter, the commissioner, pursuant to chapter 91, may take any disciplinary action specified in subsection (b) against an applicant or licensee if the commissioner finds that the applicant or licensee:

- (1) Has violated this chapter, or any rule or order lawfully made pursuant to this chapter;
- (2) Has failed to disclose facts or conditions that clearly would have been grounds for the commissioner to deny an application for licensure, had those facts or conditions been disclosed at the time the application was made;

- (3) Has failed to provide information required by the commissioner within a reasonable time, as specified by the commissioner;
- (4) Has failed to provide or maintain proof of financial responsibility;
- (5) Is insolvent;
- (6) Has made, in any document or statement filed with the commissioner, a false representation of a material fact or has omitted to state a material fact;
- (7) Has, or, if an applicant or licensee is not an individual, any of the applicant's or licensee's control persons, executive officers, directors, general partners, and managing members, have been convicted of or entered a plea of guilty or nolo contendere to a crime involving fraud or deceit, or to any similar crime under the jurisdiction of any federal court or court of another state;
- (8) Has failed to make, maintain, or produce records that comply with section -15 or any rule adopted by the commissioner pursuant to chapter 91;
- (9) Has been the subject of any disciplinary action by any state or federal agency that resulted in revocation of a license;
- (10) Has a final judgment entered against the applicant or licensee for violations of this chapter; any state or federal law concerning installment loans, deferred deposit loans, check cashing, payday loans, banking, mortgage loan originators, or money transmitters; or any state or federal law prohibiting unfair or deceptive acts or practices; or
- (11) Has failed to take or provide proof of taking in a timely manner, as specified by the commissioner, the corrective action required by the commissioner subsequent to an investigation or examination pursuant to section -43.

(b) After finding that the applicant or licensee has violated one or more of the conditions under subsection (a), the commissioner may take any of the following actions:

- (1) Deny an application for licensure, including an application for a branch office license;
- (2) Revoke the license;
- (3) Suspend the license for a period of time;
- (4) Issue an order to the licensee to cease and desist from engaging in any act specified in subsection (a);
- (5) Order the licensee to refund to consumers any excess charges under this chapter;
- (6) Impose penalties of up to \$1,000 for each violation; or
- (7) Bar a person from applying for or holding a license for a period of five years following revocation of the person's license.

(c) The commissioner may issue a temporary cease and desist order if the commissioner finds that the licensee, applicant, or person is engaging, has engaged, or is about to engage in an illegal, unauthorized, unsafe, or unsound practice in violation of this chapter. Whenever the commissioner denies a license application or takes disciplinary action pursuant to this subsection, the commissioner shall enter an order to that effect and notify the licensee, applicant, or person of the denial or disciplinary action. The notification required by this subsection shall be given by personal service or by certified mail to the last known address of the licensee or applicant as shown on the application, license, or as subsequently furnished in writing to the commissioner.

(d) The revocation, suspension, expiration, or surrender of a license shall not affect the licensee's liability for acts previously committed or impair the

commissioner's ability to issue a final agency order or take disciplinary action against the licensee.

(e) No revocation, suspension, or surrender of a license shall impair or affect the obligation of any preexisting lawful contract between the licensee and any consumer.

(f) The commissioner may reinstate a license, terminate a suspension, or grant a new license to a person whose license has been revoked or suspended if no fact or condition then exists that clearly would justify the commissioner in revoking, suspending, or refusing to grant a license.

(g) The commissioner may impose an administrative fine on a licensee or person subject to this chapter if the commissioner finds on the record after notice and opportunity for hearing that the licensee or person subject to this chapter has violated or failed to comply with any requirement of this chapter or any rule or order issued under the authority of this chapter.

(h) Each violation or failure to comply with any directive or order of the commissioner shall be a separate and distinct violation.

(i) Any violation of this chapter that is directed toward, targets, or injures an elder may be subject to an additional civil penalty not to exceed \$10,000 for each violation, in addition to any other fines or penalties assessed for the violation.

§ -38 Voluntary surrender of license. (a) A licensee may voluntarily cease business and surrender its license by giving written notice to the commissioner of its intent to surrender its license. Prior to the surrender date, the licensee shall have either completed all pending installment loan transactions or assigned each pending installment loan transaction to another licensee or entity as described in section -14.

(b) Notice pursuant to this section shall be provided at least thirty days before the surrender of the license and shall include:

- (1) The date of surrender;
- (2) The name, address, telephone number, facsimile number, and electronic mail address of a contact individual with knowledge and authority sufficient to communicate with the commissioner regarding all matters relating to the licensee during the period that it was licensed pursuant to this chapter;
- (3) The reason or reasons for surrender;
- (4) The total dollar amount of the licensee's outstanding installment loans sold in Hawaii and the individual amounts of each outstanding installment loan, and the name, address, and contact telephone number of the licensee to whom each outstanding installment loan was assigned;
- (5) A list of the licensee's Hawaii authorized branch offices, if any, as of the date of surrender;
- (6) Confirmation that the licensee has notified each of its Hawaii authorized branch offices, if any, that the branch offices shall no longer make installment loans on the licensee's behalf; and
- (7) Confirmation that the licensee has notified each of its installment loan consumers, if any, that the installment loan is being transferred and the name, address, telephone number, and any other contact information of the licensee or entity described in section -14 to whom the installment loan was assigned.

(c) Voluntary surrender of a license shall be effective upon the date of surrender specified on the written notice to the commissioner as required by this

section; provided that the licensee has met all the requirements of voluntary surrender and has returned the original license issued.

§ -39 Sale or transfer of license; change of control. (a) No installment lender license shall be transferred, except as provided in this section.

(b) A person or group of persons requesting approval of a proposed change of control of a licensee shall submit to the commissioner an application requesting approval of a proposed change of control of the licensee, accompanied by a nonrefundable application fee of \$500.

(c) After review of a request for approval under subsection (b), the commissioner may require the licensee or person or group of persons requesting approval of a proposed change of control of the licensee, or both, to provide additional information concerning the persons who shall assume control of the licensee. The additional information shall be limited to the information required of the licensee or persons in control of the licensee as part of its original license or renewal application under sections -33 and -36. The information shall include, for the five-year period prior to the date of the application for change of control of the licensee, a history of material litigation and criminal convictions of each person who, upon approval of the application for change of control, will be a principal of the licensee. Authorization shall also be given to conduct criminal history record checks of those persons, accompanied by the appropriate payment of the applicable fee for each record check.

(d) The commissioner shall approve a request for change of control under subsection (b) if, after investigation, the commissioner determines that the person or group of persons requesting approval has the competence, experience, character, and general fitness to control the licensee or person in control of the licensee in a lawful and proper manner, and that the interests of the public will not be jeopardized by the change of control.

(e) The following persons shall be exempt from the requirements of subsection (b); provided that the licensee shall notify the commissioner when control is assumed by a person:

- (1) Who acts as a proxy for the sole purpose of voting at a designated meeting of the security holders or holders of voting interests of a licensee or person in control of a licensee;
- (2) Who acquires control of a licensee by devise or descent;
- (3) Who acquires control as a personal representative, custodian, guardian, conservator, trustee, or as an officer appointed by a court of competent jurisdiction or by operation of law; or
- (4) Whom the commissioner, by rule or order, exempts in the public interest.

(f) Before filing a request for approval for a change of control, a person may request, in writing, a determination from the commissioner as to whether the person would be considered a person in control of a licensee upon consummation of a proposed transaction. If the commissioner determines that the person would not be a person in control of a licensee, the commissioner shall enter an order to that effect and the proposed person and transaction shall not be subject to subsections (b) through (d).

(g) Subsection (b) shall not apply to public offerings of securities.

§ -40 Authorized places of business; principal office; branch offices; relocation; closure. (a) Every installment lender licensed under this chapter shall have and maintain a principal place of business in the State, regardless of whether the installment lender maintains its principal office outside of the State.

(b) An installment lender shall not maintain any branch offices in the State in addition to its principal place of business without the prior written approval of the commissioner. No business shall be conducted at a branch office until the branch office has been licensed by the commissioner.

(c) An application to establish a branch office shall be submitted through NMLS with a nonrefundable application fee as required by section -35.

(d) An installment lender shall not relocate any office in this State without the prior written approval of the commissioner. An application to relocate an office shall be submitted to the commissioner at least thirty days prior to relocation and shall set forth the reasons for the relocation, street address of the proposed relocated office, and any other information required by the commissioner. An application to relocate an office pursuant to this subsection shall be submitted with a nonrefundable fee as required by section -35.

(e) An installment lender shall give the commissioner notice of its intent to close a branch office at least thirty days prior to the closing. The notice shall:

- (1) State the intended date of closing; and
- (2) Specify the reasons for the closing.

(f) The principal place of business and each branch office of the installment lender shall be identified in NMLS to consumers as a location at which the licensee holds itself out as an installment lender.

(g) A license issued under this chapter shall be prominently displayed in the principal place of business and each branch office.

§ -41 Payment of fees. All fees collected pursuant to section -35, administrative fines, and other charges collected pursuant to this chapter shall be deposited into the compliance resolution fund established pursuant to section 26-9(o) and shall be payable through NMLS, to the extent allowed by NMLS. Fees not eligible for payment through NMLS shall be deposited into a separate account within the compliance resolution fund for use by the division.

§ -42 Commissioner; general powers. (a) The commissioner may adopt rules pursuant to chapter 91 that the commissioner deems necessary for the administration of this chapter.

(b) In addition to any other powers provided by law, the commissioner may:

- (1) Issue declaratory rulings or informal nonbinding interpretations;
- (2) Investigate and conduct hearings regarding any violation of this chapter and any rule or order of, or agreement with, the commissioner;
- (3) Create fact-finding committees to make recommendations for the commissioner's consideration;
- (4) Require an applicant or any of its control persons, executive officers, directors, general partners, and managing members to disclose their relevant criminal history and request a criminal history record check in accordance with chapter 846;
- (5) Contract with or employ qualified persons, including accountants, attorneys, investigators, examiners, auditors, or other professionals who may be exempt from chapter 76 and who shall assist the commissioner in exercising the commissioner's powers and duties;
- (6) Process and investigate complaints; subpoena witnesses and documents; administer oaths; receive affidavits and oral testimony, including telephonic communications; and do any things necessary or

- incidental to the exercise of the commissioner's power and duties, including conducting contested case proceedings under chapter 91;
- (7) Require a licensee to comply with any rule, guidance, guideline, statement, supervisory policy or any similar proclamation issued or adopted by the Federal Deposit Insurance Corporation to the same extent and in the same manner as a bank chartered by the State or, in the alternative, any policy position of the Conference of State Bank Supervisors;
 - (8) Enter into agreements or relationships with other government officials or regulatory associations in order to improve efficiencies and reduce regulatory burden by sharing resources; standardized or uniform methods or procedures; and documents, records, information, or evidence obtained under this chapter;
 - (9) Use, hire, contract, or employ public or privately available analytical systems, methods, or software to investigate or examine a licensee or person subject to this chapter;
 - (10) Accept and rely on investigation or examination reports made by other government officials, within or without this State; and
 - (11) Accept audit reports made by an independent certified public accountant for the licensee or person subject to this chapter in the course of an examination covering the same general subject matter as the audit. The commissioner may incorporate the audit report in the commissioner's report of the examination, report of investigation, or other writing.

§ -43 Commissioner; investigation and examination authority. (a) In addition to the authority granted under section -42(b), the commissioner shall have the authority to conduct investigations and examinations in accordance with this section. The commissioner may access, receive, and use any books, accounts, records, files, documents, information, or evidence that the commissioner deems relevant to the investigation or examination, regardless of the location, possession, control, or custody of the documents, information, or evidence.

(b) For the purposes of investigating violations or complaints arising under this chapter, or for the purposes of examination, the commissioner may review, investigate, or examine any licensee or person subject to this chapter as often as the commissioner deems necessary to carry out the purposes of this chapter. The commissioner may direct, subpoena, order the attendance of, and examine under oath, all persons whose testimony may be required about loans or the business or subject matter of any investigation or examination and may direct, subpoena, or order the person to produce books, accounts, records, files, and any other documents the commissioner deems relevant to the inquiry.

(c) Each licensee or person subject to this chapter shall provide to the commissioner, upon request, the books and records relating to the operations of the licensee or person subject to this chapter. The commissioner shall have access to the books and records and shall be permitted to interview the control persons, executive officers, directors, general partners, managing members, principals, managers, employees, independent contractors, agents, and consumers of the licensee or person subject to this chapter concerning their business practices.

(d) Each licensee or person subject to this chapter shall make or compile reports or prepare other information, as directed by the commissioner, to carry out the purposes of this section, including:

- (1) Accounting compilations;

(2) Information lists and data concerning loan transactions in a format prescribed by the commissioner; or

(3) Any other information the commissioner deems necessary.

(e) In conducting any investigation or examination authorized by this chapter, the commissioner may control access to any documents and records of the licensee or person under investigation or examination. The commissioner may take possession of the documents and records or place a person in exclusive charge of the documents and records. During the period of control, no person shall remove or attempt to remove any of the documents and records except pursuant to a court order or with the consent of the commissioner. Unless the commissioner has reasonable grounds to believe the documents or records of the licensee or person under investigation or examination have been, or are at risk of being, altered or destroyed for the purposes of concealing a violation of this chapter, the licensee or owner of the documents and records shall have access to the documents or records as necessary to conduct its ordinary business affairs.

(f) The authority of this section shall remain in effect, whether a licensee or person subject to this chapter acts or claims to act under any licensing or registration law of this State, or claims to act without such authority.

(g) No licensee or person subject to investigation or examination under this section shall knowingly withhold, abstract, remove, mutilate, destroy, or conceal any books, records, computer records, or any other relevant information.

(h) The commissioner may charge an investigation or examination fee, payable to the commissioner, based upon the cost per hour per examiner for each licensee or person subject to this chapter investigated or examined by the commissioner or the commissioner's staff. The hourly fee shall be \$60 or an amount the commissioner shall establish by rule pursuant to chapter 91. In addition to the investigation or examination fee, the commissioner may charge any person who is investigated or examined by the commissioner or the commissioner's staff pursuant to this section additional fees for travel, per diem, mileage, and other reasonable expenses incurred in connection with the investigation or examination, payable to the commissioner.

(i) Any person having reason to believe that this chapter or the rules adopted under this chapter have been violated, or that a license issued under this chapter should be suspended or revoked, may file a written complaint with the commissioner, setting forth the details of the alleged violation or grounds for suspension or revocation.

§ -44 Confidentiality. (a) Except as otherwise provided in title 12 United States Code section 5111, the requirements under any federal or state law regarding the privacy or confidentiality of any information or material provided to NMLS and any privilege arising under federal or state law, including the rules of any federal or state court, with respect to the information or material shall continue to apply to the information or material after the information or material has been disclosed to NMLS. The information and material may be shared with all state and federal regulatory officials with oversight authority over transactions subject to this chapter without the loss of privilege or the loss of confidentiality protections provided by federal or state law.

(b) For the purposes of this section, the commissioner shall be authorized to enter into agreements or sharing arrangements with other governmental agencies, the Conference of State Bank Supervisors, or other associations representing governmental agencies as established by rule or order of the commissioner.

(c) Information or material that is subject to a privilege or confidentiality under subsection (a) shall not be subject to:

- (1) Disclosure under any federal or state law governing the disclosure to the public of information held by an officer or an agency of the federal government or a state; or
- (2) Subpoena or discovery, or admission into evidence, in any private civil action or administrative process, unless:
 - (A) Any privilege is determined by NMLS to be inapplicable to the information or material; or
 - (B) The person to whom the information or material pertains waives that privilege, in whole or in part.
- (d) Notwithstanding chapter 92F, the examination process and related information and documents, including the reports of examination, shall be confidential and shall not be subject to discovery or disclosure in civil or criminal lawsuits.
- (e) If a conflict arises between this section and any other state law relating to the disclosure of privileged or confidential information or material, this section shall control.
- (f) This section shall not apply to information or material relating to the employment history of, and publicly adjudicated disciplinary and enforcement actions against, any persons that are included in NMLS for access by the public.

§ -45 Prohibited practices. (a) It shall be a violation of this chapter for a licensee; its control persons, executive officers, directors, general partners, managing members, employees, or independent contractors; or any other person subject to this chapter to:

- (1) Engage in any act that limits or restricts the application of this chapter, including:
 - (A) Disguising an installment loan as a leaseback transaction or a personal property, personal sales, or automobile title loan; or
 - (B) Disguising loan proceeds as cash rebates for the pretextual installment sale of goods and services;
- (2) Make an installment loan that requires collateralization, a security interest, or any other pledge of personal property from the consumer;
- (3) Use a consumer's account number to prepare, issue, or create a check on behalf of the consumer;
- (4) Charge, collect, or receive, directly or indirectly, charges:
 - (A) For negotiating forms of loan proceeds other than cash;
 - (B) For brokering or obtaining loans;
 - (C) Prepayment fees, or any fees, interest, or charges in connection with an installment loan except those explicitly authorized in this chapter;
- (5) Fail to make disclosures as required by this chapter or any other applicable state or federal law, including rules or regulations adopted pursuant to state or federal law;
- (6) Directly or indirectly employ any scheme, device, or artifice to defraud or mislead any consumer, lender, or person;
- (7) Directly or indirectly engage in unfair or deceptive acts, practices, or advertising in connection with an installment loan;
- (8) Directly or indirectly obtain property by fraud or misrepresentation;
- (9) Make an installment loan to any person physically located in the State through the use of the Internet, facsimile, telephone, kiosk, or other means without first obtaining a license under this chapter;

- (10) Make, in any manner, any false or deceptive statement or representation, including with regard to the rates, fees, or other financing terms or conditions for an installment loan, or engage in bait and switch advertising;
 - (11) Make any false statement or knowingly and wilfully omit any material fact in connection with any reports filed with the division by a licensee or in connection with any investigation conducted by the division;
 - (12) Advertise any rate of interest without conspicuously disclosing the annual percentage rate implied by that rate of interest or otherwise fail to comply with any requirement of the Truth in Lending Act, or any other applicable state or federal laws or regulations;
 - (13) Make installment loans from any unlicensed location;
 - (14) Draft funds from any depository financial institution without written approval of the consumer; provided that nothing in this paragraph shall prohibit the conversion of a negotiable instrument into an electronic form for processing through the Automated Clearing House or similar system;
 - (15) Attempt to collect from a consumer's account after two consecutive attempts have failed, unless the licensee obtains new written authorization from the consumer to transfer or withdraw funds from the account;
 - (16) Make a loan to a consumer that includes a demand feature that was not clearly disclosed in the written agreement pursuant to section 478-3 or collect or demand repayment of any outstanding balance or unpaid interest or fees except as provided in section 478-3;
 - (17) Fail to comply with any applicable state or federal laws relating to the activities governed by this chapter; or
 - (18) Fail to pay any fee, assessment, or moneys due to the department.
- (b) In addition to any other penalties provided for under this chapter, any installment loan transaction in violation of subsection (a) shall be void and unenforceable.”

SECTION 3. Section 478-4, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) The rate limitations contained in subsections (a) and (b) [~~of this section~~] and section 478-11.5 shall not apply to any [~~credit~~];

- (1) Credit transaction authorized by, and entered into in accordance with the provisions of, articles 9 and 10 of chapter 412 or chapter 476[-]; or
- (2) Installment loan transactions authorized by, and entered into in accordance with, chapter 478-5.”

SECTION 4. Section 478-5, Hawaii Revised Statutes, is amended to read as follows:

“**§478-5 Usury not recoverable.** If a greater rate of interest than that permitted by law is contracted for with respect to any consumer credit transaction, any home business loan or any credit card agreement, the contract shall not, by reason thereof, be void. But if in any action on the contract proof is made that a greater rate of interest than that permitted by law has been directly or indirectly contracted for, the creditor shall only recover the principal and the debtor shall recover costs. If interest has been paid, judgment shall be for the principal less the amount of interest paid. This section shall not be held to apply [~~to loans~~] to:

- (1) Loans made by financial services loan companies and credit unions at the rates authorized under and pursuant to articles 9 and 10 of chapter 412[-]; or
- (2) Any installment loan regulated under chapter .”

SECTION 5. Section 478-6, Hawaii Revised Statutes, is amended to read as follows:

“**§478-6 Usury; penalty.** Any person who directly or indirectly receives any interest or finance charge at a rate greater than that permitted by law or who, by any method or device whatsoever, receives or arranges for the receipt of interest or finance charge at a greater rate than that permitted by law on any credit transaction shall be guilty of usury and shall be fined not more than \$250, unless a greater amount is allowed by law, or imprisoned not more than one year, or both.”

SECTION 6. Section 846-2.7, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Criminal history record checks may be conducted by:

- (1) The department of health or its designee on operators of adult foster homes for individuals with developmental disabilities or developmental disabilities domiciliary homes and their employees, as provided by section 321-15.2;
- (2) The department of health or its designee on prospective employees, persons seeking to serve as providers, or subcontractors in positions that place them in direct contact with clients when providing non-witnessed direct mental health or health care services as provided by section 321-171.5;
- (3) The department of health or its designee on all applicants for licensure or certification for, operators for, prospective employees, adult volunteers, and all adults, except adults in care, at healthcare facilities as defined in section 321-15.2;
- (4) The department of education on employees, prospective employees, and teacher trainees in any public school in positions that necessitate close proximity to children as provided by section 302A-601.5;
- (5) The counties on employees and prospective employees who may be in positions that place them in close proximity to children in recreation or child care programs and services;
- (6) The county liquor commissions on applicants for liquor licenses as provided by section 281-53.5;
- (7) The county liquor commissions on employees and prospective employees involved in liquor administration, law enforcement, and liquor control investigations;
- (8) The department of human services on operators and employees of child caring institutions, child placing organizations, and foster boarding homes as provided by section 346-17;
- (9) The department of human services on prospective adoptive parents as established under section 346-19.7;
- (10) The department of human services or its designee on applicants to operate child care facilities, household members of the applicant, prospective employees of the applicant, and new employees and household members of the provider after registration or licensure as provided by section 346-154, and persons subject to section 346-152.5;

- (11) The department of human services on persons exempt pursuant to section 346-152 to be eligible to provide child care and receive child care subsidies as provided by section 346-152.5;
- (12) The department of health on operators and employees of home and community-based case management agencies and operators and other adults, except for adults in care, residing in community care foster family homes as provided by section 321-15.2;
- (13) The department of human services on staff members of the Hawaii youth correctional facility as provided by section 352-5.5;
- (14) The department of human services on employees, prospective employees, and volunteers of contracted providers and subcontractors in positions that place them in close proximity to youth when providing services on behalf of the office or the Hawaii youth correctional facility as provided by section 352D-4.3;
- (15) The judiciary on employees and applicants at detention and shelter facilities as provided by section 571-34;
- (16) The department of public safety on employees and prospective employees who are directly involved with the treatment and care of persons committed to a correctional facility or who possess police powers including the power of arrest as provided by section 353C-5;
- (17) The board of private detectives and guards on applicants for private detective or private guard licensure as provided by section 463-9;
- (18) Private schools and designated organizations on employees and prospective employees who may be in positions that necessitate close proximity to children; provided that private schools and designated organizations receive only indications of the states from which the national criminal history record information was provided pursuant to section 302C-1;
- (19) The public library system on employees and prospective employees whose positions place them in close proximity to children as provided by section 302A-601.5;
- (20) The State or any of its branches, political subdivisions, or agencies on applicants and employees holding a position that has the same type of contact with children, vulnerable adults, or persons committed to a correctional facility as other public employees who hold positions that are authorized by law to require criminal history record checks as a condition of employment as provided by section 78-2.7;
- (21) The department of health on licensed adult day care center operators, employees, new employees, subcontracted service providers and their employees, and adult volunteers as provided by section 321-15.2;
- (22) The department of human services on purchase of service contracted and subcontracted service providers and their employees serving clients of the adult protective and community services branch, as provided by section 346-97;
- (23) The department of human services on foster grandparent program, senior companion program, and respite companion program participants as provided by section 346-97;
- (24) The department of human services on contracted and subcontracted service providers and their current and prospective employees that provide home and community-based services under section 1915(c) of the Social Security Act, title 42 United States Code section 1396n(c), or under any other applicable section or sections of

- the Social Security Act for the purposes of providing home and community-based services, as provided by section 346-97;
- (25) The department of commerce and consumer affairs on proposed directors and executive officers of a bank, savings bank, savings and loan association, trust company, and depository financial services loan company as provided by section 412:3-201;
 - (26) The department of commerce and consumer affairs on proposed directors and executive officers of a nondepository financial services loan company as provided by section 412:3-301;
 - (27) The department of commerce and consumer affairs on the original chartering applicants and proposed executive officers of a credit union as provided by section 412:10-103;
 - (28) The department of commerce and consumer affairs on:
 - (A) Each principal of every non-corporate applicant for a money transmitter license;
 - (B) Each person who upon approval of an application by a corporate applicant for a money transmitter license will be a principal of the licensee; and
 - (C) Each person who upon approval of an application requesting approval of a proposed change in control of licensee will be a principal of the licensee,
 as provided by sections 489D-9 and 489D-15;
 - (29) The department of commerce and consumer affairs on applicants for licensure and persons licensed under title 24;
 - (30) The Hawaii health systems corporation on:
 - (A) Employees;
 - (B) Applicants seeking employment;
 - (C) Current or prospective members of the corporation board or regional system board; or
 - (D) Current or prospective volunteers, providers, or contractors, in any of the corporation's health facilities as provided by section 323F-5.5;
 - (31) The department of commerce and consumer affairs on:
 - (A) An applicant for a mortgage loan originator license, or license renewal; and
 - (B) Each control person, executive officer, director, general partner, and managing member of an applicant for a mortgage loan originator company license or license renewal,
 as provided by chapter 454F;
 - (32) The state public charter school commission or public charter schools on employees, teacher trainees, prospective employees, and prospective teacher trainees in any public charter school for any position that places them in close proximity to children, as provided in section 302D-33;
 - (33) The counties on prospective employees who work with children, vulnerable adults, or senior citizens in community-based programs;
 - (34) The counties on prospective employees for fire department positions which involve contact with children or vulnerable adults;
 - (35) The counties on prospective employees for emergency medical services positions which involve contact with children or vulnerable adults;
 - (36) The counties on prospective employees for emergency management positions and community volunteers whose responsibilities involve planning and executing homeland security measures including view-

- ing, handling, and engaging in law enforcement or classified meetings and assisting vulnerable citizens during emergencies or crises;
- (37) The State and counties on employees, prospective employees, volunteers, and contractors whose position responsibilities require unescorted access to secured areas and equipment related to a traffic management center;
 - (38) The State and counties on employees and prospective employees whose positions involve the handling or use of firearms for other than law enforcement purposes;
 - (39) The State and counties on current and prospective systems analysts and others involved in an agency's information technology operation whose position responsibilities provide them with access to proprietary, confidential, or sensitive information;
 - (40) The department of commerce and consumer affairs on:
 - (A) Applicants for real estate appraiser licensure or certification as provided by chapter 466K;
 - (B) Each person who owns more than ten per cent of an appraisal management company who is applying for registration as an appraisal management company, as provided by section 466L-7; and
 - (C) Each of the controlling persons of an applicant for registration as an appraisal management company, as provided by section 466L-7;
 - (41) The department of health or its designee on all license applicants, licensees, employees, contractors, and prospective employees of medical cannabis dispensaries, and individuals permitted to enter and remain in medical cannabis dispensary facilities as provided under sections 329D-15(a)(4) and 329D-16(a)(3);
 - (42) The department of commerce and consumer affairs on applicants for nurse licensure or license renewal, reactivation, or restoration as provided by sections 457-7, 457-8, 457-8.5, and 457-9;
 - (43) The county police departments on applicants for permits to acquire firearms pursuant to section 134-2 and on individuals registering their firearms pursuant to section 134-3;
 - (44) The department of commerce and consumer affairs on:
 - (A) Each of the controlling persons of the applicant for licensure as an escrow depository, and each of the officers, directors, and principals who will be in charge of the escrow depository's activities upon licensure; and
 - (B) Each of the controlling persons of an applicant for proposed change in control of an escrow depository licensee, and each of the officers, directors, and principals who will be in charge of the licensee's activities upon approval of such application, as provided by chapter 449;
 - (45) The department of taxation on current or prospective employees or contractors who have access to federal tax information in order to comply with requirements of federal law, regulation, or procedure, as provided by section 231-1.6;
 - (46) The department of labor and industrial relations on current or prospective employees or contractors who have access to federal tax information in order to comply with requirements of federal law, regulation, or procedure, as provided by section 383-110;
 - (47) The department of human services on current or prospective employees or contractors who have access to federal tax information

- in order to comply with requirements of federal law, regulation, or procedure, as provided by section 346-2.5;
- (48) The child support enforcement agency on current or prospective employees, or contractors who have access to federal tax information in order to comply with federal law, regulation, or procedure, as provided by section 576D-11.5; ~~and~~
 - (49) The department of commerce and consumer affairs on each control person, executive officer, director, general partner, and managing member of an installment loan licensee, or an applicant for an installment loan license, as provided in chapter _____; and
 - ~~[(49)]~~ (50) Any other organization, entity, or the State, its branches, political subdivisions, or agencies as may be authorized by state law.”

PART III

SECTION 7. Section 480F-1, Hawaii Revised Statutes, is amended by repealing the definition of “deferred deposit”.

~~[““Deferred deposit” means a transaction in which a check casher refrains from depositing a personal check written by a customer until a date after the transaction date, pursuant to a written agreement.”]~~

SECTION 8. Section 480F-3, Hawaii Revised Statutes, is amended to read as follows:

~~“[§480F-3] Authorized fees. [Except as provided in section 480F-4,]~~ ~~no~~ No check casher shall charge fees in excess of the following amounts:

- (1) Five per cent of the face amount of the check or \$5, whichever is greater;
- (2) Three per cent of the face amount of the check or \$5, whichever is greater, if the check is the payment of any kind of state public assistance or federal social security benefit payable to the bearer of the check;
- (3) Ten per cent of the face amount of a personal check or money order, or \$5, whichever is greater; or
- (4) No more than \$10 to set up an initial account and issue an optional membership or identification card, and no more than \$5 for a replacement optional identification card.

~~[The fees allowed in this section shall not be assessed in any transaction or agreement in which the check casher defers deposit of the check.]”~~

SECTION 9. Section 480F-6, Hawaii Revised Statutes, is amended to read as follows:

“§480F-6 Penalties. (a) Any person who violates this chapter shall be deemed to have engaged in an unfair or deceptive act or practice in the conduct of any trade or commerce within the meaning of section 480-2(a). Aggrieved consumers may seek those remedies set forth in section 480-13(b).

(b) Any person who is not a consumer and is injured by a wilful violation of this chapter may bring an action for the recovery of damages, a proceeding to restrain and enjoin those violations, or both. If judgment is for the plaintiff, the plaintiff shall be awarded a sum not less than \$1,000 or threefold damages, whichever sum is greater, and reasonable attorneys’ fees together with the costs of suit.

(c) A wilful violation of this chapter shall be punishable by a fine of up to \$500 and up to thirty days imprisonment.

~~[(d) A customer who enters into a written deferred deposit agreement and offers a personal check to a check casher pursuant to that agreement shall not be subject to any criminal penalty for failure to comply with the terms of that agreement unless the check is dishonored because the customer closed the account or stopped payment on the check.]”~~

SECTION 10. Section 480F-4, Hawaii Revised Statutes, is repealed.

PART IV

SECTION 11. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 12. Statutory material to be repealed is bracketed and stricken.¹ New statutory material is underscored.

SECTION 13. This Act shall take effect on July 1, 2021; provided that:

- (1) The licensing requirements for installment lenders established by section 2 of this Act shall take effect on January 1, 2022; and
- (2) Part III of this Act shall take effect on January 1, 2022.

(Approved June 16, 2021.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 57

H.B. NO. 1376

A Bill for an Act Relating to the Landlord-Tenant Code.

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

SECTION 1. The legislature finds that, due to the coronavirus disease 2019 (COVID-19) pandemic, tens of thousands of Hawaii residents have lost their jobs and have been unable to pay their rent. The governor has issued proclamations related to the COVID-19 emergency to provide protections for tenants struggling to pay rent during this time, including an eviction moratorium that prohibits any eviction from a residential dwelling unit for failure to pay rent. The legislature finds, however, that while this moratorium has been extended at various times throughout the course of the COVID-19 pandemic, at some point, the eviction moratorium will expire. Therefore, a balanced approach is needed to encourage communications and facilitate mediation between landlords and tenants to help reduce the large number of summary possession cases that are expected to follow the expiration of certain COVID-19 emergency proclamations.

Accordingly, the purpose of this Act is to:

- (1) Extend the period for a notice of termination of the rental agreement from five days to fifteen calendar days;
- (2) Require landlords to engage in mediation and delay filing an action for summary possession if a tenant schedules or attempts to schedule a mediation;
- (3) Require landlords to provide specific information in the fifteen-calendar day notice to tenants, which shall also be provided to a

- mediation center that offers free mediation for residential landlord-tenant disputes;
- (4) Restrict when a landlord may exercise remedies, depending on the number of days that have elapsed following the expiration of the governor’s eviction moratorium and the amount of rent due; and
 - (5) Repeal these amendments made to Hawaii’s residential landlord-tenant code one year after the expiration of the governor’s final eviction moratorium or December 31, 2022, whichever is sooner.

SECTION 2. Section 521-68, Hawaii Revised Statutes, is amended to read as follows:

“§521-68 Landlord’s remedies for failure by tenant to pay rent. (a) A landlord or the landlord’s agent may, any time after rent is due, demand payment thereof and notify the tenant in writing that unless payment is made within a time mentioned in the notice[~~;~~] as provided in subsection (b), not less than [five business] fifteen calendar days after receipt thereof, the rental agreement [will] shall be terminated. If the tenant cannot be served with notice as required, notice may be given to the tenant by posting the same in a conspicuous place on the dwelling unit[~~;~~], and the notice shall be deemed received on the date of posting. If the tenant remains in default, the landlord may thereafter bring a summary proceeding for possession of the dwelling unit or any other proper proceeding, action, or suit for possession[~~;~~], subject to subsections (b) through (g). The notice required in this section need not be given if the action is based on the breach of a mediated agreement or other settlement agreement.

(b) The fifteen-calendar day notice shall provide, at a minimum, the following:

- (1) The name of the landlord or the landlord’s agent and the landlord’s or landlord’s agent’s contact information, including, if possible, phone number, electronic mail address, and mailing address;
- (2) The address of the dwelling unit subject to the rental agreement;
- (3) The name and contact information of each tenant, including, if possible, phone number, electronic mail address, and mailing address;
- (4) The monthly rental rate of the dwelling unit;
- (5) The current amount of the rent due as of the date of the notice, after applying all rent paid from all sources;
- (6) Whether the landlord or landlord’s agent has applied for rental assistance or been contacted on behalf of the tenant by any agency providing rental assistance;
- (7) That any rental assistance received by the landlord or landlord’s agent has been credited to the tenant’s amount due;
- (8) That a copy of the fifteen-calendar day notice being provided to the tenant is also being provided to the mediation center to be identified by the landlord and, in accordance with subsection (c), in order for the mediation center to contact the landlord and tenant to attempt to schedule a mediation regarding the nonpayment of rent;
- (9) That the mediation center will provide proof to the landlord that the notice was received and provide confirmation of the scheduled date and time of mediation;
- (10) That the landlord or landlord’s agent may file an action for summary possession if the rent due is not paid and if mediation is not scheduled within fifteen calendar days after the tenant’s receipt of the fifteen-calendar day notice, regardless of whether the scheduled mediation session occurs within the fifteen calendar days;

- (11) A warning in bold typeface print that says: “If mediation is not scheduled within fifteen calendar days after receipt of the notice, regardless of whether the scheduled mediation session occurs within the fifteen-calendar day period, then the landlord may file an action for summary possession after the expiration of the fifteen-calendar day period. If mediation is scheduled before the expiration of the fifteen-calendar day period, regardless of whether the scheduled mediation session occurs within the fifteen calendar days, then the landlord shall only file an action for summary possession after the expiration of thirty calendar days following the tenant’s receipt of the fifteen-calendar day notice. If the fifteen-calendar day notice was mailed, receipt of notice shall be deemed to be two days after the date of the postmark. If the fifteen-calendar day notice was posted on the premises, receipt of notice shall be deemed to be the date of posting. If an agreement is reached before the filing of an action for summary possession, whether through mediation or otherwise, then the landlord shall not bring an action for summary possession against the tenant, except as provided in any agreement that may be reached. The landlord shall be required to note the status of the mediation or settlement effort and proof of sending or posting the fifteen-calendar day notice to the mediation center in the action for summary possession.”;
- (12) Notice that the eviction may be subject to additional requirements and protections under state or federal law and that the tenant is encouraged to seek the tenant’s own legal advice regarding their rights and responsibilities; and
- (13) That the landlord or landlord’s agent shall engage in mediation if mediation is scheduled.
- (c) Landlords or their agents shall provide the fifteen-calendar day notice to a mediation center that offers free mediation for residential landlord-tenant matters. The mediation center shall contact the landlord or landlord’s agent and the tenant to schedule the mediation. If a tenant schedules mediation within the fifteen-calendar day period, regardless of whether the scheduled mediation session occurs within the fifteen-day period, the landlord shall only file a summary proceeding for possession after the expiration of thirty calendar days from the date of receipt of the notice. If the tenant schedules mediation, the landlord shall participate.
- (d) The summary possession complaint for nonpayment of rent shall include:
- (1) A document or documents from the mediation center verifying that the landlord provided a copy of the required fifteen-calendar day notice to the mediation center;
 - (2) A statement as to whether the landlord or landlord’s agent and tenant have participated in, or will participate in, any scheduled mediation; and
 - (3) If mediation is pending, the date on which the mediation is scheduled.
- (e) If the mediation has not occurred as of, or been scheduled for a future date after, the return hearing date on the summary possession complaint, the court, in its discretion and based on a finding of good cause, may order a separate mediation.
- (f) If there is any defect in the fifteen-calendar day notice described in subsection (b) provided by the landlord and the court determines the defect

was unintentional and immaterial, the court may allow the landlord to cure the defect without dismissing the action for summary possession.

(g) No landlord may bring a summary proceeding for possession for a tenant's failure to pay rent except pursuant to this section and as follows:

- (1) Beginning on the first day after the expiration date of the final eviction moratorium through the thirtieth day after the expiration date of the final eviction moratorium, the rent due shall be equal to or greater than four months' rent;
- (2) Beginning on the thirty-first day after the expiration date of the final eviction moratorium through the ninety-first day after the expiration date of the final eviction moratorium, the rent due shall be equal to or greater than three months' rent;
- (3) Beginning on the ninety-second day after the expiration date of the final eviction moratorium through the one hundred fifty-second day after the expiration date of the final eviction moratorium, the rent due shall be equal to or greater than two months' rent; and
- (4) Beginning on the one hundred fifty-third day after the expiration date of the final eviction moratorium through the three hundred sixty-fifth day after the expiration day of the final eviction moratorium, the rent due shall be equal to or greater than one month's rent.

For purposes of this section, "final eviction moratorium" means an emergency proclamation or supplementary proclamation, or any extension thereof, issued by the governor and related to the coronavirus disease 2019 pandemic, that prohibits any eviction from a residential dwelling for a failure to pay rent.

[(b)] (h) A landlord or the landlord's agent may bring an action for rent alone at any time after the landlord has demanded payment of past due rent and notified the tenant of the landlord's intention to bring ~~such an~~ the action."

SECTION 3. There is appropriated out of the American Rescue Plan Act of 2021, section 3201, Emergency Rental Assistance, Housing Stability Services funds, allocated to the State of Hawaii in the sum of \$3,545,000 but not more than ten per cent of the funds received under the Emergency Rental Assistance or so much thereof as may be necessary for fiscal year 2021-2022, to be allocated as follows:

- (1) \$490,000 to the county of Hawaii;
- (2) \$245,000 to the county of Kauai;
- (3) \$710,000 to the county of Maui; and
- (4) \$2,100,000 to the city and county of Honolulu,

to contract for services as permissible by this Act and the guidance published by the United States Treasury for Emergency Rental Assistance.

The sum appropriated shall be expended by each county for the purposes of this Act.

SECTION 4. There is appropriated out of the American Rescue Plan Act of 2021, section 9901, Coronavirus State and Local Fiscal Recovery Fund, allocated to the State of Hawaii in the sum of \$505,000 or so much thereof as may be necessary for fiscal year 2021-2022, to be allocated as follows:

- (1) \$69,000 to the county of Hawaii;
- (2) \$36,000 to the county of Kauai;
- (3) \$100,000 to the county of Maui; and
- (4) \$300,000 to the city and county of Honolulu,

to contract for services as permissible by this Act and the guidance published by the United States Treasury to assist households that do not qualify under

American Rescue Plan Act of 2021, section 3201, Emergency Rental Assistance, Housing Stability Services funds.

The sum appropriated shall be expended by each county for the purposes of this Act.

SECTION 5. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date; provided that any contract in effect prior to the effective date of this Act that is subsequently renewed or extended on or after the effective date of this Act shall comply with the requirements of this Act.

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 7. This Act shall take effect upon approval; provided that the governor shall notify the chief justice, legislature, and revisor of statutes no later than twenty days prior to the expiration of the final eviction moratorium identified in section 2 of this Act, that the governor will not be issuing any further eviction moratoriums in response to the COVID-19 pandemic. On December 31, 2022, or upon the one year anniversary of the expiration date identified by the governor, whichever is sooner:

- (1) All provisions of this Act except sections 3 and 4 shall be repealed; and
- (2) Section 521-68, 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 16, 2021.)

ACT 58

H.B. NO. 345

A Bill for an Act Relating to Assisted Community Treatment.

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

SECTION 1. The legislature finds that the assisted community treatment program established in 2013 provides individuals with severe mental illness who are unlikely to live safely in the community without available supervision with the necessary medical treatment and medication when it is in the individual's best interest. The legislature further finds that although the assisted community treatment program presents these individuals with an opportunity to receive ongoing treatment in the least restrictive setting and serves as a vital alternative to repeat emergency interventions as their primary course of treatment, many mentally ill individuals fail to participate in the program and partake of these benefits.

The legislature finds that existing law does not require a guardian ad litem to be appointed to represent an individual with severe mental illness during assisted community treatment program proceedings and promote their needs and interests. The legislature further finds that the mandatory appointment of a guardian ad litem upon the filing of an assisted community treatment petition will improve procedures regarding the assisted community treatment program. Where the individual has an existing guardian, that person may act on the individual's behalf during the proceedings and does not necessitate the appointment of a guardian ad litem.

The purpose of this Act is to require the court to appoint, at the time an assisted community treatment program petition is filed, a guardian ad litem to represent the best interests of the individual who is subject to the petition throughout the pendency of the judicial proceedings if there is no existing guardian.

SECTION 2. Chapter 334, Hawaii Revised Statutes, is amended by adding a new section to part VIII to be appropriately designated and to read as follows:

“§334- Appointment of a guardian ad litem. The family court, upon receipt of a petition filed under this part, shall determine the existence of a guardian and if none, shall appoint a guardian ad litem to represent the best interests of the subject of the petition throughout the pendency of the proceedings.”

SECTION 3. Section 334-125, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

- “(a) Notice of the hearing shall be:
- (1) Served personally on the subject of the petition pursuant to family court rules;
 - (2) Served personally or by certified or registered mail, return receipt requested, deliverable to the addressee only, to as many as are known to the petitioner of the subject’s spouse or reciprocal beneficiary, legal parents, adult children, and legal guardian, if one has been appointed. If the subject of the petition has no living spouse or reciprocal beneficiary, legal parent, adult children, or legal guardian, or if none can be found, notice of the hearing shall be served on at least one of the subject’s closest adult relatives, if any can be found;
 - (3) Served on the ~~[public defender,]~~ guardian ad litem appointed for the subject of the petition or the subject’s existing guardian, if the court determines the existence of one;
 - (4) Served on the attorney for the subject of the petition, [or other court-appointed attorney as] if applicable; and
- [~~(4)~~] (5) Given to other persons as the court may designate.
- (b) The notice shall include the following:
- (1) The date, time, place of hearing, a clear statement of the purpose of the proceedings and possible consequences to the subject, and a statement of the legal standard upon which assisted community treatment is being considered;
 - (2) A copy of the petition;
 - (3) Notice that the subject of the petition has been assigned a guardian ad litem to represent the best interests of the subject throughout the proceeding, unless the court determined the existence of a guardian for the subject; and
- [~~(3)~~] (4) Notice that the subject of the petition is entitled to the assistance of an attorney, and that ~~[the public defender has been notified of these proceedings; and~~
- (4) ~~Notice that if the subject does not want to be represented by the public defender,]~~ the subject may contact ~~[the subject’s]~~ their own attorney.”

SECTION 4. Section 334-126, Hawaii Revised Statutes, is amended to read as follows:

“§334-126 Hearing on petition. (a) The court shall adjourn or continue a hearing for failure to timely notify a person entitled to be notified unless the court determines that the interests of justice require that the hearing continue without adjournment or continuance.

(b) The time and form of the procedure incident to hearing the issues in the petition shall be provided by family court rule and consistent with this part.

(c) Hearings may be held at any convenient place within the circuit. The subject of the petition, any interested party, or the family court upon its own motion may request a hearing in another court because of inconvenience to the parties, witnesses, or the family court or because of the subject's physical or mental condition.

(d) The hearing shall be closed to the public, unless the subject of the petition requests otherwise. Individuals entitled to notice are entitled to be present in the courtroom for the hearing and to receive a copy of the hearing transcript or recording, unless the court determines that the interests of justice require otherwise.

(e) The subject of the petition shall not be required to be present at the hearing~~[- However, if; provided that~~ the subject has been served with the petition and ~~[does not appear at the hearing, the court may appoint a]~~ the appointed guardian ad litem, or existing guardian, is present to represent the best interests of the subject through the proceedings.

~~[(f) Notwithstanding chapter 802 to the contrary, the public defender or other court-appointed counsel shall represent the subject upon filing of the petition. A copy of the petition shall be served upon the public defender by the petitioner. The public defender or the court-appointed counsel may withdraw upon a showing that the subject is not indigent. If the subject does not desire representation, the court may discharge the attorney after finding that the subject understands the proceedings and the relief prayed for in the petition. Nothing in this subsection shall be construed to:~~

- ~~(1) Require the subject of the petition to accept legal representation by the public defender or other court-appointed counsel; or~~
- ~~(2) Prevent the subject of the petition from obtaining their own legal counsel to represent them in any proceeding.~~

~~(g)]~~ (f) If the subject of the petition is represented by ~~[an]~~ their own attorney, the attorney shall be allowed adequate time for investigation of the matters at issue and for preparation, and shall be permitted to present the evidence that the attorney believes necessary for a proper disposition of the proceeding.

~~[(h)]~~ (g) No subject of the petition shall be ordered to receive assisted community treatment unless at least one psychiatrist or advanced practice registered nurse with prescriptive authority and who holds an accredited national certification in an advanced practice registered nurse psychiatric specialization testifies in person at the hearing who has personally assessed the subject, within a reasonable time before the filing of the petition up to the time when the psychiatrist or advanced practice registered nurse with prescriptive authority and who holds an accredited national certification in an advanced practice registered nurse psychiatric specialization provides oral testimony at court. The testimony of the psychiatrist or advanced practice registered nurse with prescriptive authority and who holds an accredited national certification in an advanced practice registered nurse psychiatric specialization shall state the facts which support the allegation that the subject meets all the criteria for assisted community treatment, provide a written treatment plan, which shall include non-mental health treatment if appropriate, provide the rationale for the recommended treatment, and identify the designated mental health program responsible for the coordination of care.

If the recommended assisted community treatment includes medication, the testimony of the psychiatrist or advanced practice registered nurse with prescriptive authority and who holds an accredited national certification in an advanced practice registered nurse psychiatric specialization shall describe the

types or classes of medication which should be authorized, and describe the physical and mental beneficial and detrimental effects of such medication.

(i) (h) The subject of the petition may secure a psychiatric examination and present the findings as evidence at the hearing. The subject shall be entitled to a psychiatric examination at a community mental health center if the subject so desires, and if an examination has not already been conducted at a community mental health center which will lead to psychiatric testimony at the hearing.”

SECTION 5. Section 334-127, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) If after hearing all relevant evidence, including the results of any diagnostic examination ordered by the family court, the family court finds that the criteria for assisted community treatment under section 334-121(1) have been met beyond a reasonable doubt and that the criteria under section 334-121(2) to 334-121(4) have been met by clear and convincing evidence, the family court shall order the subject to obtain assisted community treatment for a period of no more than one year. The written treatment plan submitted pursuant to section [334-126(h)] 334-126(g) shall be attached to the order and made a part of the order.

If the family court finds by clear and convincing evidence that the beneficial mental and physical effects of recommended medication outweigh the detrimental mental and physical effects, if any, the order may authorize types or classes of medication to be included in treatment at the discretion of the treating psychiatrist or advanced practice registered nurse with prescriptive authority and who holds an accredited national certification in an advanced practice registered nurse psychiatric specialization.

The court order shall also state who should receive notice of intent to discharge early in the event that the treating psychiatrist or advanced practice registered nurse with prescriptive authority and who holds an accredited national certification in an advanced practice registered nurse psychiatric specialization determines, prior to the end of the court ordered period of treatment, that the subject should be discharged early from assisted community treatment.

Notice of the order shall be provided to those persons entitled to notice pursuant to section 334-125.”

SECTION 6. Section 334-129, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) A treating psychiatrist or advanced practice registered nurse with prescriptive authority and who holds an accredited national certification in an advanced practice registered nurse psychiatric specialization may prescribe or administer to the subject of the order reasonable and appropriate medication or medications, if specifically authorized by the court order, and treatment that is consistent with accepted medical standards and the family court order, including the written treatment plan submitted pursuant to section [334-126(h)-] 334-126(g).”

SECTION 7. Section 334-133, Hawaii Revised Statutes, is amended to read as follows:

“§334-133 **Petition for additional period [of] treatment; hearing.** (a) ~~Prior to~~ Before the expiration of the period of assisted community treatment ordered by the family court, any interested party may file a petition with the family court for an order of continued assisted community treatment. The petition shall be filed, and unless the court determines the existence of a guardian, a guardian ad litem appointed, and notice provided in the same manner as under sections 334-123 and 334-125.

(b) The family court shall appoint a guardian ad litem, unless there is an existing guardian, hold a hearing on the petition, and make its decision in the same manner as provided under sections 334-123 to 334-127. The family court may order the continued assisted community treatment for ~~not~~ no more than one year after the date of the hearing pursuant to this section if the court finds that the criteria for assisted community treatment continue to exist and are likely to continue beyond one hundred eighty days.

(c) Nothing in this section shall preclude the subject's stipulation to the continuance ~~of~~ an existing court order. This section shall be in addition to the provisions on the objection to discharge."

SECTION 8. Section 334-134, Hawaii Revised Statutes, is amended to read as follows:

"§334-134 Hearing for discharge. Any person may petition the family court for the discharge of an order of assisted community treatment during the period of assisted community treatment after sixty days from the most recent hearing involving the subject of the order. The petition shall be filed, and unless the court determines the existence of a guardian, guardian ad litem appointed, notice given, hearing held, and order made in the same manner as provided for the original petition alleging that the subject of the order met the criteria for assisted community treatment."

SECTION 9. Section 802-1, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:¹

~~"(b) [Except as provided in section 334-126(f), the]~~ The appearance of the public defender in all judicial proceedings shall be subject to court approval.

(c) The appearance of a public defender in all hearings before the Hawaii paroling authority or other administrative body or agency shall be subject to the approval of the chairperson of the Hawaii paroling authority or the administrative head of the body or agency involved."

SECTION 10. Section 802-5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

~~"(a) [Except as provided in section 334-126(f), when]~~ When it shall appear to a judge that a person requesting the appointment of counsel satisfies the requirements of this chapter, the judge shall appoint counsel to represent the person at all stages of the proceedings, including appeal, if any. If conflicting interests exist, or if the interests of justice require, the court may appoint private counsel, who 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 expenses and fees shall be ordered by the court. Duly ordered payment shall be made upon vouchers approved by the director of finance and warrants drawn by the comptroller."

SECTION 11. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 12. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.²

SECTION 13. This Act shall take effect upon its approval.

(Approved June 23, 2021.)

Notes

1. So in original.

2. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to Privacy.

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

SECTION 1. The legislature finds that House Concurrent Resolution No. 225, S.D. 1, Regular Session of 2019, (H.C.R. No. 225) established the twenty-first century privacy law task force (task force), whose membership consisted of individuals in government and the private sector with an interest or expertise in privacy law in the digital era. H.C.R. No. 225 found that public use of the Internet and related technologies have significantly expanded in recent years, and that a lack of meaningful government regulation has resulted in personal privacy being compromised. Accordingly, the legislature requested that the task force examine and make recommendations regarding existing privacy laws and regulations to protect the privacy interests of the people of Hawaii.

The legislature further finds that the task force considered a spectrum of related privacy issues that have been raised in Hawaii and other states in recent years, including the advancement and spread of deep fake technology. Deep fake technology enables the creation of synthetic media in which a person in an existing image or video is replaced with the likeness of another person.

The legislature additionally finds that one of the recommendations made by the task force was for the State to protect the privacy of a person's likeness by adopting laws that prohibit the unauthorized use of deep fake technology, which is advancing rapidly and is easily sharable on social media.

Accordingly, the purpose of this Act is to add the intentional creation, disclosure, or threat of disclosure of certain types of deep fake images or video to the offense of violation of privacy in the first degree.

SECTION 2. Section 711-1110.9, Hawaii Revised Statutes, is amended to read as follows:

“§711-1110.9 Violation of privacy in the first degree. (1) A person commits the offense of violation of privacy in the first degree if, except in the execution of a public duty or as authorized by law:

- (a) The person intentionally or knowingly installs or uses, or both, in any private place, without consent of the person or persons entitled to privacy therein, any device for observing, recording, amplifying, or broadcasting another person in a stage of undress or sexual activity in that place; ~~[ø]~~
- (b) The person knowingly discloses or threatens to disclose an image or video of another identifiable person either in the nude, as defined in section 712-1210, or engaging in sexual conduct, as defined in section 712-1210, without the consent of the depicted person, with intent to harm substantially the depicted person with respect to that person's health, safety, business, calling, career, education, financial condition, reputation, or personal relationships or as an act of revenge or retribution; ~~[provided that:]~~ or
- (c) The person intentionally creates or discloses or threatens to disclose an image or video of a composite fictitious person depicted in the nude as defined in section 712-1210, or engaged in sexual conduct as defined in section 712-1210, that includes the recognizable physical characteristics of a known person so that the image or video appears to depict the known person and not a composite fictitious

person, with intent to substantially harm the depicted person with respect to that person’s health, safety, business, calling, career, education, financial condition, reputation, or personal relationships, or as an act of revenge or retribution.

~~[(i)]~~ ~~(2)~~ [This] Other than as prohibited in paragraph (1)(c), this section shall not apply to images or videos of the depicted person made:

~~[(A)]~~ (a) When the person was voluntarily nude in public or voluntarily engaging in sexual conduct in public; or

~~[(B)]~~ (b) Pursuant to a voluntary commercial transaction~~[-and]~~.

~~[(ii)]~~ ~~(3)~~ Nothing in this [paragraph] section shall be construed to impose liability on a provider of “electronic communication service” or “remote computing service” as those terms are defined in section 803-41, for an image or video disclosed through the electronic communication service or remote computing service by another person.

~~[(2)]~~ ~~(4)~~ Violation of privacy in the first degree is a class C felony. In addition to any penalties the court may impose, the court may order the destruction of any recording made in violation of this section.

~~[(3)]~~ ~~(5)~~ Any recording or image made or disclosed in violation of this section and not destroyed pursuant to subsection ~~[(2)]~~ ~~(4)~~ shall be sealed and remain confidential.”

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 23, 2021.)

ACT 60

S.B. NO. 412

A Bill for an Act Relating to Operating a Vehicle Under the Influence of an Intoxicant.

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

SECTION 1. Section 291E-15, Hawaii Revised Statutes, is amended to read as follows:

“§291E-15 Refusal to submit to breath, blood, or urine test; subject to administrative revocation proceedings. If a person under arrest refuses to submit to a breath, blood, or urine test, none shall be given, except as provided in section 291E-21~~[-]~~, or pursuant to a search warrant issued by a judge upon a finding of probable cause supported by oath or affirmation, or pursuant to any other basis permissible under the Constitution of the State of Hawaii and laws of this State. Upon the law enforcement officer’s determination that the person under arrest has refused to submit to a breath, blood, or urine test, if applicable, then a law enforcement officer shall:

- (1) Inform the person under arrest of the sanctions under section 291E-41 or 291E-65; and
- (2) Ask the person if the person still refuses to submit to a breath, blood, or urine test, thereby subjecting the person to the procedures and sanctions under part III or section 291E-65, as applicable;

provided that if the law enforcement officer fails to comply with paragraphs (1) and (2), the person shall not be subject to the refusal sanctions under part III or IV.”

SECTION 2. Section 853-4, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) 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;

provided that the prohibition in this paragraph shall not apply to offenses described in section 709-906(18);

- (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 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 or no contest plea 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 or no contest plea 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 or by a witness;
 - (I) Intimidating a witness;

- (J) Bribery of or by a juror;
 - (K) Intimidating a juror;
 - (L) Jury tampering;
 - (M) Promoting prostitution;
 - (N) Abuse of family or household member except as provided in paragraph (2) and section 709-906(18);
 - (O) Sexual assault in the second degree;
 - (P) Sexual assault in the third degree;
 - (Q) A violation of an order issued pursuant to chapter 586;
 - (R) Promoting child abuse in the second degree;
 - (S) Promoting child abuse in the third degree;
 - (T) Electronic enticement of a child in the first degree;
 - (U) Electronic enticement of a child in the second degree;
 - (V) Prostitution pursuant to section 712-1200(1)(b);
 - (W) Street solicitation of prostitution under section 712-1207(1)(b);
 - (X) Solicitation of prostitution near schools or public parks under section 712-1209;
 - (Y) Habitual solicitation of prostitution under section 712-1209.5; [ø†]
 - (Z) Solicitation of a minor for prostitution under section 712-1209.1; or
 - (AA) Habitually operating a vehicle under the influence of an intoxicant under section 291E-61.5(a);
- (14) The defendant has been charged with:
- (A) Knowingly or intentionally falsifying any report required under chapter 11, part XIII with the intent to circumvent the law or deceive the campaign spending commission; or
 - (B) Violating section 11-352 or 11-353; 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.”

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 23, 2021.)

ACT 61

S.B. NO. 386

A Bill for an Act Relating to the Detention of a Minor in an Adult Jail or Lockup.
Be It Enacted by the Legislature of the State of Hawaii:

PART I

SECTION 1. Section 571-32, Hawaii Revised Statutes, is amended to read as follows:

“§571-32 Detention; shelter; release; notice. (a) If a [child] minor who is believed to come within section 571-11(1) or (2) is not released as provided in section 571-31 and is not deemed suitable for diversion, the [child] minor shall be taken without unnecessary delay to the court or to the place of detention or shelter designated by the court. If the court determines that the [child] minor requires care away from the [child's] minor's own home but does not require secure physical restriction, the [child] minor shall be given temporary care in any available nonsecure [child] minor caring institution, foster family home, or other shelter facility.

(b) The officer or other person who brings a [child] minor to a detention or shelter facility shall give notice to the court at once, stating the legal basis therefor and the reason why the [child] minor was not released to the [child's] minor's parents. If the facility to which the [child] minor is taken is not an agency of the court, the person in charge of the facility in which the [child] minor is placed shall promptly give notice to the court that the [child] minor is in that person's custody. ~~Prior to~~ Before acceptance of the [child] minor for detention or shelter care, a prompt inquiry shall be made by a duly authorized staff member of the detention or shelter facility or officer of the court. Where it is deemed in the best interests of the [child,] minor, the judge, officer, staff member, or the director of detention services may then order the [child] minor to be released, if possible, to the care of the [child's] minor's parent, guardian, legal custodian, or other responsible adult, or the judge may order the [child] minor held in the facility subject to further order or placed in some other appropriate facility.

(c) As soon as a [child] minor is detained, the [child's] minor's parents, guardian, or legal custodian shall be informed, by personal contact or by notice in writing on forms prescribed by the court, that they may have a prompt hearing held by a circuit judge or district family judge regarding release or detention. A [child] minor may be released on the order of the judge with or without a hearing. The director of detention services may order the release of the [child] minor if an order of detention has not been made.

(d) No [child] minor shall be held in a detention facility for juveniles or shelter longer than twenty-four hours, excluding weekends and holidays, unless a petition or motion for revocation of probation, or motion for revocation of protective supervision has been filed, or unless the judge orders otherwise after a court hearing. No ex parte motions shall be considered. ~~If there is probable cause to believe that the child comes within section 571-11(1), the child may be securely detained in a certified police station cellblock or community correctional center. The detention shall be limited to six hours. In areas which are outside a standard metropolitan statistical area, the detention may be up to twenty-four hours, excluding weekends and holidays, if no detention facility for juveniles is reasonably available. Any detention in a police station cellblock or community correctional center shall provide for the sight and sound separation of the child from adult offenders.] For the purposes of this section:~~

- (1) Unless a court finds, after a hearing and in writing, that it is in the interest of justice as provided for in subsection (g)(2), a minor believed to come within section 571-11(1), or a minor awaiting trial or another legal process, who is treated as an adult for purposes of prosecution in criminal court and housed in a secure facility shall not:
 - (A) Have sight or sound contact with adult inmates; or
 - (B) Be held in any jail or lockup for adults,
except as provided in subsection (g)(3); and
- (2) Detention in a jail or lockup for adults may be permitted for:

- (A) A minor accused of a non-status offense who is held for a period not to exceed six hours; provided that the minor is being held:
- (i) For processing or release;
 - (ii) While awaiting transfer to a juvenile facility; or
 - (iii) For a court appearance that occurs within the period of detention; or
- (B) A minor accused of a non-status offense who is awaiting an initial court appearance that will occur within forty-eight hours of the minor being taken into custody, excluding weekends and holidays, and where the jail or lockup for adults is in a location:
- (i) Outside a metropolitan statistical area, as defined by the Office of Management and Budget, and no acceptable alternative placement is available;
 - (ii) Where the distance to be traveled or the lack of highway, road, or transportation does not allow for court appearances within forty-eight hours, excluding weekends and holidays, such that a brief delay of no more than an additional forty-eight hours is excusable; or
 - (iii) Where safety concerns exist, such as severe and life-threatening weather conditions that do not allow for reasonably safe travel, in which case the time for an appearance may be delayed until twenty-four hours after the time that conditions allow for reasonably safe travel;

provided that the minor shall not have sight or sound contact with adult inmates; provided further that the State shall have a policy in effect that requires individuals who work with both minor and adult inmates in collocated facilities to be trained and certified to work with juveniles.

(e) No [child] minor may be held after the filing of a petition or motion, as specified in subsection (d), unless an order for continued detention or shelter has been made by a judge after a court hearing. If there is probable cause to believe that the [child] minor comes within section 571-11(1), the [child] minor may be securely detained, following a court hearing, in a detention facility for juveniles or may be held in a shelter. If there is probable cause to believe that the [child] minor comes within section 281-101.5 or 571-11(2), the [child] minor may be held, following a court hearing, in a shelter but [may] shall not be securely detained in a detention facility for juveniles for longer than twenty-four hours, excluding weekends and holidays, unless the [child] minor is subject to the provisions of chapter 582, Interstate Compact on Juveniles, or chapter 582D, Interstate Compact for Juveniles, or is allegedly in or has already been adjudicated for a violation of a valid court order, as provided under the federal Juvenile Justice and Delinquency Prevention Act of 1974, as amended.

(f) No [child] minor shall be released from detention except in accordance with this chapter.

(g) When a minor is ordered to be held or detained by the court:

- (1) Where a [child] minor transferred for criminal proceedings pursuant to a waiver of family court jurisdiction is detained, the [child shall be held in the detention facility used for persons charged with crime. When a child is ordered committed to an agency or institution, the child shall be transported promptly to the place of commitment.] minor shall not:

(A) Have sight or sound contact with adult inmates; or

(B) Be held in any jail or lockup for adults, unless a court finds, after a hearing and in writing, that it is in the interest of justice;

(2) In determining whether it is in the interest of justice to permit a minor to be held in any jail or lockup for adults, or to have sight or sound contact with adult inmates, a court shall consider:

(A) The age of the minor;

(B) The physical and mental maturity of the minor;

(C) The present mental state of the minor, including whether the minor presents an imminent risk of self-harm;

(D) The nature and circumstances of the alleged offense;

(E) The minor's history of prior delinquent acts;

(F) The relative ability of the available adult and juvenile detention facilities to meet the specific needs of the minor and protect the safety of the public as well as other detained minors; and

(G) Any other relevant factor; and

(3) If a court determines that it is in the interest of justice to permit a minor to be held in any jail or lockup for adults, or to have sight or sound contact with adult inmates:

(A) The court shall hold a hearing no less frequently than once every thirty days, or in the case of a rural jurisdiction, no less frequently than once every forty-five days, to review whether it remains in the interest of justice to permit the minor to be held in a jail or lockup for adults or to have sight or sound contact with adult inmates; and

(B) The minor shall not be held in any jail or lockup for adults, or permitted to have sight or sound contact with adult inmates, for more than one hundred eighty days, unless the court, in writing, determines there is good cause for an extension, or the minor expressly waives this limitation.

(h) Provisions regarding bail shall not be applicable to ~~[children]~~ minors detained in accordance with this chapter, except that bail may be allowed after a ~~[child]~~ minor has been transferred for criminal prosecution pursuant to waiver of family court jurisdiction.

(i) The official in charge of a facility for the detention of adult offenders or persons charged with crime shall inform the court immediately when a ~~[child]~~ minor who is or appears to be under eighteen years of age is received at the facility.

(j) Any other provision of law to the contrary notwithstanding, any person otherwise subject to proceedings under chapter 832 and who is under the age of eighteen may be confined in a detention facility or correctional facility by order of a judge for the purposes set forth in section 832-12, 832-15, or 832-17.

(k) The department of human services through the office of youth services shall certify police station cellblocks and community correctional centers that provide sight and sound separation between ~~[children]~~ minors and adults in secure custody. Only cellblocks and centers certified under this subsection shall be authorized to detain juveniles pursuant to section 571-32(d). The office of youth services may develop sight and sound separation standards, issue certifications, monitor and inspect facilities for compliance, cite facilities for violations, withdraw certifications, and require certified facilities to submit ~~[such]~~ data and information as requested. In addition, the office of youth services may monitor and inspect all cellblocks and centers for compliance with section 571-32(d).”

PART II

SECTION 2. Section 352-10, Hawaii Revised Statutes, is amended to read as follows:

“§352-10 Circuit court disposition of offenders under eighteen years. The circuit court ~~[may]~~ shall commit all offenders under eighteen years of age, duly convicted before the court, to the Hawaii youth correctional facilities in all cases where the court deems the sentence to be more suitable than the punishment otherwise authorized by law. In such a case, when the term of confinement ordered by the court extends beyond the offender’s eighteenth birthday, the offender shall, upon reaching the age of eighteen, be committed to the custody of the department of public safety for completion of the sentence. Persons committed to the Hawaii youth correctional facilities under this section may be furloughed or paroled by the director, unless the commitment order issued by the court requires prior approval by the court or unless the offender is subject to a mandatory term of imprisonment which term has not yet expired.”

PART III

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 23, 2021.)

ACT 62

S.B. NO. 664

A Bill for an Act Relating to Public Safety.

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 \$330,000 or so much thereof as may be necessary for fiscal year 2021-2022 and the same sum or so much thereof as may be necessary for fiscal year 2022-2023 for an oversight coordinator position and necessary support staff positions for the Hawaii correctional system oversight commission, as authorized by section 353L-2, Hawaii Revised Statutes.

The sums appropriated shall be expended by the department of the attorney general for the purposes of this part.

SECTION 2. This Act shall take effect on July 1, 2021.

(Approved June 23, 2021.)

ACT 63

H.B. NO. 73

A Bill for an Act Relating to Emergency Workers.

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

SECTION 1. The legislature finds that telephone and emergency dispatchers perform critical services under stressful conditions. These services are

much more than clerical in nature, yet dispatchers are currently characterized and compensated as clerical employees. Therefore, the legislature believes that telephone and emergency dispatchers should be compensated at a higher rate than personnel who primarily perform clerical functions.

The purpose of this Act is to require the department of human resources development to review the existing classification and compensation schedules for telephone and emergency dispatchers and employees who perform similar functions and to recommend modifications to their classification and compensation schedules to more accurately reflect their duties and responsibilities.

SECTION 2. (a) The department of human resources development shall review the existing classification and compensation schedules for:

- (1) Telecommunications dispatchers, including police, fire, or emergency medical dispatchers, any Hawaii state hospital telephone operators or call takers, and any persons who perform any combination of these functions;
- (2) Emergency dispatchers; and
- (3) Any other telecommunications dispatch personnel who, while operating a 911 automated terminal, uses multiple robust lifesaving procedures and technologies to obtain critical information from the caller, analyzes the information given and, from specialized mapping systems, sends the appropriate and closest available emergency unit, and communicates the best course of action for the caller to take before the arrival of that unit.

(b) The department of human resources development may consult with appropriate county human resources personnel to fulfill the purpose of this Act.

(c) No later than twenty days prior to the convening of the regular session of 2022, the department of human resources development shall submit a report to the legislature recommending modifications to the classification and compensation schedules reviewed pursuant to subsection (a) that more accurately reflect the critical duties and responsibilities of those positions.

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

(Approved June 23, 2021.)

ACT 64

H.B. NO. 77

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. Section 171-64.7, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

- “(f) This section shall not apply to ~~[sales]~~;
- (1) ~~Sales~~ or gifts of lands described in subsection (a) between state departments or agencies~~[-to sales]~~;
- (2) ~~Sales~~ of available lands under the Hawaiian Homes Commission Act~~[-or to the fee]~~;
- (3) ~~Fee simple [sale] sales~~ of affordable homes on lands not classified as government or crown lands previous to August 15, 1895, or exchanged subsequent to August 15, 1895, for lands classified as government or crown lands previous to August 15, 1895, that are subject to resale restrictions as set forth in section 201H-47 and that

were acquired by the Hawaii housing finance and development corporation either at a foreclosure sale or under a buyback as authorized in section 201H-47[-]; or

- (4) Individual sales of the leased fee interest in a leasehold condominium unit or single family house lot to its lessee by the Hawaii housing finance and development corporation; provided that:
- (A) One of the corporation's predecessor agencies approved the sale of the leased fee interest to lessees of the condominium or development in which the unit or house lot is located no later than November 4, 1994;
 - (B) The leased fee interest in more than fifty per cent of all units in the condominium or development in which the unit or house lot is located was sold or otherwise transferred prior to July 13, 2009;
 - (C) The sale is to the lessee of record of the unit or house lot; and
 - (D) The corporation shall submit documentation to the office of Hawaiian affairs at least three months before the sale of a unit or house lot under this paragraph, with the following information:
 - (i) The specific location and size in square feet, or other precise measure, of the parcel of land to be sold;
 - (ii) The purpose for which the land is being sold;
 - (iii) A statement of whether the land is or is not land that was classed as government or crown lands prior to August 15, 1895, or was acquired by the State in exchange for such lands, and a detailed explanation of how the corporation made the determination; and
 - (iv) Sufficient documentation to validate the requirements of subparagraphs (A), (B), and (C)."

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 23, 2021.)

ACT 65

H.B. NO. 78

A Bill for an Act Relating to the Underground Construction of High-Voltage Electric Transmission Lines.

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

SECTION 1. Section 269-27.6, Hawaii Revised Statutes, is amended to read as follows:

“§269-27.6 Construction of high-voltage electric transmission lines; overhead or underground construction. (a) Notwithstanding any law to the contrary, whenever a public utility applies to the public utilities commission for approval to place, construct, erect, or otherwise build a new 46 kilovolt or greater high-voltage electric transmission system, either above or below the surface of the ground, the public utilities commission shall determine whether the electric transmission system shall be placed, constructed, erected, or built above or be-

low the surface of the ground; provided that in its determination, the public utilities commission shall consider:

- (1) Whether a benefit exists that outweighs the costs of placing the electric transmission system underground;
- (2) Whether there is a governmental public policy requiring the electric transmission system to be placed, constructed, erected, or built underground, and the governmental agency establishing the policy commits funds for the additional costs of undergrounding;
- (3) Whether any governmental agency or other parties are willing to pay for the additional costs of undergrounding;
- (4) The recommendation of the division of consumer advocacy of the department of commerce and consumer affairs, which shall be based on an evaluation of the factors set forth under this subsection; and
- (5) Any other relevant factors.

(b) In making the determination set forth in subsection (a), for new 138 kilovolt or greater high-voltage electric transmission systems, the public utilities commission shall evaluate and make specific findings on all of the following factors:

- (1) The amortized cost of construction over the respective usable life of an above-ground versus underground system;
- (2) The amortized cost of repair over the respective usable life of an above-ground versus underground system;
- (3) The risk of damage or destruction over the respective usable life of an above-ground versus an underground system;
- (4) The relative safety and liability risks of an above-ground versus underground system;
- (5) The electromagnetic field emission exposure from an above-ground versus underground system;
- (6) The proximity and visibility of an above-ground system to:
 - (A) High density population areas;
 - (B) Conservation and other valuable natural resource and public recreation areas;
 - (C) Areas of special importance to the tourism industry; and
 - (D) Other industries particularly dependent on Hawaii's natural beauty;
- (7) The length of the system;
- (8) The breadth and depth of public sentiment with respect to an above-ground versus underground system; and
- (9) Any other factors that the public utilities commission deems relevant.

(c) A public utility making an application to the public utilities commission under this section shall clearly and fully state and support its evaluation of each factor set forth in subsection (b).

(d) Notwithstanding the requirements under subsections (a) and (b), a public utility shall not be required to seek public utilities commission approval to place, construct, erect, or otherwise build a high-voltage electric transmission system if:

- (1) The electric transmission system is to be built underground;
- (2) The entire cost due to building underground, rather than above-ground, is paid by an entity other than the public utility as a contribution in aid of construction; and
- (3) Prior to commencing construction, the public utility provides a report to the public utilities commission, with a copy to the consumer

advocate, describing in detail the electric transmission system and providing sufficient documentation that affirms that the additional costs of building the electric transmission system underground will be paid by an entity other than the public utility.

(e) The public utilities commission shall have sixty days to take action on the report filed pursuant to subsection (d)(3), or it shall be assumed that the public utility may proceed with the project.”

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect on July 1, 2021.

(Approved June 23, 2021.)

ACT 66

H.B. NO. 136

A Bill for an Act Relating to Liquor Licenses.

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

SECTION 1. Section 281-41, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (e) to read:

“(e) Where a license is held by a partnership, limited partnership, or limited liability partnership, [~~or a limited liability company,~~] the admission or withdrawal of a partner, limited partner, or partner of a limited liability partnership, [~~member of a member-managed limited liability company, or manager of a manager-managed limited liability company~~] shall not be deemed a transfer of the license; provided that the licensee shall, within thirty days from the date of the admission or withdrawal, so notify the commission in writing, stating the name of the partner, [~~member, or manager,~~] limited partner, or partner of a limited liability partnership who has been admitted or withdrawn, and any other information as may be required by the commission. If the commission finds that the partner or limited partner for whom notification is required as specified in this subsection does not meet statutory requirements to hold a license in the partner’s or limited partner’s own right pursuant to section 281-45, it may, in its discretion, revoke the license or suspend the license until the partner or limited partner is removed or replaced by a partner or limited partner who meets the statutory requirements to hold a license pursuant to section 281-45.”

2. By amending subsections (h) and (i) to read:

“(h) If any licensee without prior approval, approval of a temporary license, or approval of a management agreement transfers to any other person the licensee’s business for which the licensee’s license was issued, either openly or under any undisclosed arrangement, whereby any person, other than the licensee, comes into exclusive possession or control of the business or takes in any partner or associate who would [~~be unfit or improper~~] not meet statutory requirements to hold a license pursuant to section 281-45, the commission may in its discretion suspend or cancel the license. For purposes of this subsection, “management agreement” means a written agreement under which a licensee allows a manager to manage and operate the licensee’s business on behalf of the licensee.

(i) If the licensee is a corporation[~~;~~] or limited liability company, a change in ownership of any outstanding capital stock or membership interest shall not be deemed a transfer of a license; provided that, in the case of a change

in ownership of twenty-five per cent or more of the voting capital stock or membership interest or in the case of change in ownership of any number of shares of the stock or membership interest that results in the transferee thereof becoming the owner of twenty-five per cent or more of the outstanding voting capital stock[,] or membership interest, the corporate or limited liability company licensee shall, within thirty days of the date of the transfer, apply for the approval of the transfer from the commission in writing. If the commission finds that the transferee ~~[is an unfit or improper person]~~ does not meet statutory requirements to hold a license in the transferee's own right pursuant to section 281-45, it shall not approve the transfer. If any transfer is made without the approval of the commission, the commission may in its discretion revoke or suspend the license until it determines that the transferee ~~[is a fit and proper person,]~~ meets the statutory requirements to hold a license, and if the commission finds that the transferee ~~[is not a fit and proper person,]~~ does not meet the statutory requirements to hold a license, until a retransfer or new transfer of the capital stock or membership interest is made to a ~~[fit and proper]~~ person who meets the statutory requirements to hold a license pursuant to section 281-45. In addition, the corporate or limited liability company licensee, if not a publicly-traded company, or an entity ultimately solely owned by a publicly-traded company, shall, within thirty days from the date of election or admission of any officer [øf], director, manager, or member, notify the commission in writing of the name, age, and place of residence of the officer [øf], director[-], manager, or member, and any other information as may be required by the commission. A publicly-traded corporation or limited liability company, or ~~[an entity]~~ a corporation or limited liability company ultimately solely owned by a publicly-traded company, shall, within thirty days from the date of election or admission of any replacement of an officer, director, manager, or member designated as a primary decision-maker regarding the purchase and sale of liquor, notify the commission in writing of the name, age, and place of residence of the officer[-], director, manager, or member. If the commission finds that the ~~[transferee,]~~ officer, [øf] director, manager, or member for whom notification is required to be given as specified in this subsection, ~~[is an unfit or improper person]~~ does not meet statutory requirements to hold a license in the ~~[transferee's,]~~ officer's, [øf] director's, manager's, or member's own right pursuant to section 281-45, it may in its discretion revoke the license or suspend the license until ~~[a retransfer or new transfer of the capital stock is effected to a fit or proper person pursuant to section 281-45 or until the unfit or improper transferee,]~~ the officer, [øf] director, manager, or member is removed or replaced by a ~~[fit and proper]~~ person who meets statutory requirements to hold a license pursuant to section 281-45."

3. By amending subsections (k) and (l) to read:

"(k) The conversion of an entity into any other form of entity or the merger of any entity with any other entity shall not be deemed a transfer of the license; provided that the licensee, ~~[prior to the date]~~ within thirty days of the conversion or merger, shall apply for and secure the approval of the commission without any requirement for publication of notice. The foregoing shall not preclude compliance with subsection (e) upon a change in any of the partners ~~[or members,]~~ or with subsection (i) upon change of any shareholders, officers, [øf] directors, managers, or members of any entity occurring concurrently with a conversion or merger.

As used in this subsection, "entity" means a corporation, partnership, limited partnership, limited liability partnership, or limited liability company.

(l) Any officer [øf], director, partner, limited partner, manager, or member not designated as a primary decision-maker shall be prohibited from coercing, pressuring, or otherwise unduly influencing the decision of a designated

primary decision-maker to engage in any unlawful activity relating to the purchase and sale of liquor. If the commission finds that coercion, pressure, or other undue influence has been placed on a primary decision-maker by any officer ~~[or]~~, director, manager, or member who is not a designated primary decision-maker, the commission may in its discretion suspend or cancel the license.”

SECTION 2. Section 281-45, Hawaii Revised Statutes, is amended to read as follows:

“**§281-45 No license issued, when.** No license shall be issued under this chapter:

- (1) To any minor or to any person who has been convicted of a felony and not pardoned~~[, or to any other person not deemed by the commission to be a fit and proper person to have a license]~~; provided that the commission may grant a license under this chapter to a corporation or limited liability company that has been convicted of a felony where the commission finds that the corporation’s officers ~~[and]~~, directors, and shareholders of twenty-five per cent or more of outstanding stock ~~[are fit and proper persons to have a license;]~~ meet the statutory requirements to hold a license;
- (2) To a corporation the officers and directors of which, or any of them, would be disqualified under paragraph (1) from obtaining the license individually, or a stockholder of which, owning or controlling twenty-five per cent or more of the outstanding capital stock, or to a general partnership, limited partnership, limited liability partnership, or limited liability company whose partner or member holding twenty-five per cent or more interest of which, or any of them would be disqualified under paragraph (1) from obtaining the license individually; provided that for publicly-traded corporations and limited liability companies or ~~[entities]~~ corporations or limited liability companies ultimately solely owned by a publicly-traded company, only the officers ~~[and]~~, directors, managers, or members designated as primary decision-makers shall be considered to determine disqualification under paragraph (1);
- (3) Unless the applicant for a license or a renewal of a license, or in the case of a transfer of a license, both the transferor and the transferee, present to the issuing agency a tax clearance certificate from the department of taxation showing that the applicant or the transferor and transferee do not owe the state government any delinquent taxes, penalties, or interest; or that the applicant, or in the case of a transfer of a license, the transferor or transferee, has entered into an installment plan agreement with the department of taxation for the payment of delinquent taxes in installments and that the applicant is or the transferor or transferee is, in the case of a transfer of a license, complying with the installment plan agreement; provided that when the applicant or the transferor or transferee, in the case of a transfer of a license, is validly challenging a tax assessment, penalty, or other proceeding that prevents the issuance of a signed certificate from the appropriate federal or state tax agency, the commission shall issue a license that is valid for the period of time necessary to resolve the challenge;
- (4) To an applicant for a class 2, class 4 except for convenience minimarts, class 5, class 6, class 11, class 12, class 13, class 14, class 15, class 17, or class 18 license unless the applicant for issuance of a license or renewal of a license, or in the case of a transfer of a

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license, both the transferor and the transferee, present to the issuing agency proof of liquor liability insurance coverage in an amount of \$1,000,000; or

- (5) To any applicant who has had any liquor license revoked less than two years previous to the date of the application for any like or other license under this chapter.”

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 January 5, 2022.

(Approved June 23, 2021.)

ACT 67

S.B. NO. 834

A Bill for an Act Relating to Childlike Sex Dolls.

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

SECTION 1. The legislature finds that the widespread availability of childlike sex dolls enables the exploitation, objectification, abuse, and sexual assault of minors. Childlike sex dolls are designed to look and feel as lifelike as possible. The physical features of these dolls resemble those of minor children; some dolls are accompanied by accessories such as wigs and false eyelashes. Childlike sex dolls may have robotic properties that simulate a real child’s emotions such as sadness or fear and may also include a programmable “rape function”.

The legislature recognizes that possession of a childlike sex doll correlates with other offenses perpetrated against children. For example, in the United Kingdom, where multiple shipments of childlike sex dolls have been seized by border patrol agents, investigators found that in many cases the dolls were addressed to individuals committing other offenses involving harm to children. Similarly, a Johns Hopkins School of Medicine paraphilia researcher has opined that contact with a childlike sex doll is likely to reinforce pedophilic thoughts and cause those thoughts to be acted upon with greater urgency. Moreover, the legislature believes that some users of childlike sex dolls will reach a point where interaction with a doll is no longer satisfactory and thus attempt to engage in sexual activities with a human child.

The legislature also finds that other jurisdictions have taken action to help protect minors from the harm associated with childlike sex dolls. Florida and Tennessee have enacted laws that impose criminal penalties for selling or possessing a childlike sex doll. Similar measures were introduced in the legislatures of Georgia and New Jersey in 2020. Further, measures criminalizing the importation, transportation, sale, and possession of childlike sex dolls have been introduced in the United States Congress in recent years. A current example is H.R. 8236, also known as the “Curbing Realistic Exploitative Electronic Pedophilic Robots Act 2.0” (CREEPER Act 2.0), which was introduced in the House of Representatives on September 14, 2020.

The purpose of this Act is to establish the felony offense of importation, sale, or possession of a childlike sex doll.

SECTION 2. Chapter 712, Hawaii Revised Statutes, is amended by adding a new section to part II to be appropriately designated and to read as follows:

“§712- Importation, sale, or possession of a childlike sex doll. (1) A person commits the offense of importation, sale, or possession of a childlike sex doll if the person intentionally, knowingly, or recklessly:

- (a) Imports or causes to be imported into the State one or more childlike sex dolls;
 - (b) Sells, offers to sell, distributes, or otherwise provides to another person one or more childlike sex dolls; or
 - (c) Possesses one or more childlike sex dolls.
- (2) The importation, sale, or possession of one childlike sex doll is a misdemeanor.
- (3) The importation, sale, or possession of two to five childlike sex dolls is a class C felony.
- (4) The importation, sale, or possession of more than five childlike sex dolls is a class B felony.

(5) For purposes of this section, “childlike sex doll” means a doll, mannequin, or robot that is intended for sexual stimulation, gratification, or perversion and that has the features of, or features that resemble those of, a person below the age of puberty.”

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.¹

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

(Approved June 24, 2021.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 68

H.B. NO. 887

A Bill for an Act Relating to Crime.

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

SECTION 1. The legislature finds that sex trafficking is an ever-evolving criminal enterprise in which traffickers and exploiters find various means to sexually exploit the most vulnerable in the community. As traffickers change tactics to avoid accountability, the criminal justice system and understanding of sex trafficking must continue to evolve as well.

The legislature further finds that protecting victims from sexual exploitation and holding offenders accountable is difficult given the disparity in power between the victims and perpetrators. Therefore, amending Hawaii’s sex trafficking laws to better reflect the current reality and challenges will improve outcomes for trafficking victims and survivors.

The legislature additionally finds that legal terminology is vital to an understanding of sex trafficking in the criminal justice system and in the general community. Creating a separate crime for individuals who purchase people for sex, changing the name of a crime from “solicitation of a minor for prostitution” to “commercial sexual exploitation of a minor”, and eliminating the noun “prostitute” will further this objective.

The legislature also finds that, given the seriousness of the offense, the level of the offense for perpetrators who purchase children for sex should be increased to a class B felony. Additionally, due to the fear, trauma, and psychological tactics utilized by traffickers, victims are reluctant to come forward and seek justice until they feel safe and free from their exploiters. Therefore, eliminating the statute of limitation for sex trafficking is necessary to hold these offenders accountable.

The legislature further finds that perpetrators have escaped criminal culpability by exploiting gaps in existing law. Adding the rendering of anything of value as a means of compensation, in addition to a fee, will protect those victims who are being sexually exploited in exchange for drugs, housing, and other non-monetary compensation, while also making the law consistent with the federal definition of human trafficking. Additionally, amending the law to account for situations in which a trafficker or third party is negotiating or profiting from the exploitation of a minor is necessary to hold the buyer accountable.

Accordingly, the purpose of this Act is to:

- (1) Create a separate commercial sexual exploitation offense for those who provide anything of value to engage in sexual conduct with another;
- (2) Specify that the offense of sex trafficking may be prosecuted at any time;
- (3) Specify that sex trafficking includes advancing or profiting from prostitution by certain means, including through coercion;
- (4) Make a person strictly liable for sex trafficking of a minor in terms of the victim’s age;
- (5) Rename offenses involving the solicitation of prostitution to use the more appropriate term of commercial sexual exploitation;
- (6) Amend the elements for commission of the offense of commercial sexual exploitation of a minor and increase the grade of offense to a class B felony;
- (7) Include anything of value as a type of compensation for purposes of engaging in prostitution or other offenses involving commercial sexual exploitation; and
- (8) Clarify the exemption from commercial sexual exploitation and prostitution-related offenses for law enforcement officers acting in the course and scope of duties.

SECTION 2. Chapter 712, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§712- Commercial sexual exploitation. (1) A person commits the offense of commercial sexual exploitation if the person provides, agrees to provide, or offers to provide a fee or anything of value to another to engage in sexual conduct.

(2) As used in this section, “sexual conduct” has the same meaning as in section 712-1200(2).

(3) Except as provided in subsection (4), commercial sexual exploitation is a petty misdemeanor.

(4) Commercial sexual exploitation is a class C felony if the person who commits the offense under subsection (1) does so in reckless disregard of the fact that the person exploited is a victim of sex trafficking.

(5) A person convicted of committing the offense of commercial sexual exploitation as a petty misdemeanor shall be sentenced as follows:

- (a) For the first offense, a fine of no less than \$500 but no more than \$1,000 and the person may be sentenced to a term of imprisonment of no more than thirty days or probation; provided that in the event the convicted person defaults in payment of the fine, and the default was not contumacious, the court may order conversion of the unpaid portion of the fine to community service as authorized by section 706-605(1);
- (b) For any subsequent offense, a fine of no less than \$500 but no more than \$1,000 and a term of imprisonment or probation of no more than thirty days, without possibility of suspension of sentence; and
- (c) For purposes of this subsection, the court may impose as a condition of probation that the defendant complete a course of exploitation intervention classes; provided that the court shall only impose the condition for one term of probation.

(6) This section shall not apply to any member of a police department, a sheriff, or a law enforcement officer acting in the course and scope of duties; provided that the member of a police department, sheriff, or law enforcement officer is engaging in undercover operations; provided further that under no circumstances shall sexual contact initiated by a member of a police department, sheriff, or law enforcement officer; sexual penetration; or sadomasochistic abuse be considered to fall within the course and scope of duties.”

SECTION 3. Section 701-108, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) A prosecution for murder, murder in the first and second degrees, attempted murder, ~~[and]~~ attempted murder in the first and second degrees, criminal conspiracy to commit murder in any degree, criminal solicitation to commit murder in any degree, sexual assault in the first and second degrees, sex trafficking, and continuous sexual assault of a minor under the age of fourteen years may be commenced at any time.”

SECTION 4. Section 712-1200, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (1) to read:

“(1) A person commits the offense of prostitution if the person[:

- (a) ~~Engages]~~ engages in, or agrees or offers to engage in, sexual conduct with another person in return for a fee[; or
- (b) ~~Pays, agrees to pay, or offers to pay a fee to another to engage in sexual conduct.]~~ or anything of value.”

2. By amending subsections (3) through (6) to read:

“(3) Prostitution is a petty misdemeanor; provided that[:

- (a) ~~If]~~ if the person who commits the offense under subsection (1)[~~(a)~~] is a minor, prostitution is a violation[; and
- (b) ~~If the person who commits the offense under subsection (1)(b) does so in reckless disregard of the fact that the other person is a victim of sex trafficking, prostitution is a class C felony].~~

(4) A person convicted of committing the offense of prostitution as a petty misdemeanor shall be sentenced as follows:

- (a) For the first offense, when the court has not deferred further proceedings pursuant to chapter 853, a fine of ~~[\not]~~ no less than \$500 but ~~[\not]~~ no more than \$1,000 and the person may be sentenced to a term of imprisonment of ~~[\not]~~ no more than thirty days or probation; provided that in the event the convicted person defaults in payment of the fine, and the default was not contumacious, the court may ~~[sentence the person to perform services for the community]~~ make an order converting the unpaid portion of the fine to community service as authorized by section 706-605(1)[:];
- (b) For any subsequent offense, a fine of ~~[\not]~~ no less than \$500 but ~~[\not]~~ no more than \$1,000 and a term of imprisonment of thirty days or probation, without possibility of deferral of further proceedings pursuant to chapter 853 and without possibility of suspension of sentence~~[-]; and~~
- (c) For the purpose of this subsection, if the court has deferred further proceedings pursuant to chapter 853, and notwithstanding any provision of chapter 853 to the contrary, the defendant shall not be eligible to apply for expungement pursuant to section 831-3.2 until three years following discharge. A plea previously entered by a defendant under section 853-1 for a violation of this section shall be considered a prior offense. ~~[When the court has ordered a sentence of probation, the court may impose as a condition of probation that the defendant complete a course of prostitution intervention classes; provided that the court may only impose the condition for one term of probation.]~~

(5) This section shall not apply to any member of a police department, a sheriff, or a law enforcement officer acting in the course and scope of duties~~[- unless engaged in]; provided that the member of a police department, sheriff, or law enforcement officer is engaging in undercover operations; provided further that under no circumstances shall sexual contact initiated by a member of a police department, sheriff, or law enforcement officer; sexual penetration; or sado-masochistic abuse[-] be considered to fall within the course and scope of duties.~~

(6) A minor may be taken into custody by any police officer without order of the judge when there are reasonable grounds to believe that the minor has violated subsection (1)~~[(a)]~~. The minor shall be released, referred, or transported pursuant to section 571-31(b). The minor shall be subject to the jurisdiction of the family court pursuant to section 571-11(1), including for the purposes of custody, detention, diversion, and access to services and resources.”

SECTION 5. Section 712-1201, Hawaii Revised Statutes, is amended to read as follows:

“§712-1201 Advancing prostitution; profiting from prostitution; definition of terms. In sections 712-1202 and 712-1203:

- (1) A person “advances prostitution” if~~[- acting other than as a prostitute or a patron of a prostitute,]~~ the person knowingly causes or aids a person to commit or engage in prostitution, procures or solicits patrons for prostitution, provides persons for prostitution purposes, permits premises to be regularly used for prostitution purposes, operates or assists in the operation of a house of prostitution or a

prostitution enterprise, or engages in any other conduct designed to institute, aid, or facilitate an act or enterprise of prostitution[-];

- (2) A person “profits from prostitution” if ~~[-, acting other than as a prostitute receiving compensation for personally rendered prostitution services,]~~ the person accepts or receives money, anything of value, or other property pursuant to an agreement or understanding with any person whereby the person participates or is to participate in the proceeds of prostitution activity[-]; and
- (3) The definitions in subsections (1) and (2) shall not include those engaged in conduct outlined in section 712-1200 as the prostituted person or section 712- as the person engaged in commercial sexual exploitation.”

SECTION 6. Section 712-1202, Hawaii Revised Statutes, is amended to read as follows:

“§712-1202 Sex trafficking. (1) A person commits the offense of sex trafficking if the person knowingly:

- (a) Advances prostitution by compelling or inducing a person by force, threat, fraud, ~~coercion,~~ or intimidation to engage in prostitution, or profits from such conduct by another; or
- (b) Advances prostitution or profits from prostitution of a minor[-; provided that with respect to the victim’s age, the prosecution shall be required to prove only that the person committing the offense acted negligently].
- (2) Sex trafficking is a class A felony.
- (3) As used in this section:

“Fraud” means making material false statements, misstatements, or omissions.

“Minor” means a person who is less than eighteen years of age.

“Threat” means any of the actions listed in section 707-764(1).

(4) The state of mind requirement for the offense under subsection (1)(b) is not applicable to the fact that the victim was a minor. A person is strictly liable with respect to the attendant circumstances that the victim was a minor.”

SECTION 7. Section 712-1207, Hawaii Revised Statutes, is amended as follows:

1. By amending its title and subsections (1) and (2) to read:

“§712-1207 ~~Street [solicitation of] prostitution[;] and commercial sexual exploitation; designated areas.~~ (1) It shall be unlawful for any person within the boundaries of Waikiki and while on any public property to:

- (a) Offer or agree to engage in sexual conduct with another person in return for a fee[;] or anything of value; or
- (b) ~~[Pay, agree to pay, or offer to pay]~~ Provide, agree to provide, or offer to provide a fee or anything of value to another person to engage in sexual conduct.

(2) It shall be unlawful for any person within the boundaries of other areas in this State designated by county ordinance pursuant to subsection (3), and while on any public property to:

- (a) Offer or agree to engage in sexual conduct with another person in return for a fee[;] or anything of value; or
- (b) ~~[Pay, agree to pay, or offer to pay]~~ Provide, agree to provide, or offer to provide a fee or anything of value to another person to engage in sexual conduct.”

2. By amending subsection (9) to read:

“(9) This section shall apply to all counties; provided that if a county enacts an ordinance to regulate street ~~[solicitation for]~~ prostitution~~[-]~~ and commercial sexual exploitation, other than an ordinance designating an area as a zone of significant prostitution-related activity, the county ordinance shall supersede this section and no person shall be convicted under this section in that county.”

SECTION 8. Section 712-1209, Hawaii Revised Statutes, is amended by amending its title and subsections (1) and (2) to read as follows:

“~~[[§712-1209] Solicitation of prostitution]~~ Commercial sexual exploitation near schools or public parks. (1) A person commits the offense of ~~[solicitation of prostitution]~~ commercial sexual exploitation near schools or public parks if, within seven hundred fifty feet of a school or public park, the person ~~[offers or agrees to pay]~~ provides, agrees to provide, or offers to provide a fee or anything of value to another person to engage in sexual conduct.

(2) ~~[Solicitation of prostitution]~~ Commercial sexual exploitation near schools or public parks is a misdemeanor.”

SECTION 9. Section 712-1209.1, Hawaii Revised Statutes, is amended to read as follows:

“~~§712-1209.1 [Solicitation] Commercial sexual exploitation of a minor [for prostitution]~~. (1) A person eighteen years of age or older commits the offense of ~~[solicitation]~~ commercial sexual exploitation of a minor ~~[for prostitution]~~ if the person intentionally, knowingly, or recklessly ~~[offers]~~:

- (a) Offers or agrees to [pay a fee to a minor or] provide anything of value to a member of a police department, a sheriff, or a law enforcement officer who represents that person’s self as a minor to engage in sexual conduct[-];
- (b) Provides anything of value to a minor or third person as compensation for having engaged in sexual conduct with a minor;
- (c) Agrees to provide or offers to provide anything of value to a minor or third person for the purpose of engaging in sexual conduct with a minor; or
- (d) Solicits, offers to engage in, or requests to engage in sexual conduct with a minor in return for anything of value.

(2) ~~[Solicitation]~~ Commercial sexual exploitation of a minor ~~[for prostitution]~~ is a class ~~[C]~~ B felony.

(3) ~~[A]~~ In addition to any other authorized disposition, a person convicted of committing the offense of ~~[solicitation]~~ commercial sexual exploitation of a minor ~~[for prostitution]~~ shall be ~~[imposed]~~ sentenced to pay a fine of [not] no less than \$5,000[-; provided that \$5,000 of the imposed fine shall be credited to the general fund].

(4) This section shall not apply to any member of a police department, a sheriff, or a law enforcement officer ~~[who offers or agrees to pay a fee to a minor while]~~ acting in the course and scope of duties~~[-]~~; provided that the member of a police department, sheriff, or law enforcement officer is engaging in undercover operations; provided further that under no circumstances shall sexual contact initiated by a member of a police department, sheriff, or law enforcement officer; sexual penetration; or sadomasochistic abuse be considered to fall within the course and scope of duties.

(5) The state of mind requirement for ~~[this]~~ the offense under subsection (1)(b) is not applicable to the fact that the ~~[person solicited]~~ victim was a minor. A person is strictly liable with respect to the attendant circumstance that

the ~~[person solicited]~~ victim was a minor~~[-];~~ provided that the person had a reasonable opportunity to observe the victim.

(6) Consent of a minor to the sexual conduct does not constitute a defense to any offense in this section.

~~[(6)]~~ (7) For purposes of this section:

“Minor” means a person who is less than eighteen years of age.

“Sexual conduct” has the same meaning as in section 712-1200(2).”

SECTION 10. Section 712-1209.5, Hawaii Revised Statutes, is amended to read as follows:

~~“[§712-1209.5] Habitual [solicitation of prostitution] commercial sexual exploitation.~~ (1) A person commits the offense of habitual ~~[solicitation of prostitution] commercial sexual exploitation~~ if the person is a habitual ~~[prostitution] commercial sexual exploitation~~ offender and ~~[pays, agrees to pay, or offers to pay] provides, agrees to provide, or offers to provide a fee or anything of value to another person to engage in sexual conduct.~~

(2) For the purposes of this section, a person has the status of a “habitual ~~[prostitution] commercial sexual exploitation~~ offender” if the person, at the time of the conduct for which the person is charged, had two or more convictions within ten years of the instant offense for:

- (a) ~~[Prostitution,] Commercial sexual exploitation,~~ in violation of section ~~[712-1200(1)(b);] 712-~~ ;
- (b) Street ~~[solicitation of] prostitution[-] and commercial sexual exploitation,~~ in violation of section ~~712-1207(1)(b);] or (2)(b);~~
- (c) Habitual ~~[solicitation of prostitution,] commercial sexual exploitation,~~ in violation of this section;
- (d) An offense of this jurisdiction or any other jurisdiction that is comparable to one of the offenses in paragraph (a), (b), or (c); or
- (e) Any combination of the offenses in paragraph (a), (b), (c), or (d).

A conviction for purposes of this section is a judgment on the verdict or a finding of guilt, or a plea of guilty or nolo contendere. The convictions ~~[must] shall~~ have occurred on separate dates and be for separate incidents on separate dates. At the time of the instant offense, the conviction ~~[must] shall~~ not have been expunged by pardon, reversed, or set aside.

(3) Habitual ~~[solicitation of prostitution] commercial sexual exploitation~~ is a class C felony.”

SECTION 11. Section 712-1209.6, Hawaii Revised Statutes, is amended to read as follows:

~~“§712-1209.6 Prostitution; motion to vacate conviction.~~ (1) A person convicted of committing the offense of prostitution under section 712-1200~~[(4)(a)],~~ loitering for the purpose of engaging in or advancing prostitution under section 712-1206(2), street ~~[solicitation of] prostitution and commercial sexual exploitation~~ in designated areas under section 712-1207(1)(a) or ~~[712-1207](2)(a),~~ or convicted of a lesser offense when originally charged with a violation of section 712-1200~~[(4)(a)],~~ 712-1206(2), or 712-1207(1)(a) or ~~[712-1207](2)(a),~~ may file a motion to vacate the conviction if the defendant is not subsequently convicted of any offense under the Hawaii Penal Code within three years after the date of the original conviction.

(2) The court shall hold a hearing on a motion filed under this section to review the defendant’s record over the three years after the date of the original conviction under section 712-1200~~[(4)(a)],~~ 712-1206(2), or 712-1207(1)(a) or (2)(a) or conviction of a lesser offense when originally charged with a violation

of any of those sections, and if the court finds that the defendant has not been convicted of any offense under the ~~[penal code]~~ Hawaii Penal Code within this three year period, the court shall vacate the conviction.”

SECTION 12. Section 712A-4, Hawaii Revised Statutes, is amended to read as follows:

“**§712A-4 Covered offenses.** Offenses for which property is subject to forfeiture under this chapter are:

- (a) All offenses that specifically authorize forfeiture;
- (b) Murder~~;~~; kidnapping~~;~~; labor trafficking~~;~~; unlicensed sale of liquor~~;~~; unlicensed manufacture of liquor~~;~~; gambling~~;~~; criminal property damage~~;~~; robbery~~;~~; bribery~~;~~; extortion~~;~~; theft~~;~~; unauthorized entry into motor vehicle~~;~~; burglary~~;~~; money laundering~~;~~; trademark counterfeiting~~;~~; insurance fraud~~;~~; promoting a dangerous, harmful, or detrimental drug~~;~~; commercial promotion of marijuana~~;~~; methamphetamine trafficking~~;~~; manufacturing of a controlled substance with a child present~~;~~; promoting child abuse~~;~~; promoting prostitution~~;~~; sex trafficking~~;~~~~solicitation~~; commercial sexual exploitation of a minor ~~[for prostitution];~~ habitual ~~[solicitation of prostitution];~~ commercial sexual exploitation; or electronic enticement of a child that is chargeable as a felony offense under state law;
- (c) The manufacture, sale, or distribution of a controlled substance in violation of chapter 329, promoting detrimental drugs or intoxicating compounds, promoting pornography, promoting pornography for minors, or ~~[solicitation of prostitution]~~ commercial sexual exploitation near schools or public parks, which is chargeable as a felony or misdemeanor offense, but not as a petty misdemeanor, under state law; and
- (d) The attempt, conspiracy, solicitation, coercion, or intimidation of another to commit any offense for which property is subject to forfeiture.”

SECTION 13. Section 806-83, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Criminal charges may be instituted by written information for a felony when the charge is a class C felony, except under:

- (1) Section 159-28 (bribery related to the Hawaii Meat Inspection Act);
- (2) Section 161-28 (bribery related to the Hawaii Poultry Inspection Act);
- (3) Section 707-712.5 (assault against a law enforcement officer in the first degree);
- (4) Section 707-716 (terroristic threatening in the first degree);
- (5) Section 707-732 (sexual assault in the third degree);
- (6) Section 707-741 (incest);
- (7) Section 707-752 (promoting child abuse in the third degree);
- (8) Section 708-880 (commercial bribery);
- (9) Section 709-904.5 (compensation by an adult of juveniles for crimes);
- (10) Section 710-1026.9 (resisting an order to stop a motor vehicle in the first degree);
- (11) Section 710-1070 (bribery of or by a witness);

- (12) Section 710-1071 (intimidating a witness);
- (13) Section 710-1072.2 (retaliating against a witness);
- (14) Section 710-1073 (bribery of or by a juror);
- (15) Section 710-1075 (jury tampering);
- (16) Section 710-1075.5 (retaliating against a juror);
- (17) Section 711-1106.4 (aggravated harassment by stalking);
- (18) Section 711-1110.9 (violation of privacy in the first degree);
- (19) Section 712-1208 (promoting travel for prostitution);
- ~~[(20)]~~ ~~Section 712-1209.1 (solicitation of a minor for prostitution);~~
- ~~[(21)]~~ ~~[(20)]~~ Section 712-1209.5 (habitual [~~solicitation of prostitution~~]; commercial sexual exploitation);
- ~~[(22)]~~ ~~[(21)]~~ Section 712-1215 (promoting pornography for minors);
- ~~[(23)]~~ ~~[(22)]~~ Section 712-1218 (failure to maintain age verification records of sexual performers);
- ~~[(24)]~~ ~~[(23)]~~ Section 712-1218.5 (failure to maintain age verification records of sexually exploited individuals); and
- ~~[(25)]~~ ~~[(24)]~~ Section 712-1219 (failure to affix information disclosing location of age verification records of sexual performers).”

SECTION 14. Section 846E-1, Hawaii Revised Statutes, is amended by amending the definition of “sexual offense” to read as follows:

““Sexual offense” means an offense that is:

- (1) Set forth in section 707-730(1), 707-731(1), 707-732(1), 707-733(1)(a), 707-733.6, 712- (4), 712-1202(1), or 712-1203(1), but excludes conduct that is criminal only because of the age of the victim, as provided in section 707-730(1)(b), or section 707-732(1)(b) if the perpetrator is under the age of eighteen;
- (2) An act defined in section 707-720 if the charging document for the offense for which there has been a conviction alleged intent to subject the victim to a sexual offense;
- (3) An act that consists of:
 - (A) Criminal sexual conduct toward a minor, including but not limited to an offense set forth in section 707-759;
 - (B) Solicitation of a minor who is less than fourteen years old to engage in sexual conduct;
 - (C) Use of a minor in a sexual performance;
 - (D) Production, distribution, or possession of child pornography chargeable as a felony under section 707-750, 707-751, or 707-752;
 - (E) Electronic enticement of a child chargeable under section 707-756 or 707-757 if the offense was committed with the intent to promote or facilitate the commission of another covered offense as defined in this section; or
 - (F) [~~Solicitation~~] Commercial sexual exploitation of a minor [~~for prostitution~~]; in violation of section 712-1209.1;
- (4) A violation of privacy under section 711-1110.9;
- (5) An act, as described in chapter 705, that is an attempt, criminal solicitation, or criminal conspiracy to commit one of the offenses designated in paragraphs (1) through (4);
- (6) A criminal offense that is comparable to or that exceeds a sexual offense as defined in paragraphs (1) through (5); or
- (7) Any federal, military, out-of-state, tribal, or foreign conviction for any offense that under the laws of this State would be a sexual offense as defined in paragraphs (1) through (6).”

SECTION 15. Section 853-4, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

- “(a) 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;
 provided that the prohibition in this paragraph shall not apply to offenses described in section 709-906(18);
 - (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 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 or no contest plea 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 or no contest plea 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 or by a witness;
 - (I) Intimidating a witness;
 - (J) Bribery of or by a juror;
 - (K) Intimidating a juror;
 - (L) Jury tampering;
 - (M) Promoting prostitution;

- (N) Abuse of family or household member except as provided in paragraph (2) and section 709-906(18);
 - (O) Sexual assault in the second degree;
 - (P) Sexual assault in the third degree;
 - (Q) A violation of an order issued pursuant to chapter 586;
 - (R) Promoting child abuse in the second degree;
 - (S) Promoting child abuse in the third degree;
 - (T) Electronic enticement of a child in the first degree;
 - (U) Electronic enticement of a child in the second degree;
 - (V) ~~[Prostitution]~~ Commercial sexual exploitation pursuant to section ~~[712-1200(4)(b)]~~¹ 712- ;
 - (W) Street ~~[solicitation of]~~ prostitution and commercial sexual exploitation under section 712-1207(1)(b)~~;~~² or (2)(b);
 - (X) ~~[Solicitation of prostitution]~~ Commercial sexual exploitation near schools or public parks under section 712-1209;
 - (Y) Commercial sexual exploitation of a minor under section 712-1209.1; or
 - ~~[(Y)]~~ (Z) ~~Habitual [solicitation of prostitution]~~ commercial sexual exploitation under section 712-1209.5; ~~or~~
 - ~~(Z) Solicitation of a minor for prostitution under section 712-1209.1;~~
- (14) The defendant has been charged with:
- (A) Knowingly or intentionally falsifying any report required under ~~[chapter 11,]~~ part XIII of chapter 11, with the intent to circumvent the law or deceive the campaign spending commission; or
 - (B) Violating section 11-352 or 11-353; 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.”

SECTION 16. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before the effective date of this Act.

SECTION 17. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.²

SECTION 18. This Act shall take effect upon its approval.

(Approved June 24, 2021.)

Notes

1. Prior to amendment “;” appeared here.

2. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to Divorce.

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

SECTION 1. Section 580-1, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Exclusive original jurisdiction in matters of annulment~~[-, divorce,]~~ and separation, subject to section 603-37 as to change of venue, and subject also to appeal according to law, is conferred upon the family court of the circuit in which the applicant has been domiciled or has been physically present for a continuous period of at least three months next preceding the application therefor, except as provided in subsection (b). ~~[No absolute divorce from the bond of matrimony shall be granted for any cause unless either party to the marriage has been domiciled or has been physically present in the State for a continuous period of at least six months next preceding the application therefor.]~~

Exclusive original jurisdiction in matters of divorce, subject to section 603-37 as to change of venue, and also subject to appeal according to law, is conferred upon the family court of the circuit in which the applicant is domiciled at the time the application is filed, except as provided in subsection (b).

A person who may be residing on any military or federal base, installation, or reservation within the State or who may be present in the State under military orders shall not thereby be prohibited from meeting the requirements of this section.

The family court of each circuit shall have jurisdiction over all proceedings relating to the annulment, divorce, and separation of civil unions entered into in this State or unions recognized as civil unions in this State in the same manner as marriages.”

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, 2022.

(Approved June 24, 2021.)

A Bill for an Act Relating to Qualified Domestic Relations Orders.

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

SECTION 1. Section 88-93.5, Hawaii Revised Statutes, is amended to read as follows:

“~~[[[§88-93.5]]]~~ **Distribution of property in a divorce action.** (a) As used in this section:

“Alternate payee” means a spouse or former spouse of a member, a former member who has vested benefit status, or retirant who is recognized by a domestic relations order as having a right to receive all or a portion of the benefits payable by the system with respect to that member, former member with vested benefit status, or retirant.

“Benefits payable with respect to a member, a former member with vested benefit status, or retirant” means any payment required to be made to a member, a former member with vested benefit status, or retirant.

“Domestic relations order” means a judgment, decree, or order, including approval of a property settlement agreement, that:

- (1) Relates to the provision of marital property rights to a spouse or former spouse of a member, a former member with vested benefit status, or retirant; and
- (2) Is made pursuant to a domestic relations law of this State or another state.

“Hawaii domestic relations order” means a domestic relations order that:

- (1) Creates or recognizes the right of an alternate payee, or assigns to an alternate payee, the right to receive all or a portion of the benefits payable with respect to a member, a former member with vested benefit status, or retirant under the system;
 - (2) Directs the system to disburse benefits to the alternate payee; and
 - (3) Meets the requirements of this section.
- (b) A Hawaii domestic relations order shall clearly specify:
- (1) The name and last known mailing address, if any, of the member, former member with vested benefit status, or retirant;
 - (2) The name and mailing address of the alternate payee covered by the order;
 - (3) The amount or percentage of the member’s, former member’s with vested benefit status, or retirant’s benefits to be paid by the system to the alternate payee, or the manner in which the amount or percentage is to be determined; and
 - (4) That the order applies to the system.
- (c) If, pursuant to a Hawaii domestic relations order, an alternate payee is receiving all or a portion of a retirant’s pension, annuity, or retirement allowance, the alternate payee shall be entitled to receive a post retirement allowance as provided by section 88-90.
- (d) A Hawaii domestic relations order shall not:
- (1) Purport to require the designation by the member, former member with vested benefit status, or retirant of a particular person as the recipient of benefits upon the death of the member, former member with vested benefit status, or retirant;
 - (2) Purport to require the selection of a particular benefit payment plan or option or to limit the benefit payment plans or options from which the member or former member with vested benefit status may select;
 - (3) Require any action on the part of the system contrary to its governing laws or plan provisions other than the direct payment of the benefit awarded to an alternate payee;
 - (4) Make the award to the alternate payee an interest that is contingent on any condition other than those conditions resulting in the liability of the system for payment under its plan provisions;
 - (5) Purport to give to someone other than a member, former member with vested benefit status, or retirant the right to designate a beneficiary or to choose any retirement plan or option available from the system;
 - (6) Attach a lien to any part of amounts payable with respect to a member, former member with vested benefit status, or retirant;
 - (7) Award an alternate payee a portion of the benefits payable with respect to a member, former member with vested benefit status, or

retirant under the system and purport to require the system to make a lump sum payment of the awarded portion of the benefits to the alternate payee that are not payable in a lump sum;

- (8) Purport to require the system, without action by the member, to terminate a member from membership or employment, to refund contributions, or to retire a member or former member with vested benefit status;
- (9) Provide any type or form of benefit, or any option, not otherwise provided by the system;
- (10) Provide increased benefits, determined on the basis of actuarial value; or
- (11) Require the system to provide benefits or refunds to an alternate payee that are required to be paid to another alternate payee pursuant to an earlier Hawaii domestic relations order.

(e) Upon receipt of a copy of the complaint for divorce, certified by the clerk of the court in which the complaint was filed, or a copy of the divorce decree certified by the clerk of the court in which the divorce decree was filed, and a written request that identifies the member, former member with vested benefit status, or retirant by name and social security number and states the date of the marriage, the system shall provide the spouse or former spouse of a member, former member with vested benefit status, or retirant with the same information that would be provided to the member, former member with vested benefit status, or retirant on the member's, former member's with vested benefit status, or retirant's benefits that is relevant to the spouse's or former spouse's interest in the member's, former member's with vested benefit status, or retirant's benefits.

(f) A person who wishes to have the system review a domestic relations order or a proposed domestic relations order to establish whether the order or proposed order meets the requirements for a Hawaii domestic relations order shall submit to the system a written request for review and a copy of the order or proposed order. If the order has been entered by a court, the copy of the order shall be certified by the clerk of the court that entered the order. The order or proposed order shall be reviewed as provided by this section.

The filing fee in effect at the time that an order or proposed order is submitted shall be paid before the order or proposed order is processed or reviewed. In addition, the system shall charge for legal and actuarial services as provided by subsection (s).

Before any legal or actuarial services are performed, the system shall notify the person who requested the review of the order or proposed order that the services will be needed as part of the review. The notification shall include an estimate of the extent of the services and the estimated costs relating to those services. The charges for legal and actuarial services shall be paid before the system may issue notification of determination on an order or notification whether or not a proposed order meets the requirements for a Hawaii domestic relations order.

If a domestic relations order is submitted for review after it has been entered by the court and is thereafter amended with the intention that it shall be a Hawaii domestic relations order, the member, former member with vested benefit status, retirant, or the alternate payee shall submit a certified copy of the amended order to the system. The system shall review any amended order that it receives according to the same rules applicable to all other orders.

(g) The system shall review an order or proposed order for compliance with the requirements imposed by this section. Upon completion of the review:

- (1) The system shall not issue a determination that a proposed order is or is not a Hawaii domestic relations order but shall notify the

person who submitted the proposed order, in writing, [~~and may also notify the member, former member with vested benefit status, or alternate payee~~] whether the proposed order meets the requirements for a Hawaii domestic relations order, identifying any provisions of this section that the proposed order does not meet[;]. The notification may also be provided to the member, former member with vested benefit status, retirant, or alternate payee. The system's notification is advisory, and shall not constitute a determination that a proposed domestic relations order is or is not a Hawaii domestic relations order; and

- (2) If the order has been entered by the court, the system shall notify the member, former member with vested benefit status, or retirant and the alternate payee in writing of the determination that the do-
mestic relations order is or is not a Hawaii domestic relations order, identifying any provisions of this section that the order does not meet.

(h) During any period not exceeding eighteen months, beginning on the date on which the first payment would be required to be made to the alternate payee under the domestic relations order, in which a domestic relations order is under review to determine whether it is a Hawaii domestic relations order, or in which a determination that an order is not qualified is on appeal to the board or to a court, the system shall limit the member's, former member's with vested benefit status, or retirant's rights in the member's, former member's with vested benefit status, or retirant's benefits to the extent the system deems appropriate to protect the largest amount that would be payable to the proposed alternate payee under the system's interpretation of the domestic relations order. Any amounts not paid to the member, former member with vested benefit status, or retirant during this eighteen-month period shall be separately accounted for. If the domestic relations order is determined to be a Hawaii domestic relations order before the end of the eighteen-month period, the system shall pay benefits to the member, former member with vested benefit status, or retirant and the alternate payee in accordance with the Hawaii domestic relations order and the terms of the plan, including any benefits separately accounted for during the period between the date on which the first payment was to be made under the Hawaii domestic relations order and the date the determination is made. If the domestic relations order is finally determined not to be a Hawaii domestic relations order, or if the eighteen-month period expires without a determination that the domestic relations order is a Hawaii domestic relations order, none of the amounts separately accounted for shall be paid to the alternate payee, and the member, former member with vested benefit status, or retirant shall be entitled to the member's, former member's with vested benefit status, or retirant's full benefits in accordance with the terms of this chapter, including any benefits that had been separately accounted for and withheld from the member, former member with vested benefit status, or retirant. If the domestic relations order is determined to be a Hawaii domestic relations order after the end of the eighteen-month period, or if the system later receives another domestic relations order that is determined to be a Hawaii domestic relations order, the Hawaii domestic relations order shall apply prospectively only and shall not affect benefits already paid to the member, former member with vested benefit status, or retirant.

(i) Subject to the limitations of applicable statutes and this section, if a domestic relations order is determined to be a Hawaii domestic relations order, the system shall pay benefits in accordance with the order at the time benefits become payable to, or in the case of contributions or hypothetical account balances, are withdrawn by, the member, former member with vested benefit sta-

tus, or retirant. Any determination that an order is a Hawaii domestic relations order is voidable or subject to modification if the system determines that the provisions of the order have been changed or that circumstances relevant to the determination have changed.

(j) If a member or former member with vested benefit status terminates membership in the system by withdrawal of contributions or hypothetical account balance, the system shall pay all or a portion of the amount withdrawn to any alternate payee as directed by a Hawaii domestic relations order. Payment to any alternate payee pursuant to this subsection shall be in a lump sum. If after terminating membership in the system by withdrawal of contributions or hypothetical account balance, the former member later resumes membership in the system, the system shall pay to an alternate payee no portion of any benefits [~~payable to the member or retirant~~] that result from the resumption of membership, even if those benefits result in part from reinstatement of service credit initially credited during the marriage.

(k) In order to receive credit for all service represented by withdrawn or refunded contributions, a member, in reinstating service credit by repaying amounts previously withdrawn or refunded, shall repay the entire amount withdrawn or refunded, regardless of whether a portion or all of the amount was paid to an alternate payee.

(l) When the system has not yet begun to make payment to an alternate payee under this section and is provided with proof of the death of the alternate payee, benefits payable with respect to the member, former member with vested benefit status, or retirant shall be paid without regard to the Hawaii domestic relations order.

(m) When the system receives a certified copy of a domestic relations order prior to a member's retirement, and if the domestic relations order is determined to be a Hawaii domestic relations order, the system, except as provided in subsection (j), shall pay the alternate payee a portion of the retirement benefit the member or former member with vested benefit status is expected to receive as follows:

- (1) If the alternate payee will be named beneficiary under any option elected by the retirant at retirement, the benefit to which the retirant is entitled, without regard to the Hawaii domestic relations order, shall be apportioned between the retirant and the alternate payee according to the terms of the Hawaii domestic relations order. Upon the death of the retirant or the alternate payee, the benefit amount to be paid to the survivor shall be the amount required under the option elected by the retirant at retirement, as though no Hawaii domestic relations order had existed; or
- (2) If the alternate payee will not be a named beneficiary under the option elected by the retirant at retirement, the benefit to which the retirant is entitled without regard to the Hawaii domestic relations order, shall be apportioned between the retirant and the alternate payee according to the terms of the Hawaii domestic relations order. If the retirant predeceases the alternate payee, payments to the alternate payee shall cease and payments to the retirant's named beneficiary or beneficiaries shall be made as required under the option elected by the retirant at retirement, as though no Hawaii domestic relations order had existed. If the alternate payee predeceases the retirant, the benefit then being paid to the retirant shall be increased by the amount of the benefit that was being paid to the alternate payee at time of death.

Payment of the alternate payee's interest under this subsection shall be effective as of the same date that benefit payments are effective for the member.

(n) When the system receives a certified copy of a domestic relations order subsequent to the member's or former member's with vested benefit status retirement, and if the domestic relations order is determined to be a Hawaii domestic relations order, the interest awarded to the alternate payee by the Hawaii domestic relations order shall be paid as a portion of the retirement benefit the retirant is receiving as follows:

- (1) If the alternate payee is already a named beneficiary under any option elected by the retirant at retirement, the benefit to which the retirant is entitled, without regard to the Hawaii domestic relations order, shall be apportioned between the retirant and the alternate payee according to the terms of the Hawaii domestic relations order. Upon the death of the retirant or the alternate payee, the benefit amount to be paid to the survivor shall be the amount required under the option elected by the retirant at retirement, as though no Hawaii domestic relations order had existed; or
- (2) If the alternate payee is not a named beneficiary under the option elected by the retirant at retirement, the benefit to which the retirant is entitled without regard to the Hawaii domestic relations order, shall be apportioned between the retirant and the alternate payee according to the terms of the Hawaii domestic relations order. If the retirant predeceases the alternate payee, payments to the alternate payee shall cease and payments to the retirant's named beneficiary or beneficiaries shall be made as required under the option elected by the retirant at retirement, as though no Hawaii domestic relations order had existed. If the alternate payee predeceases the retirant, the benefit then being paid to the retirant shall be increased by the amount of the benefit that was being paid to the alternate payee at time of death.

Payment according to the terms of the Hawaii domestic relations order under this subsection shall commence as of the first day of the month following the date upon which the order is determined to be qualified, unless the parties jointly direct that payment shall commence at a later date.

(o) If a retirant returns to employment requiring active membership in the system:

- (1) Payments to an alternate payee pursuant to a Hawaii domestic relations order shall not be suspended; and
- (2) The system shall pay to an alternate payee no portion of any benefits payable to the retirant that result from the resumption of membership.

(p) For the purpose of calculating earnings limitations for retirants who have been restored to service, the retirant's maximum retirement allowance shall be considered to be the amount that would have been paid if there had not been any Hawaii domestic relations order applicable to the retirant.

(q) A court does not have jurisdiction over the system with respect to a divorce or other domestic relations action in which an alternate payee's right to receive all or a portion of the benefits payable to a member, former member with vested benefit status, or retirant is created or established. A determination by the system that a domestic relations order is not a Hawaii domestic relations order shall be subject to review as provided in chapter 91 and the system's rules relating to contested cases. The system shall not be made party to any other judicial proceedings except as provided in this subsection. A party to any action who attempts to make the system a party to the action contrary to this subsection shall

be liable to the system for the system's costs and attorney's fees in the action, including attorneys' fee and costs for obtaining a dismissal.

(r) If a member, former member with vested benefit status, or retirant, or the beneficiary or estate of any, receives the amount of any distribution that should have been paid by the system to the spouse or former spouse of the member, former member with vested benefit status, or retirant, the recipient shall be designated a constructive trustee for the amount received and shall immediately transmit that amount to the person to whom the amount should have been paid. If a spouse or former spouse of a member, former member with vested benefit status, or retirant, or the estate, heirs, or legatees of the spouse or former spouse receive any amount of a distribution that should have been paid to a member, former member with vested benefit status, or retirant, or the estate, heirs, or legatees of any, the recipient shall be designated a constructive trustee for the amount received and shall immediately transmit that amount to the member, former member with vested benefit status, or retirant or other person to whom the amount should have been paid. If a member, former member with vested benefit status, retirant, or the beneficiary, estate, heirs, or legatees of any, receives any amount that should not have been paid by the system, the recipient shall be designated a constructive trustee for the amount received and shall immediately transmit that amount to the system. If an alternate payee or the estate, heirs, or legatee of the alternate payee, receives any amount that should not have been paid by the system, the recipient shall be designated a constructive trustee for the amount received and shall immediately transmit that amount to the system.

(s) The board shall adopt rules in accordance with chapter 91, and adopt forms as it deems necessary to effectuate this section. The board, by motion at a duly noticed meeting of the board, may establish and revise from time to time:

- (1) A filing fee for processing and review of domestic relations orders and proposed domestic relations orders for the purposes of this section;
- (2) A schedule of charges for legal and actuarial services incurred by the system in the review and processing of domestic relations orders and proposed Hawaii domestic relations orders for the purposes of this section; and
- (3) A required form or forms for Hawaii domestic relations orders.

(t) Payments made to alternate payees according to the terms of Hawaii domestic relations orders are payments received by the retirant for purposes of sections 88-83(f) and 88-333(c), and the benefit that the retirant received for purposes of section 88-283(g).

(u) The priority of Hawaii domestic relations orders shall be determined by the order in which the certified copies of domestic relations orders are received by the system for qualification as a Hawaii domestic relations order, and not by the order in which domestic relations orders are determined to be Hawaii domestic relations orders, the order in which the domestic relations orders are entered by the court, the date the complaint for divorce is filed, the date upon which an order of divorce is entered, or the date of marriage."

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 all domestic relations orders submitted on or after its effective date.

(Approved June 24, 2021.)

ACT 71

H.B. NO. 930

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

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

SECTION 1. The legislature finds that this Act is necessary to enable the employees' retirement system of the State of Hawaii (the "system") to efficiently maintain the confidentiality of information relating to alternative investments such as investments in private equity, private credit, and private real estate funds, consistent with competitive investment market best practices. This will help ensure that the system will not be disadvantaged as a competitive investor due to the public records disclosure requirements of chapter 92F, Hawaii Revised Statutes.

To address the system's unfunded liability and other financial needs, the system, as a prudent investor, engages in diversified investment, including high-yield private alternative investment funds. Due diligence into such investments requires the system to invest time and money to acquire and analyze detailed proprietary and confidential information regarding the projected performance of each fund. If the system is required to disclose such confidential information, the system is disadvantaged as a competitive investor. Competing investors would be able to acquire, at no cost, the system's investment intelligence, resulting in oversubscription of the system's best investments, reducing the system's access. Further, to the extent that the system has disclosed or may be required to disclose information that the investment funds require to be kept confidential, some high-performing funds have been deterred from allowing the system to invest with them. To manage these risks, the system currently expends significant efforts in responding to requests for such confidential information.

To serve the public interest in monitoring the system's investment performance, the system already publishes non-confidential aggregate performance data for the entire system investment portfolio in its "Hawaii ERS Quarterly Performance Report", which includes: the name of asset or strategy; rate of return for the month, three months, fiscal year-to-date, calendar year-to-date, one year, three years, five years, and inception to date; and inception date. The system further publishes in its monthly statement of investments, private equity fund data on: the name of fund; commitments; contributions; market value; strategy; and vintage year or year started.

This Act identifies certain types of alternative investment fund information, the disclosure of which would likely put the system at a competitive disadvantage, and categorically exempts those categories of information from disclosure under chapter 92F, Hawaii Revised Statutes, consistent with market best practices.

SECTION 2. Section 88-103.5, Hawaii Revised Statutes, is amended to read as follows:

§88-103.5 Disclosure of information. (a) The employees' retirement system shall:

- (1) Disclose to the Hawaii employer-union health benefits trust fund and employee organizations information related to the administration of pension, annuity, or retirement allowance deductions, as follows: name, social security number, and amounts and dates of both voluntary and mandatory deductions remitted to the recipient; and

(2) Release the records of its retirants and beneficiaries to the Hawaii employer-union health benefits trust fund for the disbursement of payments authorized under section 87A-23.

(b) Any government agency or employee organization receiving government records pursuant to this section shall be subject to the same restrictions on disclosure of the records as the originating agency.

(c) The following documents relating to the system's alternative investments shall be exempt from disclosure under chapter 92F:

(1) Private placement memoranda;

(2) Fund agreements and related documents, including subscription agreements, management agreements, side letters, guarantees, credit facility agreements, participation agreements, and trust documents;

(3) Confidential presentations or recommendations made to the system;

(4) Due diligence memoranda and other due diligence materials, including due diligence questionnaires;

(5) Documents containing information on any portfolio company, real property, or any other assets held by an alternative investment vehicle;

(6) Financial statements and other documents containing financial information of a fund or its general partner or manager, whether audited or unaudited, including but not limited to statements or information related to:

(A) Income statements;

(B) Balance sheets;

(C) Cash flows;

(D) Capital accounts;

(E) Investment rate-of-returns, including internal rate of returns and time-weighted rate of returns;

(F) Cash or in-kind distributions;

(G) Carried interests;

(H) Management and other fees; and

(I) Return multiples;

(7) Confidential correspondences between an alternative investment vehicle or its general partner, manager, advisor, or limited partner advisory committee, and the system;

(8) Capital call and distribution notices;

(9) Limited partner advisory committee and limited partner meeting notices, minutes, and materials, including without limitation any materials distributed at those meetings;

(10) Investment management agreements; and

(11) Placement agent disclosures and similar documents.

(d) The exemptions from disclosure under chapter 92F set forth in subsection (c) are in addition to any other records that may be exempt from disclosure pursuant to chapter 92F or any other law.

(e) As used in this section:

"Alternative investment" means an actual or proposed investment by the system in a private equity fund, venture fund, hedge fund, fund of funds, absolute return fund, real estate fund, infrastructure fund, private credit, or other similar private market investments.

"Alternative investment vehicle" means the limited partnership, limited liability company, collective investment trust, or other legal structure of the alternative investment.

"Investment management agreement" means a contract to manage assets of the system.

“Limited partner advisory committee” means any limited partner or other advisory committee of an alternative investment vehicle.”

SECTION 3. New statutory material is underscored.

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

(Approved June 24, 2021.)

ACT 72

H.B. NO. 941

A Bill for an Act Relating to the Use of Electronic Filing by the Public Utilities Commission.

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

SECTION 1. Section 269-5, Hawaii Revised Statutes, is amended to read as follows:

“§269-5 Annual report and register of orders. The public utilities commission shall prepare and present to the governor in the month of January in each year a report respecting its actions during the preceding fiscal year. This report shall include summary information and analytical, comparative, and trend data concerning major regulatory issues acted upon and pending before the commission; cases processed by the commission, including their dispositions; utility company operations, capital improvements, and rates; utility company performance in terms of efficiency and quality of services rendered; financing orders issued, adjustments made to the public benefits fee, and repayments or credits provided to electric utility customers pursuant to part X or chapter 196, part IV; a summary of power purchase agreements, including pricing, in effect during the fiscal year; environmental matters having a significant impact upon public utilities; actions of the federal government affecting the regulation of public utilities in Hawaii; long and short-range plans and objectives of the commission; together with the commission’s recommendations respecting legislation and other matters requiring executive and legislative consideration. [~~Copies~~] Electronic copies of the annual reports shall be furnished by the governor to the legislature. In addition, the commission shall establish and maintain a register of all its orders and decisions, which shall be open and readily available for public inspection, and no order or decision of the commission shall take effect until it is filed and recorded in this register.”

SECTION 2. Section 269-6.5, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) No later than July 1, 2011, the public utilities commission shall accept from any person who submits a document to the commission the original [~~and~~] or one electronic copy of each application, complaint, pleading, brief, or other document required to be filed with the commission pursuant to this chapter, and the consumer advocate shall accept service of one paper [~~copy and one~~] or electronic copy of each application, complaint, pleading, brief, or other document filed with the commission.

(b) The commission shall adopt rules pursuant to chapter 91 to effectuate the purposes of this section. Until the final adoption by the commission of rules governing the electronic filing of documents with the commission, the following requirements shall apply to all documents submitted to the commission pursuant to this section; provided that additional requirements with regard

to document format may be established by the commission through written guidelines:

- (1) Unless otherwise required by this chapter or the ~~[rules or]~~ guidelines of the commission, each person who submits or files an application, complaint, pleading, brief, or other document shall submit to or file with the commission an original ~~[and]~~ or one electronic copy of each document and shall serve one paper ~~[copy and one]~~ or electronic copy of each document on the consumer advocate;
- (2) All paper documents submitted to or filed with the commission shall be printed on one side of the page only and, if practicable, in portrait orientation;
- (3) Original paper documents submitted to or filed with the commission shall not be stapled but shall be clipped together or placed in a clearly marked three-ring binder, as appropriate;
- (4) All paper documents filed or submitted to the commission shall include appropriately labeled separator pages in addition to tabbed dividers, as applicable;
- (5) All confidential documents filed under confidential seal shall be clearly designated in accordance with the requirements of any applicable protective order, and the sealed envelope in which the confidential documents are enclosed shall clearly indicate the appropriate docket number and subject; and
- ~~[(6) Electronic documents shall be submitted on a clearly marked compact disk and shall be in portable document format saved in separate files corresponding to the original paper document submission; provided that electronic documents submitted under confidential seal shall be submitted on a separate compact disk, clearly marked as confidential and indicating the appropriate docket number and subject; and~~
- ~~(7)~~ (6) Electronic documents shall be named using the filing party's name, docket number, date of filing, and name of document as part of the document title.

Upon final adoption of rules pursuant to chapter 91, the rules of the commission governing submission or filing of electronic documents shall supersede the provisions of this subsection."

SECTION 3. Section 269-7.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) No public utility, as defined in section 269-1, shall commence its business without first having obtained from the commission a certificate of public convenience and necessity. Applications for certificates shall be made in writing, on paper or electronically, to the commission and shall comply with the requirements prescribed in the commission's rules. The application shall include the type of service to be performed, the geographical scope of the operation, the type of equipment to be employed in the service, the name of competing utilities for the proposed service, a statement of its financial ability to render the proposed service, a current financial statement of the applicant, and the rates or charges proposed to be charged including the rules governing the proposed service."

SECTION 4. Section 269-15, Hawaii Revised Statutes, is amended to read as follows:

"**§269-15 Commission may institute proceedings to enforce chapter.** (a) If the public utilities commission is of the opinion that any public utility or any

person is violating or neglecting to comply with any provision of this chapter or of any rule, ~~[regulation,]~~ order, or other requirement of the commission, or of any provisions of its franchise, charter, or articles of association, if any, or that changes, additions, extensions, or repairs are desirable in its plant or service to meet the reasonable convenience or necessity of the public, or to insure greater safety or security, or that any rates, fares, classifications, charges, or rules are unreasonable or unreasonably discriminatory, or that in any way it is doing what it ought not to do, or not doing what it ought to do, it shall in writing, on paper or electronically, inform the public utility or the person and may institute ~~[such]~~ proceedings before it, as may be necessary to require the public utility or the person to correct ~~[any such]~~ the deficiency. ~~[In such event, the]~~ The commission may, by order, direct the consumer advocate to appear in ~~[such]~~ the proceeding~~[-]~~ to carry out the purposes of this section. The commission may examine into any of the matters referred to in section 269-7, notwithstanding that the same may be within the jurisdiction of any court or other body; provided that this section shall not be construed as in any manner limiting or otherwise affecting the jurisdiction of ~~[any such]~~ the court or other body.

(b) In addition to any other remedy available, the commission or its enforcement officer may issue citations to any person acting in the capacity of or engaging in the business of a public utility within the State, without having a certificate of public convenience and necessity or other authority previously obtained under and in compliance with this chapter or the rules adopted thereunder.

- (1) The citation may contain an order of abatement and an assessment of civil penalties as provided in section 269-28(c). All penalties collected under this subsection shall be deposited in the treasury of the State. Service of a citation issued under this subsection shall be made by personal service whenever possible, or by certified mail, restricted delivery, sent to the last known business or residence address of the person cited.
- (2) Any person served with a citation under this subsection may submit a written request, on paper or electronically, to the commission for a hearing~~[-]~~ within twenty days from the receipt of the citation, with respect to the violations alleged, the scope of the order of abatement, and the amount of civil penalties assessed. If the person cited under this subsection timely notifies the commission of the request for a hearing, the commission shall afford an opportunity for a hearing under chapter 91. The hearing shall be conducted by the commission, or the commission may designate a hearings officer to hold the hearing.
- (3) If the person cited under this subsection does not submit a written request, on paper or electronically, to the commission for a hearing within twenty days from the receipt of the citation, the citation shall be deemed a final order of the commission. The commission may apply to the appropriate court for a judgment to enforce the provisions of any final order, issued by the commission or designated hearings officer pursuant to this subsection, including the provisions for abatement and civil penalties imposed. In any proceeding to enforce the provisions of the final order of the commission or designated hearings officer, the commission need only show that the notice was given, a hearing was held, or the time granted for requesting the hearing has run without such a request, and a certified copy of the final order of the commission or designated hearings officer.

- (4) If any party is aggrieved by the decision of the commission or the designated hearings officer, the party may appeal to the intermediate appellate court, subject to chapter 602, in the manner provided for civil appeals from the circuit court; provided that the operation of an abatement order shall not be stayed on appeal unless specifically ordered by a court of competent jurisdiction after applying the stay criteria enumerated in section 91-14(c). The sanctions and disposition authorized under this subsection shall be separate and in addition to all other remedies either civil or criminal provided in any other applicable statutory provision. The commission may adopt rules under chapter 91 as may be necessary to fully effectuate this subsection.”

SECTION 5. Section 269-16, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (d) to read:

“(d) The commission shall make every effort to complete its deliberations and issue its decision as expeditiously as possible and before nine months from the date the public utility filed its completed application; provided that in carrying out this mandate, the commission shall require all parties to a proceeding to comply strictly with procedural time schedules that it establishes. If a decision is rendered after the nine-month period, the commission shall report in writing, on paper or electronically, the reasons therefor to the legislature within thirty days after rendering the decision.

Notwithstanding subsection (c), if the commission has not issued its final decision on a public utility’s rate application within the nine-month period stated in this section, the commission, within one month after the expiration of the nine-month period, shall render an interim decision allowing the increase in rates, fares and charges, if any, to which the commission, based on the evidentiary record before it, believes the public utility is probably entitled. The commission may postpone its interim rate decision for thirty days if the commission considers the evidentiary hearings incomplete. In the event interim rates are made effective, the commission shall require by order the public utility to return, in the form of an adjustment to rates, fares, or charges to be billed in the future, any amounts with interest, at a rate equal to the rate of return on the public utility’s rate base found to be reasonable by the commission, received under the interim rates that are in excess of the rates, fares, or charges finally determined to be just and reasonable by the commission. Interest on any excess shall commence as of the date that any rate, fare, or charge goes into effect that results in the excess and shall continue to accrue on the balance of the excess until returned.

The nine-month period in this subsection shall begin only after a completed application has been filed with the commission and a paper or an electronic copy served on the consumer advocate. The commission shall establish standards concerning the data required to be set forth in the application in order for it to be deemed a completed application. The consumer advocate may, within twenty-one days after receipt, object to the sufficiency of any application, and the commission shall hear and determine any objection within twenty-one days after it is filed. If the commission finds that the objections are without merit, the application shall be deemed to have been completed upon original filing. If the commission finds the application to be incomplete, it shall require the applicant to submit an amended application consistent with its findings, and the nine-month period shall not commence until the amended application is filed.”

2. By amending subsection (f) to read:

“(f) Notwithstanding any law to the contrary, for public utilities having annual gross revenues of less than \$2,000,000, the commission may make and amend its rules and procedures to provide the commission with sufficient facts necessary to determine the reasonableness of the proposed rates without unduly burdening the utility company and its customers. In the determination of the reasonableness of the proposed rates, the commission shall:

- (1) Require the filing of a standard form application to be developed by the commission. The standard form application for general rate increases shall describe the specific facts that shall be submitted to support a determination of the reasonableness of the proposed rates, and require the submission of financial information in conformance with a standard chart of accounts to be approved by the commission, and other commission guidelines to allow expeditious review of a requested general rate increase application;
- (2) Hold a public hearing as prescribed in section 269-12(c), at which the consumers or patrons of the public utility may present testimony to the commission concerning the increase. The public hearing shall be preceded by proper notice, as prescribed in section 269-12; and
- (3) Make every effort to complete its deliberations and issue a proposed decision and order within six months from the date the public utility files a completed application with the commission; provided that all parties to the proceeding strictly comply with the procedural schedule established by the commission and no person is permitted to intervene. If a proposed decision and order is rendered after the six-month period, the commission shall report in writing, on paper or electronically, the reasons therefor to the legislature within thirty days after rendering the proposed decision and order. Prior to the issuance of the commission’s proposed decision and order, the parties shall not be entitled to a contested case hearing.

If all parties to the proceeding accept the proposed decision and order, the parties shall not be entitled to a contested case hearing, and section 269-15.5 shall not apply. If the commission permits a person to intervene, the six-month period shall not apply and the commission shall make every effort to complete its deliberations and issue its decision within the nine-month period from the date the public utility’s completed application was filed, pursuant to subsections (b), (c), and (d).

If a party does not accept the proposed decision and order, either in whole or in part, that party shall give notice of its objection or nonacceptance within the timeframe prescribed by the commission in the proposed decision and order, setting forth the basis for its objection or nonacceptance; provided that the proposed decision and order shall have no force or effect pending the commission’s final decision. If notice is filed, the above six-month period shall not apply and the commission shall make every effort to complete its deliberations and issue its decision within the nine-month period from the date the public utility’s completed application was filed as set forth in subsection (d). Any party that does not accept the proposed decision and order under this paragraph shall be entitled to a contested case hearing; provided that the parties to the proceeding may waive the contested case hearing.

Public utilities subject to this subsection shall follow the standard chart of accounts to be approved by the commission for financial reporting purposes.

The public utilities shall file a certified copy of the annual financial statements in addition to an updated chart of accounts used to maintain their financial records with the commission and consumer advocate within ninety days from the end of each calendar or fiscal year, as applicable, unless this timeframe is extended by the commission. The owner, officer, general partner, or authorized agent of the utility shall certify that the reports were prepared in accordance with the standard chart of accounts.”

SECTION 6. Section 269-19.5, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) No contract or agreement providing for the furnishing of management, supervisory, construction, engineering, accounting, legal, financial, or similar services, and no contract or agreement for the purchase, sale, lease, furnishing, or exchange of any real or personal property rights, including but not limited to real estate, improvements on land, equipment, leasehold interests, easements, rights-of-way, franchises, licenses, permits, trademarks, and copyrights, made or entered into after July 1, 1988, between a public utility and any affiliated interest shall be valid or effective unless and until the contract or agreement has been received by the commission. It shall be the duty of every public utility to file with the commission a verified paper or electronic copy of any contract or agreement with an affiliate having a face value of at least \$300,000, or a verified summary of any unwritten contract or agreement having a face value of at least \$300,000 within forty-five days of the effective date of the contract or agreement. Each and every contract or agreement between a public utility and an affiliate for capital expenditures, other than for real property or an interest therein, shall be accompanied with price quotations provided by at least two nonaffiliated suppliers, providers, or purveyors, or if [~~such~~] the price quotations cannot be obtained without substantial expense to the utility, [~~that~~] the public utility shall verify that fact by affidavit; provided that all contracts or agreements effective at the time of a general rate proceeding, which were discoverable and subject to review by the commission, shall be valid and not subject to subsequent regulatory review and action by the commission; provided further[~~-, however,~~] that notwithstanding any other provision to the contrary, there shall be no transfer of real property, or interest in real property, between a public utility and an affiliate[~~-~~] without prior approval of the commission, after hearing, wherein the public utility must show that the transfer is in the best interest of the public utility and all of its customers.

No affirmative action is required by the commission [~~in regards~~] with regard to the filing of the contract or agreement; provided [~~however,~~] that if the commission, in its discretion, determines that the terms and conditions of the contract or agreement to be unreasonable or otherwise contrary to the public interest, the commission shall notify the public utility of its determination, whereupon the public utility shall have the option to alter, revise, amend, or terminate the contract or agreement, or assume the risk that future payments for performance of the contract or agreement will be deemed unreasonable and excluded by the commission for ratemaking purposes.”

SECTION 7. Section 271-9.5, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) No later than July 1, 2011, the public utilities commission shall accept from any person who submits a document to the commission the original [~~and~~] or one electronic copy of each application, complaint, pleading, brief, or other document required to be filed with the commission pursuant to this chapter, and the consumer advocate shall accept service of one paper [~~copy and one~~]

or electronic copy of each application, complaint, pleading, brief, or other document filed with the commission.

(b) The commission shall adopt rules pursuant to chapter 91 to effectuate the purposes of this section. Until the final adoption by the commission of rules governing the electronic filing of documents with the commission, the following requirements shall apply to all documents submitted to the commission pursuant to this section; provided that additional requirements with regard to document format may be established by the commission through written guidelines:

- (1) Unless otherwise required by this chapter or the ~~[rules of]~~ guidelines of the commission, each person who submits or files an application, complaint, pleading, brief, or other document shall submit to or file with the commission an original ~~[and]~~ or one electronic copy of each document and shall serve one paper ~~[copy and one]~~ or electronic copy of each document on the consumer advocate;
- (2) All paper documents submitted to or filed with the commission shall be printed on one side of the page only and, if practicable, in portrait orientation;
- (3) Original paper documents submitted to or filed with the commission shall not be stapled but shall be clipped together or placed in a clearly marked three-ring binder, as appropriate;
- (4) All paper documents filed or submitted to the commission shall include appropriately labeled separator pages in addition to tabbed dividers, as applicable;
- (5) All confidential documents filed under confidential seal shall be clearly designated in accordance with the requirements of any applicable protective order, and the sealed envelope in which the confidential documents are enclosed shall clearly indicate the appropriate docket number and subject; and
- ~~[(6) Electronic documents shall be submitted on a clearly marked compact disk and shall be in portable document format saved in separate files corresponding to the original paper document submission; provided that electronic documents submitted under confidential seal shall be submitted on a separate compact disk, clearly marked as confidential and indicating the appropriate docket number and subject; and~~
- ~~(7)~~ (6) Electronic documents shall be named using the filing party's name, docket number, date of filing, and name of document as part of the document title.

Upon final adoption of rules pursuant to chapter 91, the rules of the commission governing submission or filing of electronic documents shall supersede the provisions of this subsection."

SECTION 8. Section 271-10, Hawaii Revised Statutes, is amended to read as follows:

"§271-10 Reports and decisions of commission. (a) Whenever the public utilities commission inquires into the operations, operating rights, or rates, or directs inquiry and investigation into motor carrier activities regulated under this chapter, and holds public hearing thereon, it shall make a report in writing, on paper or electronically, in respect thereto, which shall state its findings of fact and conclusions of law, together with its decision, order, or requirement in the premises.

(b) All reports issued under subsection (a) shall be entered of record, and a paper or an electronic copy thereof shall be furnished to parties of record in ~~[any such]~~ the proceeding.

(c) The commission may provide for the publication of its reports and decisions in ~~[such]~~ a form and manner as may be best adapted for public information and use, and these authorized publications shall be competent evidence of the reports and decisions of the commission therein contained in all courts of this State without any further proof or authentication thereof. The commission may also cause to be printed for early distribution its annual reports.”

SECTION 9. Section 271-13, Hawaii Revised Statutes, is amended to read as follows:

“**§271-13 Permits for contract carriers by motor vehicle.** (a) Except as otherwise provided in this section and in section 271-16, no person shall engage in the business of a contract carrier by motor vehicle over any public highway in this State unless there is in force, with respect to ~~[such]~~ the carrier, a permit issued by the public utilities commission authorizing the person to engage in this business.

(b) Applications for permits shall be made in writing, on paper or electronically, to the commission, be verified under oath, and shall be in ~~[such]~~ a form ~~[and]~~, contain ~~[such]~~ the information, and be accompanied by proof of service upon interested parties, as the commission shall~~[-]~~ by ~~[regulation,]~~ rule require.

(c) Subject to section 271-15, a permit shall be issued to any qualified applicant therefor, authorizing in whole or in part the operations covered by the application, if it is found that the applicant is fit, willing, and able ~~[properly]~~ to properly perform the service of a contract carrier by motor vehicle, and to conform to this chapter and the lawful requirements~~[-]~~ and rules~~[-, and regulations]~~ of the commission thereunder, and that the proposed operation to the extent authorized by the permit will be consistent with the public interest and the transportation policy declared in this chapter; otherwise, the application shall be denied. In determining whether issuance of a permit will be consistent with the public interest and the transportation policy, the commission shall consider the number of shippers to be served by the applicant, the nature of the service proposed, whether the proposed service can be or is being properly performed by existing common carriers, the effect ~~[which]~~ that granting the permit would have upon the services of the protesting carriers, the effect ~~[which]~~ that denying the permit would have upon the applicant’s proposed shipper or shippers, and the changing character of shipper requirements; provided~~[-, however,]~~ that a permit shall not be issued in any case where it has been established that an existing common carrier is properly performing~~[-]~~ the proposed service. The commission shall specify in the permit the business of the contract carrier covered thereby and the scope thereof, and it shall attach to it at the time of issuance, and from time to time thereafter ~~[such]~~ the reasonable terms, conditions, and limitations consistent with the character of the holder of the permit as a contract carrier, including terms, conditions, and limitations respecting the person or persons, their names, the number or class thereof for which the contract carrier may perform transportation service, as may be necessary to assure that the business is that of a contract carrier and within the scope of the permit, and to carry out with respect to the operation of the carrier the requirements established by the commission under sections 271-9(a)(2) and 271-9(a)(4). Any permit covering the transportation of passengers may include authority to transport, in the same vehicle with the passengers, baggage of passengers~~[-]~~ and also authority to transport baggage of passengers in a separate vehicle; provided that within the scope of the permit

and any terms, conditions, or limitations attached thereto, the carrier shall have the right to substitute or add to its equipment and facilities as the development of its business may require; and provided further that no motor carrier shall commence operations under any contract carrier authority granted under this section until it has filed with the commission a certified copy or an electronic copy of a written contract or contracts executed with the shipper or shippers for whom the service is authorized in the permit to be provided, the contract or contracts to be bilateral and impose specific obligations upon both carrier and shipper or shippers, and to set forth all terms and conditions of any transportation agreement obtaining between the motor carrier and the shipper or shippers.”

SECTION 10. Section 271-31, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Complaints may be made~~;~~ in writing, on paper or electronically, by the commission on its own motion or by any person or body politic, setting forth any act or thing done, or omitted to be done, by any motor carrier, including any rule, ~~[regulation,]~~ rate, or charge~~;~~ heretofore established or fixed by or for any motor carrier, in violation or claimed to be in violation, of any law or of any order or rule of the commission.”

SECTION 11. Section 271G-7.5, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) No later than July 1, 2011, the public utilities commission shall accept from any person who submits a document to the commission the original ~~[and]~~ or one electronic copy of each application, complaint, pleading, brief, or other document required to be filed with the commission pursuant to this chapter, and the consumer advocate shall accept service of one paper ~~[copy and one]~~ or electronic copy of each application, complaint, pleading, brief, or other document filed with the commission.

(b) The commission shall adopt rules pursuant to chapter 91 to effectuate the purposes of this section. Until the final adoption by the commission of rules governing the electronic filing of documents with the commission, the following requirements shall apply to all documents submitted to the commission pursuant to this section; provided that additional requirements with regard to document format may be established by the commission through written guidelines:

- (1) Unless otherwise required by this chapter or the ~~[rules of]~~ guidelines of the commission, each person who submits or files an application, complaint, pleading, brief, or other document shall submit to or file with the commission an original ~~[and]~~ or one electronic copy of each document and shall serve one paper ~~[copy and one]~~ or electronic copy of each document on the consumer advocate;
- (2) All paper documents submitted to or filed with the commission shall be printed on one side of the page only and, if practicable, in portrait orientation;
- (3) Original paper documents submitted to or filed with the commission shall not be stapled but shall be clipped together or placed in a clearly marked three-ring binder, as appropriate;
- (4) All paper documents filed or submitted to the commission shall include appropriately labeled separator pages in addition to tabbed dividers, as applicable;
- (5) All confidential documents filed under confidential seal shall be clearly designated in accordance with the requirements of any applicable protective order, and the sealed envelope in which the confi-

- denial documents are enclosed shall clearly indicate the appropriate docket number and subject; and
- ~~[(6)]~~ Electronic documents shall be submitted on a clearly marked compact disk and shall be in portable document format saved in separate files corresponding to the original paper document submission; provided that electronic documents submitted under confidential seal shall be submitted on a separate compact disk, clearly marked as confidential and indicating the appropriate docket number and subject; and
 - ~~(7)~~ (6) Electronic documents shall be named using the filing party's name, docket number, date of filing, and name of document as part of the document title.

Upon final adoption of rules pursuant to chapter 91, the rules of the commission governing submission or filing of electronic documents shall supersede the provisions of this subsection."

SECTION 12. Section 271G-19, Hawaii Revised Statutes, is amended by amending subsections (d) and (e) to read as follows:

"(d) Any water carrier, or any officer, agent, employee, or representative thereof, who shall fail or refuse to comply with any provision of this chapter, or any rule, ~~[regulation,]~~ filed tariff or requirement or order thereunder, shall pay a civil penalty to the State in the sum of not less than \$100~~[-]~~ nor more than \$5,000 for each offense~~[-]~~ and, in the case of a continuing violation, not to exceed \$5,000 for each additional day during which the failure or refusal continues. A penalty shall become due and payable when the person incurring it receives a notice in writing, on paper or electronically, reasonably describing the violation and advising that the penalty is due.

(e) In addition to any other remedy available, the commission or its enforcement officer may issue citations to persons acting in the capacity of or engaging in the business of a water carrier within the State, without having a certificate of public convenience and necessity or other authority previously obtained under and in compliance with this chapter and the rules adopted thereunder.

- (1) The citation may contain an order of abatement and an assessment of civil penalties of not less than \$100~~[-]~~ nor more than \$500 for each ~~[such]~~ offense~~[-]~~ and, in the case of a continuing violation, not less than \$200 nor more than \$500 for each day that uncertified activity continues. All penalties collected under this subsection shall be deposited in the treasury of the State. Service of a citation issued under this subsection shall be made by personal service whenever possible, or by certified mail, restricted delivery, sent to the last known business or residence address of the person cited.
- (2) Any person served with a citation under this subsection may submit a written request, on paper or electronically, to the commission for a hearing~~[-]~~ within twenty days from the receipt of the citation, with respect to the violations alleged, the scope of the order of abatement, and the amount of civil penalties assessed. If the person cited under this subsection timely notifies the commission of the request for a hearing, the commission shall afford an opportunity for a hearing under chapter 91. The hearing shall be conducted by the commission, or the commission may designate a hearings officer to hold the hearing.
- (3) If the person cited under this subsection does not submit a written request, on paper or electronically, to the commission for a hearing within twenty days from the receipt of the citation, the citation shall

be deemed a final order of the commission. The commission may apply to the appropriate court for a judgment to enforce the provisions of any final order^[5] issued by the commission or designated hearings officer pursuant to this subsection, including the provisions for abatement and civil penalties imposed. In any proceeding to enforce the provisions of the final order of the commission or designated hearings officer, the commission need only show that the notice was given, a hearing was held, or the time granted for requesting the hearing has run without ~~[such]~~ a request, and a certified copy of the final order of the commission or designated hearings officer.

- (4) If any party is aggrieved by the decision of the commission or the designated hearings officer, the party may appeal, subject to chapter 602, in the manner provided for civil appeals from the circuit courts; provided that the operation of an abatement order shall not be stayed on appeal unless specifically ordered by a court of competent jurisdiction after applying the stay criteria enumerated in section 91-14(c). The sanctions and disposition authorized under this subsection shall be separate and in addition to all other remedies, either civil or criminal, provided in any other applicable statutory provision. The commission may adopt rules under chapter 91 as may be necessary to fully effectuate this subsection.”

SECTION 13. The public utilities commission shall conform its electronically filed documents and its electronic filing processes to comply with the Americans with Disabilities Act and all existing federal laws and regulations to ensure equal access for individuals with disabilities.

SECTION 14. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 15. This Act shall take effect upon its approval.

(Approved June 24, 2021.)

ACT 73

H.B. NO. 424

A Bill for an Act Relating to Procurement of Contracts for Vehicle Rental.

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

SECTION 1. The legislature finds that Hawaii currently has over one million gasoline-powered vehicles on its roads, which emit nearly five million metric tons of climate-changing carbon pollution annually. Some of these vehicles are used by state government employees in the performance of their duties.

The legislature further finds that electric vehicles will play an integral role in Hawaii’s clean energy future and in meeting the goals set for the State in reducing its greenhouse gas emissions, particularly as electrical generation in Hawaii transitions more completely to renewable energy sources. Moreover, the transition to renewable energy sources for electricity will reduce costs of electric vehicle transportation below those for gasoline-powered vehicles. Finally, electric vehicles benefit air quality by eliminating the tailpipe emissions from combustion of gasoline or diesel fuel.

Therefore, the purpose of this Act is to require all state agencies to adopt a preference for the rental of an electric vehicle or hybrid vehicle for those occasions when a vehicle must be rented for state employees conducting official government business.

SECTION 2. Section 196-2, Hawaii Revised Statutes, is amended by adding seven new definitions to be appropriately inserted and to read as follows:

“Available” means that the vehicle is physically present and not rented for the requested rental period.

“Conventional vehicle” means a vehicle powered solely by an internal combustion engine.

“Electric vehicle” means a vehicle powered by an electric motor via electricity:

(1) Stored in a high capacity battery; or

(2) Generated from an onboard fuel cell.

“Hybrid vehicle” means a vehicle powered by a combination of an electric motor and a small internal combustion engine.

“Rental contractor” means an entity that rents, leases, or proposes to rent or lease, vehicles to state employees for purposes of official government business under a contract pursuant to this chapter.

“State employee” means an employee of the State, including all permanent and temporary employees of the state judicial, executive, and legislative branches and their respective departments, offices, and agencies.

“Suitable” means the vehicle has the performance capabilities needed for the intended application, including payload and weight capacity for the job or is capable of holding a charge for the time and mileage needed.”

SECTION 3. Section 196-9, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) With regard to motor vehicles and transportation fuel, each agency shall:

- (1) Comply with Title 10, Code of Federal Regulations, Part 490, Subpart C, “Mandatory State Fleet Program”, if applicable;
- (2) Comply with all applicable state laws regarding vehicle purchases;
- (3) Once federal and state vehicle purchase mandates have been satisfied, purchase the most fuel-efficient vehicles that meet the needs of their programs; provided that the life cycle cost-benefit analysis of vehicle purchases shall include projected fuel costs;
- (4) Purchase alternative fuels and ethanol blended gasoline when available;
- (5) Evaluate a purchase preference for biodiesel blends, as applicable to agencies with diesel fuel purchases;
- (6) Promote efficient operation of vehicles;
- (7) Use the most appropriate minimum octane fuel; provided that vehicles shall use 87-octane fuel unless the owner’s manual for the vehicle states otherwise or the engine experiences knocking or pinging;
- (8) Beginning with fiscal year 2005-2006 as the baseline, collect and maintain, for the life of each vehicle acquired, the following data:
 - (A) Vehicle acquisition cost;
 - (B) United States Environmental Protection Agency rated fuel economy;
 - (C) Vehicle fuel configuration, such as gasoline, diesel, flex-fuel gasoline/E85, and dedicated propane;
 - (D) Actual in-use vehicle mileage;

- (E) Actual in-use vehicle fuel consumption; and
- (F) Actual in-use annual average vehicle fuel economy; [~~and~~]
- (9) Beginning with fiscal year 2005-2006 as the baseline with respect to each agency that operates a fleet of thirty or more vehicles, collect and maintain, in addition to the data in paragraph (8), the following:
 - (A) Information on the vehicles in the fleet, including vehicle year, make, model, gross vehicle weight rating, and vehicle fuel configuration;
 - (B) Fleet fuel usage, by fuel;
 - (C) Fleet mileage; and
 - (D) Overall annual average fleet fuel economy and average miles per gallon of gasoline and diesel[-]; and
- (10) Adopt a preference for the rental of electric vehicles or hybrid vehicles; provided that:
 - (A) All agencies, when renting a vehicle on behalf of a state employee in the discharge of official government business, shall rent a vehicle of one of the following types, listed in order of preference:
 - (i) Electric vehicle; or
 - (ii) Hybrid vehicle;provided further that the vehicle is available and suitable for the specific travel requirements;
 - (B) The agency may rent a conventional vehicle only if:
 - (i) An electric vehicle or hybrid vehicle is not suitable; or
 - (ii) Neither an electric vehicle nor a hybrid vehicle is available;
 - (C) An agency shall exercise the policy preference for rental of an electric vehicle or hybrid vehicle notwithstanding the potential higher cost associated with renting an electric vehicle or hybrid vehicle; provided that the rental rate for the electric vehicle or hybrid vehicle is comparable to that of a conventional vehicle of similar class; provided further that the cost premium is consistent with any budgetary constraints and not contradicted by an existing state contract with the rental business entity from which the vehicle is rented; and
 - (D) To the extent practicable, all agencies shall rent a vehicle pursuant to subparagraph (A) from a rental contractor.”

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 24, 2021.)

ACT 74

H.B. NO. 552

A Bill for an Act Relating to the Environment.

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

PART I

SECTION 1. The legislature finds that the use of fossil fuels is the State's primary contributor to greenhouse gas emissions. These emissions cause

climate change, which poses a serious threat to the State's economic well-being, public health, infrastructure, and environment. The State's dependence on fossil fuels also drains the economy of billions of dollars each year, makes residents vulnerable to the volatility of oil prices, and puts residents at increased risk in the event of a natural disaster. Thus, Act 15, Session Laws of Hawaii 2018, was enacted to establish a goal for the State to become carbon neutral by 2045.

The legislature further finds that the transportation sector accounts for the use of over two-thirds of the oil imported into the State. The legislature notes that, for ground transportation, electric vehicles provide a viable, cost-effective alternative to vehicles that run on fossil fuels. For state-owned transportation fleets, the transition to electric vehicles will bring with it considerable cost savings because of lower costs to operate and maintain these vehicles. With the impacts of the COVID-19 pandemic on the state budget, it is imperative that the State take advantage of all opportunities for savings, and the electrification of state fleets to the extent possible is one of these opportunities.

The purpose of this part is to facilitate the transition to one hundred per cent clean ground transportation in the State by establishing a goal to transition all state-owned, light duty motor vehicles to be zero-emission vehicles by the end of 2035 and tasking the department of transportation and the Hawaii state energy office with developing strategies to further this goal.

SECTION 2. Chapter 225P, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§225P- Climate change mitigation. (a) It shall be the goal of the State to reduce emissions that cause climate change and build energy efficiencies across all sectors, including decarbonizing the transportation sector.

(b) State agencies shall manage their fleets to achieve the clean ground transportation goals defined in section 196-9(c)(10) and decarbonization goals established pursuant to chapter 225P.”

SECTION 3. Chapter 264, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§264- Clean ground transportation goal. The department of transportation, in collaboration with the Hawaii state energy office, shall develop strategies to transition all light-duty motor vehicles in the State's fleets to meet the clean ground transportation goal established pursuant to section 196-9(c)(10).”

SECTION 4. Section 103D-412, Hawaii Revised Statutes, is amended to read as follows:

“§103D-412 [Light-duty motor] Motor vehicle requirements. (a) The procurement policy for all agencies purchasing or leasing ~~[light-duty]~~ light-, medium-, and heavy-duty motor vehicles ~~[shall be to reduce dependence on petroleum for transportation energy].~~

~~(b) Beginning January 1, 2010, all state and county entities, when purchasing new vehicles, shall be to seek vehicles [with reduced] that reduce dependence on petroleum-based fuels that meet the needs of the agency. Priority for selecting vehicles shall be as follows:~~

- (1) ~~[Electric or plug-in hybrid electric vehicles and fuel cell electric vehicles;]~~ Zero-emission vehicles;
- (2) ~~[Other alternative fuel]~~ Plug-in hybrid electric vehicles;
- (3) ~~[Hybrid electric]~~ Alternative fuel vehicles; and
- (4) ~~[Vehicles that are identified by the United States Environmental Protection Agency in its annual “Fuel Economy Leaders” report]~~

as being among the top performers for fuel economy in their class.]
Hybrid electric vehicles.

(b) Vehicles shall not be larger than necessary for their intended functions.

(c) For the purposes of this section:

“Agency” means a state agency, office, or department.

“Alternative fuel” ~~[means alcohol fuels, mixtures containing eighty-five per cent or more by volume of alcohols with gasoline or other fuels, natural gas, liquefied petroleum gas, hydrogen, biodiesel, mixtures containing twenty per cent or more by volume of biodiesel with diesel or other fuels, other fuels derived from biological materials, and electricity provided by off-board energy sources.]~~ shall have the same meaning as contained in title 10 Code of Federal Regulations part 490; provided that “alternative fuel” includes liquid or gaseous fuels produced from renewable feedstocks, such as organic wastes, or from water using electricity from renewable energy sources.

“Alternative fuel vehicle” shall have the same meaning as contained in title 10 Code of Federal Regulations part 490.

“Covered fleet” [has] shall have the same meaning as contained in title 10 Code of Federal Regulations [Part] part 490 [Subpart] subpart C.

“Excluded vehicles” [has] shall have the same meaning as [provided] contained in title 10 Code of Federal Regulations section 490.3.

“Fuel cell electric vehicle” ~~[means a zero-emission electric vehicle that uses a fuel cell to convert hydrogen gas and oxygen into electricity that is used in a vehicle powertrain for propulsion.]~~ shall have the same meaning as contained in title 10 Code of Federal Regulations section 490.501.

“Hybrid electric vehicle” shall have the same meaning as contained in title 40 Code of Federal Regulations section 86.1803-01.

“Light-duty motor vehicle” [has] shall have the same meaning as contained in title 10 Code of Federal Regulations [Part] part 490 ~~[, not including any vehicle incapable of traveling on highways or any vehicle with a gross vehicle weight rating greater than eight thousand five hundred pounds].~~

“Plug-in hybrid electric vehicle” shall have the same meaning as contained in title 40 Code of Federal Regulations part 86.1803-01.

“Zero-emission vehicle” shall have the same meaning as contained in title 40 Code of Federal Regulations section 88.102-94.

(d) Agencies may apply to the chief procurement officer for exemptions from the requirements of this section to the extent that the vehicles required by this section are not available or do not meet the specific needs of the agency; provided that life cycle vehicle and fuel costs may be included in the determination of whether a particular vehicle meets the needs of the agency. Estimates of future fuel costs shall be based on projections from the United States Energy Information Administration.

(e) Vehicles acquired from another state agency and excluded vehicles are exempt from the requirements of this section ~~[.]~~ but shall be included in the calculation of the clean ground transportation goals established under section 196-9(c)(10).

(f) Nothing in this section is intended to interfere with the ability of a covered fleet to comply with the vehicle purchase mandates required by title 10 Code of Federal Regulations [Part] part 490 [Subpart] subpart C.”

SECTION 5. Section 196-9, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) With regard to motor vehicles and transportation fuel, each agency shall:

- (1) Comply with [Title] title 10[;] Code of Federal Regulations[; ~~Part~~ part 490, [~~Subpart~~ subpart C, “Mandatory State Fleet Program”, if applicable;
- (2) Comply with all applicable state laws regarding vehicle purchases;
- (3) Once federal and state vehicle purchase mandates have been satisfied, purchase the most fuel-efficient vehicles that meet the needs of their programs; provided that life cycle cost-benefit analysis of vehicle purchases shall include projected fuel costs;
- (4) Purchase alternative fuels and ethanol blended gasoline when available;
- (5) Evaluate a purchase preference for biodiesel blends, as applicable to agencies with diesel fuel purchases;
- (6) Promote efficient operation of vehicles[;], including efficient planning of charging system locations and efficient utilization of renewable energy for charging electric vehicles;
- (7) Use the most appropriate minimum octane fuel; provided that vehicles shall use 87-octane fuel unless the owner’s manual for the vehicle states otherwise or the engine experiences knocking or pinging;
- (8) Beginning with fiscal year 2005-2006 as the baseline, collect and maintain, for the life of each vehicle acquired, the following data:
 - (A) Vehicle acquisition cost;
 - (B) United States Environmental Protection Agency rated fuel economy;
 - (C) Vehicle fuel configuration, such as gasoline, diesel, flex-fuel gasoline/E85, and dedicated propane;
 - (D) Actual in-use vehicle mileage;
 - (E) Actual in-use vehicle fuel consumption; [~~and~~]
 - (F) Actual in-use annual average vehicle fuel economy; and
 - (G) Hourly charging data by electric vehicle and electric vehicle charging system;
- (9) Beginning with fiscal year 2005-2006 as the baseline with respect to each agency that operates a fleet of thirty or more vehicles, collect and maintain, in addition to the data in paragraph (8), the following:
 - (A) Information on the vehicles in the fleet, including vehicle year, make, model, gross vehicle weight rating, and vehicle fuel configuration;
 - (B) Fleet fuel usage, by fuel;
 - (C) Fleet mileage; [~~and~~]
 - (D) Overall annual average fleet fuel economy and average miles per gallon of gasoline and diesel[-]; and
 - (E) Hourly charging data by electric vehicle and electric vehicle charging system; and
- (10) Plan and coordinate vehicle acquisition to meet the following clean ground transportation goals:
 - (A) One hundred per cent of light-duty motor vehicles that are passenger cars in the State’s fleet shall be zero-emission vehicles by December 31, 2030; and
 - (B) One hundred per cent of light-duty motor vehicles in the State’s fleet shall be zero-emission vehicles by December 31, 2035.

For the purposes of this subsection:

“Light-duty motor vehicle” shall have the same meaning as contained in title 10 Code Federal Regulations part 490.

“Passenger car” shall have the same meaning as contained in title 49 Code of Federal Regulations section 571.3.

“Zero-emission vehicle” shall have the same meaning as contained in title 40 Code of Federal Regulations section 88.102-94.”

SECTION 6. Section 196-42, Hawaii Revised Statutes, is amended to read as follows:

“§196-42 State support for achieving alternate fuels standards[-] and clean ground transportation goals. (a) The State shall facilitate the development of alternate fuels and support the attainment of a statewide alternate fuels standard of ten per cent of highway fuel demand to be provided by alternate fuels by 2010, fifteen per cent by 2015, twenty per cent by 2020, and thirty per cent by 2030. For purposes of the alternate fuels standard, ethanol produced from cellulosic materials shall be considered the equivalent of two and one-half gallons of noncellulosic ethanol. “Alternate fuels” shall have the same meaning as contained in title 10 Code of Federal Regulations [Part] part 490; provided that it shall also include liquid or gaseous fuels produced from renewable feedstocks such as organic wastes, or from water using electricity from renewable energy sources.

(b) The State shall support the attainment of the clean ground transportation target established pursuant to section 196-9(c)(10).”

PART II

SECTION 7. Section 26-6, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The department shall:

- (1) Preaudit and conduct after-the-fact audits of the financial accounts of all state departments to determine the legality of expenditures and the accuracy of accounts;
- (2) Report to the governor and to each regular session of the legislature as to the finances of each department of the State;
- (3) Administer the state risk management program;
- (4) Establish and manage motor pools;
- (5) Manage the preservation and disposal of all records of the State;
- (6) Undertake the program of centralized engineering and office leasing services, including operation and maintenance and lease buy-back processing pursuant to subsection (d) of public buildings, for departments of the State;
- (7) Undertake the functions of the state surveyor;
- (8) Establish accounting and internal control systems;
- (9) Under the direction of the chief information officer, provide centralized computer information management and processing services;
- (10) Establish a program to provide a means for public access to public information and develop an information network for state government; ~~and~~
- (11) Assume administrative responsibility for the office of information practices[-]; and
- (12) Approve state fleet acquisitions; provided that:
 - (A) Beginning January 1, 2022, all new light-duty motor vehicles that are passenger cars purchased for the State’s fleet shall be zero-emission vehicles;
 - (B) Beginning as soon as practicable but no later than January 1, 2030, all new light-duty motor vehicles that are multipurpose

passenger vehicles and trucks for the State’s fleet shall be zero-emission vehicles; and

- (C) The comptroller may authorize an exemption for new fleet vehicle purchases if zero-emission vehicles are demonstrated to be cost-prohibitive on a lifecycle basis or unsuitable for the vehicles’ planned purpose, or if funds are unavailable.

For the purposes of this subsection:

“Light-duty motor vehicle” shall have the same meaning as contained in title 10 Code Federal Regulations part 490.

“Multipurpose passenger vehicle” shall have the same meaning as contained in title 49 Code of Federal Regulations section 571.3.

“Passenger car” shall have the same meaning as contained in title 49 Code of Federal Regulations section 571.3.

“Truck” shall have the same meaning as contained in title 49 Code of Federal Regulations section 571.3.

“Zero-emission vehicle” shall have the same meaning as contained in title 40 Code of Federal Regulations section 88.102-94.”

PART III

SECTION 8. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 9. This Act shall take effect on July 1, 2021.

(Approved June 24, 2021.)

Note

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

ACT 75

H.B. NO. 1142

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 that the electric vehicle charging system rebate program, established pursuant to Act 142, Session Laws of Hawaii 2019, provides rebates for the installation of electric vehicle charging systems in priority locations, including for multi-unit dwellings, workplaces, and commercial areas, and in places that serve vehicle fleets. The rebate program has proven to be very successful, with more than seventy new charging systems installed or in the pipeline that have been facilitated by the availability of these rebates. The limited amount of funding that was provided for this program at its inception has been depleted, and the legislature also finds that a sustainable source of funding for the electric vehicle charging system rebate program is necessary. There continues to be a need to incentivize the build-out of electric vehicle infrastructure as the electric vehicle market becomes more established in the State, and robust electric vehicle infrastructure is needed to bring equity to the market and to make electric vehicles a viable choice for renters, condominium-dwellers, and low- and middle-income individuals and families. The legislature notes that

the use of funds from the environmental response, energy, and food security tax is appropriate for this purpose and that the current allocations of the tax revenues can be adjusted to fund the electric vehicle charging system rebate program without impact to the general fund.

The legislature further finds that the existing requirements in section 291-71, Hawaii Revised Statutes, for the installation of one electric vehicle charging system in any parking lot of one hundred or more stalls in places of public accommodation has not always been followed and that some of the electric vehicle charging systems that have been installed pursuant to existing requirements are in disrepair. The legislature further notes that lacking any other means of enforcement, it is practicable to authorize the counties to adopt ordinances and penalties for enforcement as they see fit.

The purpose of this Act is to:

- (1) Shift 1 cent of the environmental response, energy, and food security tax from the energy security special fund and 2 cents from the energy systems development special fund to a subaccount of the public utilities commission special fund to fund the electric vehicle charging system rebate program;
- (2) Allow the counties to adopt ordinances to enforce provisions in section 291-71, Hawaii Revised Statutes; and
- (3) Require that new electric vehicle charging systems installed pursuant to section 291-71, Hawaii Revised Statutes, are at least level 2 and network-capable.

PART II

SECTION 2. Section 243-3.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) In addition to any other taxes provided by law, subject to the exemptions set forth in section 243-7, there is hereby imposed a state environmental response, energy, and food security tax on each barrel or fractional part of a barrel of petroleum product sold by a distributor to any retail dealer or end user of petroleum product, other than a refiner. The tax shall be \$1.05 on each barrel or fractional part of a barrel of petroleum product that is not aviation fuel; provided that of the tax collected pursuant to this subsection:

- (1) 5 cents of the tax on each barrel shall be deposited into the environmental response revolving fund established under section 128D-2;
- (2) [~~5~~] 4 cents of the tax on each barrel shall be deposited into the energy security special fund established under section 201-12.8;
- (3) [~~40~~] 8 cents of the tax on each barrel shall be deposited into the energy systems development special fund established under section 304A-2169.1; [~~and~~]
- (4) 15 cents of the tax on each barrel shall be deposited into the agricultural development and food security special fund established under section 141-10[.]; and
- (5) 3 cents of the tax on each barrel shall be deposited into the electric vehicle charging system subaccount established pursuant to section 269-33(e).

The tax imposed by this subsection shall be paid by the distributor of the petroleum product.”

SECTION 3. Section 269-33, Hawaii Revised Statutes, is amended to read as follows:

“§269-33 **Public utilities commission special fund.** (a) There is established in the state treasury a public utilities commission special fund to be administered by the public utilities commission. The proceeds of the fund shall be used by the public utilities commission and the division of consumer advocacy of the department of commerce and consumer affairs for all expenses incurred in the administration of chapters 269, 271, 271G, 269E, and 486J, and for costs incurred by the department of commerce and consumer affairs to fulfill the department’s limited oversight and administrative support functions; provided that the expenditures of the public utilities commission shall be in accordance with legislative appropriations. On a quarterly basis, an amount not exceeding thirty per cent of the proceeds remaining in the fund after the deduction for central service expenses, pursuant to section 36-27, shall be allocated by the public utilities commission to the division of consumer advocacy and deposited in the compliance resolution fund established pursuant to section 26-9(o); provided that all moneys allocated by the public utilities commission from the fund to the division of consumer advocacy shall be in accordance with legislative appropriations.

(b) All moneys appropriated to, received, and collected by the public utilities commission that are not otherwise pledged, obligated, or required by law to be placed in any other special fund or expended for any other purpose shall be deposited into the public utilities commission special fund including, but not limited to, all moneys received and collected by the public utilities commission pursuant to sections 92-21, 243-3.5, 269-28, 269-30, 271-27, 271-36, 271G-19, 269E-6, 269E-14, and 607-5.

(c) The public utilities commission shall submit an update as part of its annual report submitted pursuant to section 269-5 detailing all funds received and all moneys disbursed out of the fund.

(d) All moneys in excess of \$1,000,000 remaining on balance in the public utilities commission special fund on June 30 of each year shall lapse to the credit of the state general fund[-]; provided that this ceiling shall not apply to the subaccount established in subsection (e).

(e) There is established within the public utilities commission special fund an electric vehicle charging system subaccount. The public utilities commission shall expend moneys in the subaccount for the purposes of funding the electric vehicle charging system rebate program established pursuant to sections 269-72 and 269-73. The funds in this subaccount shall not be subject to the special fund ceiling in subsection (d).”

PART III

SECTION 4. There is appropriated out of the energy security special fund established under section 201-12.8, Hawaii Revised Statutes, the sum of \$100,000 or so much thereof as may be necessary for fiscal year 2021-2022 to be deposited into the electric vehicle charging system subaccount within the public utilities commission special fund established under section 269-33, Hawaii Revised Statutes.

SECTION 5. There is appropriated out of the electric vehicle charging system subaccount within the public utilities commission special fund the sum of \$100,000 or so much thereof as may be necessary for fiscal year 2021-2022 for the electric vehicle charging system rebate program established pursuant to sections 269-72 and 269-73, Hawaii Revised Statutes.

The sum appropriated shall be expended by the public utilities commission for the purposes of this part.

PART IV

SECTION 6. Chapter 291, Hawaii Revised Statutes, is amended by amending the title of part IV to read as follows:

~~“[PART IV. [MISCELLANEOUS]] PARKING FOR ELECTRIC VEHICLES”~~

SECTION 7. Chapter 291, Hawaii Revised Statutes, is amended by adding a new section to part IV to be appropriately designated and to read as follows:

“§291- Ordinance to enforce authorized. Each county may adopt ordinances to enforce the requirements of section 291-71, including the establishment of penalties for failure to comply with the requirements of that section or maintain electric vehicle charging systems in working order.”

SECTION 8. Section 291-71, Hawaii Revised Statutes, is amended to read as follows:

“§291-71 Designation of parking spaces for electric ~~vehicles;~~ vehicle charging ~~system;~~ systems. (a) Places of public accommodation with at least one hundred parking spaces available for use by the general public shall have at least one parking space ~~[exclusively for electric vehicles and]~~ equipped with an electric vehicle charging system located anywhere in the parking structure or lot ~~[by July 1, 2012];~~ provided that no parking space designated for electric vehicles shall displace or reduce accessible stalls required by the Americans with Disabilities Act Accessibility Guidelines~~[-];~~ provided further that no vehicle shall be permitted to park in a parking space equipped with an electric vehicle charging system while not actively charging. Spaces shall be designated, clearly marked, and the exclusive designation enforced. Owners of multiple parking facilities within the State may designate and electrify fewer parking spaces than required in one or more of their owned properties; provided that the scheduled requirement is met for the total number of aggregate spaces on all of their owned properties. Nothing in this section shall prohibit the owners of parking structures or lots from charging a fee for the use of an electric vehicle charging system.

(b) Effective January 1, 2022, each new electric vehicle charging system installed or placed in service pursuant to this section shall be at least a level 2 charging station that is network-capable.

(c) Electric vehicle charging systems shall be maintained in working order.

~~[(b) For the purposes of]~~ (d) As used in this section:

“Electric vehicle” means:

- (1) A neighborhood electric vehicle as defined in section 286-2;
- (2) A vehicle, with four or more wheels, that draws propulsion energy from a battery with at least four kilowatt hours of energy storage capacity that can be recharged from an external source of electricity; or
- (3) A fuel cell electric vehicle.

“Electric vehicle charging system” means a system that:

- (1) Is capable of providing electricity from a non-vehicle source to charge the batteries of one or more electric vehicles;
- (2) Meets recognized standards, including standard SAE J1772 of SAE International; and
- (3) Is designed and installed in compliance with article 625 of the National Electrical Code;

provided that the term shall not include facilities or systems for refueling the hydrogen storage tank of a fuel cell electric vehicle.

“Fuel cell electric vehicle” means a zero-emission electric vehicle that uses a fuel cell to convert hydrogen gas and oxygen into electricity that is used in a vehicle powertrain for propulsion.

“Level 2 charging station” shall have the same meaning as “alternating current Level 2 charging station” in section 269-72.

“Place of public accommodation” has the same meaning as that provided in section 489-2.”

SECTION 9. Section 291-72, Hawaii Revised Statutes, is amended to read as follows:

“§291-72 Parking spaces reserved for electric vehicles[;] and electric vehicle charging systems; penalties. ~~[(a) Beginning January 1, 2013, any person who parks a non-electric vehicle in a space designated and marked as reserved for electric vehicles shall receive a warning.~~

~~(b) Beginning July 1, 2013, any]~~ (a) Any person who parks a non-electric vehicle in a space designated and marked as reserved for electric vehicles or parks any vehicle in a parking space equipped with an electric vehicle charging system while not actively charging shall be guilty of a traffic infraction under chapter 291D and shall be fined not less than \$50 nor more than \$100, and shall pay any costs incurred by the court related to assessing the fine.

~~[(e) (b) Any citation issued under this section may be mailed to the violator pursuant to section 291C-165(b).~~

(c) Notwithstanding any law to the contrary, and in addition to any other authority provided by law that is not inconsistent with this section:

- (1) A law enforcement officer may access the property of a private entity to enforce the provisions of this part; and
- (2) A commissioned volunteer enforcement officer may access the property of a private entity to enforce the provisions of this section; provided that the private entity’s parking lot contains a parking space required by section 291-71.”

PART V

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.¹

SECTION 12. This Act shall take effect on July 1, 2021.

(Approved June 24, 2021.)

Note

1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to Gift Certificates.

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

SECTION 1. Section 481B-13, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

“(f) As used in this section, unless the context requires otherwise:

“Certificate issuer” or “issuer” means a restaurant or a person engaged in the business of offering services or goods for sale at retail who sells gift certificates to customers.

“Gift certificate” or “certificate” includes any electronic card with a banked dollar value where the issuer has received payment for the full banked dollar value for the future purchase or delivery of goods or services, any certificate where the issuer has received payment for the full face value of the certificate for future purchases or delivery of goods or services, and any other medium that evidences the giving of consideration in exchange for the right to redeem the certificate, electronic card, or other medium for goods, food, or services of at least an equal value. “Gift certificate” or “certificate” does not include a card, certificate, or other medium that is:

- (1) Used solely for telephone services;
- (2) Reloadable and not marketed or labeled as a gift card, gift certificate, or certificate;
- (3) A loyalty, award, or promotional gift card;
- (4) Not marketed to the general public; [øf]
- (5) Redeemable solely for admission to events or venues at a particular location or group of affiliated locations, which may also include services or goods obtainable:
 - (A) At the event or venue after admission; or
 - (B) In conjunction with admission to such events or venues, at specific locations affiliated with and in geographic proximity to the event or venue[-]; or
- (6) Issued by a county for the purpose of loading and storing a dollar value to pay transit fares, other county fees, and other uses as authorized by the applicable county ordinances.

“Service fee” means a periodic fee, charge, or penalty for holding or use of a gift certificate, but does not include a one-time initial activation or issuance fee.”

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, 2022.

(Approved June 24, 2021.)

ACT 77

H.B. NO. 247

A Bill for an Act Relating to Agricultural Lands.

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

SECTION 1. The purpose of this Act is to amend certain land subdivision and condominium property regime laws related to agricultural land, as recommended by the office of planning in its study of subdivision and condominium property regimes on agricultural lands on Oahu conducted pursuant to Act 278, Session Laws of Hawaii 2019.

SECTION 2. Section 205-4.5, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

“(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 and for solar energy facilities, class B or C, shall be restricted to the following permitted uses:

- (1) Cultivation of crops, including crops for bioenergy, flowers, vegetables, foliage, fruits, forage, and timber;
- (2) Game and fish propagation;
- (3) Raising of livestock, including 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~~ accessory to 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) Agricultural-based commercial operations as described in section 205-2(d)(15);
- (10) Buildings and uses, including mills, storage, and processing facilities, maintenance facilities, photovoltaic, biogas, and other small-scale renewable energy systems producing energy solely for use in the agricultural activities of the fee or leasehold owner of the property, 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 chapter means an established subdivision or cluster of employee housing, community buildings, and agricultural support buildings on land currently or formerly owned, leased, or operated by a sugar or pineapple plantation; provided that the existing structures may be used or rehabilitated for use, and new employee housing and agricultural support buildings may be allowed on land within the subdivision as follows:
 - (A) The employee housing is occupied by employees or former employees of the plantation who have a property interest in the land;

- (B) The employee housing units not owned by their occupants shall be rented or leased at affordable rates for agricultural workers; or
 - (C) The agricultural support buildings shall be rented or leased to agricultural business operators or agricultural support services;
- (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;
 - (14) Agricultural tourism activities, including overnight accommodations of twenty-one days or less, for any one stay within a county; provided that this paragraph shall apply only to a county that includes at least three islands and has adopted ordinances regulating agricultural tourism activities pursuant to section 205-5; provided further that the agricultural tourism activities coexist with a bona fide agricultural activity. For the purposes of this paragraph, “bona fide agricultural activity” means a farming operation as defined in section 165-2;
 - (15) Wind energy facilities, including the appurtenances associated with the production and transmission of wind generated energy; provided that the wind energy facilities and appurtenances are compatible with agriculture uses and cause minimal adverse impact on agricultural land;
 - (16) 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 biofuel 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 biofuel 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;
 - (17) Agricultural-energy facilities, including appurtenances necessary for an agricultural-energy enterprise; provided that the primary activity of the agricultural-energy enterprise is agricultural activity. To be considered the primary activity of an agricultural-energy enterprise, the total acreage devoted to agricultural activity shall be not less than ninety per cent of the total acreage of the agricultural-energy enterprise. The agricultural-energy facility shall be limited to lands owned, leased, licensed, or operated by the entity conducting the agricultural activity.
 As used in this paragraph:

“Agricultural activity” means any activity described in paragraphs (1) to (3) of this subsection.

“Agricultural-energy enterprise” means an enterprise that integrally incorporates an agricultural activity with an agricultural-energy facility.

“Agricultural-energy facility” means a facility that generates, stores, or distributes renewable energy as defined in section 269-91 or renewable fuel including electrical or thermal energy or liquid or gaseous fuels from products of agricultural activities from agricultural lands located in the State.

“Appurtenances” means operational infrastructure of the appropriate type and scale for the economic commercial generation, storage, distribution, and other similar handling of energy, including equipment, feedstock, fuels, and other products of agricultural-energy facilities;

- (18) Construction and operation of wireless communication antennas, including small wireless facilities; provided that, for the purposes of this paragraph, “wireless communication antenna” means communications equipment that is either freestanding 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 “small wireless facilities” shall have the same meaning as in section 206N-2; 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;
- (19) Agricultural education programs conducted on a farming operation as defined in section 165-2, for the education and participation of the general public; provided that the agricultural education programs are accessory and secondary to the principal agricultural use of the parcels or lots on which the agricultural education programs are to occur and do not interfere with surrounding farm operations. For the purposes of this paragraph, “agricultural education programs” means activities or events designed to promote knowledge and understanding of agricultural activities and practices conducted on a farming operation as defined in section 165-2;
- (20) Solar energy facilities that do not occupy more than ten per cent of the acreage of the parcel, or twenty acres of land, whichever is lesser or for which a special use permit is granted pursuant to section 205-6; provided that this use shall not be permitted on lands with soil classified by the land study bureau’s detailed land classification as overall (master) productivity rating class A;
- (21) Solar energy facilities on lands with soil classified by the land study bureau’s detailed land classification as overall (master) productivity rating B or C for which a special use permit is granted pursuant to section 205-6; provided that:
 - (A) The area occupied by the solar energy facilities is also made available for compatible agricultural activities at a lease rate that is at least fifty per cent below the fair market rent for comparable properties;
 - (B) Proof of financial security to decommission the facility is provided to the satisfaction of the appropriate county planning commission prior to date of commencement of commercial generation; and

- (C) Solar energy facilities shall be decommissioned at the owner's expense according to the following requirements:
- (i) Removal of all equipment related to the solar energy facility within twelve months of the conclusion of operation or useful life; and
 - (ii) Restoration of the disturbed earth to substantially the same physical condition as existed prior to the development of the solar energy facility.

For the purposes of this paragraph, "agricultural activities" means the activities described in paragraphs (1) to (3);

- (22) Geothermal resources exploration and geothermal resources development, as defined under section 182-1; or
- (23) Hydroelectric facilities, including the appurtenances associated with the production and transmission of hydroelectric energy, subject to section 205-2; provided that the hydroelectric facilities and their appurtenances:
 - (A) Shall consist of a small hydropower facility as defined by the United States Department of Energy, including:
 - (i) Impoundment facilities using a dam to store water in a reservoir;
 - (ii) A diversion or run-of-river facility that channels a portion of a river through a canal or channel; and
 - (iii) Pumped storage facilities that store energy by pumping water uphill to a reservoir at higher elevation from a reservoir at a lower elevation to be released to turn a turbine to generate electricity;
 - (B) Comply with the state water code, chapter 174C;
 - (C) Shall, if over five hundred kilowatts in hydroelectric generating capacity, have the approval of the commission on water resource management, including a new instream flow standard established for any new hydroelectric facility; and
 - (D) Do not impact or impede the use of agricultural land or the availability of surface or ground water for all uses on all parcels that are served by the ground water sources or streams for which hydroelectric facilities are considered."

2. By amending subsection (f) to read:

"~~(f)~~ Notwithstanding any other law to the contrary, agricultural lands may be subdivided and leased for the agricultural uses or activities permitted in subsection (a); provided that:

- (1) The principal use of the leased land is agriculture;
- (2) No permanent or temporary dwellings or farm dwellings, including trailers and campers, are constructed on the leased area. This restriction shall not prohibit the construction of storage sheds, equipment sheds, or other structures appropriate to the agricultural activity carried on within the lot; ~~and~~ provided that any violation of this paragraph shall be subject to county enforcement authority and fines pursuant to sections 46-4, 205-12, and 205-13; and
- (3) The lease term for a subdivided lot shall be for at least as long as the greater of:
 - (A) The minimum real property tax agricultural dedication period of the county in which the subdivided lot is located; or
 - (B) Five years.

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Lots created and leased pursuant to this section shall be legal lots of record for mortgage lending purposes and shall be exempt from county subdivision standards.”

SECTION 3. Section 514B-52, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) An application for registration of a project in the agricultural district classified pursuant to chapter 205 shall include a verified statement, signed by an appropriate county official, that the project as described and set forth in the project’s declaration, condominium map, bylaws, and house rules does not include any restrictions limiting or prohibiting agricultural uses or activities, in compliance with section 205-4.6. For projects containing greater than five units, the statement shall also include the applicant’s assessment and county comments regarding the availability of supportive infrastructure, any potential impact on governmental plans and resources, sensitive environmental resources, and any other requirements pursuant to county ordinances and rules. The developer’s public report shall include the verified statement in addition to the information required by section 514B-83. The commission shall not accept the registration of a project where a county official has not signed a verified statement.”

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, 2021.

(Approved June 24, 2021.)

ACT 78

H.B. NO. 286

A Bill for an Act Relating to Real Estate Investment Trusts.

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

SECTION 1. The legislature finds that real estate investment trusts play a significant role in Hawaii’s economy, and that the State would benefit from the accurate collection of data about their economic activities.

The legislature recognizes that the assets of and revenues generated by real estate investment trusts may not have been reported to and accurately recorded by the State. The legislature notes that there are no state tax forms specifically for real estate investment trusts, nor are there any clear methods for real estate investment trusts to annually report their financial status and declare profits, losses, deductions, and credits to the State. As Hawaii faces major budget shortfalls this year and for several years to come, it is imperative that all business entities provide accurate reporting of their assets and generated revenues.

The legislature further finds that a real estate investment trust should be required to notify the department of taxation of its presence in the State and to annually report the same tax information they provide to the Internal Revenue Service.

Accordingly, the purpose of this Act is to authorize the department of taxation to require real estate investment trusts operating in the State to notify

the State of the real estate investment trusts' existence and annually report information required by the department, including a copy of the real estate investment trusts' federal tax return, with the real estate investment trusts' state tax return.

SECTION 2. Section 235-71, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) In the case of a real estate investment trust there is imposed on the taxable income, computed as provided in sections 857 and 858 of the Internal Revenue Code but with the changes and adjustments made by this chapter (without prejudice to the generality of the foregoing, the deduction for dividends paid is limited to such amount of dividends as is attributable to income taxable under this chapter), a tax consisting in the sum of the following: 4.4 per cent if the taxable income is not over \$25,000, 5.4 per cent if over \$25,000 but not over \$100,000, and on all over \$100,000, 6.4 per cent. In addition to any other penalty provided by law any real estate investment trust whose tax liability for any taxable year is deemed to be increased pursuant to section 859(b)(2)(A) or 860(c)(1)(A) after December 31, 1978, (relating to interest and additions to tax determined with respect to the amount of the deduction for deficiency dividends allowed) of the Internal Revenue Code shall pay a penalty in an amount equal to the amount of interest for which ~~such~~ the trust is liable that is attributable solely to ~~such~~ the increase. The penalty payable under this subsection with respect to any determination shall not exceed one-half of the amount of the deduction allowed by section 859(a), or 860(a) after December 31, 1978, of the Internal Revenue Code for ~~such~~ the taxable year.

Notwithstanding the foregoing, beginning January 1, 2022, the department shall require a real estate investment trust subject to this chapter to:

- (1) Notify the department, in the manner prescribed by the department, of its operation as a real estate investment trust in the State no later than fifteen days from the first day of operation in the State; provided that, for real estate investment trusts operating in the State as of July 1, 2021, the department shall be notified no later than January 15, 2022;
- (2) Properly designate on its tax return that it is a real estate investment trust, as required by the department;
- (3) Complete its tax return in the specific manner required by the department, including following line-by-line instructions; and
- (4) Submit a copy of the real estate investment trust's federal tax return covering the same period with each state tax return that the real estate investment trust files with the department under this chapter.

Any real estate investment trust that fails to comply with these requirements shall be assessed a penalty of \$50 per day.”

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

SECTION 4. This Act, upon its approval, shall apply to taxable years beginning after December 31, 2021.

(Approved June 24, 2021.)

A Bill for an Act Relating to Secondhand Dealers.

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

SECTION 1. Section 486M-1, Hawaii Revised Statutes, is amended as follows:

1. By adding a new definition to be appropriately inserted and to read: “Automated recycling kiosk” means an interactive device that is installed within a secure retail space and performs the following technological functions:
 - (1) Only accepts for recycling previously owned handheld electronic cellular phone devices;
 - (2) Verifies a seller’s identity through a combination of technology within the kiosk and remote examination of a government-issued identification by a live representative during each transaction;
 - (3) Securely stores devices accepted by the kiosk;
 - (4) Records images of the seller and the devices accepted during the transaction;
 - (5) Possesses computerized record-keeping and transmittal capabilities;
 - (6) Electronically transmits transaction records to law enforcement within twenty-four hours from when the device was received; and
 - (7) Can be remotely opened upon request by law enforcement during normal business hours.”
2. By amending the definition of “secondhand dealer” to read: “Secondhand dealer” means any person who trades in secondhand or previously owned articles, including the operation of an automated recycling kiosk, and includes any person subject to part VII of chapter 445.”

SECTION 2. Section 486M-4, Hawaii Revised Statutes, is amended to read as follows:

“§486M-4 Minimum retention of items. (a) No dealer, the dealer’s agents, employees, or representatives shall alter, melt, deface, break apart, dispose of, or change the character or integrity of the precious or semiprecious metals or precious or semiprecious gems received or purchased for a period of fifteen calendar days in counties with a population of less than [300,000,] three hundred thousand and thirty calendar days in counties with a population of [300,000] three hundred thousand or more after the purchase or possession by the dealer, whichever comes later. Every article received by the dealer, the dealer’s agents, employees, or representatives shall be retained by the dealer in the county where received or purchased for a period of fifteen calendar days in counties with a population of less than [300,000,] three hundred thousand and thirty calendar days in counties with a population of [300,000] three hundred thousand or more after the purchase or possession by the dealer, whichever comes later.

(b) At the discretion of the chief of police of each county, the holding period may be reduced to fifteen calendar days; provided that the dealer has computerized record-keeping and transmittal capabilities acceptable to the chief of police or the chief of police’s authorized representative.

(c) Notwithstanding subsection (a) to the contrary, a secondhand dealer operating an automated recycling kiosk shall retain previously owned consumer handheld electronic cellular phone devices for a total period of thirty calendar days from the date they were received or purchased; provided that the secondhand dealer operating an automated recycling kiosk may store the previously owned consumer handheld electronic cellular phone devices at a business

location outside the county where the devices were received or purchased; provided further that, upon request by law enforcement within the thirty-day retention period, a secondhand dealer operating an automated recycling kiosk shall promptly return any requested devices no later than five business days from the date of the request at no cost to the requesting law enforcement agency.”

SECTION 3. Section 486M-5, Hawaii Revised Statutes, is amended to read as follows:

“§486M-5 Inspections. The chief of police of each county or the chief of police’s authorized representative may immediately inspect, during normal business hours or whenever the dealer or the dealer’s agents or employees are otherwise present, any records required by this chapter and any articles described in [such] those records that the police reasonably believe are stolen goods.”

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 January 1, 2022.

(Approved June 24, 2021.)

ACT 80

H.B. NO. 471

A Bill for an Act Relating to Behavior Analysts.

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

SECTION 1. The legislature finds that Act 199, Session Laws of Hawaii 2015 (Act 199), codified as chapter 465D, Hawaii Revised Statutes, enacted a regulatory structure for behavior analysts. This regulatory structure is scheduled to sunset on June 30, 2021.

The legislature further finds that in December 2020, the auditor released report no. 20-20: “Sunset Evaluation: Regulation of Behavior Analysts,” which found that the criteria for regulating professions contained in section 26H-2, Hawaii Revised Statutes, supports continued regulation of the applied behavior analysis profession. Specifically, the auditor’s report found that:

- (1) Licensing requirements governing the practice of applied behavior analysis are reasonably necessary to protect the health, safety, or welfare of those receiving services, and therefore should be maintained. In particular, behavior analysts develop and supervise treatment in cases involving aggressive and impulsive behaviors, including physical aggression, property destruction, and self-injury;
- (2) Licensing the practice of applied behavior analysis protects consumers by establishing certain minimum qualifications, as treatment by unqualified individuals could worsen behavior and result in other negative social outcomes;
- (3) Regulation assures that behavior analysts are licensed professionals providing services that are eligible for insurance reimbursement; and

- (4) Licensing of behavior analysts does not unreasonably restrict entry into the practice of applied behavior analysis in Hawaii and licensing fees cover the cost to administer the program.

The legislature additionally finds that since 2015, over three hundred licensed behavior analysts and over fourteen hundred behavior technicians are currently registered in the State. Thousands of children and adults have received access to applied behavior analysis services since the implementation of Act 199.

Accordingly, the purpose of this Act is to make permanent the regulation of behavior analysts under chapter 465D, Hawaii Revised Statutes.

SECTION 2. Section 26H-4, Hawaii Revised Statutes, is amended to read as follows:

“§26H-4 Repeal dates for newly enacted professional and vocational regulatory programs. (a) Any professional or vocational regulatory program enacted after January 1, 1994, and listed in this section shall be repealed as specified in this section. The auditor shall perform an evaluation of the program, pursuant to section 26H-5, prior to its repeal date.

~~[(b) Chapter 465D (behavior analysts) shall be repealed on June 30, 2021.~~

~~(e)]~~ (b) Chapter 466L (appraisal management companies) shall be repealed on June 30, 2023.

~~[(d)]~~ (c) Chapter 457J (midwives) shall be repealed on June 30, 2025.”

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, 2021.

(Approved June 24, 2021.)

ACT 81

H.B. NO. 631

A Bill for an Act Relating to Financial Hardship.

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

SECTION 1. Section 286-136, Hawaii Revised Statutes, is amended to read as follows:

“§286-136 Penalty. (a) Except as provided in subsection (b), any person who violates section 286-102, 286-122, 286-130, 286-131, 286-132, 286-133, or 286-134 shall be fined ~~[not]~~ no more than \$1,000 or imprisoned ~~[not]~~ no more than thirty days, or both. Any person who violates any other section in this part shall be fined ~~[not]~~ no more than \$1,000.

(b) Any person who is convicted of violating section 286-102, 286-122, 286-130, 286-131, 286-132, 286-133, or 286-134 shall be subject to a minimum fine of \$500 and a maximum fine of \$1,000, or imprisoned ~~[not]~~ no more than one year, or both, if the person has two or more prior convictions for the same offense in the preceding five-year period.

(c) Notwithstanding subsections (a) and (b), a minor under the age of eighteen under the jurisdiction of the family court who is subject to this section shall either lose the right to drive a motor vehicle until the age of eighteen or be subject to a fine of \$500.

(d) Any person subject to a fine under this section and who fails to timely pay the fine shall be given an opportunity to petition the court to demonstrate

that the person's nonpayment or inability to pay is not wilful; provided that if the person petitions the court, the court shall make an individualized assessment of the person's ability to pay based upon the totality of the circumstances, including the person's disposable income, financial obligations, and liquid assets; provided further that if the court determines that the person's nonpayment or inability to pay is not wilful, the court may enter an order that allows additional time for payment; reduces the amount of each installment; revokes the fee or fine, or unpaid portion thereof, in whole or in part; or converts any outstanding fine to community service."

SECTION 2. Section 291D-9, Hawaii Revised Statutes, is amended to read as follows:

~~"[§291D-9]~~ **Monetary assessments.** (a) A person found to have committed a traffic infraction shall be assessed a monetary assessment not to exceed the maximum fine specified in the statute defining the traffic infraction. The court shall consider a person's financial circumstances, if disclosed, in determining the monetary assessment.

(b) Notwithstanding section 291C-161 or any other law to the contrary, the district court of each circuit shall prescribe a schedule of monetary assessments for all traffic infractions, and any additional assessments to be imposed pursuant to subsection (c). The particular assessment to be entered on the notice of traffic infraction pursuant to section 291D-5 shall correspond to the schedule prescribed by the district court. Except after proceedings conducted pursuant to section 291D-8 or a trial conducted pursuant to section 291D-13, monetary assessments assessed pursuant to this chapter shall not vary from the schedule prescribed by the district court having jurisdiction over the traffic infraction.

(c) In addition to any monetary assessment imposed for a traffic infraction, the court may impose additional assessments for:

- (1) Failure to pay a monetary assessment by the scheduled date of payment; or
- (2) The cost of service of a penal summons issued pursuant to this chapter.

(d) ~~[The]~~ Upon request of a person claiming inability to pay a monetary assessment, the court may grant [to a person claiming inability to pay,] an extension of the period in which the monetary assessment shall be paid or may impose community service in lieu thereof.

(e) At any point before full payment of a monetary assessment, any person who suffers a change in financial circumstances may request a hearing to modify the monetary assessment or to request community service in lieu thereof."

SECTION 3. Section 431:10C-117, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

- "(a)(1) Any person subject to this article in the capacity of the operator, owner, or registrant of a motor vehicle operated in this State, or registered in this State, who violates any applicable provision of this article, shall be subject to citation for the violation by any county police department in a form and manner approved by the traffic violations bureau of the district court of the first circuit;
- (2) Notwithstanding any provision of the Hawaii Penal Code:
- (A) Each violation shall be deemed a separate offense and shall be subject to a fine of ~~[not]~~ no less than \$100 nor more than \$5,000 which shall not be suspended except as provided in subparagraph (B); and

- (B) If the person is convicted of not having had a motor vehicle insurance policy in effect at the time the citation was issued, the fine shall be \$500 for the first offense and a minimum of \$1,500 for each subsequent offense that occurs within a five-year period from any prior offense; provided that the ~~judge~~ court:
 - (i) Shall have the discretion to suspend all or any portion of the fine if the defendant provides proof of having a current motor vehicle insurance policy; provided further that upon the defendant's request, the ~~judge~~ court may grant community service in lieu of the fine, of ~~not~~ no less than seventy-five hours and ~~not~~ no more than one hundred hours for the first offense, and ~~not~~ no less than two hundred hours nor more than two hundred seventy-five hours for the second offense; and
 - (ii) May grant community service in lieu of the fine for subsequent offenses at the ~~judge's~~ court's discretion;
- (3) In addition to the fine in paragraph (2), the court shall either:
 - (A) Suspend the driver's license of the driver or of the registered owner for:
 - (i) Three months for the first conviction; and
 - (ii) One year for any subsequent offense within a five-year period from a previous offense; provided that the driver or the registered owner shall not be required to obtain proof of financial responsibility pursuant to section 287-20; or
 - (B) Require the driver or the registered owner to keep a nonrefundable motor vehicle insurance policy in force for six months;
- (4) Any person subject to a fine under this section and who fails to timely pay the fine shall be given an opportunity to petition the court to demonstrate that the person's nonpayment or inability to pay is not wilful; provided that if the person petitions the court, the court shall make an individualized assessment of the person's ability to pay based upon the totality of the circumstances, including the person's disposable income, financial obligations, and liquid assets; provided further that if the court determines that the person's nonpayment or inability to pay is not wilful, the court may enter an order that allows additional time for payment; reduces the amount of each installment; revokes the fee or fine, or unpaid portion thereof, in whole or in part; or converts any outstanding fine to community service;
- ~~(4)~~ (5) Any person cited under this section shall have an opportunity to present a good faith defense, including ~~[but not limited to]~~ lack of knowledge or proof of insurance~~[-The]~~; provided that the general penalty provision of this section shall not apply to:
 - (A) Any operator of a motor vehicle owned by another person if the operator's own insurance covers such driving;
 - (B) Any operator of a motor vehicle owned by that person's employer during the normal scope of that person's employment; or
 - (C) Any operator of a borrowed motor vehicle if the operator holds a reasonable belief that the subject vehicle is insured;
- ~~(5)~~ (6) In the case of multiple convictions for driving without a valid motor vehicle insurance policy within a five-year period from any prior

offense, the court, in addition to any other penalty, shall impose the following penalties:

- (A) Imprisonment of ~~not~~ no more than thirty days;
 - (B) Suspension or revocation of the motor vehicle registration plates of the vehicle involved;
 - (C) Impoundment, or impoundment and sale, of the motor vehicle for the costs of storage and other charges incident to seizure of the vehicle, or any other cost involved pursuant to section 431:10C-301; or
 - (D) Any combination of those penalties; and
- ~~[(6)]~~ (7) Any violation as provided in ~~[subsection (a)(2)(B)]~~ paragraph (2)(B) shall not be deemed to be a traffic infraction as defined by chapter 291D.”

SECTION 4. Section 706-644, Hawaii Revised Statutes, is amended by amending subsection (3) to read as follows:

“(3) The term of imprisonment for nonpayment of fee, fine, or restitution shall be specified in the order of commitment, and shall not exceed one day for each ~~[\$25]~~ \$250 of the fee or fine, thirty days if the fee or fine was imposed upon conviction of a violation or a petty misdemeanor, or one year in any other case, whichever is the shorter period. A person committed for nonpayment of a fee or fine shall be given credit toward payment of the fee or fine for each day of imprisonment, at the rate of ~~[\$25]~~ \$250 per day.”

SECTION 5. This Act does not affect 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.

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

(Approved June 24, 2021.)

ACT 82

H.B. NO. 561

A Bill for an Act Relating to Energy.

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

SECTION 1. Section 269-6, Hawaii Revised Statutes, is amended to read as follows:

“~~§269-6~~ **General powers and duties.** (a) The public utilities commission shall have the general supervision hereinafter set forth over all public utilities, and shall perform the duties and exercise the powers imposed or conferred upon it by this chapter. Included among the general powers of the commission is the authority to adopt rules pursuant to chapter 91 necessary for the purposes of this chapter.

(b) The public utilities commission shall consider the need to reduce the State’s reliance on fossil fuels through energy efficiency and increased renewable energy generation in exercising its authority and duties under this chapter. In making determinations of the reasonableness of the costs ~~[of]~~ pertaining to electric or gas utility system capital improvements and operations, the commission

shall explicitly consider, quantitatively or qualitatively, the effect of the State's reliance on fossil fuels on ~~price~~;

- (1) ~~Price volatility~~~~[-export]~~;
- (2) ~~Export~~ of funds for fuel imports~~[-fuel]~~;
- (3) ~~Fuel~~ supply reliability risk~~[-and greenhouse]~~; and
- (4) ~~Greenhouse~~ gas emissions.

The commission may determine that short-term costs or direct costs of renewable energy generation that are higher than alternatives relying more heavily on fossil fuels are reasonable, considering the impacts resulting from the use of fossil fuels. The public utilities commission shall determine whether such analysis is necessary for proceedings involving water, wastewater, or telecommunications providers on an individual basis.

(c) The analysis described in subsection (b) shall not be required for a utility's routine system replacements, such as overhauls and overhead or underground line determinations, or determinations that do not pertain to capital improvements or operations, including but not limited to financing requests.

~~(e)~~ (d) In exercising its authority and duties under this chapter, the public utilities commission shall consider the costs and benefits of a diverse fossil fuel portfolio and of maximizing the efficiency of all electric utility assets to lower and stabilize the cost of electricity. Nothing in this section shall subvert the obligation of electric utilities to meet the renewable portfolio standards set forth in section 269-92.

~~(d)~~ (e) The public utilities commission, in carrying out its responsibilities under this chapter, shall consider whether the implementation of one or more of the following economic incentives or cost recovery mechanisms would be in the public interest:

- (1) The establishment of a shared cost savings incentive mechanism designed to induce a public utility to reduce energy costs and operating costs and accelerate the implementation of energy cost reduction practices;
- (2) The establishment of a renewable energy curtailment mitigation incentive mechanism to encourage public utilities to implement curtailment mitigation practices when lower cost renewable energy is available but not utilized through the sharing of energy cost savings between the public utility, ratepayer, and affected renewable energy projects;
- (3) The establishment of a stranded cost recovery mechanism to encourage the accelerated retirement of an electric utility fossil fuel electric generation plant by allowing an electric utility to recover the stranded costs created by early retirement of a fossil generation plant; and
- (4) The establishment of differentiated authorized rates of return on common equity to encourage increased utility investments in transmission and distribution infrastructure, discourage an electric utility investment in fossil fuel electric generation plants to incentivize grid modernization, and disincentivize fossil generation, respectively.

~~(e)~~ (f) The chairperson of the commission may appoint a hearings officer, who shall not be subject to chapter 76, to hear and recommend decisions in any proceeding before it other than a proceeding involving the rates or any other matters covered in the tariffs filed by the public utilities. The hearings officer shall have the power to take testimony, make findings of fact and conclusions of law, and recommend a decision; provided that the findings of fact, the conclusions of law, and the recommended decision shall be reviewed and may be approved by the commission after notice to the parties and an opportunity to be

heard. The hearings officer shall have all of the above powers conferred upon the public utilities commission under section 269-10.”

SECTION 2. Section 269-16.1, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) In developing performance incentive and penalty mechanisms, the public utilities commission’s review of electric utility performance shall consider, but not be limited to, the following:

- (1) The economic incentives and cost-recovery mechanisms described in section ~~[269-6(d);]~~ 269-6(e);
- (2) Volatility and affordability of electric rates and customer electric bills;
- (3) Electric service reliability;
- (4) Customer engagement and satisfaction, including customer options for managing electricity costs;
- (5) Access to utility system information, including but not limited to public access to electric system planning data and aggregated customer energy use data and individual access to granular information about an individual customer’s own energy use data;
- (6) Rapid integration of renewable energy sources, including quality interconnection of customer-sited resources; and
- (7) Timely execution of competitive procurement, third-party interconnection, and other business processes.”

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 24, 2021.)

ACT 83

H.B. NO. 599

A Bill for an Act Relating to Association Governance.

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

SECTION 1. Section 421J-3.5, Hawaii Revised Statutes, is amended to read as follows:

“~~§421J-3.5~~ **Notice required; regular, annual, and special meetings.** (a) Not less than fourteen days in advance of any regular, annual ~~[meeting]~~, or special meeting of an association, the secretary or other officer specified in the bylaws shall give written notice of the meeting to each member of the association as provided in the bylaws of the association or by two or more of the following means:

- (1) Hand delivery;
 - (2) United States mail sent to the mailing address of each unit or to another mailing address designated in writing by the association member;
 - (3) Electronic mail to the electronic mailing address designated in writing by the association member; or
 - (4) Posting of the meeting notice in its entirety on a portion of the association’s website that is accessible to all members.
- (b) Notice pursuant to this section shall state:

- (1) The date, time, and place of the meeting; and
- (2) The items on the agenda, including the general nature of and rationale for any proposed amendment to the declaration or bylaws; any proposal for a special assessment, unless the authority for a special assessment is otherwise provided for in the association's governing documents; and any proposal to remove a member of the board.
- (c) The requirements of this section shall not be interpreted to preclude any association member from proposing an amendment to the declaration or bylaws or proposing to remove a member of the board at an association meeting.
- (d) The requirements of this section shall not be interpreted to apply to any board meetings or committee meetings of a planned community association.
- (e) Notwithstanding any provision to the contrary in the association documents, the association may conduct an annual, regular, or special meeting remotely in a manner consistent with section 414D-101(g) or 414D-102(f), as applicable.

SECTION 2. Section 514B-121, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (b) to read:

“(b) Notwithstanding any other provision of this chapter, except as provided in subsection (e), or the declaration or bylaws of a condominium to the contrary, at any association meeting the board may direct the use of an electronic voting device regardless of whether a secret ballot is used or required. [Such] Except as provided in subsection (e), the use shall be subject to the following:

- (1) The electronic voting device and all associated equipment shall be isolated from any connection to an external network, including the Internet;
- (2) The board shall establish reasonable procedures to provide for the secrecy and integrity of the unit owners' votes, including but not limited to procedures that ensure the availability of a printed audit trail containing:
 - (A) The reference number of the electronic voting device;
 - (B) Each common interest voted; and
 - (C) The vote that was tabulated;
- (3) A copy of the printed audit trail shall be available to owners after the meeting in the same manner provided by sections 514B-154 and 514B-154.5; and
- (4) A copy of the procedures established pursuant to paragraph (2) shall be available at no charge to any owner and a copy shall be available at any meeting at which the association uses an electronic voting device.

In the event of any conflict between this subsection and subsection (e), subsection (e) shall control.”

2. By amending subsection (e) to read:

“(e) All association meetings shall be conducted in accordance with the most recent edition of Robert's Rules of Order Newly Revised. [If so provided in the declaration or bylaws, meetings may be conducted by any means that allow participation by all unit owners in any deliberation or discussion.] Notwithstanding any provision to the contrary in the association's declaration or bylaws or in subsection (b), electronic meetings and electronic, machine, or mail voting shall be authorized:

- (1) During any period in which a state of emergency or local state of emergency, declared pursuant to chapter 127A, is in effect in the county in which the condominium is located;

- (2) For any association meeting for which notice was given while a state of emergency or local state of emergency, declared pursuant to chapter 127A, was in effect for the county in which the condominium is located but is no longer in effect as of the date of the meeting; provided that the meeting is held within sixty days of the date the notice was first given; or
- (3) Whenever otherwise authorized in an association's declaration or bylaws."

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 24, 2021.)

ACT 84

H.B. NO. 670

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 subpart C of part II to be appropriately designated and to read as follows:

“§88- Forfeiture of benefits; felony convictions. (a) If a member, former member, or retirant is convicted of a felony and the court finds that, by a preponderance of the evidence, the felony is related to the employment of the member, former member, or retirant by the State or any county, the court may decree pursuant to section 706-605(8), a civil penalty of forfeiture by the member, former member, or retirant of one-half of any:

- (1) Interest;
- (2) Hypothetical account balance in excess of the amount representing any employee contributions made by or on behalf of the member, former member, or retirant;
- (3) Pension;
- (4) Annuity; or
- (5) Retirement allowance,

to which the member, former member, or retirant may otherwise be entitled under this chapter; provided that upon the death of the member, former member, or retirant, the designated beneficiary of the member, former member, or retirant may receive the reduced benefits to which the member, former member, or retirant would be entitled under this section; provided further that a designated beneficiary who is also convicted of a felony based on the same set of circumstances as the member, former member, or retirant who were subject to civil penalty under this section, shall not receive any benefits.

(b) Upon receipt of a certified copy of the order decreeing forfeiture, the system shall comply with the order and shall reduce, suspend, or deny payment to the member, former member, retirant, or designated beneficiary, if applicable, as provided in the order until such time as the system receives a certified order to:

- (1) Increase, resume, or make payments to the member, former member, retirant, or designated beneficiary; or
- (2) Quash or reverse the decree of forfeiture.

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The system shall not be required to make inquiry into the propriety of the order decreeing forfeiture or recoup any payments made to the member, former member, retiree, or designated beneficiary prior to receipt by the system of the order decreeing forfeiture.

(c) For the purposes of this section, a felony is “related to the employment” of an employee of the State or a county if the employee uses or attempts to use the employee’s official position to commit the felony, including:

- (1) Felonies in which state or county time, equipment, or other facilities are used in the commission of the felony;
- (2) Bribery;
- (3) Embezzlement, theft, or other unlawful taking, receiving, retaining, or failing to account properly for, any property or funds that belong to the State or any county, or any department, bureau, board, or other agency thereof; or
- (4) Felonies committed against a person over whom the employee, in the course of the employee’s duties, exercises custody or supervision.

(d) This section shall not impair or diminish benefits accrued prior to the effective date of Act _____, Session Laws of Hawaii 2021.

(e) This section shall not apply to felonies committed prior to the effective date of Act _____, Session Laws of Hawaii 2021.

(f) This section shall not apply to accrued retirement benefits that are non-forfeitable pursuant to sections 88-73(f), 88-281(g), and 88-331(f).”

SECTION 2. New statutory material is underscored.¹

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

(Approved June 24, 2021.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 85

H.B. NO. 824

A Bill for an Act Relating to Intoxicating 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- Reporting of shipments by carriers.** (a) Notwithstanding section 281-33, any express carrier company, common or contract carrier, except water carriers as defined and regulated by the Surface Transportation Board of the United States, or other person that transports liquor from outside the State for delivery in the State to any person, except those having a class 1 manufacturer license or class 3 wholesale dealer license, shall prepare and file a monthly report with the liquor commission or liquor control adjudication board of each county. The report shall contain the following information:

- (1) The known wine, beer, alcohol, or other liquor shipments made statewide containing the name of the express carrier company, common or contract carrier, or other person making the report;
- (2) The period of time covered by the report;

- (3) The name and business address of the consignor of the wine, beer, alcohol, or other liquor;
 - (4) The name and address of each consignee of the wine, beer, alcohol, or other liquor;
 - (5) The weight of the package delivered to each consignee;
 - (6) A unique tracking number; and
 - (7) The date of each delivery.
- (b) Reports received by a county liquor commission or liquor control adjudication board under this section shall be subject to chapter 92F.
- (c) Any county liquor commission or liquor control adjudication board may provide reports received to any other department or agency.
- (d) Upon written request of a county liquor commission or liquor control adjudication board, the information or records supporting the report shall be filed with the requesting liquor commission or liquor control adjudication board within thirty days. Any records containing information relating to reports shall be preserved for three years.
- (e) The liquor commission or liquor control adjudication board in each county may adopt rules pursuant to chapter 91 necessary to carry out the purposes of this section.”

SECTION 2. New statutory material is underscored.¹

SECTION 3. This Act shall take effect on July 1, 2021.

(Approved June 24, 2021.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 86

H.B. NO. 869

A Bill for an Act Relating to Special Purpose Revenue Bonds to Assist Luana Kai A Life Plan Community.

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

SECTION 1. The legislature finds and declares that it is in the public interest to encourage development of continuing care retirement communities in the State. The legislature further finds that Luana Kai A Life Plan Community, a Hawaii nonprofit corporation, is engaged in the development of a continuing care retirement community in Honolulu, Oahu.

The legislature further finds that Luana Kai A Life Plan Community may be assisted through the issuance of special purpose revenue bonds because its continuing care retirement community in Honolulu is a health care facility as defined in part II, chapter 39A, Hawaii Revised Statutes.

The legislature finds and declares that the issuance of special purpose revenue bonds under this Act is in the public interest and for the public health, safety, and general welfare.

SECTION 2. Pursuant to part II, chapter 39A, Hawaii Revised Statutes, the department of budget and finance, with the approval of the governor, is authorized to issue in one or more series special purpose revenue bonds in a total amount not to exceed the sum of \$500,000,000 for the purpose of assist-

ing Luana Kai A Life Plan Community, a Hawaii nonprofit corporation in the development and operation of a continuing care retirement community.

The legislature finds and determines that the activity of Luana Kai A Life Plan Community, constitutes a health care facility as defined in part II, chapter 39A, Hawaii Revised Statutes, and the financing thereof constitutes assistance to a not-for-profit corporation that provides health care facilities to the general public.

SECTION 3. The special purpose revenue bonds shall be issued pursuant to part II, chapter 39A, Hawaii Revised Statutes, relating to the authority to issue special purpose revenue bonds to assist not-for-profit corporations that provide health care facilities to the general public.

SECTION 4. The department of budget and finance is authorized, from time to time, including times subsequent to June 30, 2026, 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 shall be bonds for the projects and purposes 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, 2026.

SECTION 6. This Act shall take effect on July 1, 2021.

(Approved June 24, 2021.)

ACT 87

H.B. NO. 1298

A Bill for an Act Relating to State Funds.

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

PART I

SECTION 1. The COVID-19 pandemic has swept across the nation and many parts of the world with unanticipated force and brought enormous challenges for governments at all levels. These challenges provide opportunities to restructure.

The legislature finds that, fundamentally, non-general funds must be reviewed and scrutinized just as much as general funds to determine if resources are being deployed effectively and efficiently.

The purpose of this Act is to trigger a full accounting of various non-general funded program objectives, performance, and results and transfer excess balances of identified non-general funds to the general fund.

SECTION 2. The legislature determines that there are amounts in excess of the requirements of the various funds listed in this Act. The director of finance is authorized to transfer the following amounts or so much thereof as may be necessary for fiscal year 2020-2021 from the following funds to the general fund:

	Account Code - Fund Name	Minimum amount in excess of the requirements of the fund as determined by the legislature (\$)	Amount authorized to be transferred to the general fund by the director of finance (\$)
Department of Accounting and General Services			
1	S-333-M-INFORMATION MGMT & TECHNOLOGY SVCS	100,000.00	100,000.00
2	S-335-M-LEEWARD COAST HOMELESS PROJECT	7,868.73	7,868.73
3	S-365-M-STATE ARCHIVES PRESERVATION LT ACCESS SF	200,000.00	200,000.00
Department of Agriculture			
4	S-301-A-AGRICULTURAL LOAN RESERVE FUND	1,136,940.48	1,136,940.48
5	S-308-A-SEAL OF QUALITY SPECIAL FUND	20,000.00	20,000.00
6	S-309-A-MEASUREMENT STANDARDS	213,778.75	213,778.75
7	S-312-A-BIOSECURITY PROGRAM	94,561.80	94,561.80
8	S-317-A-AGRICULTURAL PARKS SPECIAL FUND	200,000.00	200,000.00
9	S-319-A-GENERAL ADMINISTRATION FOR AGRICULTURE	494,008.43	494,008.43
10	S-321-A-AGR DEV/FOOD SECURITY - ADD	161,273.02	161,273.02
11	S-331-A-AGRICULTURAL DEVELOPMENT & FOOD SECURITY	7,993,163.95	7,993,163.95
12	S-333-A-AGR DEV/FOOD SECURITY - PI	303,931.03	303,931.03
13	S-335-A-AGR DEV/FOOD SECURITY - ARM	25,612.68	25,612.68
14	S-337-A-AGRIBUSINESS DEVELOPMENT & RESEARCH	32,510.49	32,510.49
15	S-352-A-AGRICULTURAL DEV & FOOD SECURITY SPEC FD	177,204.55	177,204.55
16	S-354-A-HAWAII WATER INFRASTRUCTURE SPEC FUND	813,719.76	813,719.76
Department of the Attorney General			
17	S-305-N-DNA REGISTRY SPECIAL FUND	50,000.00	50,000.00
18	S-350-N-INTERNET CRIMES AGAINST CHILD SF	120,000.00	120,000.00
Department of Business, Economic Development, and Tourism			
19	S-302-B-FOREIGN TRADE ZONE	250,000.00	250,000.00
20	S-305-B-ENERGY SECURITY FUND	2,400,000.00	2,400,000.00
21	S-308-B-HYDROGEN INVESTMENT CAPITAL SPECIAL FUND	1,303.29	1,303.29
22	S-309-B-CREATIVE INDUSTRIES DIVISION	30,000.00	30,000.00
Department of Defense			
23	S-351-G-COVID19 RESPONSE	600.80	600.80
24	T-905-G-ASSET FORFEITURE TRUST ACCOUNT - FEDERAL	49,782.79	49,782.79
Department of Education			
25	S-321-E-HAWAII TEACHER STANDARDS BOARD SPL FUND	1,098.41	1,098.41
26	S-333-E-PVT TRADE, VOC & TECH SCHOOL LICENSURE	23,801.19	23,801.19
27	S-350-E-DRIVER EDUCATION PROGRAM	2,000,000.00	2,000,000.00
Department of Health			
28	S-305-H-COMMUNITY HEALTH CENTERS SPECIAL FUND	10,000,000.00	10,000,000.00
29	S-307-H-DRUG DEMAND REDUCTION ASSESSMENTS SP FUND	242,915.31	242,915.31
30	S-309-H-STATE HEALTH PLANNING AND DEV.	400,000.00	400,000.00
31	S-311-H-TRAUMA SYSTEM	5,000,000.00	5,000,000.00
32	S-313-H-DEPOSIT BEVERAGE CONTAINER DEPOSIT SP FD	5,000,000.00	5,000,000.00
33	S-314-H-NEUROTRAUMA SPECIAL FUND	400,000.00	400,000.00
34	S-315-H-ENVIRONMENTAL HEALTH ADMINISTRATION	26,306.42	26,306.42

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35	S-319-H-ELECTRONIC DEVICE RECYCLING	1,000,000.00	1,000,000.00
36	S-334-H-DISABILITY AND COMM ACCESS BOARD	1,000,000.00	1,000,000.00
37	S-340-H-ENVIRONMENTAL HTH PGM ENHANCE	6,000,000.00	6,000,000.00
38	S-355-H-MAUI MEMORIAL HOSPITAL	153.76	153.76
39	S-356-H-HANA MEDICAL CENTER	1.82	1.82
40	S-358-H-LANAI COMMUNITY HOSPITAL	0.58	0.58
41	S-371-H-KULA HOSPITAL	3,846.63	3,846.63
42	S-388-H-DIETITIAN LICENSURE SPECIAL FUND	87,757.26	87,757.26
Department of Human Resources Development			
43	S-310-P-HUMAN RESOURCES DEVELOPMENT SPECIAL FUND	1,800,000.00	1,800,000.00
Department of Human Services			
44	S-302-K-GENERAL SUPPORT FOR HEALTH CARE PAYMENTS	14,355.00	14,355.00
45	S-339-K-FINANCIAL ASSISTANCE FOR HOUSING	1,769.44	1,769.44
46	S-368-K-NURSING FACILITY SUSTAINABILITY SP FUND	28,097.30	28,097.30
47	S-372-K-NURSING FACILITY SUSTAINABILITY SP FUND	1,119,729.15	1,119,729.15
48	S-382-K-NURSING FACILITY SUSTAINABILITY PROG SF	166,325.66	166,325.66
49	T-920-K-KAHIKOLU OHANA O WAIANA E PROJECT	1,061.50	1,061.50
Department of Labor and Industrial Relations			
50	S-318-L-PLACEMENT SERVICES (EMPLOYMENT & TRNG)	0.09	0.09
51	S-330-L-HOISTING MACHINE OPER CERT REVOLVING FUND	200,000.00	200,000.00
52	S-338-L-OFFICE OF COMMUNITY SERVICES	270.00	270.00
Department of Land and Natural Resources			
53	S-302-C-CONSERVATION & RESOURCES ENFORCEMENT	150,000.00	150,000.00
54	S-303-C-WATER AND LAND DEVELOPMENT	450,000.00	450,000.00
55	S-309-C-BUREAU OF CONVEYANCES SPECIAL FUND	1,300,000.00	1,300,000.00
56	S-312-C-STATE PARKS SPECIAL FUND	1,000,000.00	1,000,000.00
57	S-314-C-NATIVE RESOURCES & FIRE PROTECTION PGM	115.74	115.74
58	S-315-C-PUBLIC LAND TRUST INVENTORY & INFO SYS	90.18	90.18
59	S-316-C-SPECIAL LAND DEVELOPMENT FUND	10,000,000.00	10,000,000.00
60	S-317-C-LAND CONSERVATION FUND	15,000,000.00	15,000,000.00
61	S-325-C-BEACH RESTORATION SPECIAL FUND	500,000.00	500,000.00
62	S-341-C-ECOSYSTEM PROTECTION AND RESTORATION	5,800.75	5,800.75
63	S-342-C-NATURAL AREA RESERVE FUND	227,000.00	227,000.00
64	S-371-C-IUCN - SLDF	20,276.45	20,276.45
65	S-373-C-HAWAII HISTORIC PRESERVATION SPECIAL FUND	68,400.83	68,400.83
66	S-376-C-COUNTY LIFEGUARD SERVICES SPEC FD	0.04	0.04
Department of Public Safety			
67	S-350-V1-AUTO VICTIM INFO & NOTIFICATION SYS SF	700,000.00	700,000.00
68	T-905-VI-DRUG LAW ENFORCEMENT EQUIPMENT PROCUREMENT	8,055.13	8,055.13
Department of Taxation			
69	S-325-T-CIGARETTE TAX STAMP ADMIN SPECIAL FUND	1,000,000.00	1,000,000.00
70	S-327-T-TAX ADMINISTRATION SPECIAL FUND	15,000,000.00	15,000,000.00
71	T-936-T-SALE OF ASSETS FOR DELINQUENT TAXES-OAHU	3,380.50	3,380.50
University of Hawaii			
72	S-309-F-CENTER FOR NURSING SPECIAL FUND	0.96	0.96
73	S-320-F-GRANT FOR THE BRIDGE-TO-HOPE PROGRAM	87,659.78	87,659.78
74	S-399-F-LEGISLATIVE RELIEF FOR CLAIMS - UH	1,586.08	1,586.08

PART II

SECTION 3. Chapter 37, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

“§37- Non-general fund program measures reports. No later than October 1 annually, each department shall submit to the legislature a report for each non-general fund account under its control that shall include but not be limited to the following:

- (1) A statement of its objectives;
- (2) Measures quantifying the target population to be served for each of the ensuing six fiscal years;
- (3) Measures by which the effectiveness in attaining the objectives is to be assessed;
- (4) The level of effectiveness planned for each of the ensuing six fiscal years;
- (5) A brief description of the activities encompassed;
- (6) The program size indicators; and
- (7) The program size planned for each of the next six fiscal years.

§37- Non-general fund cost element reports. No later than October 1 annually, each department shall submit to the legislature a report for each non-general fund under its control that shall include but not be limited to the following:

- (1) Budget details by cost element; and
- (2) Non-general fund names and account codes for each item or object code.”

SECTION 4. Section 37-47, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§37-47]]~~ Reporting of non-general fund information. No later than ~~[twenty days prior to the convening of each regular session,]~~ October 1 annually, each department shall submit to the legislature a report for each non-general fund account ~~[which] under its control that~~ shall include but not be limited to~~]~~ the following:

- (1) The name of the fund and a cite to the law authorizing the fund;
- (2) The intended purpose of the fund;
- (3) The current program activities ~~[which] that~~ the fund supports;
- (4) The balance of the fund at the beginning of the current fiscal year;
- (5) The total amount of expenditures and other outlays from the fund account for the previous fiscal year;
- (6) The total amount of revenue deposited to the account for the previous fiscal year;
- (7) A detailed listing of all transfers from the fund;
- (8) The amount of moneys encumbered in the account as of the beginning of the fiscal year;
- (9) The amount of funds in the account ~~[which] that~~ are required for the purposes of bond conveyance or other related bond obligations;
- (10) The amount of moneys in the account derived from bond proceeds; and
- (11) The amount of moneys of the fund held in certificates of deposit, escrow accounts or other investments.”

PART III

SECTION 5. It is the intent of this Act not to jeopardize the receipt of any federal aid nor to impair the obligation of the State or any agency thereof to the holders of any bond issued by the State or by any such agency, and to the extent, and only to the extent, necessary to effectuate this intent, the governor may modify the strict provisions of this Act, but shall promptly report any modification with reasons therefor to the legislature at its next session thereafter for review by the legislature.

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 7. This Act, upon its approval, shall take effect retroactively on June 30, 2021.

(Approved June 24, 2021.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 88

H.B. NO. 200

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 2021.

SECTION 2. DEFINITIONS. Unless otherwise clear from the context, as used in this Act:

“Capital project number” means the official number of the capital project, as assigned by the responsible organization.

“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

“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	federal funds
P	other federal funds
R	private contributions
S	county funds
T	trust funds
U	interdepartmental transfers
V	American Rescue Plan funds
W	revolving funds
X	other funds

“Position ceiling” means the maximum number of permanent and temporary full-time equivalent positions authorized for a particular program during a specified period or periods, as denoted by an asterisk for permanent full-time equivalent positions and a pound sign for temporary full-time equivalent positions.

“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.

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, 2021, and ending June 30, 2023. The total expenditures and the number of positions in each fiscal year of the biennium shall not exceed the sums and the position ceilings 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 2021-2022	FISCAL YEAR 2022-2023
A. ECONOMIC DEVELOPMENT					
1.		BED100 - STRATEGIC MARKETING AND SUPPORT		10.00 *	10.00 *
				1.00 #	1.00 #
	OPERATING		BED	1,288,724 A	1,288,724 A
			BED	100,000 V	100,000 V
			BED	2,321,915 W	2,321,915 W
			BED	700,000 P	700,000 P
2.		BED105 - CREATIVE INDUSTRIES DIVISION		13.00 *	13.00 *
				1.00 #	1.00 #
	OPERATING		BED	1,412,289 A	1,412,289 A
			BED	780,000 B	780,000 B
			BED	50,000 V	50,000 V
3.		BED107 - FOREIGN TRADE ZONE		16.00 *	16.00 *
	OPERATING		BED	2,513,717 B	2,513,717 B
4.		BED142 - GENERAL SUPPORT FOR ECONOMIC DEVELOPMENT		25.00 *	25.00 *
				1.00 #	1.00 #
	OPERATING		BED	2,290,423 A	2,290,423 A
5.		BED113 - TOURISM		1.00 *	1.00 *
				24.00 #	24.00 #
	OPERATING		BED	11,000,000 V	11,000,000 V
6.		AGR101 - FINANCIAL ASSISTANCE FOR AGRICULTURE		9.00 *	9.00 *
				806,418 A	622,318 A
	OPERATING		AGR	5,500,000 W	5,500,000 W
7.		AGR122 - PLANT PEST AND DISEASE CONTROL		1,443,780 A	1,025,780 A
				114.00 *	114.00 *
	OPERATING		AGR	14,653,861 B	14,653,861 B
			AGR	512,962 T	512,962 T
			AGR	212,095 U	212,095 U
			AGR	50,360 W	50,360 W
				2.00 #	2.00 #
			AGR	528,412 P	528,412 P

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL YEAR 2021-2022	FISCAL YEAR 2022-2023
8.	AGR131	RABIES QUARANTINE			
	OPERATING		AGR	32.32 * 3,581,067 B	32.32 * 3,581,067 B
9.	AGR132	ANIMAL DISEASE CONTROL			
	OPERATING		AGR	20.68 * 1,604,101 A	20.68 * 1,604,101 A
			AGR	47,802 B	47,802 B
			AGR	3.00 #	3.00 #
	INVESTMENT CAPITAL		AGS	438,438 P 1,200,000 C	438,438 P C
10.	LNR172	FORESTRY - RESOURCE MANAGEMENT AND DEVELOPMENT			
	OPERATING		LNR	29.00 * 2,713,692 A	29.00 * 2,713,692 A
			LNR	2,455,475 B	2,455,475 B
			LNR	1.00 * 10,421,463 P	1.00 * 500,000 P
	INVESTMENT CAPITAL		LNR	2,860,000 C	C
			LNR	2,000,000 D	D
11.	AGR151	QUALITY AND PRICE ASSURANCE			
	OPERATING		AGR	20.00 * 1,462,336 A	20.00 * 1,361,655 A
			AGR	1.00 * 294,848 B	1.00 * 294,848 B
			AGR	100,000 N	100,000 N
			AGR	300,000 T	300,000 T
			AGR	6.50 # 504,037 W	6.50 # 504,037 W
			AGR	138,624 P	138,624 P
12.	AGR171	AGRICULTURAL DEVELOPMENT AND MARKETING			
	OPERATING		AGR	11.00 * 1,282,806 A	11.00 * 882,806 A
			AGR	15,000 B	15,000 B
			AGR	2.00 * 1,120,787 N	2.00 * 1,120,787 N
			AGR	100,000 V	V
			AGR	220,000 P	220,000 P
13.	AGR141	AGRICULTURAL RESOURCE MANAGEMENT			
	OPERATING		AGR	14.00 * 1,483,645 A	14.00 * 1,050,484 A
			AGR	13.50 * 2,028,080 B	13.50 * 2,028,080 B
			AGR	7.50 * 1,293,125 W	7.50 * 1,293,125 W
	INVESTMENT CAPITAL		AGR	4,960,000 C	C
			UOH	28,000,000 C	C
			AGR	1,000 N	N
14.	AGR161	AGRIBUSINESS DEVELOPMENT AND RESEARCH			
	OPERATING		AGR	7.00 # 1,104,521 A	7.00 # 604,521 A
			AGR	6.00 # 3,757,929 W	6.00 # 3,757,929 W

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL M YEAR O 2021-2022 F	FISCAL M YEAR O 2022-2023 F
15.	AGR192	- GENERAL ADMINISTRATION FOR AGRICULTURE			
	OPERATING		AGR	32.00 * 3,068,304 A	32.00 * 2,132,020 A
				1.00 *	1.00 *
	INVESTMENT CAPITAL		AGR AGS	57,324 B 3,000,000 C	57,324 B C
16.	LNR153	- FISHERIES MANAGEMENT			
	OPERATING		LNR	11.00 * 987,079 A	11.00 * 987,079 A
				2.00 *	2.00 *
			LNR	381,355 B	381,355 B
			LNR	420,000 N	420,000 N
			LNR	1,000,000 V	V
				2.00 *	2.00 *
				1.00 #	1.00 #
	INVESTMENT CAPITAL		LNR LNR	731,836 P 350,000 C	325,000 P C
17.	AGR153	- AQUACULTURE DEVELOPMENT			
	OPERATING		AGR AGR	3.00 * 294,639 A 125,000 B	3.00 * 294,639 A 125,000 B
18.	BED120	- HAWAII STATE ENERGY OFFICE			
	OPERATING		BED	2.00 * 20.00 # 1,958,082 A	2.00 * 20.00 # 1,958,082 A
			BED	500,000 B	500,000 B
			BED	500,000 N	500,000 N
			BED	240,000 T	240,000 T
19.	BED143	- HAWAII TECHNOLOGY DEVELOPMENT CORPORATION			
	OPERATING		BED	3.00 * 5.00 # 1,258,111 A	3.00 * 5.00 # 1,234,902 A
			BED	1,604,258 B	1,604,258 B
			BED	2,017,203 W	2,017,203 W
				9.00 #	9.00 #
			BED	994,214 P	994,214 P
20.	BED146	- NATURAL ENERGY LABORATORY OF HAWAII AUTHORITY			
	OPERATING		BED	17.00 # 7,744,562 B	17.00 # 7,744,562 B
21.	BED138	- HAWAII GREEN INFRASTRUCTURE AUTHORITY			
	OPERATING		BED	5.00 # 85,978,302 B	5.00 # 85,978,302 B
22.	LNR141	- WATER AND LAND DEVELOPMENT			
	OPERATING		LNR	24.00 * 2,583,711 A	24.00 * 2,583,711 A
				4.00 *	4.00 *
			LNR	820,764 B	820,764 B
			LNR	199,479 T	199,479 T
	INVESTMENT CAPITAL		LNR	5,000,000 C	2,000,000 C

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL M YEAR O 2021-2022 F	FISCAL M YEAR O 2022-2023 F
23.	BED150 - HAWAII COMMUNITY DEVELOPMENT AUTHORITY			8.00 *	8.00 *
				1.00 #	1.00 #
	OPERATING		BED	834,082 A	834,082 A
			BED	300,000 V	V
				13.00 *	13.00 *
				1.00 #	1.00 #
			BED	2,663,019 W	2,663,019 W
24.	BED160 - HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION				
	OPERATING		BED	3,100,000 N	3,100,000 N
				25.00 *	25.00 *
				40.00 #	40.00 #
			BED	12,289,871 W	12,289,871 W
			BED	3,000,000 P	3,000,000 P
	INVESTMENT CAPITAL		BED	40,000,000 C	45,000,000 C
B. EMPLOYMENT					
1.	LBR111 - WORKFORCE DEVELOPMENT				
	OPERATING		LBR	767,793 A	767,793 A
				2.00 #	2.00 #
			LBR	5,364,646 B	5,364,646 B
				35.70 *	35.70 *
				12.00 #	12.00 #
			LBR	16,390,000 N	16,390,000 N
				20.00 *	20.00 *
			LBR	2,000,000 S	2,000,000 S
				12.00 *	12.00 *
				20.00 #	20.00 #
			LBR	2,891,173 U	2,891,173 U
				10.50 *	10.50 *
			LBR	4,302,932 P	4,302,932 P
2.	LBR171 - UNEMPLOYMENT INSURANCE PROGRAM				
	OPERATING		LBR	3,117,682 B	3,117,682 B
				180.00 *	180.00 *
			LBR	22,695,417 N	22,695,417 N
			LBR	358,000,000 T	358,000,000 T
			LBR	70,000,000 V	35,000,000 V
				2.50 *	2.50 *
			LBR	166,346 P	166,346 P
3.	LBR903 - OFFICE OF COMMUNITY SERVICES				
	OPERATING		LBR	2,082,490 A	2,082,490 A
			LBR	5,000 B	5,000 B
				1.00 *	1.00 *
				4.00 #	4.00 #
			LBR	6,372,000 N	6,372,000 N
4.	HMS802 - VOCATIONAL REHABILITATION				
	OPERATING		HMS	4,013,195 A	4,013,195 A
				37.76 *	37.76 *
				2.31 #	2.31 #
				69.24 *	69.24 *

PROGRAM APPROPRIATIONS

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				FISCAL YEAR 2021-2022	FISCAL YEAR 2022-2023
				4.69 #	4.69 #
			HMS	15,704,850 N	15,704,850 N
			HMS	1,330,200 W	1,330,200 W
5.		LBR143 - HAWAII OCCUPATIONAL SAFETY AND HEALTH PROGRAM		17.60 *	17.60 *
				0.50 #	0.50 #
	OPERATING		LBR	1,268,442 A	1,268,442 A
				19.00 *	19.00 *
			LBR	2,693,221 W	2,693,221 W
				20.40 *	20.40 *
			LBR	3,434,866 P	3,434,866 P
6.		LBR152 - WAGE STANDARDS PROGRAM		17.00 *	17.00 *
				1.00 #	1.00 #
	OPERATING		LBR	1,152,655 A	1,152,655 A
7.		LBR153 - HAWAII CIVIL RIGHTS COMMISSION		22.50 *	22.50 *
	OPERATING		LBR	1,687,784 A	1,687,784 A
				0.50 *	0.50 *
				5.00 #	5.00 #
			LBR	546,001 P	546,001 P
8.		LBR183 - DISABILITY COMPENSATION PROGRAM		77.00 *	77.00 *
	OPERATING		LBR	5,335,408 A	5,335,408 A
				11.00 *	11.00 *
				5.00 #	5.00 #
			LBR	24,050,965 T	24,050,965 T
			LBR	3,541,937 V	3,541,937 V
9.		LBR161 - HAWAII LABOR RELATIONS BOARD		3.00 *	3.00 *
				6.00 #	6.00 #
	OPERATING		LBR	969,264 A	969,264 A
10.		LBR812 - LABOR AND INDUSTRIAL RELATIONS APPEALS BOARD		11.00 *	11.00 *
	OPERATING		LBR	1,055,593 A	1,055,593 A
11.		LBR902 - GENERAL ADMINISTRATION		15.83 *	15.83 *
				2.12 #	2.12 #
	OPERATING		LBR	1,667,498 A	1,667,498 A
			LBR	200,000 B	200,000 B
			LBR	118,611 N	118,611 N
			LBR	700,252,391 V	5,091,175 V
				32.17 *	32.17 *
				2.88 #	2.88 #
			LBR	3,261,292 P	3,261,292 P
C. TRANSPORTATION FACILITIES					
1.		TRN102 - DANIEL K. INOUE INTERNATIONAL AIRPORT		689.00 *	689.00 *
	OPERATING		TRN	236,860,348 B	238,205,353 B
	INVESTMENT CAPITAL		TRN	22,500,000 E	70,000,000 E

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL M YEAR O 2021-2022 F	FISCAL M YEAR O 2022-2023 F
2.	TRN104 - GENERAL AVIATION				
	OPERATING		TRN	31.00 *	31.00 *
	INVESTMENT CAPITAL		TRN	8,763,907 B	8,772,862 B
				12,000,000 B	B
3.	TRN111 - HILO INTERNATIONAL AIRPORT				
	OPERATING		TRN	86.00 *	86.00 *
	INVESTMENT CAPITAL		TRN	21,506,970 B	21,534,285 B
				1,400,000 E	E
4.	TRN114 - ELLISON ONIZUKA KONA INTERNATIONAL AIRPORT AT KEAHOLE				
	OPERATING		TRN	107.00 *	107.00 *
	INVESTMENT CAPITAL		TRN	26,090,199 B	26,259,050 B
				18,141,000 E	E
5.	TRN116 - WAIMEA-KOHALA AIRPORT				
	OPERATING		TRN	4.00 *	4.00 *
				972,251 B	973,087 B
6.	TRN118 - UPOLU AIRPORT				
	OPERATING		TRN	49,500 B	49,500 B
7.	TRN131 - KAHULUI AIRPORT				
	OPERATING		TRN	175.00 *	175.00 *
				40,639,266 B	40,691,732 B
8.	TRN133 - HANA AIRPORT				
	OPERATING		TRN	8.00 *	8.00 *
				1,001,125 B	1,001,454 B
9.	TRN135 - KAPALUA AIRPORT				
	OPERATING		TRN	11.00 *	11.00 *
				2,409,194 B	2,411,224 B
10.	TRN141 - MOLOKAI AIRPORT				
	OPERATING		TRN	14.00 *	14.00 *
				3,242,345 B	3,246,524 B
11.	TRN143 - KALAUPAPA AIRPORT				
	OPERATING		TRN	7.00 *	7.00 *
				925,955 B	925,955 B
12.	TRN151 - LANAI AIRPORT				
	OPERATING		TRN	12.00 *	12.00 *
				3,480,593 B	3,487,757 B
13.	TRN161 - LIHUE AIRPORT				
	OPERATING		TRN	116.00 *	116.00 *
	INVESTMENT CAPITAL		TRN	25,432,437 B	24,627,410 B
				24,100,000 E	100,000,000 E
14.	TRN163 - PORT ALLEN AIRPORT				
	OPERATING		TRN	1,841 B	1,841 B
15.	TRN195 - AIRPORTS ADMINISTRATION				
				136.00 *	136.00 *
	OPERATING		TRN	1.00 #	1.00 #
	INVESTMENT CAPITAL		TRN	235,044,987 B	306,995,023 B
			TRN	4,428,000 B	4,428,000 B
			TRN	137,940,000 E	35,207,000 E

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL M YEAR O 2021-2022 F	FISCAL M YEAR O 2022-2023 F
			TRN	1,000 N	1,000 N
			TRN	R	5,000,000 R
			TRN	58,577,000 X	157,000 X
16.	TRN301 - HONOLULU HARBOR			114.00 *	114.00 *
				1.00 #	1.00 #
	OPERATING	TRN	20,876,895 B	20,876,895 B	20,876,895 B
	INVESTMENT CAPITAL	TRN	4,000 B	4,000 B	4,000 B
		TRN	9,988,000 E	29,988,000 E	29,988,000 E
		TRN	4,000 N	4,000 N	4,000 N
		TRN	4,000 R	4,000 R	4,000 R
17.	TRN303 - KALAELOA BARBERS POINT HARBOR			6.00 *	6.00 *
	OPERATING	TRN	1,291,466 B	1,291,466 B	1,291,466 B
	INVESTMENT CAPITAL	TRN	4,000 B	4,000 B	4,000 B
		TRN	9,988,000 E	14,988,000 E	14,988,000 E
		TRN	4,000 N	4,000 N	4,000 N
		TRN	4,000 R	4,000 R	4,000 R
18.	TRN311 - HILO HARBOR			15.00 *	15.00 *
	OPERATING	TRN	2,337,869 B	2,337,869 B	2,337,869 B
	INVESTMENT CAPITAL	TRN	4,000 B	4,000 B	4,000 B
		TRN	9,988,000 E	14,988,000 E	14,988,000 E
		TRN	4,000 N	4,000 N	4,000 N
		TRN	4,000 R	4,000 R	4,000 R
19.	TRN313 - KAWAIHAE HARBOR			2.00 *	2.00 *
	OPERATING	TRN	798,089 B	798,089 B	798,089 B
	INVESTMENT CAPITAL	TRN	4,000 B	4,000 B	4,000 B
		TRN	9,988,000 E	29,988,000 E	29,988,000 E
		TRN	4,000 N	4,000 N	4,000 N
		TRN	4,000 R	4,000 R	4,000 R
20.	TRN331 - KAHULUI HARBOR			18.00 *	18.00 *
	OPERATING	TRN	3,304,122 B	3,304,122 B	3,304,122 B
	INVESTMENT CAPITAL	TRN	4,000 B	4,000 B	4,000 B
		TRN	9,988,000 E	62,988,000 E	62,988,000 E
		TRN	4,000 N	4,000 N	4,000 N
		TRN	4,000 R	4,000 R	4,000 R
21.	TRN341 - KAUNAKAKAI HARBOR			1.00 *	1.00 *
	OPERATING	TRN	210,962 B	210,962 B	210,962 B
22.	TRN361 - NAWILIWILI HARBOR			15.00 *	15.00 *
	OPERATING	TRN	2,672,001 B	2,672,001 B	2,672,001 B
	INVESTMENT CAPITAL	TRN	4,000 B	4,000 B	4,000 B
		TRN	988,000 E	988,000 E	988,000 E
		TRN	4,000 N	4,000 N	4,000 N
		TRN	4,000 R	4,000 R	4,000 R
23.	TRN363 - PORT ALLEN HARBOR			1.00 *	1.00 *
	OPERATING	TRN	193,284 B	193,284 B	193,284 B
	INVESTMENT CAPITAL	TRN	4,000 B	4,000 B	4,000 B

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL YEAR 2021-2022	FISCAL YEAR 2022-2023
			TRN	988,000 E	4,988,000 E
			TRN	4,000 N	4,000 N
			TRN	4,000 R	4,000 R
24.	TRN351 - KAUMALAPAU HARBOR			1.00 *	1.00 *
	OPERATING		TRN	133,006 B	133,006 B
25.	TRN395 - HARBORS ADMINISTRATION			77.00 *	77.00 *
				1.00 #	1.00 #
	OPERATING		TRN	94,316,878 B	94,316,878 B
	INVESTMENT CAPITAL		TRN	2,504,000 B	2,504,000 B
			TRN	1,488,000 E	1,488,000 E
			TRN	4,000 N	4,000 N
			TRN	4,000 R	4,000 R
			TRN	5,907,000 V	V
26.	TRN333 - HANA HARBOR				
	OPERATING		TRN	13,519 B	13,519 B
27.	TRN501 - OAHU HIGHWAYS			190.00 *	190.00 *
	OPERATING		TRN	83,058,408 B	83,283,701 B
	INVESTMENT CAPITAL		TRN	12,200,000 C	C
			TRN	3,500,000 D	2,500,000 D
			TRN	41,300,000 E	16,500,000 E
			TRN	42,100,000 N	18,700,000 N
28.	TRN511 - HAWAII HIGHWAYS			119.00 *	119.00 *
	OPERATING		TRN	18,335,556 B	18,642,159 B
	INVESTMENT CAPITAL		TRN	1,300,000 D	D
			TRN	E	18,800,000 E
			TRN	N	75,200,000 N
29.	TRN531 - MAUI HIGHWAYS			90.00 *	90.00 *
				1.00 #	1.00 #
	OPERATING		TRN	22,541,635 B	24,044,961 B
	INVESTMENT CAPITAL		TRN	9,800,000 E	2,800,000 E
			TRN	44,700,000 N	3,200,000 N
30.	TRN561 - KAUAI HIGHWAYS			55.00 *	55.00 *
	OPERATING		TRN	11,287,424 B	11,501,872 B
	INVESTMENT CAPITAL		TRN	500,000 D	D
			TRN	7,500,000 E	4,700,000 E
			TRN	9,200,000 N	8,800,000 N
31.	TRN595 - HIGHWAYS ADMINISTRATION			544.50 *	544.50 *
				5.00 #	5.00 #
	OPERATING		TRN	131,150,122 B	142,450,738 B
				1.00 #	1.00 #
	INVESTMENT CAPITAL		TRN	15,496,745 N	16,690,345 N
			TRN	27,800,000 E	21,800,000 E
			TRN	82,804,000 N	37,304,000 N

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL YEAR 2021-2022	FISCAL YEAR 2022-2023
32.	TRN597	HIGHWAYS SAFETY			
	OPERATING		TRN	31.20 * 10,721,093 B 6.00 *	31.20 * 10,721,093 B 6.00 *
			TRN	6,367,261 N 0.80 *	6,367,261 N 0.80 *
			TRN	754,989 P	754,989 P
33.	TRN995	GENERAL ADMINISTRATION			
	OPERATING		TRN	111.00 * 2.00 # 22,965,329 B 1.00 *	111.00 * 2.00 # 22,965,329 B 1.00 *
			TRN	18,799,673 N	19,284,696 N
			TRN	743,067 R	743,067 R
34.	TRN695	ALOHA TOWER DEVELOPMENT CORPORATION			
	OPERATING		TRN	1.00 # 1,842,173 B	1.00 # 1,842,173 B
D. ENVIRONMENTAL PROTECTION					
1.	HTH840	ENVIRONMENTAL MANAGEMENT			
	OPERATING		HTH	74.00 * 1.00 # 5,096,566 A 57.00 * 6.00 #	74.00 * 1.00 # 5,127,007 A 57.00 * 6.00 #
			HTH	79,269,535 B 32.10 * 2.00 #	79,269,535 B 32.10 * 2.00 #
			HTH	6,535,768 N 2.00 *	4,115,850 N 2.00 *
			HTH	247,950 U 43.00 *	247,950 U 43.00 *
			HTH	259,623,052 W 7.25 * 4.00 #	259,751,250 W 7.25 * 4.00 #
	INVESTMENT CAPITAL		HTH	2,570,528 P	2,670,536 P
			HTH	4,664,000 C	4,664,000 C
			HTH	23,319,000 N	23,319,000 N
2.	AGR846	PESTICIDES			
	OPERATING		AGR	5.00 * 404,933 A 18.00 * 2.00 #	5.00 * 404,933 A 18.00 * 2.00 #
			AGR	2,595,439 W 2.00 *	2,595,439 W 2.00 *
			AGR	1.00 # 464,629 P	1.00 # 464,629 P
3.	LNR401	ECOSYSTEM PROTECTION AND RESTORATION			
	OPERATING		LNR	25.00 * 3.50 # 2,023,023 A 2.00 #	25.00 * 3.50 # 2,023,023 A 2.00 #
			LNR	2,410,000 N 1.00 *	2,410,000 N 1.00 *
			LNR	4.50 # 5,994,189 P	4.50 # 2,154,189 P

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL YEAR 2021-2022	FISCAL YEAR 2022-2023
4.		LNR402 - NATIVE RESOURCES AND FIRE PROTECTION PROGRAM			
				51.50 *	51.50 *
	OPERATING		LNR	14,821,778 A	11,710,832 A
				17.50 *	17.50 *
			LNR	3,679,764 N	2,034,832 N
				1.00 *	1.00 *
			LNR	192,677 T	192,677 T
				7.00 #	7.00 #
			LNR	1,686,056 U	1,686,056 U
			LNR	995,000 V	120,000 V
				2.50 *	2.50 *
				1.00 #	1.00 #
			LNR	4,031,129 P	1,486,706 P
	INVESTMENT CAPITAL		LNR	1,500,000 C	C
5.		LNR404 - WATER RESOURCES			
				18.00 *	18.00 *
	OPERATING		LNR	2,838,042 A	2,838,042 A
				5.00 *	5.00 *
			LNR	1,169,242 B	1,169,242 B
	INVESTMENT CAPITAL		LNR	2,000,000 C	C
6.		LNR405 - CONSERVATION AND RESOURCES ENFORCEMENT			
				137.25 *	137.25 *
	OPERATING		LNR	10,774,525 A	10,774,525 A
			LNR	893,523 B	893,523 B
				3.75 *	3.75 *
			LNR	1,319,046 N	1,319,046 N
			LNR	2,548,290 V	V
			LNR	32,671 W	32,671 W
			LNR	900,000 P	900,000 P
7.		LNR407 - NATURAL AREA RESERVES AND WATERSHED MANAGEMENT			
				44.50 *	44.50 *
				19.00 #	19.00 #
	OPERATING		LNR	8,350,262 A	8,350,262 A
			LNR	500,000 N	500,000 N
				0.50 *	0.50 *
			LNR	2,195,408 P	2,195,408 P
	INVESTMENT CAPITAL		LNR	4,000,000 C	4,000,000 C
8.		LNR906 - LNR - NATURAL AND PHYSICAL ENVIRONMENT			
				42.25 *	42.25 *
				14.00 #	14.00 #
	OPERATING		LNR	4,391,063 A	4,383,189 A
				19.00 *	19.00 *
				1.00 #	1.00 #
			LNR	2,589,649 B	2,589,649 B
				1.75 *	1.75 *
			LNR	312,183 N	312,183 N
9.		HTH849 - ENVIRONMENTAL HEALTH ADMINISTRATION			
				22.50 *	22.50 *
				1.25 #	1.25 #
	OPERATING		HTH	3,110,974 A	3,110,974 A
			HTH	34,097 B	34,097 B
				1.55 *	1.55 *
				0.60 #	0.60 #
			HTH	144,015 N	144,015 N
				11.00 *	11.00 *

PROGRAM APPROPRIATIONS

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				FISCAL YEAR 2021-2022	FISCAL YEAR 2022-2023
			HTH	2,684,162 W 11.95 * 2.15 #	2,684,162 W 11.95 * 2.15 #
			HTH	6,903,432 P	2,746,317 P
E. HEALTH					
1. HTH100 - COMMUNICABLE DISEASE AND PUBLIC HEALTH NURSING					
				219.87 * 1.00 #	219.87 * 1.00 #
	OPERATING		HTH	28,407,295 A	28,407,295 A
			HTH	13,343 B 21.00 #	13,343 B 21.00 #
			HTH	8,723,375 N 3.00 * 1.00 #	8,723,375 N 3.00 * 1.00 #
			HTH	759,649 U 14.00 * 25.50 #	759,649 U 14.00 * 25.50 #
			HTH	5,607,365 P	5,607,365 P
2. HTH131 - DISEASE OUTBREAK CONTROL					
	OPERATING		HTH	21.60 * 1,735,038 A 23.40 * 10.00 #	21.60 * 1,735,038 A 23.40 * 10.00 #
			HTH	3,778,582 N 1.00 * 29.50 #	3,778,582 N 1.00 * 29.50 #
			HTH	5,037,858 P	5,037,858 P
3. HTH730 - EMERGENCY MEDICAL SERVICES AND INJURY PREVENTION SYSTEM					
	OPERATING		HTH	10.00 * 1.40 # 4,503,945 A 6.00 #	10.00 * 1.40 # 4,503,945 A 6.00 #
			HTH	22,267,084 B 2.00 #	22,267,084 B 2.00 #
			HTH	340,000 P	340,000 P
4. HTH560 - FAMILY HEALTH SERVICES					
	OPERATING		HTH	98.50 * 1.00 # 29,759,413 A 16.00 * 2.00 #	98.50 * 1.00 # 29,759,413 A 16.00 * 2.00 #
			HTH	18,474,919 B 119.50 * 12.30 #	18,474,919 B 119.50 * 12.30 #
			HTH	38,710,996 N	40,094,927 N
			HTH	203,441 U	203,441 U
			HTH	2,383,931 V 16.00 * 11.70 #	V 16.00 * 11.70 #
			HTH	12,586,440 P	12,586,440 P

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL YEAR 2021-2022	FISCAL YEAR 2022-2023
5.	HTH590 - CHRONIC DISEASE PREVENTION AND HEALTH PROMOTION			38.50*	38.50*
				3.00#	3.00#
	OPERATING		HTH	6,536,328 A	6,536,328 A
			HTH	48,706,356 B	48,706,356 B
				1.00*	1.00*
				1.00#	1.00#
			HTH	1,177,177 U	1,177,177 U
				9.50*	9.50*
				21.50#	21.50#
			HTH	6,829,854 P	6,829,854 P
6.	HTH595 - HEALTH RESOURCES ADMINISTRATION			16.00*	16.00*
				5.00#	5.00#
	OPERATING		HTH	2,580,742 A	2,779,226 A
			HTH	345,000 V ⁰¹	345,000 V ⁰¹
7.	HTH210 - HAWAII HEALTH SYSTEMS CORPORATION – CORPORATE OFFICE			54.50*	54.50*
	OPERATING		HTH	17,509,280 B	17,509,280 B
8.	HTH211 - KAHUKU HOSPITAL				
	OPERATING		HTH	1,800,000 A	1,800,000 A
	INVESTMENT CAPITAL		HTH	1,000,000 C	1,000,000 C
			HTH	500,000 V	V
9.	HTH212 - HAWAII HEALTH SYSTEMS CORPORATION – REGIONS				
	OPERATING		HTH	92,970,903 A	92,970,903 A
				2,780.75*	2,780.75*
			HTH	580,483,912 B	580,483,912 B
			HTH	33,615,400 V	32,315,400 V
	INVESTMENT CAPITAL		AGS	2,500,000 C	3,000,000 C
			HTH	9,500,000 C	13,000,000 C
			HTH	21,500,000 V	V
10.	HTH213 - ALII COMMUNITY CARE				
	OPERATING		HTH	3,500,000 B	3,500,000 B
11.	SUB601 - PRIVATE HOSPITALS AND MEDICAL SERVICES				
	OPERATING		SUB	2,900,000 V	V
12.	HTH214 - MAUI HEALTH SYSTEM, A KFH LLC				
	OPERATING		HTH	11,585,000 V	8,923,000 V
	INVESTMENT CAPITAL		HTH	6,000,000 C	6,000,000 C
			HTH	1,250,000 V	V
13.	HTH420 - ADULT MENTAL HEALTH - OUTPATIENT			177.50*	177.50*
				87.50#	87.50#
	OPERATING		HTH	58,152,953 A	58,152,953 A
			HTH	11,610,000 B	11,610,000 B
				1.00#	1.00#
			HTH	2,333,370 N	2,333,370 N
14.	HTH430 - ADULT MENTAL HEALTH - INPATIENT			737.00*	737.00*
				23.00#	23.00#
	OPERATING		HTH	87,811,711 A	87,811,711 A
			HTH	6,180,433 V	V
	INVESTMENT CAPITAL		AGS	4,700,000 C	300,000 C

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL YEAR 2021-2022	FISCAL YEAR 2022-2023
15.	HTH440	- ALCOHOL AND DRUG ABUSE DIVISION			
	OPERATING		HTH	29.00*	29.00*
			HTH	20,222,028 A	20,222,028 A
			HTH	750,000 B	750,000 B
			HTH	8,857,980 N	8,857,980 N
				7.50#	7.50#
			HTH	6,570,543 P	6,570,543 P
16.	HTH460	- CHILD AND ADOLESCENT MENTAL HEALTH			
	OPERATING		HTH	162.00*	162.00*
				10.50#	10.50#
			HTH	43,394,645 A	43,394,645 A
				17.00*	17.00*
				6.00#	6.00#
			HTH	15,206,904 B	15,206,904 B
				5.00#	5.00#
			HTH	2,339,630 N	2,339,630 N
				2.00#	2.00#
			HTH	2,281,992 U	2,281,992 U
17.	HTH501	- DEVELOPMENTAL DISABILITIES			
	OPERATING		HTH	194.75*	194.75*
				3.00#	3.00#
			HTH	89,414,764 A	89,414,764 A
				3.00*	3.00*
			HTH	7,474,994 B	7,474,994 B
18.	HTH495	- BEHAVIORAL HEALTH ADMINISTRATION			
	OPERATING		HTH	39.50*	39.50*
				39.50#	39.50#
			HTH	6,328,289 A	6,328,289 A
				1.00#	1.00#
			HTH	137,363 P	137,363 P
19.	HTH610	- ENVIRONMENTAL HEALTH SERVICES			
	OPERATING		HTH	123.00*	123.00*
				7,771,989 A	7,857,912 A
				30.00*	30.00*
			HTH	3,845,848 B	3,845,848 B
				2.00*	2.00*
			HTH	158,000 N	158,000 N
				3.00*	3.00*
			HTH	253,073 U	253,073 U
				2.00*	2.00*
			HTH	430,447 P	396,994 P
20.	HTH710	- STATE LABORATORY SERVICES			
	OPERATING		HTH	72.00*	72.00*
				1.00#	1.00#
			HTH	8,047,815 A	7,897,815 A
				9.00#	9.00#
			HTH	1,029,222 N	1,029,222 N
				2.00#	2.00#
	INVESTMENT CAPITAL		HTH	644,990 P	429,999 P
			AGS	772,000 C	C
21.	HTH720	- HEALTH CARE ASSURANCE			
	OPERATING		HTH	24.40*	24.40*
				2.00#	2.00#
			HTH	3,204,264 A	3,204,264 A
			HTH	1,315,000 B	1,315,000 B

PROGRAM APPROPRIATIONS

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				FISCAL YEAR 2021-2022	FISCAL YEAR 2022-2023
				18.40 *	18.40 *
			HTH	4,841,562 P	4,841,562 P
22.	HTH906	STATE HEALTH PLANNING AND DEVELOPMENT AGENCY		6.00 *	6.00 *
	OPERATING		HTH	475,769 A	475,769 A
			HTH	114,000 B	114,000 B
23.	HTH760	HEALTH STATUS MONITORING		32.50 *	32.50 *
	OPERATING		HTH	1,348,789 A	1,348,789 A
				2.00 #	2.00 #
			HTH	520,349 B	520,349 B
				5.00 *	5.00 *
			HTH	495,901 P	495,901 P
24.	HTH905	DEVELOPMENTAL DISABILITIES COUNCIL		2.50 *	2.50 *
	OPERATING		HTH	246,563 A	246,563 A
				5.00 *	5.00 *
			HTH	514,000 N	514,000 N
25.	HTH907	GENERAL ADMINISTRATION		126.00 *	126.00 *
	OPERATING		HTH	9,140,986 A	9,179,760 A
				8.00 *	8.00 *
				20.00 #	20.00 #
			HTH	5,275,000 N	5,275,000 N
				5.00 #	5.00 #
	INVESTMENT CAPITAL		HTH	800,000 P	800,000 P
			AGS	4,000,000 C	C
26.	HTH908	OFFICE OF LANGUAGE ACCESS		5.00 *	5.00 *
	OPERATING		HTH	469,262 A	469,262 A
F. SOCIAL SERVICES					
1.	HMS301	CHILD PROTECTIVE SERVICES		223.30 *	223.30 *
	OPERATING		HMS	35,686,621 A	35,686,621 A
			HMS	1,007,587 B	1,007,587 B
				175.20 *	175.20 *
			HMS	44,098,588 N	44,098,588 N
			HMS	106,225 P	106,225 P
2.	HMS302	GENERAL SUPPORT FOR CHILD CARE		25.85 *	25.85 *
	OPERATING		HMS	1,946,366 A	1,946,366 A
				25.15 *	25.15 *
			HMS	11,920,864 N	11,920,864 N
3.	HMS303	CHILD PROTECTIVE SERVICES PAYMENTS			
	OPERATING		HMS	47,765,586 A	47,765,586 A
			HMS	26,110,014 N	26,110,014 N
4.	HMS305	CASH SUPPORT FOR CHILD CARE			
	OPERATING		HMS	18,051,811 A	18,051,811 A
			HMS	69,565,754 N	69,565,754 N

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL M YEAR O 2021-2022 F	FISCAL M YEAR O 2022-2023 F
5.	HMS501 - IN-COMMUNITY YOUTH PROGRAMS			14.50 *	14.50 *
	OPERATING		HMS	7,214,008 A	7,214,008 A
				0.50 *	0.50 *
				0.50 #	0.50 #
			HMS	2,456,919 N	2,456,919 N
			HMS	832,500 V	832,500 V
6.	HMS503 - HAWAII YOUTH CORRECTIONAL FACILITY (HYCF)			93.00 *	93.00 *
	OPERATING		HMS	8,290,355 A	8,290,355 A
			HMS	520,000 V	520,000 V
7.	DEF112 - SERVICES TO VETERANS			28.00 *	28.00 *
	OPERATING		DEF	1,932,435 A	1,932,435 A
	INVESTMENT CAPITAL		DEF	500,000 C	C
			DEF	1,200,000 P	3,210,000 P
8.	HMS601 - ADULT PROTECTIVE AND COMMUNITY SERVICES			72.48 *	72.48 *
	OPERATING		HMS	5,815,844 A	5,815,844 A
				7.02 *	7.02 *
				3.00 #	3.00 #
			HMS	3,988,661 N	3,988,661 N
			HMS	10,000 R	10,000 R
			HMS	387,560 U	387,560 U
			HMS	1,321,390 P	1,321,390 P
9.	HMS202 - AGED, BLIND AND DISABLED PAYMENTS				
	OPERATING		HMS	4,029,480 A	4,029,480 A
10.	HMS204 - GENERAL ASSISTANCE PAYMENTS				
	OPERATING		HMS	23,889,056 A	23,889,056 A
			HMS	3,000,000 B	3,000,000 B
			HMS	5,400,000 V	V
11.	HMS206 - FEDERAL ASSISTANCE PAYMENTS				
	OPERATING		HMS	5,703,592 N	5,703,592 N
12.	HMS211 - CASH SUPPORT FOR FAMILIES - SELF-SUFFICIENCY				
	OPERATING		HMS	22,694,156 A	22,694,156 A
			HMS	44,000,000 N	44,000,000 N
13.	HMS220 - RENTAL HOUSING SERVICES				
	OPERATING		HMS	4,438,022 A	4,438,022 A
				181.00 *	181.00 *
				4.50 #	4.50 #
			HMS	80,637,015 N	80,637,015 N
				15.00 *	15.00 *
			HMS	4,768,799 W	4,768,799 W
	INVESTMENT CAPITAL		HMS	10,000,000 C	C
14.	HMS229 - HAWAII PUBLIC HOUSING AUTHORITY ADMINISTRATION			76.00 *	76.00 *
				41.00 #	41.00 #
	OPERATING		HMS	40,373,761 N	40,373,761 N
				50.00 *	50.00 *
				18.00 #	18.00 #
			HMS	6,319,648 W	6,319,648 W

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL YEAR 2021-2022	FISCAL YEAR 2022-2023
15.	HMS222	- RENTAL ASSISTANCE SERVICES			
	OPERATING		HMS	1.00 * 1,039,166 A 28.00 * 1.00 #	1.00 * 1,039,166 A 28.00 * 1.00 #
			HMS	42,933,231 N	43,090,139 N
			HMS	500,000 V	V
16.	HMS224	- HOMELESS SERVICES			
	OPERATING		HMS	11.00 * 15,600,452 A	11.00 * 15,600,452 A
			HMS	720,000 N	720,000 N
			HMS	14,300,000 V	14,300,000 V
			HMS	2,366,839 P	2,366,839 P
17.	HMS605	- COMMUNITY-BASED RESIDENTIAL SUPPORT			
	OPERATING		HMS	17,810,955 A	17,810,955 A
18.	HMS401	- HEALTH CARE PAYMENTS			
	OPERATING		HMS	982,477,598 A	982,477,598 A
			HMS	1,376,660 B	1,376,660 B
			HMS	1,803,909,546 N	1,803,909,546 N
			HMS	6,781,921 U	6,781,921 U
			HMS	13,474,795 P	13,474,795 P
19.	HMS236	- CASE MANAGEMENT FOR SELF-SUFFICIENCY			
	OPERATING		HMS	289.63 * 15,952,885 A	289.63 * 15,952,885 A
			HMS	228.37 * 25,977,079 N	228.37 * 25,977,079 N
			HMS	30,237 P	30,237 P
20.	HMS238	- DISABILITY DETERMINATION			
	OPERATING		HMS	50.00 * 8,290,218 N	50.00 * 8,348,886 N
21.	ATG500	- CHILD SUPPORT ENFORCEMENT SERVICES			
	OPERATING		ATG	70.72 * 0.34 # 4,701,166 A	70.72 * 0.34 # 4,701,166 A
			ATG	2,231,224 T	2,231,224 T
				137.28 * 0.66 #	137.28 * 0.66 #
			ATG	15,880,241 P	15,880,241 P
22.	HMS237	- EMPLOYMENT AND TRAINING			
	OPERATING		HMS	469,505 A	469,505 A
			HMS	1,470,017 N	1,470,017 N
23.	HHL602	- PLANNING AND DEVELOPMENT FOR HAWAIIAN HOMESTEADS			
	OPERATING		HHL	4,824,709 B	4,824,709 B
				4.00 * 2.00 #	4.00 * 2.00 #
			HHL	23,318,527 N	23,318,527 N
			HHL	3,740,534 T	3,740,534 T
			HHL	7,000,000 W	7,000,000 W
	INVESTMENT CAPITAL		HHL	53,000,000 C	25,000,000 C
24.	HHL625	- ADMINISTRATION AND OPERATING SUPPORT			
	OPERATING		HHL	200.00 * 14,751,668 A	200.00 * 14,751,668 A

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL M YEAR O 2021-2022 F	FISCAL M YEAR O 2022-2023 F
25.	HTH904	- EXECUTIVE OFFICE ON AGING		8.10 *	8.10 *
	OPERATING		HTH	3.35 #	3.35 #
				10,898,358 A	10,898,358 A
				6.90 *	6.90 *
				2.00 #	2.00 #
			HTH	10,426,456 N	10,426,456 N
			HTH	1,500,000 V	V
				8.00 #	8.00 #
			HTH	1,223,791 P	1,223,791 P
26.	HTH520	- DISABILITY AND COMMUNICATIONS ACCESS BOARD		11.00 *	11.00 *
	OPERATING		HTH	820,779 A	820,779 A
				8.00 *	8.00 *
			HTH	1,263,722 B	1,263,722 B
				2.00 *	2.00 *
			HTH	299,731 U	299,731 U
27.	HMS902	- GENERAL SUPPORT FOR HEALTH CARE PAYMENTS		136.50 *	136.50 *
	OPERATING		HMS	5.50 #	5.50 #
				14,365,947 A	13,362,947 A
				0.56 *	0.56 *
			HMS	1,546,792 B	1,546,792 B
				144.69 *	144.69 *
				17.50 #	17.50 #
			HMS	80,336,597 N	80,336,597 N
			HMS	134,000 V 0 ¹	1,137,000 V 0 ¹
			HMS	900,000 P	900,000 P
28.	HMS903	- GENERAL SUPPORT FOR SELF-SUFFICIENCY SERVICES		47.08 *	47.08 *
	OPERATING		HMS	1.59 #	1.59 #
				36,629,251 A	36,629,251 A
				42.92 *	42.92 *
				1.41 #	1.41 #
			HMS	75,551,067 N	75,551,067 N
			HMS	3,000 P	3,000 P
29.	HMS904	- GENERAL ADMINISTRATION - DHS		140.30 *	140.30 *
	OPERATING		HMS	10.00 #	10.00 #
				11,385,514 A	11,385,514 A
				29.70 *	29.70 *
			HMS	4,539,101 N	4,539,101 N
				1.00 #	1.00 #
			HMS	77,064 V	77,064 V
			HMS	1,500 P	1,500 P
30.	HMS901	- GENERAL SUPPORT FOR SOCIAL SERVICES		18.25 *	18.25 *
	OPERATING		HMS	2,224,695 A	2,224,695 A
				8.75 *	8.75 *
			HMS	2,004,992 N	2,004,992 N

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL YEAR 2021-2022	FISCAL YEAR 2022-2023
G. FORMAL EDUCATION					
1. EDN100 - SCHOOL-BASED BUDGETING					
				12,427.25 *	12,427.25 *
				680.25 #	680.25 #
	OPERATING		EDN	1,026,797,623 A	1,026,547,623 A
			EDN	5,251,693 B	5,251,693 B
				1.00 *	1.00 *
			EDN	139,594,736 N	139,290,336 N
			EDN	13,390,000 T	13,390,000 T
			EDN	7,495,605 U	7,495,605 U
			EDN	2,421,333 W	2,421,333 W
			EDN	9,249,999 P	9,249,999 P
	INVESTMENT CAPITAL		EDN	391,769,000 C	26,000,000 C
			EDN	20,842,000 V	V
2. EDN150 - SPECIAL EDUCATION AND STUDENT SUPPORT SERVICES					
				5,238.50 *	5,238.50 *
				1,228.25 #	1,228.25 #
	OPERATING		EDN	401,006,367 A	400,812,627 A
			EDN	250,000 B	250,000 B
				2.00 *	2.00 *
				33.00 #	33.00 #
			EDN	56,891,470 N	57,085,210 N
				5.00 *	5.00 *
			EDN	3,487,465 W	3,487,465 W
3. EDN200 - INSTRUCTIONAL SUPPORT					
				408.00 *	408.00 *
				82.00 #	82.00 #
	OPERATING		EDN	50,959,787 A	60,959,787 A
				11.00 *	11.00 *
			EDN	2,396,308 B	2,396,308 B
				2.00 #	2.00 #
			EDN	12,885,526 N	5,885,526 N
				1.00 #	1.00 #
			EDN	273,794 P	273,794 P
4. EDN300 - STATE ADMINISTRATION					
				356.50 *	356.50 *
				4.00 #	4.00 #
	OPERATING		EDN	37,006,924 A	37,006,924 A
			EDN	4,176,199 N	4,176,199 N
			EDN	30,000 P	30,000 P
5. EDN400 - SCHOOL SUPPORT					
				848.50 *	848.50 *
				4.00 #	4.00 #
	OPERATING		EDN	154,743,255 A	154,743,255 A
				11.00 *	11.00 *
			EDN	44,150,566 B	44,150,566 B
				718.50 *	718.50 *
				98.50 #	98.50 #
			EDN	66,909,304 N	66,909,304 N
			EDN	150,000 R	150,000 R
				5.00 *	5.00 *
				2.00 #	2.00 #
	INVESTMENT CAPITAL		EDN	8,107,619 W	8,107,619 W
			EDN	5,000,000 C	C
			EDN	8,910,000 V	V

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL YEAR 2021-2022	FISCAL YEAR 2022-2023
6.	EDN450 - SCHOOL FACILITIES	OPERATING	EDN	1 A	1 A
7.	EDN500 - SCHOOL COMMUNITY SERVICES			35.00 *	35.00 *
				5.00 #	5.00 #
	OPERATING		EDN	4,231,090 A	4,231,090 A
				1.00 *	1.00 *
			EDN	1,731,000 B	1,731,000 B
				2.00 #	2.00 #
			EDN	3,266,757 N	3,266,757 N
			EDN	2,260,000 T	2,260,000 T
			EDN	11,724,665 W	11,724,665 W
8.	EDN600 - CHARTER SCHOOLS	OPERATING	EDN	95,767,659 A	99,012,762 A
			EDN	5,042,000 N	5,042,000 N
	INVESTMENT CAPITAL		EDN	2,380,000 C	C
9.	EDN612 - CHARTER SCHOOLS COMMISSION AND ADMINISTRATION			20.12 *	20.12 *
	OPERATING		EDN	4,340,747 A	4,340,747 A
				6.88 *	6.88 *
			EDN	1,800,000 N	1,800,000 N
10.	EDN700 - EARLY LEARNING			94.00 *	94.00 *
	OPERATING		EDN	7,073,037 A	7,073,037 A
				1.00 #	1.00 #
			EDN	125,628 N	125,628 N
11.	BUF745 - RETIREMENT BENEFITS - DOE	OPERATING	BUF	469,037,723 A	469,037,723 A
12.	BUF765 - HEALTH PREMIUM PAYMENTS - DOE	OPERATING	BUF	151,805,813 A	151,805,813 A
13.	BUF725 - DEBT SERVICE PAYMENTS - DOE	OPERATING	BUF	402,052,729 A	423,494,301 A
14.	AGS807 - SCHOOL R&M, NEIGHBOR ISLAND DISTRICTS			76.00 *	76.00 *
	OPERATING		AGS	5,525,045 A	5,525,045 A
				7.00 *	7.00 *
			AGS	1,799,626 U	1,799,626 U
15.	EDN407 - PUBLIC LIBRARIES			563.50 *	563.50 *
	OPERATING		EDN	37,175,832 A	37,175,832 A
			EDN	4,000,000 B	4,000,000 B
			EDN	1,365,244 N	1,365,244 N
	INVESTMENT CAPITAL		AGS	25,200,000 C	C
			AGS	31,000,000 V	V
16.	DEF114 - HAWAII NATIONAL GUARD YOUTH CHALLENGE ACADEMY			24.25 #	24.25 #
	OPERATING		DEF	1,476,061 A	1,476,061 A
				72.75 #	72.75 #
			DEF	5,559,808 P	5,559,808 P

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL YEAR 2021-2022	FISCAL YEAR 2022-2023
17.	UOH100 - UNIVERSITY OF HAWAII, MANOA			2,943.14 * 42.25 #	2,943.14 * 42.25 #
	OPERATING		UOH	208,123,099 A 377.25 * 2.00 #	213,723,099 A 377.25 * 2.00 #
			UOH	361,506,629 B 77.06 *	361,506,629 B 77.06 *
			UOH	6,873,565 N	6,873,565 N
			UOH	1,200,000 V	V
			UOH	28.00 *	28.00 *
	INVESTMENT CAPITAL		UOH	65,293,844 W	65,293,844 W
			UOH	39,300,000 C	35,000,000 C
18.	UOH110 - UNIVERSITY OF HAWAII, JOHN A. BURNS SCHOOL OF MEDICINE			199.03 * 3.50 #	199.03 * 3.50 #
	OPERATING		UOH	20,006,565 A	20,006,565 A
			UOH	27,958,949 B	27,958,949 B
			UOH	8,009,939 W	8,009,939 W
19.	UOH210 - UNIVERSITY OF HAWAII, HILO			499.25 * 7.00 #	499.25 * 7.00 #
	OPERATING		UOH	37,405,121 A 64.00 *	37,299,226 A 64.00 *
			UOH	46,977,520 B	46,977,520 B
			UOH	443,962 N	443,962 N
			UOH	2.00 *	2.00 *
	INVESTMENT CAPITAL		UOH	7,448,487 W	7,448,487 W
			UOH	2,200,000 C	C
			UOH	8,700,000 V	V
20.	UOH220 - SMALL BUSINESS DEVELOPMENT			1.00 #	1.00 #
	OPERATING		UOH	978,941 A	978,941 A
21.	UOH700 - UNIVERSITY OF HAWAII, WEST OAHU			234.50 * 1.50 #	234.50 * 1.50 #
	OPERATING		UOH	18,422,365 A	18,422,365 A
			UOH	20,360,009 B	20,360,009 B
			UOH	802,037 N	802,037 N
			UOH	2,074,774 W	2,074,774 W
	INVESTMENT CAPITAL		UOH	3,500,000 C	C
22.	UOH800 - UNIVERSITY OF HAWAII, COMMUNITY COLLEGES			1,753.50 * 46.00 #	1,754.50 * 46.00 #
	OPERATING		UOH	153,428,519 A 34.00 *	153,488,519 A 34.00 *
			UOH	100,630,837 B 0.50 *	100,630,837 B 0.50 *
			UOH	4,428,296 N	4,428,296 N
			UOH	1,300,000 V	1,300,000 V
			UOH	6,580,086 W	6,580,086 W
	INVESTMENT CAPITAL		UOH	101,000,000 C	20,000,000 C
23.	UOH900 - UNIVERSITY OF HAWAII, SYSTEMWIDE SUPPORT			416.00 * 1.00 #	416.00 * 1.00 #

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL YEAR 2021-2022	FISCAL YEAR 2022-2023
		OPERATING	UOH	55,875,998 A	55,875,998 A
			UOH	20.00 *	20.00 *
			UOH	20,771,608 B	20,771,608 B
				4.00 *	4.00 *
				4.00 #	4.00 #
			UOH	1,094,875 N	1,094,875 N
				15.00 *	15.00 *
		INVESTMENT CAPITAL	UOH	18,459,893 W	18,459,893 W
			UOH	57,350,000 C	47,640,000 C
24.	BUF748 - RETIREMENT BENEFITS - UH	OPERATING	BUF	199,541,901 A	199,541,901 A
25.	BUF768 - HEALTH PREMIUM PAYMENTS - UH	OPERATING	BUF	56,202,093 A	56,202,093 A
26.	BUF728 - DEBT SERVICE PAYMENTS - UH	OPERATING	BUF	148,799,176 A	156,734,673 A
27.	UOH115 - UNIVERSITY OF HAWAII, CANCER CENTER	OPERATING	UOH	3,098,055 A	3,098,055 A

H. CULTURE AND RECREATION

1.	UOH881 - AQUARIA				
	OPERATING	UOH		9.00 *	9.00 *
			UOH	816,537 A	816,537 A
				7.00 *	7.00 *
			UOH	3,517,141 B	3,517,141 B
			UOH	1,000,000 V	V
			UOH	996,499 W	996,499 W
2.	AGS881 - STATE FOUNDATION ON CULTURE AND THE ARTS				
	OPERATING	AGS		1.50 *	1.50 *
			AGS	825,454 A	825,454 A
				16.00 *	16.00 *
				1.00 #	1.00 #
			AGS	5,585,735 B	5,585,735 B
				4.50 *	4.50 *
			AGS	1,608,026 N	1,555,026 N
				1.00 #	1.00 #
			AGS	70,175 T	70,175 T
			AGS	1,346,000 V	866,000 V
3.	LNR802 - HISTORIC PRESERVATION				
	OPERATING	LNR		31.00 *	31.00 *
			LNR	2,174,884 A	2,174,884 A
				3.00 *	3.00 *
			LNR	495,902 B	495,902 B
				6.00 *	6.00 *
			LNR	597,515 N	622,136 N
4.	LNR804 - FOREST AND OUTDOOR RECREATION				
	OPERATING	LNR		33.00 *	33.00 *
			LNR	1,893,781 A	1,893,781 A
				2.00 *	2.00 *
			LNR	816,713 B	816,713 B
				18.50 *	18.50 *
			LNR	5,278,462 N	5,278,462 N
				3.00 *	3.00 *

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL YEAR 2021-2022	FISCAL YEAR 2022-2023
			LNR	626,435 W	626,435 W
		INVESTMENT CAPITAL	LNR	900,000 C	C
5.	LNR805 -	DISTRICT RESOURCE MANAGEMENT		22.00 *	22.00 *
		OPERATING	LNR	1,324,529 A	1,324,529 A
				0.25 #	0.25 #
			LNR	104,910 B	104,910 B
				0.75 #	0.75 #
			LNR	1,900,000 N	1,900,000 N
6.	LNR806 -	PARKS ADMINISTRATION AND OPERATION		127.00 *	127.00 *
		OPERATING	LNR	10,716,714 A	10,716,714 A
			LNR	3,094,536 B	3,094,536 B
			LNR	728,081 S	728,081 S
			LNR	728,080 V	728,080 V
		INVESTMENT CAPITAL	LNR	25,360,000 C	5,500,000 C
			LNR	500,000 N	500,000 N
7.	LNR801 -	OCEAN-BASED RECREATION		10.00 *	10.00 *
		OPERATING	LNR	445,255 A	445,255 A
				114.00 *	114.00 *
			LNR	22,382,995 B	22,382,995 B
			LNR	1,500,000 N	1,500,000 N
		INVESTMENT CAPITAL	LNR	7,540,000 C	C
8.	AGS889 -	SPECTATOR EVENTS AND SHOWS - ALOHA STADIUM		32.50 *	32.50 *
				1.00 #	1.00 #
		OPERATING	AGS	9,199,019 B	9,199,019 B
			AGS	4,400,000 V	1,000,000 V
I. PUBLIC SAFETY					
1.	PSD402 -	HALAWA CORRECTIONAL FACILITY		411.00 *	411.00 *
		OPERATING	PSD	28,264,167 A	28,264,167 A
2.	PSD403 -	KULANI CORRECTIONAL FACILITY		83.00 *	83.00 *
		OPERATING	PSD	6,237,072 A	6,237,072 A
3.	PSD404 -	WAIAWA CORRECTIONAL FACILITY		113.00 *	113.00 *
		OPERATING	PSD	7,241,371 A	7,241,371 A
4.	PSD405 -	HAWAII COMMUNITY CORRECTIONAL CENTER		171.00 *	171.00 *
		OPERATING	PSD	11,386,538 A	11,386,538 A
5.	PSD406 -	MAUI COMMUNITY CORRECTIONAL CENTER		187.00 *	187.00 *
		OPERATING	PSD	11,281,892 A	11,281,892 A
				3.00 #	3.00 #
			PSD	209,721 S	209,721 S

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL M YEAR O 2021-2022 F	FISCAL M YEAR O 2022-2023 F
6.	PSD407	OAHU COMMUNITY CORRECTIONAL CENTER			
	OPERATING		PSD	501.00 * 33,999,717 A	501.00 * 33,999,717 A
7.	PSD408	KAUAI COMMUNITY CORRECTIONAL CENTER			
	OPERATING		PSD	74.00 * 5,555,519 A	74.00 * 5,555,519 A
8.	PSD409	WOMEN'S COMMUNITY CORRECTIONAL CENTER			
	OPERATING		PSD	159.00 * 10,576,971 A	159.00 * 10,576,971 A
9.	PSD410	INTAKE SERVICE CENTERS			
	OPERATING		PSD	61.00 * 4,030,149 A	61.00 * 4,030,149 A
10.	PSD420	CORRECTIONS PROGRAM SERVICES			
	OPERATING		PSD	167.00 * 22,685,878 A	167.00 * 22,685,878 A
			PSD	1,045,989 N	1,045,989 N
11.	PSD421	HEALTH CARE			
	OPERATING		PSD	208.60 * 27,468,151 A	208.60 * 27,468,151 A
12.	PSD422	HAWAII CORRECTIONAL INDUSTRIES			
	OPERATING		PSD	2.00 * 42.00 # 10,441,796 W	2.00 * 42.00 # 10,441,796 W
13.	PSD808	NON-STATE FACILITIES			
	OPERATING		PSD	9.00 * 46,205,433 A	9.00 * 46,205,433 A
14.	PSD502	NARCOTICS ENFORCEMENT			
	OPERATING		PSD	16.00 * 1,245,172 A	16.00 * 1,245,172 A
			PSD	8.00 * 980,209 W	8.00 * 980,209 W
			PSD	200,000 P	200,000 P
15.	PSD503	SHERIFF			
	OPERATING		PSD	277.00 * 20,693,490 A	277.00 * 20,693,490 A
			PSD	600,000 N	600,000 N
			PSD	80.00 * 10,575,933 U	80.00 * 10,575,933 U
16.	PSD611	ADULT PAROLE DETERMINATIONS			
	OPERATING		PSD	7.00 * 554,386 A	7.00 * 527,254 A
17.	PSD612	ADULT PAROLE SUPERVISION AND COUNSELING			
	OPERATING		PSD	61.00 * 4,310,980 A	61.00 * 4,338,112 A
18.	PSD613	CRIME VICTIM COMPENSATION COMMISSION			
	OPERATING		PSD	5.00 * 1,142,725 A	5.00 * 466,503 A
			PSD	8.00 * 2,161,871 B	8.00 * 2,161,871 B

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL YEAR 2021-2022	FISCAL YEAR 2022-2023
				1.00# 859,315 P	1.00# 859,315 P
19.	PSD900	- GENERAL ADMINISTRATION			
	OPERATING		PSD	139.00* 26,532,428 A	139.00* 16,775,206 A
			PSD	1.00* 978,501 B	1.00* 978,501 B
			PSD	75,065 T	75,065 T
	INVESTMENT CAPITAL		AGS	42,968,000 C	C
20.	ATG231	- STATE CRIMINAL JUSTICE INFORMATION AND IDENTIFICATION			
	OPERATING		ATG	23.50* 1,958,991 A	23.50* 1,958,991 A
			ATG	25.50* 3,695,927 W	25.50* 3,734,657 W
			ATG	1.00# 1,246,182 P	1.00# 1,246,182 P
21.	LNR810	- PREVENTION OF NATURAL DISASTERS			
	OPERATING		LNR	8.00* 2,427,576 B	8.00* 2,427,576 B
			LNR	460,000 P	470,000 P
22.	DEF110	- AMELIORATION OF PHYSICAL DISASTERS			
	OPERATING		DEF	98.75* 5.50# 7,875,999 A	98.75* 5.50# 7,875,999 A
			DEF	4.00* 3.00# 5,042,445 N	4.00* 3.00# 5,042,445 N
			DEF	19.25* 1.00# 7,454,193 P	19.25* 1.00# 7,454,193 P
	INVESTMENT CAPITAL		AGS	5,750,000 C	3,000,000 C
23.	DEF116	- HAWAII ARMY AND AIR NATIONAL GUARD			
	OPERATING		DEF	19.75* 4,589,484 A	19.75* 4,589,484 A
			DEF	75.25* 35.00# 38,632,102 P	75.25* 35.00# 38,632,102 P
24.	DEF118	- HAWAII EMERGENCY MANAGEMENT AGENCY			
	OPERATING		DEF	18.50* 49.75# 3,568,308 A	18.50* 49.75# 3,568,308 A
			DEF	7.50* 11.00# 5,716,983 N	7.50* 11.00# 5,716,983 N
			DEF	11.25# 21,622,973 P	11.25# 21,622,973 P
J. INDIVIDUAL RIGHTS					
1.	CCA102	- CABLE TELEVISION			
	OPERATING		CCA	7.00* 2,566,872 B	7.00* 2,566,872 B

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS		
				FISCAL M YEAR O 2021-2022 F	FISCAL M YEAR O 2022-2023 F	
2.	CCA103	CONSUMER ADVOCATE FOR COMMUNICATION, UTILITIES, AND TRANSPORTATION SERVICES			25.00*	25.00*
	OPERATING		CCA	4,604,311 B	4,604,311 B	
3.	CCA104	FINANCIAL SERVICES REGULATION			40.00*	40.00*
	OPERATING		CCA	5,336,797 B	5,336,797 B	
			CCA	301,000 T	301,000 T	
4.	CCA105	PROFESSIONAL AND VOCATIONAL LICENSING			63.00*	63.00*
	OPERATING		CCA	11.00#	11.00#	
				8,117,600 B	8,117,600 B	
				8.00*	8.00*	
				5.00#	5.00#	
			CCA	2,853,246 T	2,853,246 T	
5.	CCA106	INSURANCE REGULATORY SERVICES			95.00*	95.00*
	OPERATING		CCA	19,707,597 B	19,707,597 B	
			CCA	201,000 T	201,000 T	
6.	CCA107	POST-SECONDARY EDUCATION AUTHORIZATION			2.00*	2.00*
	OPERATING		CCA	306,104 B	306,104 B	
7.	CCA901	PUBLIC UTILITIES COMMISSION			67.00*	67.00*
	OPERATING		CCA	16,918,158 B	16,918,158 B	
8.	CCA110	OFFICE OF CONSUMER PROTECTION			19.00*	19.00*
	OPERATING		CCA	1.00#	1.00#	
				2,893,211 B	2,893,211 B	
			CCA	100,681 T	100,681 T	
9.	AGR812	MEASUREMENT STANDARDS			8.00*	8.00*
	OPERATING		AGR	692,016 A	559,848 A	
				2.00*	2.00*	
			AGR	102,624 B	102,624 B	
10.	CCA111	BUSINESS REGISTRATION AND SECURITIES REGULATION			79.00*	79.00*
	OPERATING		CCA	12,221,068 B	9,221,068 B	
11.	CCA112	REGULATED INDUSTRIES COMPLAINTS OFFICE			66.00*	66.00*
	OPERATING		CCA	1.00#	1.00#	
				7,741,061 B	7,741,061 B	
12.	CCA191	GENERAL SUPPORT			51.00*	51.00*
	OPERATING		CCA	1.00#	1.00#	
				9,952,858 B	10,128,858 B	
13.	AGS105	ENFORCEMENT OF INFORMATION PRACTICES			8.50*	8.50*
	OPERATING		AGS	809,377 A	809,377 A	

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL YEAR 2021-2022	FISCAL YEAR 2022-2023
14.	BUF151	- OFFICE OF THE PUBLIC DEFENDER			
	OPERATING		BUF	133.50 * 12,507,997 A	133.50 * 12,507,997 A
15.	LNR111	- CONVEYANCES AND RECORDINGS			
	OPERATING		LNR	57.00 * 3.00 # 7,613,533 B	57.00 * 3.00 # 7,613,533 B
16.	HMS888	- COMMISSION ON THE STATUS OF WOMEN			
	OPERATING		HMS	1.00 * 1.00 # 169,479 A	1.00 * 1.00 # 169,479 A
K. GOVERNMENT-WIDE SUPPORT					
1.	GOV100	- OFFICE OF THE GOVERNOR			
	OPERATING		GOV	21.00 * 18.00 # 3,550,536 A	21.00 * 18.00 # 3,550,536 A
	INVESTMENT CAPITAL		GOV	1,000 C	1,000 C
2.	LTG100	- OFFICE OF THE LIEUTENANT GOVERNOR			
	OPERATING		LTG	3.00 * 7.00 # 955,793 A	3.00 * 7.00 # 955,793 A
3.	BED144	- OFFICE OF PLANNING AND SUSTAINABLE DEVELOPMENT			
	OPERATING		BED	26.00 * 3.00 # 2,498,380 A	26.00 * 3.00 # 2,495,191 A
			BED	5.00 * 5.00 # 2,364,265 N	5.00 * 5.00 # 2,364,265 N
	INVESTMENT CAPITAL		BED	2,000,000 W	2,000,000 W
			BED	2,000,000 C	C
4.	BED130	- ECONOMIC PLANNING AND RESEARCH			
	OPERATING		BED	18.46 * 5.00 # 1,987,139 A	18.46 * 5.00 # 1,987,139 A
			BED	1.54 * 115,317 N	1.54 * 115,317 N
			BED	4,000,000 V	4,000,000 V
			BED	6.50 * 582,123 P	6.50 * 582,123 P
5.	BUF101	- DEPARTMENTAL ADMINISTRATION AND BUDGET DIVISION			
	OPERATING		BUF	43.00 * 11,196,640 A	43.00 * 11,196,640 A
			BUF	377,575,000 B	377,575,000 B
6.	BUF103	- VACATION PAYOUT - STATEWIDE			
	OPERATING		BUF	9,700,000 V	9,700,000 V
7.	AGS871	- CAMPAIGN SPENDING COMMISSION			
	OPERATING		AGS	5.00 * 589,948 A	5.00 * 589,948 A
			AGS	343,732 T	343,732 T

PROGRAM APPROPRIATIONS

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				FISCAL YEAR 2021-2022	FISCAL YEAR 2022-2023
8.		AGS879 - OFFICE OF ELECTIONS		16.50 * 8.05 #	16.50 * 8.05 #
	OPERATING		AGS	2,507,236 A 0.50 * 1.00 #	2,377,459 A 0.50 * 1.00 #
			AGS	727,694 N	355,694 N
			AGS	60,000 V	60,000 V
9.		TAX100 - COMPLIANCE		177.00 * 3.00 #	177.00 * 3.00 #
	OPERATING		TAX	10,207,853 A	10,207,853 A
10.		TAX105 - TAX SERVICES AND PROCESSING		134.00 * 76.00 #	134.00 * 76.00 #
	OPERATING		TAX	6,124,987 A	6,124,987 A
11.		TAX107 - SUPPORTING SERVICES - REVENUE COLLECTION		78.00 * 11.00 #	78.00 * 11.00 #
	OPERATING		TAX	8,729,788 A 13.00 #	8,729,788 A 13.00 #
			TAX	3,567,116 B	3,567,116 B
			TAX	3,241,332 V	V
	INVESTMENT CAPITAL		AGS	500,000 C	C
12.		AGS101 - ACCOUNTING SYSTEM DEVELOPMENT AND MAINTENANCE		9.00 * 3.00 #	9.00 * 3.00 #
	OPERATING		AGS	1,034,301 A	1,034,301 A
13.		AGS102 - EXPENDITURE EXAMINATION		18.00 *	18.00 *
	OPERATING		AGS	1,439,582 A	1,439,582 A
14.		AGS103 - RECORDING AND REPORTING		13.00 *	13.00 *
	OPERATING		AGS	1,047,547 A	1,047,547 A
15.		AGS104 - INTERNAL POST AUDIT		7.00 * 3.00 #	7.00 * 3.00 #
	OPERATING		AGS	763,311 A	763,311 A
16.		BUF115 - FINANCIAL ADMINISTRATION		15.00 *	15.00 *
	OPERATING		BUF	2,170,800 A 9.00 *	2,170,800 A 9.00 *
			BUF	11,738,988 T	11,738,988 T
17.		BUF721 - DEBT SERVICE PAYMENTS - STATE			
	OPERATING		BUF	227,286,366 A	233,647,908 A
			BUF	160,020,792 V 0 ¹	153,659,250 V 0 ¹
18.		ATG100 - LEGAL SERVICES		260.58 * 22.20 #	259.58 * 22.20 #
	OPERATING		ATG	26,316,634 A 24.40 *	26,173,710 A 24.40 *

PROGRAM APPROPRIATIONS

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				FISCAL YEAR 2021-2022	FISCAL YEAR 2022-2023
				0.22#	0.22#
			ATG	3,879,671 B	3,991,921 B
				5.70#	5.70#
			ATG	11,880,146 N	11,880,146 N
				0.50*	0.50*
			ATG	4,040,135 T	4,040,135 T
				117.60*	117.60*
				30.60#	30.60#
			ATG	18,957,676 U	18,957,676 U
				5.60*	5.60*
				1.00#	1.00#
			ATG	3,379,975 W	3,379,975 W
				20.10*	20.10*
				1.00#	1.00#
			ATG	4,117,085 P	4,117,085 P
19.	AGS131	- ENTERPRISE TECHNOLOGY SERVICES - OPERATIONS AND INFRASTRUCTURE MAINTENANCE			
				96.00*	96.00*
				13.00#	13.00#
	OPERATING		AGS	33,306,351 A	33,278,873 A
				12.00*	12.00*
				1.00#	1.00#
			AGS	2,511,566 B	2,511,566 B
				33.00*	33.00*
	INVESTMENT CAPITAL		AGS	6,312,584 U	6,312,584 U
			AGS	5,700,000 C	C
20.	AGS111	- ARCHIVES - RECORDS MANAGEMENT			
				15.00*	15.00*
	OPERATING		AGS	1,074,231 A	1,074,231 A
				3.00*	3.00*
			AGS	490,193 B	490,193 B
21.	AGS891	- ENHANCED 911 BOARD			
				2.00#	2.00#
	OPERATING		AGS	9,012,858 B	9,012,858 B
22.	HRD102	- WORKFORCE ATTRACTION, SELECTION, CLASSIFICATION, AND EFFECTIVENESS			
				76.00*	76.00*
	OPERATING		HRD	18,109,453 A	18,109,453 A
			HRD	700,000 B	700,000 B
				2.00*	2.00*
			HRD	5,166,134 U	5,166,134 U
			HRD	582,775 V	635,350 V
23.	HRD191	- SUPPORTING SERVICES - HUMAN RESOURCES DEVELOPMENT			
				9.00*	9.00*
	OPERATING		HRD	1,474,250 A	1,474,250 A
24.	BUF141	- EMPLOYEES' RETIREMENT SYSTEM			
				112.00*	112.00*
				2.00#	2.00#
	OPERATING		BUF	18,954,519 X	19,018,519 X
25.	BUF143	- HAWAII EMPLOYER UNION TRUST FUND			
				61.00*	61.00*
	OPERATING		BUF	9,102,778 T	9,102,778 T

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL YEAR 2021-2022	FISCAL YEAR 2022-2023
26.	BUF741 - RETIREMENT BENEFITS - STATE OPERATING		BUF BUF	433,406,650 A 4,000,000 U	433,406,650 A 4,000,000 U
27.	BUF761 - HEALTH PREMIUM PAYMENTS - STATE OPERATING		BUF	125,841,276 A	125,841,276 A
28.	BUF762 - HEALTH PREMIUM PAYMENT FOR ANNUAL REQUIRED CONTRIBUTION (ARC). OPERATING		BUF	464,088,000 A	504,377,000 A
29.	LNR101 - PUBLIC LANDS MANAGEMENT OPERATING		LNR	1.00# 170,264 A 56.00*	1.00# 170,264 A 56.00*
	INVESTMENT CAPITAL		LNR LNR LNR LNR LNR	22,727,960 B 2,000,000 B 5,122,000 C 5,600,000 N 1,700,000 S	24,727,960 B B C N S
30.	AGS203 - STATE RISK MANAGEMENT AND INSURANCE ADMINISTRATION OPERATING		AGS AGS AGS	9,987,995 A 550,000 V 4.00* 25,409,694 W	9,987,995 A 550,000 V 4.00* 25,409,694 W
31.	AGS211 - LAND SURVEY OPERATING		AGS AGS	9.00* 785,276 A 285,000 U	9.00* 785,276 A 285,000 U
32.	AGS223 - OFFICE LEASING OPERATING		AGS AGS AGS	4.00* 5,777,534 A 5,500,000 U 1,000,000 V	4.00* 5,665,587 A 5,500,000 U 1,000,000 V
33.	AGS221 - PUBLIC WORKS - PLANNING, DESIGN, AND CONSTRUCTION OPERATING		AGS AGS	91.00* 1.00# 6,167,665 A 4,000,000 W	91.00* 1.00# 6,167,665 A 4,000,000 W
	INVESTMENT CAPITAL		AGS AGS	28,800,000 C 11,500,000 V	33,000,000 C V
34.	AGS231 - CENTRAL SERVICES - CUSTODIAL SERVICES OPERATING		AGS AGS	117.00* 1.00# 20,026,282 A 1,699,084 U	117.00* 1.00# 20,026,282 A 1,699,084 U
35.	AGS232 - CENTRAL SERVICES - GROUNDS MAINTENANCE OPERATING		AGS	24.00* 1,992,717 A	24.00* 1,992,717 A
36.	AGS233 - CENTRAL SERVICES - BUILDING REPAIRS AND ALTERATIONS OPERATING		AGS	31.00* 3,308,304 A	29.00* 3,095,142 A
	INVESTMENT CAPITAL		AGS	3,100,000 C	C

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL YEAR 2021-2022	FISCAL YEAR 2022-2023
37.	AGS240 - STATE PROCUREMENT				
	OPERATING		AGS	19.00 * 1,433,810 A	19.00 * 1,433,810 A
			AGS	80,000 V	84,000 V
38.	AGS244 - SURPLUS PROPERTY MANAGEMENT				
	OPERATING		AGS	5.00 * 1,878,088 W	5.00 * 1,878,088 W
39.	AGS251 - AUTOMOTIVE MANAGEMENT - MOTOR POOL				
	OPERATING		AGS	13.00 * 3,079,285 W	13.00 * 3,079,285 W
40.	AGS252 - AUTOMOTIVE MANAGEMENT - PARKING CONTROL				
	OPERATING		AGS	27.00 * 3,900,370 W	27.00 * 3,900,370 W
41.	AGS901 - GENERAL ADMINISTRATIVE SERVICES				
	OPERATING		AGS	35.00 * 1.00 # 4,004,934 A	35.00 * 1.00 # 4,004,934 A
			AGS	2.00 * 192,337 U	2.00 * 192,337 U
42.	SUB201 - CITY AND COUNTY OF HONOLULU				
	INVESTMENT CAPITAL		CCH	2,300,000 C	C
			CCH	200,000 S	S
43.	SUB301 - COUNTY OF HAWAII				
	INVESTMENT CAPITAL		COH	12,000,000 C	C
			COH	6,000,000 S	S
44.	SUB401 - COUNTY OF MAUI				
	INVESTMENT CAPITAL		COM	3,500,000 C	20,000,000 C
			COM	3,500,000 S	20,000,000 S
45.	SUB501 - COUNTY OF KAUAI				
	INVESTMENT CAPITAL		COK	9,850,000 C	C
			COK	9,850,000 S	S

SECTION 4. There is appropriated out of the dwelling unit revolving fund established pursuant to section 201H-191, Hawaii Revised Statutes, the sum of \$45,000,000 or so much thereof as may be necessary for fiscal year 2021-2022 for the purposes for which the revolving fund is established.

The sum appropriated shall be expended by the Hawaii housing finance and development corporation for the purposes of this section.

SECTION 5. There is appropriated from the bond fund for the University of Hawaii the sum of \$2,387,000 or so much thereof as may be necessary for fiscal year 2021-2022 for renovations, repairs, and improvements to the John A. Burns school of medicine.

The sum appropriated represents only the amount derived from interest earnings accrued from the proceeds of University of Hawaii revenue bonds sold for the John A. Burns school of medicine, which remain available in the bond fund for the university. This appropriation shall lapse on June 30, 2024.

The sum appropriated shall be expended by the board of regents of the University of Hawaii.

PART III. PROGRAM APPROPRIATION PROVISIONS

ECONOMIC DEVELOPMENT

SECTION 6. Provided that of the American Rescue Plan funds appropriation for strategic marketing and support (BED100), the sum of \$91,000 or so much thereof as may be necessary for fiscal year 2021-2022 and the same sum or so much thereof as may be necessary for fiscal year 2022-2023 shall be expended for international sister state relations for Hiroshima and Yamaguchi; provided further that any funds not expended for this purpose shall lapse.

HEALTH

SECTION 7. Provided that of the American Rescue Plan fund appropriation for family health services (HTH560), the sum of \$1,000,000 or so much thereof as may be necessary for fiscal year 2021-2022 shall be expended for one-time provider relief grants to family planning clinics that did not receive a paycheck protection program loan and are ineligible for funding through the coronavirus aid, relief, and economic security (CARES) act or the coronavirus response and relief supplemental appropriations act of 2021 (CRRSA); provided further that any funds not expended for this purpose shall lapse.

SECTION 8. Provided that the American Rescue Plan funds appropriation for Maui Health System, a KFH LLC (HTH214), for fiscal biennium 2021-2023 shall be disbursed by the Hawaii health systems corporation to the Maui Health System, a Kaiser Foundation Hospitals LLC, for its operating subsidies in the respective fiscal years; provided further that the Maui Health System has satisfied all of the standards and conditions of section 323F-58, Hawaii Revised Statutes.

SOCIAL SERVICES

SECTION 9. Provided that the federal fund revolving fund appropriation included under the Native American Housing and Self-Determination Act (NAHASDA) shall be used for direct loan financing and loan accounting.

EDUCATION

SECTION 10. Provided that of the federal fund appropriation for school-based budgeting (EDN100), the sum of \$304,400 or so much thereof as may be necessary for fiscal year 2021-2022 shall be expended by Leilehua high school for a cyber security academy.

SECTION 11. Provided that of the general fund appropriation for school-based budgeting (EDN100), the sum of \$611,450 or so much thereof as may be necessary for fiscal year 2021-2022 and the same sum or so much thereof as may be necessary for fiscal year 2022-2023 shall be expended for Papahana 'O Kainoa to support the implementation of alternative learning programs, including for seven permanent full-time equivalent (7.0 FTE) positions; provided further that any funds not expended for this purpose shall lapse to the general fund.

SECTION 12. Provided that of the general fund appropriation for school-based budgeting (EDN100), the sum of \$50,000 or so much thereof as

may be necessary for fiscal year 2021-2022 and the same sum or so much thereof as may be necessary for fiscal year 2022-2023 shall be expended by the designated schools to support a career and technical education and office assistant program as follows:

- (1) Waipahu High School - \$25,000 or so much thereof as may be necessary for fiscal year 2021-2022 and the same sum or so much thereof as may be necessary for fiscal year 2022-2023;
- (2) Leilehua High School - \$25,000 or so much thereof as may be necessary for fiscal year 2021-2022 and the same sum or so much thereof as may be necessary for fiscal year 2022-2023;

provided further that any funds not expended for this purpose shall lapse to the general fund.

SECTION 13. Provided that of the general fund appropriation for instructional support (EDN200), the sum of \$468,424 or so much thereof as may be necessary for fiscal year 2021-2022 and the same sum or so much thereof as may be necessary for fiscal year 2022-2023 shall be expended to support the existing alternative teacher preparation program that provides recruitment, certification, and professional development services to strengthen the pipeline of teachers and leaders in underserved communities; provided further that any funds not expended for this purpose shall lapse to the general fund.

SECTION 14. Provided that of the general fund appropriation for instructional support (EDN200), the sum of \$3,000,000 or so much thereof as may be necessary for fiscal year 2021-2022 and the sum of \$6,000,000 or so much thereof as may be necessary for fiscal year 2022-2023 shall be expended by the areas to establish alternative learning centers to provide identified secondary students with opportunities for student-centered engaged and supported learning environments as follows:

- (1) Kauai District - \$1,000,000 or so much thereof as may be necessary for fiscal year 2021-2022 and the same sum or so much thereof as may be necessary for fiscal year 2022-2023;
- (2) East Hawaii District - \$1,000,000 or so much thereof as may be necessary for fiscal year 2021-2022 and the same sum or so much thereof as may be necessary for fiscal year 2022-2023;
- (3) Maui District - \$1,000,000 or so much thereof as may be necessary for fiscal year 2021-2022 and the same sum or so much thereof as may be necessary for fiscal year 2022-2023;
- (4) Campbell, Kapolei, Pearl City, and Waipahu Complexes - \$1,000,000 or so much thereof as may be necessary for fiscal year 2022-2023;
- (5) West Hawaii District - \$1,000,000 or so much thereof as may be necessary for fiscal year 2022-2023; and
- (6) Honolulu District - \$1,000,000 or so much thereof as may be necessary for fiscal year 2022-2023;

provided further that any funds not expended for this purpose shall lapse to the general fund.

SECTION 15. Provided that of the federal fund appropriation for instructional support (EDN200), the sum of \$400,000 or so much thereof as may be necessary for fiscal year 2021-2022 and the same sum or so much thereof as may be necessary for fiscal year 2022-2023 shall be expended by the Castle-Kahuku complex area to support the implementation of trauma-informed and restorative practices in the Castle, Kalaheo, and Kailua complexes; provided further that any funds not expended for this purpose shall lapse.

ACT 88

SECTION 16. Provided that of the general fund appropriation for state administration (EDN300), the sum of \$1,100,000 or so much thereof as may be necessary for fiscal year 2021-2022 and the same sum or so much thereof as may be necessary for fiscal year 2022-2023 shall be expended to support the existing alternative teacher preparation program that provides recruitment, certification, and professional development services to strengthen the pipeline of teachers and leaders in underserved communities; provided further that any funds not expended for this purpose shall lapse to the general fund.

SECTION 17. Provided that of the funds appropriated to the University of Hawaii, such amounts as may be determined by the University may be utilized for contracts for private services in the areas of security, landscaping, custodial services, and garbage collection; provided further that no individuals currently employed by the University shall be separated due to private contracting; and provided further that such contracts for private services shall be excepted from Chapter 76, Hawaii Revised Statutes, relating to civil service, and Chapter 89, Hawaii Revised Statutes, relating to collective bargaining.

PUBLIC SAFETY

SECTION 18. Provided that of the general fund appropriation for the crime victim compensation commission (PSD613), the sum of \$676,222 or so much thereof as may be necessary for fiscal year 2021-2022 shall be deposited as a cash infusion into the crime victim compensation special fund and expended for the payroll and operational costs of the crime victim compensation commission.

INDIVIDUAL RIGHTS

SECTION 19. Provided that of the general fund appropriation for the office of the public defender (BUF151), the sum of \$126,364 or so much thereof as may be necessary for fiscal year 2021-2022 and the same sum or so much thereof as may be necessary for fiscal year 2022-2023 shall be transferred to the judiciary for the administration and operation of the community outreach court project.

SECTION 20. Provided that of the general fund appropriation for the office of the public defender (BUF151), the sum of \$165,404 or so much thereof as may be necessary for fiscal year 2021-2022 and the same sum or so much thereof as may be necessary for fiscal year 2022-2023 shall be transferred to the office of the prosecuting attorney of the city and county of Honolulu for the operation of the community outreach court project.

GOVERNMENT-WIDE SUPPORT

SECTION 21. Provided that of the American Rescue Plan funds appropriation for vacation payout - statewide (BUF103), the sum of \$9,700,000 or so much thereof as may be necessary for fiscal year 2021-2022 and the same sum or so much thereof as may be necessary for fiscal year 2022-2023 shall be expended for the purposes of reimbursing all executive departments and agencies for vacation payouts for general funded employees who have left the employ of the executive branch; provided further that any unexpended funds shall lapse to the general fund at the end of the respective fiscal year for which the appropriation was made; and provided further that the department of budget and finance shall only expend up to \$9,700,000 for vacation payouts, and any additional ex-

penses incurred above this amount will be the responsibility of the individual departments and agencies.

SECTION 22. Provided that of the general fund appropriation for debt service payments (BUF721-BUF728) for fiscal biennium 2021-2023, balances that are unrequired for debt service payments may be used to pay for expenses related to section 39-14, Hawaii Revised Statutes, and for costs of bond issuance, or may be transferred to retirement benefits payments (BUF741-BUF748) and health premium payments (BUF761-BUF768); 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 at the end of the respective fiscal year for which the appropriation was made.

SECTION 23. Provided that of the general fund appropriation for retirement benefits payments (BUF741-BUF748) for fiscal biennium 2021-2023, balances that are unrequired for retirement benefits payments may be transferred to debt service payments (BUF721-BUF728) and health premium payments (BUF761-BUF768); 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 at the end of the respective fiscal year for which the appropriation was made.

SECTION 24. Provided that of the general fund appropriation for health premium payments (BUF761-BUF768) for fiscal biennium 2021-2023, balances that are unrequired for health premium payments may be transferred to retirement benefits payments (BUF741-BUF748) and debt service payments (BUF721-BUF728); 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 at the end of the respective fiscal year for which the appropriation was made.

SECTION 25. Any law to the contrary notwithstanding, the appropriations under Act 5, Session Laws of Hawaii 2019, section 3, as amended and renumbered by Act 7, Session Laws of Hawaii 2020, section 3, and Act 9, Session Laws of Hawaii 2020, section 1, in the amount indicated or balances thereof, unallotted, unencumbered, or encumbered and unrequired are hereby lapsed:

“Item No.	FY21 Amount (MOF)
A-1	10,000,000 A”
A-15	2,000,000 A”

PART IV. CAPITAL IMPROVEMENT PROJECTS

SECTION 26. 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; provided that the total cost of the projects thus combined shall not exceed the total of the sum specified for the projects separately. The amount after each cost element and the total funding for each project listed in this part are in thousands of dollars.

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2021-2022 F	FISCAL M YEAR O 2022-2023 F

A. ECONOMIC DEVELOPMENT

AGR132 - ANIMAL DISEASE CONTROL

1.		AIRPORT ANIMAL QUARANTINE HOLDING FACILITY IMPROVEMENTS, OAHU			
		CONSTRUCTION FOR IMPROVEMENTS TO THE AIRPORT ANIMAL QUARANTINE FACILITY.			
		TOTAL FUNDING	AGS	1,200C	C

LNR172 - FORESTRY - RESOURCE MANAGEMENT AND DEVELOPMENT

2.		PALAMANUI FOREST CONSERVATION, HAWAII			
		PLANS, DESIGN AND CONSTRUCTION FOR PROTECTION AND FENCING FOR ENDANGERED LOWLAND DRY FOREST ADJACENT TO THE HAWAII COMMUNITY COLLEGE PALAMANUI CAMPUS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		TOTAL FUNDING	LNR	60C	C

3.		WAILUA ACCESS ROAD, KAUAI			
		CONSTRUCTION FOR REPAIR OF QUEENSLAND CROSSING ALONG WAILUA ACCESS ROAD (LOOP ROAD); GROUND AND SITE IMPROVEMENTS.			
		TOTAL FUNDING	LNR	2,000D	D

4.		WATERSHED PROTECTION AND UNGULATE FENCING, MAUI			
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR WATERSHED PROTECTION AND UNGULATE FENCING FOR MAUI COUNTY; PROJECT MAY INCLUDE PLANS OR STUDIES FOR BARRIER/FENCING PLACEMENT; PROJECT MAY INCLUDE UPCOUNTRY AND OTHER CRITICAL WATERSHEDS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		TOTAL FUNDING	LNR	2,800C	C

AGR141 - AGRICULTURAL RESOURCE MANAGEMENT

5.		LOWER HAMAKUA DITCH WATERSHED PROJECT, HAWAII			
		PLANS, LAND ACQUISITION, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR IMPROVEMENTS TO THE LOWER HAMAKUA DITCH SYSTEM, TOGETHER WITH APPURTENANT WORKS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		TOTAL FUNDING	AGR	3,250C	C
			AGR	1N	N

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2021-2022 F	FISCAL M YEAR O 2022-2023 F
6.		AGRICULTURAL INFRASTRUCTURE IMPROVEMENTS, STATEWIDE PLANS, LAND ACQUISITION, AND DESIGN FOR AGRICULTURAL INFRASTRUCTURE IMPROVEMENTS, STATEWIDE. TOTAL FUNDING	AGR	300 C	C
7.		KAMUELA VACUUM COOLING PLANT, HAWAII PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A POST-HARVEST FACILITY AND OTHER MISCELLANEOUS IMPROVEMENTS. TOTAL FUNDING	AGR	750 C	C
8.		WAIMEA IRRIGATION SYSTEM IMPROVEMENTS, HAWAII PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR IMPROVEMENTS TO THE WAIMEA IRRIGATION SYSTEM. TOTAL FUNDING	AGR	500 C	C
9.		AGRICULTURAL WAREHOUSES, OAHU PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR WAREHOUSES ON TMK 7-1-002:009 AND 7-1-002:004 (POR). TOTAL FUNDING	UOH	28,000 C	C
10.		MAUI PRODUCE PROCESSING COOPERATIVE, MAUI DESIGN AND CONSTRUCTION FOR CRITICAL REPAIRS OF THE KULA VACUUM COOLING FACILITY TOTAL FUNDING	AGR	160 C	C
AGR192 - GENERAL ADMINISTRATION FOR AGRICULTURE					
11.		MISCELLANEOUS HEALTH, SAFETY, CODE, AND OTHER REQUIREMENTS, STATEWIDE DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO ADDRESS HEALTH, SAFETY, CODE, AND OTHER REQUIREMENTS, STATEWIDE. TOTAL FUNDING	AGS	3,000 C	C
LNR153 - FISHERIES MANAGEMENT					
12.		ANUENUE FISHERIES RESEARCH CENTER, OAHU DESIGN AND CONSTRUCTION FOR INSTALLATION OF PHOTOVOLTAIC SYSTEM AND RELATED IMPROVEMENTS. TOTAL FUNDING	LNR	350 C	C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2021-2022 F	FISCAL M YEAR O 2022-2023 F
LNR141 - WATER AND LAND DEVELOPMENT					
13.		ROCKFALL AND FLOOD MITIGATION, STATEWIDE			
		DESIGN AND CONSTRUCTION FOR ROCKFALL AND FLOOD MITIGATION AT VARIOUS LOCATIONS, STATEWIDE. THE LEGISLATURE FINDS AND DECLARES THAT THE APPROPRIATION IS IN THE PUBLIC INTEREST AND FOR THE PUBLIC'S HEALTH, SAFETY AND GENERAL WELFARE OF THE STATE.			
		TOTAL FUNDING	LNR	2,000 C	2,000 C
14.		KALAUHAIHAI FISHPOND (LUCAS SPRING), OAHU			
		PLANS, DESIGN, AND CONSTRUCTION TO RESTORE FRESH ARTESIAN WATER BACK TO THE FISHPOND AND RELATED WORK; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		TOTAL FUNDING	LNR	1,000 C	C
15.		PULEHUNUI WATER SOURCE AND SYSTEM DEVELOPMENT, MAUI			
		PLANS AND DESIGN FOR WATER SOURCE AND SYSTEM DEVELOPMENT NEEDED TO SUPPORT DLNR, PSD, AND DHHL PROJECTS IN PULEHUNUI, MAUI.			
		TOTAL FUNDING	LNR	1,000 C	C
16.		UPCOUNTRY MAUI WELL, MAUI			
		PLANS, LAND ACQUISITION, AND DESIGN FOR A WATER WELL AND RELATED IMPROVEMENTS IN UPCOUNTRY MAUI.			
		TOTAL FUNDING	LNR	1,000 C	C
BED160 - HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION					
17.		DWELLING UNIT REVOLVING FUND INFUSION, STATEWIDE			
		CONSTRUCTION TO PROVIDE AN INFUSION OF FUNDS TO FINANCE ADDITIONAL AFFORDABLE HOUSING, STATEWIDE.			
		TOTAL FUNDING	BED	C	20,000 C
18.		CASH INFUSION FOR RENTAL HOUSING REVOLVING FUND, STATEWIDE			
		CONSTRUCTION TO PROVIDE AN INFUSION OF FUNDS TO FINANCE ADDITIONAL AFFORDABLE RENTAL HOUSING, STATEWIDE.			
		TOTAL FUNDING	BED	C	25,000 C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)		
				FISCAL M YEAR O 2021-2022 F	FISCAL M YEAR O 2022-2023 F	
19.		CASH INFUSION FOR RENTAL HOUSING REVOLVING FUND FOR HPHA SENIOR AFFORDABLE HOUSING, OAHU				
		CONSTRUCTION TO PROVIDE AN INFUSION OF FUNDS TO FINANCE THE HPHA SENIOR AFFORDABLE HOUSING PROJECT ON OAHU.				
		TOTAL FUNDING	BED	40,000	C	C

C. TRANSPORTATION FACILITIES

TRN102 - DANIEL K. INOUE INTERNATIONAL AIRPORT

1.		DANIEL K. INOUE INTERNATIONAL AIRPORT, SYSTEMS IMPROVEMENTS, OAHU				
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO VARIOUS SYSTEMS AT THE AIRPORT. IMPROVEMENTS MAY INCLUDE AIR CONDITIONING, BAGGAGE HANDLING, UTILITY, ENERGY CONTROLS, SECURITY, COMMUNICATIONS, LIFE SAFETY, SIGNAGE, STORM WATER, AND OTHER RELATED IMPROVEMENTS.				
		TOTAL FUNDING	TRN	18,000	E	30,000 E
2.		DANIEL K. INOUE INTERNATIONAL AIRPORT, FACILITY IMPROVEMENTS, OAHU				
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS OF VARIOUS FACILITIES AND OTHER RELATED IMPROVEMENTS.				
		TOTAL FUNDING	TRN	4,500	E	40,000 E

TRN104 - GENERAL AVIATION

3.		DILLINGHAM AIRFIELD, AIRPORT IMPROVEMENTS, OAHU				
		DESIGN AND CONSTRUCTION FOR VARIOUS IMPROVEMENTS AT THE AIRPORT.				
		TOTAL FUNDING	TRN	12,000	B	B

TRN111 - HILO INTERNATIONAL AIRPORT

4.		HILO INTERNATIONAL AIRPORT, TERMINAL IMPROVEMENTS, HAWAII				
		DESIGN FOR TERMINAL IMPROVEMENTS INCLUDING THE TICKET LOBBY, HOLDROOMS, AIRPORT RESTROOMS, AND OTHER RELATED IMPROVEMENTS.				
		TOTAL FUNDING	TRN	1,400	E	E

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2021-2022 F	FISCAL M YEAR O 2022-2023 F

TRN114 - ELLISON ONIZUKA KONA INTERNATIONAL AIRPORT AT KEAHOLE

5.		ELLISON ONIZUKA KONA INTERNATIONAL AIRPORT AT KEAHOLE, FACILITY IMPROVEMENTS, HAWAII				
		CONSTRUCTION FOR IMPROVEMENTS OF VARIOUS FACILITIES AND OTHER RELATED IMPROVEMENTS.				
		TOTAL FUNDING	TRN	2,420 E		E
6.		ELLISON ONIZUKA KONA INTERNATIONAL AIRPORT AT KEAHOLE, TERMINAL IMPROVEMENTS, HAWAII				
		CONSTRUCTION OF TERMINAL IMPROVEMENTS AND OTHER RELATED IMPROVEMENTS.				
		TOTAL FUNDING	TRN	15,721 E		E

TRN161 - LIHUE AIRPORT

7.		LIHUE AIRPORT, FACILITY IMPROVEMENTS, KAUAI				
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS OF VARIOUS FACILITIES AND OTHER RELATED IMPROVEMENTS.				
		TOTAL FUNDING	TRN	9,100 E		E
8.		LIHUE AIRPORT, TERMINAL IMPROVEMENTS, KAUAI				
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO THE TERMINAL AND OTHER RELATED IMPROVEMENTS.				
		TOTAL FUNDING	TRN	15,000 E		100,000 E

TRN195 - AIRPORTS ADMINISTRATION

9.		AIRPORTS DIVISION CAPITAL IMPROVEMENT PROGRAM PROJECT STAFF COSTS, STATEWIDE				
		PLANS, DESIGN, AND CONSTRUCTION FOR COSTS RELATED TO WAGES AND FRINGE BENEFITS FOR PERMANENT PROJECT FUNDED STAFF POSITIONS FOR THE IMPLEMENTATION OF CAPITAL IMPROVEMENT PROGRAM PROJECTS FOR THE DEPARTMENT OF TRANSPORTATION'S AIRPORTS DIVISION. PROJECT MAY ALSO INCLUDE FUNDS FOR NON- PERMANENT CAPITAL IMPROVEMENT PROGRAM RELATED POSITIONS (OTHER FUNDS FROM PASSENGER FACILITY CHARGES).				
		TOTAL FUNDING	TRN	4,428 B		4,428 B
			TRN	157 X		157 X

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2021-2022 F	FISCAL M YEAR O 2022-2023 F
10.		AIRFIELD IMPROVEMENTS, STATEWIDE			
		DESIGN AND CONSTRUCTION FOR AIRFIELD IMPROVEMENTS AT STATEWIDE AIRPORTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT. (OTHER FUNDS FROM PASSENGER FACILITY CHARGES).			
		TOTAL FUNDING	TRN	98,440 E	16,207 E
			TRN	1 N	1 N
			TRN	R	5,000 R
11.		ENVIRONMENTAL COMPLIANCE, STATEWIDE			
		DESIGN AND CONSTRUCTION OF ENVIRONMENTAL FACILITY IMPROVEMENTS AT STATEWIDE AIRPORTS.			
		TOTAL FUNDING	TRN	26,500 E	6,000 E
12.		SUPPORT SERVICES, STATEWIDE			
		DESIGN AND CONSTRUCTION FOR MANAGEMENT SUPPORT SERVICES AT STATEWIDE AIRPORTS.			
		TOTAL FUNDING	TRN	4,000 E	4,000 E
13.		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.			
		TOTAL FUNDING	TRN	7,000 E	7,000 E
14.		AIRPORT PLANNING STUDY, STATEWIDE			
		PLANS FOR AIRPORT IMPROVEMENTS, ECONOMIC STUDIES, RESEARCH, PLANNING PROGRAM MANAGEMENT, NOISE MONITORING STUDIES, NOISE COMPATIBILITY STUDIES, AND ADVANCE PLANNING OF FEDERAL AID AND NON-FEDERAL AID PROJECTS.			
		TOTAL FUNDING	TRN	2,000 E	2,000 E
15.		AIRPORT IMPROVEMENTS, STATEWIDE			
		CONSTRUCTION FOR PREVIOUSLY APPROVED PROJECTS AT STATEWIDE AIRPORTS FOR ALTERNATE FUNDING. (OTHER FUNDS FROM PASSENGER FACILITY CHARGES).			
		TOTAL FUNDING	TRN	58,420 X	X

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL YEAR 2021-2022	FISCAL YEAR 2022-2023

TRN301 - HONOLULU HARBOR

16. HONOLULU HARBOR IMPROVEMENTS, OAHU

PLANS, LAND ACQUISITION, DESIGN, AND CONSTRUCTION OF CAPITAL IMPROVEMENT PROGRAM PROJECTS THAT WILL PROVIDE FOR SAFER, MORE EFFICIENT USE OF EXISTING AND/OR ADDITIONAL OPERATIONAL AREAS THROUGHOUT HONOLULU HARBOR, OAHU. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.

TOTAL FUNDING	TRN	4B	4B
	TRN	9,988E	29,988E
	TRN	4N	4N
	TRN	4R	4R

TRN303 - KALAELOA BARBERS POINT HARBOR

17. KALAELOA BARBERS POINT HARBOR IMPROVEMENTS, OAHU

PLANS, LAND ACQUISITION, DESIGN, AND CONSTRUCTION OF CAPITAL IMPROVEMENT PROGRAM PROJECTS THAT WILL PROVIDE FOR SAFER, MORE EFFICIENT USE OF EXISTING AND/OR ADDITIONAL OPERATIONAL AREAS THROUGHOUT KALAELOA BARBERS POINT HARBOR, OAHU. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.

TOTAL FUNDING	TRN	4B	4B
	TRN	9,988E	14,988E
	TRN	4N	4N
	TRN	4R	4R

TRN311 - HILO HARBOR

18. HILO HARBOR IMPROVEMENTS, HAWAII

PLANS, LAND ACQUISITION, DESIGN, AND CONSTRUCTION OF CAPITAL IMPROVEMENT PROGRAM PROJECTS THAT WILL PROVIDE FOR SAFER, MORE EFFICIENT USE OF EXISTING AND/OR ADDITIONAL OPERATIONAL AREAS THROUGHOUT HILO HARBOR, HAWAII. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.

TOTAL FUNDING	TRN	4B	4B
	TRN	9,988E	14,988E
	TRN	4N	4N
	TRN	4R	4R

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL YEAR 2021-2022	FISCAL YEAR 2022-2023

TRN313 - KAWAIHAE HARBOR

19.		KAWAIHAE HARBOR IMPROVEMENTS, HAWAII				
		PLANS, LAND ACQUISITION, DESIGN, AND CONSTRUCTION OF CAPITAL IMPROVEMENT PROGRAM PROJECTS THAT WILL PROVIDE FOR SAFER, MORE EFFICIENT USE OF EXISTING AND/OR ADDITIONAL OPERATIONAL AREAS THROUGHOUT KAWAIHAE HARBOR, HAWAII. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.				
		TOTAL FUNDING	TRN	4B		4B
			TRN	9,988E		29,988E
			TRN	4N		4N
			TRN	4R		4R

TRN331 - KAHULUI HARBOR

20.		KAHULUI HARBOR IMPROVEMENTS, MAUI				
		PLANS, LAND ACQUISITION, DESIGN, AND CONSTRUCTION OF CAPITAL IMPROVEMENT PROGRAM PROJECTS THAT WILL PROVIDE FOR SAFER, MORE EFFICIENT USE OF EXISTING AND/OR ADDITIONAL OPERATIONAL AREAS THROUGHOUT KAHULUI HARBOR, MAUI. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.				
		TOTAL FUNDING	TRN	4B		4B
			TRN	9,988E		62,988E
			TRN	4N		4N
			TRN	4R		4R

TRN361 - NAWILIWILI HARBOR

21.		NAWILIWILI HARBOR IMPROVEMENTS, KAUAI				
		PLANS, LAND ACQUISITION, DESIGN, AND CONSTRUCTION OF CAPITAL IMPROVEMENT PROGRAM PROJECTS THAT WILL PROVIDE FOR SAFER, MORE EFFICIENT USE OF EXISTING AND/OR ADDITIONAL OPERATIONAL AREAS THROUGHOUT NAWILIWILI HARBOR, KAUAI. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.				
		TOTAL FUNDING	TRN	4B		4B
			TRN	988E		988E
			TRN	4N		4N
			TRN	4R		4R

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL YEAR 2021-2022	FISCAL YEAR 2022-2023

TRN363 - PORT ALLEN HARBOR

22.		PORT ALLEN HARBOR IMPROVEMENTS, KAUAI			
		PLANS, LAND ACQUISITION, DESIGN, AND CONSTRUCTION OF CAPITAL IMPROVEMENT PROGRAM PROJECTS THAT WILL PROVIDE FOR SAFER, MORE EFFICIENT USE OF EXISTING AND/OR ADDITIONAL OPERATIONAL AREAS THROUGHOUT PORT ALLEN HARBOR, KAUAI. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		TOTAL FUNDING	TRN	4B	4B
			TRN	988 E	4,988 E
			TRN	4N	4N
			TRN	4R	4R

TRN395 - HARBORS ADMINISTRATION

23.		COMMERCIAL HARBORS ADMINISTRATION INITIATIVES, STATEWIDE			
		PLANS, LAND ACQUISITION, DESIGN, AND CONSTRUCTION FOR COST RELATED TO STATEWIDE IMPROVEMENTS FOR THE DEPARTMENT OF TRANSPORTATION'S HARBORS DIVISION, STATEWIDE; THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		TOTAL FUNDING	TRN	4B	4B
			TRN	1,488 E	1,488 E
			TRN	4N	4N
			TRN	4R	4R
24.		MODERNIZATION PROGRAM - HARBORS DIVISION CIP PROJECT STAFF COSTS, STATEWIDE			
		PLANS FOR COSTS RELATED TO WAGES AND FRINGE BENEFITS FOR PERMANENT HARBOR MODERNIZATION PLAN PROJECT FUNDED STAFF POSITIONS FOR THE IMPLEMENTATION OF MODERNIZATION PROGRAM PROJECTS FOR THE DEPARTMENT OF TRANSPORTATION'S HARBORS DIVISION, STATEWIDE. PROJECTS MAY ALSO INCLUDE FUNDS FOR NON- PERMANENT CAPITAL IMPROVEMENT PROGRAM RELATED POSITIONS.			
		TOTAL FUNDING	TRN	2,500 B	2,500 B

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2021-2022 F	FISCAL M YEAR O 2022-2023 F
25.		STATE HARBORS, BROADBAND INFRASTRUCTURE DEVELOPMENT, STATEWIDE			
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR BROADBAND INFRASTRUCTURE DEVELOPMENT AND IMPROVEMENTS, STATEWIDE.			
		TOTAL FUNDING	TRN	5,907V	V
TRN501 - OAHU HIGHWAYS					
26.		KAMEHAMEHA HIGHWAY DRAINAGE IMPROVEMENTS, VICINITY OF WAIKANE, OAHU			
		LAND ACQUISITION AND DESIGN FOR ROADWAY IMPROVEMENTS TO ALLEVIATE FLOODING AND ROAD CLOSURES ON KAMEHAMEHA HIGHWAY IN THE VICINITY OF WAIKANE STREAM.			
		TOTAL FUNDING	TRN	1,000E	E
27.		KAMEHAMEHA HWY, REHAB &/OR REPLC. OF WAIPILOPILO STREAM BRIDGE, OAHU			
		LAND ACQUISITION AND CONSTRUCTION FOR REHABILITATION AND/OR REPLACEMENT OF A CONCRETE TEE-BRIDGE ON KAMEHAMEHA HIGHWAY IN THE VICINITY OF HAUULA TO INCLUDE BRIDGE RAILINGS, WALKWAYS, AND OTHER IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		TOTAL FUNDING	TRN	2,000E	E
			TRN	8,000N	N
28.		WAIHAOLE BRIDGE REPLACEMENT, KAMEHAMEHA HIGHWAY, OAHU			
		CONSTRUCTION FOR THE REPLACEMENT OF THE EXISTING CONCRETE STRUCTURE. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		TOTAL FUNDING	TRN	1,800E	E
			TRN	7,200N	N
29.		EROSION CONTROL PROGRAM FOR STATE HIGHWAYS AND FACILITIES, OAHU			
		DESIGN AND CONSTRUCTION FOR PERMANENT EROSION CONTROL MITIGATION MEASURES ON STATE HIGHWAYS AND FACILITIES ON OAHU.			
		TOTAL FUNDING	TRN	2,400E	2,200E

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2021-2022 F	FISCAL M YEAR O 2022-2023 F
30.		RAIL LINE HIGHWAY IMPROVEMENTS, OAHU			
		CONSTRUCTION OF HIGHWAY IMPROVEMENTS BY HART PER HIGHWAY IMPROVEMENT AGREEMENT. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		TOTAL FUNDING	TRN	3,000 E	E
			TRN	12,000 N	N
31.		FREEWAY MANAGEMENT SYSTEM, OAHU			
		CONSTRUCTION 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.			
		TOTAL FUNDING	TRN	900 E	E
			TRN	3,600 N	N
32.		KAMEHAMEHA HIGHWAY, WAIMANANA BRIDGE REPLACEMENT, OAHU			
		CONSTRUCTION FOR REPLACEMENT OF WAIMANANA BRIDGE TO MEET CURRENT STATE AND FEDERAL DESIGN GUIDELINES. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		TOTAL FUNDING	TRN	E	1,400 E
			TRN	N	5,600 N
33.		MISCELLANEOUS PERMANENT BEST MANAGEMENT PRACTICES, OAHU			
		CONSTRUCTION FOR PERMANENT BEST MANAGEMENT PRACTICE IMPROVEMENTS TO EXISTING HIGHWAY FACILITIES INCLUDING INSTALLATION OF STRUCTURAL AND NATURAL BEST MANAGEMENT PRACTICES AT VARIOUS LOCATIONS ON OAHU.			
		TOTAL FUNDING	TRN	E	2,000 E
34.		CULVERT ASSESSMENT AND REMEDIATION, OAHU			
		CONSTRUCTION TO ASSESS CULVERTS AND REPAIR AND/OR REPLACE CULVERTS REQUIRING REMEDIATION.			
		TOTAL FUNDING	TRN	1,000 E	4,000 E

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL YEAR 2021-2022	FISCAL YEAR 2022-2023
35.		FREEWAY DESTINATION SIGN UPGRADE/REPLACEMENT, OAHU CONSTRUCTION FOR REPLACING AND/OR UPGRADING THE EXISTING FREEWAY DESTINATION SIGNS AND SIGN SUPPORT STRUCTURES. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		TOTAL FUNDING	TRN	E	900 E
			TRN	N	3,600 N
36.		INTERSTATE ROUTE H-1 DRAINAGE IMPROVEMENTS, VICINITY OF RADFORD DRIVE, OAHU DESIGN FOR DRAINAGE IMPROVEMENTS ALONG H-1 IN ORDER TO ADDRESS SETTLEMENT ISSUES IN THE VICINITY OF RADFORD DRIVE. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		TOTAL FUNDING	TRN	200 E	E
			TRN	800 N	N
37.		TRAFFIC OPERATIONAL IMPROVEMENTS TO EXISTING INTERSECTIONS AND HIGHWAYS FACILITIES, OAHU CONSTRUCTION FOR MISCELLANEOUS IMPROVEMENTS TO EXISTING INTERSECTIONS AND HIGHWAY FACILITIES NECESSARY FOR IMPROVED TRAFFIC OPERATIONS INCLUDING ELIMINATING CONSTRUCTIONS, MODIFYING AND/OR INSTALLING TRAFFIC SIGNALS, CONSTRUCTING TURNING LANES, ACCELERATION AND/OR DECELERATION LANES, AND OTHER IMPROVEMENTS FOR MORE EFFICIENT TRAFFIC FLOW.			
		TOTAL FUNDING	TRN	1,500 E	3,500 E
38.		FARRINGTON HIGHWAY WIDENING, KAPOLEI GOLF COURSE TO FORT WEAVER ROAD, OAHU CONSTRUCTION FOR THE WIDENING OF FARRINGTON HIGHWAY FROM THE VICINITY OF KAPOLEI GOLF COURSE TO THE VICINITY OF FORT WEAVER ROAD.			
		TOTAL FUNDING	TRN	25,000 E	E

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL YEAR 2021-2022	FISCAL YEAR 2022-2023
39.		NANAKULI TRAFFIC MITIGATION, OAHU PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR TRAFFIC MITIGATION MEASURES; PROJECT MAY INCLUDE REPAIRS, RENOVATIONS, REFURBISHMENTS, AND/OR NEW CONSTRUCTION; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES; THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.		1,000D	D
		TOTAL FUNDING	TRN		
40.		PALI HIGHWAY TRAFFIC SIGNALS, OAHU DESIGN AND CONSTRUCTION TO INSTALL TRAFFIC SIGNALS AT INTERSECTIONS WITH UNSIGNALIZED CROSSWALKS; THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.		5,200C	C
		TOTAL FUNDING	TRN		
41.		PEDESTRIAN WALKWAYS, OAHU CONSTRUCTION FOR PEDESTRIAN WALKWAYS, IMPROVEMENTS AND APPURTENANCES, OAHU.		7,000C	C
		TOTAL FUNDING	TRN		
42.		WAIANAE COAST FARRINGTON HIGHWAY IMPROVEMENTS AND PARALLEL ROUTE, OAHU PLANS, LAND, DESIGN, CONSTRUCTION, AND EQUIPMENT TO EXTEND THE FIFTH LANE TO WIDEN FARRINGTON HIGHWAY, CREATION OF A PARALLEL ROUTE FOR THE WAIANAE COAST; OTHER TRAFFIC IMPROVEMENTS INCLUDING, BUT NOT LIMITED TO, SAFETY IMPROVEMENTS, SYSTEM PRESERVATION, AND TRAFFIC/ CONGESTION RELIEF; THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.		2,500D 2,500E 10,500N	2,500D 2,500E 9,500N
		TOTAL FUNDING	TRN		

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL YEAR 2021-2022	FISCAL YEAR 2022-2023
TRN511 - HAWAII HIGHWAYS					
43.		HAWAII BELT ROAD, WAILUKU BRIDGE REHABILITATION AND/OR REPLACEMENT, HAWAII			
		CONSTRUCTION FOR REHABILITATION AND/OR REPLACEMENT OF WAILUKU BRIDGE ALONG HAWAII BELT ROAD (ROUTE 19). THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		TOTAL FUNDING	TRN	E	4,800 E
			TRN	N	19,200 N
44.		KAWAIHAE ROAD, WAIAKA STREAM BRIDGE REPLACEMENT AND REALIGNMENT, HAWAII			
		CONSTRUCTION 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.			
		TOTAL FUNDING	TRN	E	1,600 E
			TRN	N	6,400 N
45.		HAWAII BELT ROAD, REHABILITATION / REPLACEMENT OF HAKALAU BRIDGE, HAWAII			
		CONSTRUCTION FOR THE REHABILITATION / REPLACEMENT OF HAKALAU BRIDGE. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		TOTAL FUNDING	TRN	E	8,200 E
			TRN	N	32,800 N
46.		HAWAII BELT ROAD, REHABILITATION / REPLACEMENT OF KOLEKOLE STREAM BRIDGE, HAWAII			
		CONSTRUCTION FOR THE REHABILITATION / REPLACEMENT OF KOLEKOLE STREAM BRIDGE. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		TOTAL FUNDING	TRN	E	3,800 E
			TRN	N	15,200 N

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL YEAR 2021-2022	FISCAL YEAR 2022-2023
47.		PUAINAKO ST IMPROVEMENTS, KANOELEHUA AVE TO KOMOHANA ST, HAWAII			
		LAND ACQUISITION AND DESIGN FOR COMPLETE STREET IMPROVEMENTS, INCLUDING PEDESTRIAN AND BIKE FACILITIES. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		TOTAL FUNDING	TRN	E	400 E
			TRN	N	1,600 N
48.		ACCELERATION LANE/RIGHT-TURN ON RED, HAWAII			
		PLANS, DESIGN, AND CONSTRUCTION FOR AN ACCELERATION LANE/RIGHT-TURN ON RED FOR SHOWER DRIVE ONTO HIGHWAY 130; THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		TOTAL FUNDING	TRN	1,300 D	D
TRN531 - MAUI HIGHWAYS					
49.		HANA HIGHWAY BRIDGE PRESERVATION, MAUI			
		CONSTRUCTION FOR THE IMPLEMENTATION OF THE BRIDGE PRESERVATION PLAN FOR HANA HIGHWAY IN THE VICINITY OF THE HANA PRESERVATION DISTRICT, TO INCLUDE BRIDGE REHABILITATION AND/OR REPLACEMENT. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		TOTAL FUNDING	TRN	2,500 E	E
			TRN	10,000 N	N
50.		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.			
		TOTAL FUNDING	TRN	400 E	400 E
			TRN	1,600 N	N

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL YEAR 2021-2022	FISCAL YEAR 2022-2023
51.		HANA HIGHWAY ROCKFALL MITIGATION, HUELO TO HANA, MAUI CONSTRUCTION TO MITIGATE ROCKFALLS AND POTENTIAL LANDSLIDE AREAS ALONG THE SLOPES OF ROUTE 360 HANA HIGHWAY AT VARIOUS LOCATIONS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.		400 E 1,600 N	E N
52.		HANA HIGHWAY IMPROVEMENTS, HUELO TO HANA, MAUI CONSTRUCTION FOR IMPROVING, UPGRADING AND/OR REPAIRING ROADWAYS, BRIDGES, WALLS, DRAINAGE STRUCTURES, GUARDRAILS, AND OTHER FACILITIES ON ROUTE 360 HANA HIGHWAY. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.		1,300 E N	800 E 3,200 N
53.		TRAFFIC OPERATIONAL IMPROVEMENTS TO EXISTING INTERSECTIONS AND HIGHWAY FACILITIES, MAUI 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.		1,600 E	1,600 E
54.		MAUI DISTRICT BASEYARD/OFFICE IMPROVEMENTS, MAUI CONSTRUCTION FOR MAUI DISTRICT BASEYARD/OFFICE IMPROVEMENTS, INCLUDING EXPANSION AND RENOVATIONS.		100 E	E

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2021-2022 F	FISCAL M YEAR O 2022-2023 F
55.		WAIALE ROAD EXTENSION, MAUI PLANS, LAND ACQUISITION, DESIGN AND CONSTRUCTION FOR WAIALE ROAD EXTENSION AND OTHER PUBLIC INFRASTRUCTURE IMPROVEMENTS; ALL RELATED AND ASSOCIATED PROJECT COSTS FOR NEW ROADWAY; GROUND AND SITE IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		TOTAL FUNDING	TRN	3,500 E	E
			TRN	31,500 N	N
TRN561 - KAUAI HIGHWAYS					
56.		KUHIO HIGHWAY, HANAIEI BRIDGE REPAIR, KAUAI CONSTRUCTION FOR THE REPAIR OF HANAIEI BRIDGE, INCLUDING REPLACING DETERIORATED STEEL TRUSS MEMBERS, AND CLEANING AND PAINTING OF THE STRUCTURE. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		TOTAL FUNDING	TRN	1,600 E	E
			TRN	6,400 N	N
57.		GUARDRAIL AND SHOULDER IMPROVEMENTS ON STATE HIGHWAYS, KAUAI CONSTRUCTION FOR INSTALLING AND/OR UPGRADING OF GUARDRAILS, END TERMINALS, TRANSITIONS, BRIDGE RAILINGS, BRIDGE ENDPPOSTS AND CRASH ATTENUATORS, AND RECONSTRUCTING AND PAVING OF SHOULDERS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		TOTAL FUNDING	TRN	2,000 E	400 E
			TRN	N	1,600 N
58.		WAIMEA CANYON DRIVE/KOKEE ROAD IMPROVEMENTS, KAUAI DESIGN AND CONSTRUCTION FOR PAVED SHOULDERS, INSTALLING GUARDRAILS, PAVEMENT MARKINGS AND SIGNS, AND OTHER IMPROVEMENTS IN THE VICINITY OF MILE POST 0 TO MILE POST 14. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		TOTAL FUNDING	TRN	700 E	1,000 E
			TRN	2,000 N	4,000 N

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL YEAR 2021-2022	FISCAL YEAR 2022-2023
59.		KUHIO HIGHWAY, SLOPE STABILIZATION AT LUMAHAI HILLSIDE, KAUAI			
		CONSTRUCTION FOR SLOPE STABILIZATION AT LUMAHAI HILLSIDE.			
		TOTAL FUNDING	TRN	400 E	E
60.		TRAFFIC OPERATIONAL IMPROVEMENTS TO EXISTING INTERSECTIONS AND HIGHWAYS, KAUAI			
		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.			
		TOTAL FUNDING	TRN	2,500 E	2,500 E
61.		KAUMUALII HIGHWAY IMPROVEMENTS, LIHUE TO WEST OF MALUHIA ROAD, KAUAI			
		LAND ACQUISITION FOR WIDENING OF KAUMUALII HIGHWAY, LIHUE TO WEST OF MALUHIA ROAD, FROM TWO TO FOUR LANES. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		TOTAL FUNDING	TRN	E	200 E
			TRN	N	800 N
62.		KUHIO HIGHWAY INTERSECTION IMPROVEMENTS AT KOLO ROAD / KALAMANIA ROAD, KAUAI			
		LAND ACQUISITION AND CONSTRUCTION FOR INTERSECTION IMPROVEMENTS, WHICH MAY INCLUDE SIGNALIZATION OR ROUNDABOUT SOLUTIONS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		TOTAL FUNDING	TRN	200 E	600 E
			TRN	800 N	2,400 N
63.		KAUAI BASEYARD IMPROVEMENTS, KAUAI			
		CONSTRUCTION FOR RENOVATIONS AND IMPROVEMENTS TO THE KAUAI DISTRICT BASEYARD, INCLUDING THE INSTALLATION OF A FIRE DETECTION SPRINKLER SYSTEM, RENOVATION OF OFFICES, PERFORMING VARIOUS BUILDING REPAIRS, AND REPLACING DAMAGED STORM SHIELDS.			
		TOTAL FUNDING	TRN	100 E	E

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL YEAR 2021-2022	FISCAL YEAR 2022-2023
64.		KUHIO HIGHWAY ROUTE 56, MP 1.1 TO MP 2.6 (LAUKINI RD TO KAPULE HWY), KAUAI			
		CONSTRUCTION FOR RECONSTRUCTION OF WEAKENED PAVEMENT AREAS; RESURFACING; PAVEMENT MARKINGS; SIGNAGE; OTHER RELATED HIGHWAY INFRASTRUCTURE AND IMPROVEMENTS; GROUND AND SITE IMPROVEMENTS.			
		TOTAL FUNDING	TRN	500 D	D
TRN595 - HIGHWAYS ADMINISTRATION					
65.		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.			
		TOTAL FUNDING	TRN	1,300 E	600 E
			TRN	4,700 N	400 N
66.		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.			
		TOTAL FUNDING	TRN	900 E	3,300 E
			TRN	3,600 N	13,200 N
67.		ROCKFALL PROTECTION/SLOPE STABILIZATION AT VARIOUS LOCATIONS, STATEWIDE			
		LAND ACQUISITION, DESIGN AND CONSTRUCTION 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.			
		TOTAL FUNDING	TRN	200 E	2,000 E
			TRN	800 N	8,000 N

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL YEAR 2021-2022	FISCAL YEAR 2022-2023
				M O F	M O F
68.		VEHICLE TO EVERYTHING (V2X) TECHNOLOGY, STATEWIDE			
		CONSTRUCTION FOR A CELLULAR-BASED VEHICLE TO EVERYTHING (V2X) SYSTEM. INSTALLATION INCLUDES IN-FIELD DEVICES, ASSOCIATED SOFTWARE AND SMARTPHONE APPLICATION. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		TOTAL FUNDING	TRN	4,100 E	E
			TRN	16,400 N	N
69.		TRAFFIC SIGNAL MODERNIZATION AT VARIOUS LOCATIONS, STATEWIDE			
		DESIGN AND CONSTRUCTION FOR UPGRADING OF EXISTING TRAFFIC SIGNAL SYSTEMS, INCL. ASSESSMENT & DEVELOPMENT OF CRITERIA FOR IMPL. OF SCHED. REPLACEMENTS & UPGRADES; PROVIDING INTERCONNECTION OF SIGNALIZED INTERSECTIONS; UPGRADING TO MEET CURRENT STANDARDS; & IMPL. OF SIGNAL SYSTEM INNOVATIONS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		TOTAL FUNDING	TRN	500 E	3,100 E
			TRN	1,000 N	N
70.		SEISMIC RETROFIT OF VARIOUS BRIDGES, STATEWIDE			
		DESIGN AND CONSTRUCTION FOR SEISMIC RETROFIT OF VARIOUS BRIDGES STATEWIDE. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		TOTAL FUNDING	TRN	E	400 E
			TRN	N	1,600 N
71.		ADA AND PEDESTRIAN IMPROVEMENTS AT VARIOUS LOCATIONS, STATEWIDE			
		PLANS, DESIGN AND CONSTRUCTION TO PROVIDE FOR AND IMPROVE EXISTING ADA AND PEDESTRIAN FACILITIES ON STATE HIGHWAYS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		TOTAL FUNDING	TRN	1,100 E	600 E
			TRN	1,400 N	100 N

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2021-2022 F	FISCAL M YEAR O 2022-2023 F
72.		STATEWIDE INTELLIGENT TRANSPORTATION SYSTEM (ITS), STATEWIDE			
		DESIGN AND CONSTRUCTION FOR DEVELOPING A STATEWIDE INTELLIGENT TRANSPORTATION SYSTEM (ITS). THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		TOTAL FUNDING	TRN	1,100 E	E
			TRN	4,400 N	N
73.		HIGHWAY PLANNING, STATEWIDE			
		PLANS FOR FEDERAL AID AND NON-FEDERAL AID PROGRAMS AND PROJECTS THAT INCLUDE ROADWAY CLASSIFICATION, DATA COLLECTION, LONG AND MID-RANGE PLANNING, TRANSPORTATION NEEDS STUDIES, RESEARCH, HRS 343/NEPA STUDIES, CORRIDOR STUDIES, SCOPING, BRIDGE EVALUATIONS, AND TECH TRANSFER AND WORKFORCE DEVELOPMENT. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		TOTAL FUNDING	TRN	14,800 E	3,000 E
			TRN	48,900 N	11,800 N
74.		BIKEWAY IMPROVEMENTS AT VARIOUS LOCATIONS, STATEWIDE			
		LAND ACQUISITION AND CONSTRUCTION TO PROVIDE FOR AND IMPROVE EXISTING BICYCLE FACILITIES ON STATE HIGHWAYS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		TOTAL FUNDING	TRN	E	100 E
			TRN	N	200 N
75.		METAL CULVERT BRIDGE REHABILITATION, STATEWIDE			
		LAND ACQUISITION AND DESIGN FOR THE REHABILITATION OF METAL CULVERT BRIDGE STRUCTURES. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		TOTAL FUNDING	TRN	400 E	500 E
			TRN	1,600 N	2,000 N
76.		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.			
		TOTAL FUNDING	TRN	1,500 E	3,800 E

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR 2021-2022	FISCAL M YEAR 2022-2023
				F	F
77.		HEIGHT MODERNIZATION FACILITIES, STATEWIDE			
		PLANS AND DESIGN FOR HEIGHT MODERNIZATION FACILITIES ON VARIOUS ISLANDS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		TOTAL FUNDING	TRN	1,000 E	1,000 E
			TRN	1 N	1 N
78.		CLOSEOUT OF HIGHWAY CONSTRUCTION PROJECTS, STATEWIDE			
		CONSTRUCTION FOR COMPLETION AND CLOSEOUT OF OUTSTANDING CONSTRUCTION PROJECTS FOR POSTING OF AS-BUILT PLANS, OUTSTANDING UTILITY BILLINGS, PAYMENTS TO OTHERS FOR PROJECT RELATED WORK, AND OTHER CLOSING COSTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		TOTAL FUNDING	TRN	200 E	200 E
			TRN	1 N	1 N
79.		CLOSEOUT OF HIGHWAY DESIGN PROJECTS, STATEWIDE			
		DESIGN FOR COMPLETION AND CLOSEOUT OF DESIGN PROJECTS IN CLOSING STAGES AND/OR FOR PROJECTS REQUIRING FUNDS FOR FINAL SETTLEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		TOTAL FUNDING	TRN	200 E	200 E
			TRN	1 N	1 N
80.		CLOSEOUT 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. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		TOTAL FUNDING	TRN	500 E	500 E
			TRN	1 N	1 N

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2021-2022 F	FISCAL M YEAR O 2022-2023 F
81.		HIGHWAYS DIVISION MATERIALS TESTING AND RESEARCH FACILITY RENOVATION, OAHU			
		CONSTRUCTION FOR RENOVATION AND IMPROVEMENTS TO THE HIGHWAYS DIVISION MATERIALS TESTING AND RESEARCH FACILITY.			
		TOTAL FUNDING	TRN	E	2,500 E

D. ENVIRONMENTAL PROTECTION

HTH840 - ENVIRONMENTAL MANAGEMENT

1. WASTEWATER TREATMENT REVOLVING FUND FOR POLLUTION CONTROL, STATEWIDE

CONSTRUCTION FUNDS TO PROVIDE STATE MATCH (20%) FOR FEDERAL CAPITALIZATION GRANTS FOR WASTEWATER PROJECTS. FUNDS TO BE TRANSFERRED TO THE WATER POLLUTION CONTROL REVOLVING FUND PURSUANT TO CHAPTER 342D, HRS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.

TOTAL FUNDING	HTH	2,462 C	2,462 C
	HTH	12,308 N	12,308 N

2. SAFE DRINKING WATER REVOLVING FUND, STATEWIDE

CONSTRUCTION FUNDS TO PROVIDE STATE MATCH (20%) FOR FEDERAL CAPITALIZATION GRANTS FOR DRINKING WATER TREATMENT REVOLVING LOAN FUND, PURSUANT TO CHAPTER 340E, HRS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.

TOTAL FUNDING	HTH	2,202 C	2,202 C
	HTH	11,011 N	11,011 N

LNR402 - NATIVE RESOURCES AND FIRE PROTECTION PROGRAM

3. KAWAINUI WETLANDS, OAHU

CONSTRUCTION FOR INSTALLATION OF WATER MANAGEMENT INFRASTRUCTURE FOR WILDLIFE PONDS AND CONTOUR STREAM BANKS AND OVERFLOW CHANNELS TO MANAGE FLOOD WATER; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.

TOTAL FUNDING	LNR	1,500 C	C
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CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL YEAR 2021-2022	FISCAL YEAR 2022-2023

LNR404 - WATER RESOURCES

4.		WAIMEA DEEP MONITOR WELL, HAWAII			
		PLANS, LAND ACQUISITION, DESIGN, CONSTRUCTION AND EQUIPMENT FOR ACQUISITION OF LAND, WELL IMPROVEMENTS, AND OTHER RELATED IMPROVEMENTS; GROUND AND SITE IMPROVEMENTS.			
		TOTAL FUNDING	LNR	2,000 C	C

LNR407 - NATURAL AREA RESERVES AND WATERSHED MANAGEMENT

5.		WATERSHED PROTECTION AND INITIATIVES, STATEWIDE			
		PLANS AND CONSTRUCTION TO PROTECT AND RESTORE FORESTED WATERSHEDS AND OTHER WATER SUPPLIES, STATEWIDE; ALL PROJECT RELATED COSTS. THIS PROJECT WILL IMPLEMENT A SUSTAINABLE HAWAII INITIATIVE GOAL TO PROTECT 30% OF PRIORITY WATERSHED FORESTS BY 2030. THE LEGISLATURE FINDS AND DECLARES THAT THE APPROPRIATION IS IN THE PUBLIC INTEREST AND FOR THE PUBLIC'S HEALTH, SAFETY AND GENERAL WELFARE OF THE STATE.			
		TOTAL FUNDING	LNR	4,000 C	4,000 C

E. HEALTH

HTH211 - KAHUKU HOSPITAL

1.		LUMP SUM KAHUKU MEDICAL CENTER, IMPROVEMENTS AND RENOVATIONS, OAHU			
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR KAHUKU MEDICAL CENTER FOR IMPROVEMENTS AND RENOVATIONS INCLUDING NEW FACILITIES, RENOVATION, EXPANSION, AND/OR REPLACEMENT OF FACILITIES; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		TOTAL FUNDING	HTH	1,000 C	1,000 C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2021-2022 F	FISCAL M YEAR O 2022-2023 F
2.		KAHUKU MEDICAL CENTER, REPLACE AIR CONDITIONING IN CAMPBELL WING, OAHU PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT TO REPLACE AIR CONDITIONING SYSTEM IN CAMPBELL WING; PROJECT MAY INCLUDE REPAIRS, RENOVATIONS, REFURBISHMENTS, RENOVATIONS, AND/OR NEW CONSTRUCTION; VENTILATION IMPROVEMENTS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.	HTH	500 V	V
		TOTAL FUNDING	HTH	500 V	V

HTH212 - HAWAII HEALTH SYSTEMS CORPORATION - REGIONS

3.		LUMP SUM HAWAII HEALTH SYSTEMS CORPORATION - OAHU REGION, OAHU DESIGN AND CONSTRUCTION FOR THE OAHU REGION OF THE HAWAII HEALTH SYSTEMS CORPORATION FOR IMPROVEMENTS AND RENOVATIONS INCLUDING RENOVATIONS AND/OR EXPANSION OF FACILITIES; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.	AGS	2,500 C	3,000 C
		TOTAL FUNDING	AGS	2,500 C	3,000 C
4.		LUMP SUM HAWAII HEALTH SYSTEMS CORPORATION - KAUAI REGION, KAUAI DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE KAUAI REGION OF THE HAWAII HEALTH SYSTEMS CORPORATION FOR IMPROVEMENTS AND RENOVATIONS INCLUDING NEW FACILITIES, RENOVATION, EXPANSION, AND/OR REPLACEMENT OF FACILITIES; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.	HTH	3,000 C	5,000 C
		TOTAL FUNDING	HTH	3,000 C	5,000 C
5.		LUMP SUM HAWAII HEALTH SYSTEMS CORPORATION - HAWAII REGION, HAWAII DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE HAWAII REGIONS OF THE HAWAII HEALTH SYSTEMS CORPORATION FOR IMPROVEMENTS AND RENOVATIONS INCLUDING RENOVATIONS AND/OR EXPANSION OF FACILITIES; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.	HTH	6,500 C	8,000 C
		TOTAL FUNDING	HTH	6,500 C	8,000 C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL YEAR 2021-2022	FISCAL YEAR 2022-2023
6.		HILO MEDICAL CENTER, HAWAII PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT TO PURCHASE AND INSTALL TWO REPLACEMENT CHILLERS; PROJECT MAY INCLUDE REPAIRS, RENOVATIONS, REFURBISHMENTS, RENOVATIONS, AND/OR NEW CONSTRUCTION; VENTILATION IMPROVEMENTS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		TOTAL FUNDING	HTH	1,500	V
7.		HILO MEDICAL CENTER, HAWAII PLANS, DESIGN, CONSTRUCTION, EQUIPMENT AND APPURTENANCES FOR HILO MEDICAL CENTER; PROJECT MAY INCLUDE RENOVATION, REPAIR, REFURBISHMENT, OR NEW CONSTRUCTION FOR ICU; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		TOTAL FUNDING	HTH	20,000	V
HTH214 - MAUI HEALTH SYSTEM, A KFH LLC					
8.		LUMP SUM MAUI HEALTH SYSTEM, FACILITIES REPAIR, RENOVATIONS AND UPGRADES, MAUI AND LANAI DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE REPAIRS, RENOVATIONS, EXPANSION, AND UPGRADES TO MAUI MEMORIAL MEDICAL CENTER (MMC), KULA HOSPITAL (KH), AND LANAI COMMUNITY HOSPITAL (LCH).			
		TOTAL FUNDING	HTH	6,000	C
9.		MAUI MEMORIAL MEDICAL CENTER, ICU BED SYSTEMS, MAUI CONSTRUCTION AND EQUIPMENT FOR PATIENT ROOM RENOVATIONS AND NEW BED SYSTEMS FOR MMC'S INTENSIVE CARE UNITS, COVID CARE UNITS, AND COVID ICU; OTHER RELATED IMPROVEMENTS; EQUIPMENT AND APPURTENANCES; AND ALL PROJECT RELATED COSTS.			
		TOTAL FUNDING	HTH	1,250	V
HTH430 - ADULT MENTAL HEALTH - INPATIENT					
10.		HAWAII STATE HOSPITAL IMPROVEMENTS, CHILLERS, OAHU CONSTRUCTION FOR IMPROVEMENTS AT HAWAII STATE HOSPITAL.			
		TOTAL FUNDING	AGS	3,500	C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL YEAR 2021-2022	FISCAL YEAR 2022-2023
11.		HAWAII STATE HOSPITAL IMPROVEMENTS, KITCHEN, OAHU DESIGN AND CONSTRUCTION FOR MECHANICAL SYSTEMS IMPROVEMENTS AND OTHER IMPROVEMENTS.			
		TOTAL FUNDING	AGS	300 C	300 C
12.		HAWAII STATE HOSPITAL, OAHU DESIGN AND CONSTRUCTION FOR STABILIZATION AND MENTAL HEALTH CRISIS UNIT IN GUENSBERG BUILDING.			
		TOTAL FUNDING	AGS	900 C	C

HTH710 - STATE LABORATORY SERVICES

13.		HAWAII STATE LABORATORIES, AIR HANDLERS, OAHU DESIGN TO REPLACE STATE LABORATORIES DIVISION AIR HANDLERS AT THE KAMAULEULE BUILDING ON WAIMANO RANGE.			
		TOTAL FUNDING	AGS	772 C	C

HTH907 - GENERAL ADMINISTRATION

14.		DEPARTMENT OF HEALTH, IMPROVEMENTS, STATEWIDE DESIGN AND CONSTRUCTION FOR NECESSARY IMPROVEMENTS TO PROVIDE FOR HEALTH AND SAFETY, ACCESSIBILITY, AND OTHER CODE REQUIREMENTS.			
		TOTAL FUNDING	AGS	4,000 C	C

F. SOCIAL SERVICES

DEF112 - SERVICES TO VETERANS

1.		WEST HAWAII VETERANS CEMETERY, EXPANSION AND IMPROVEMENTS, HAWAII PLANS, DESIGN, AND CONSTRUCTION FOR EXPANSION AND VARIOUS IMPROVEMENTS FOR THE WEST HAWAII VETERANS CEMETERY IN KONA, HAWAII. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		TOTAL FUNDING	DEF	500 C	C
			DEF	1,200 P	3,210 P

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2021-2022 F	FISCAL M YEAR O 2022-2023 F
HMS220 - RENTAL HOUSING SERVICES					
2.		LUMP SUM PUBLIC HOUSING DEVELOPMENT, IMPROVEMENTS, AND RENOVATIONS, STATEWIDE			
		DESIGN AND CONSTRUCTION TO DEVELOP, UPGRADE, RENOVATE PUBLIC HOUSING FACILITIES. INCLUDING GROUND AND SITE IMPROVEMENTS, INFRASTRUCTURE, EQUIPMENT, APPURTENANCES AND ALL RELATED AND ASSOCIATED PROJECT COSTS FOR PUBLIC HOUSING DEVELOPMENT, IMPROVEMENTS, AND RENOVATIONS, STATEWIDE.			
		TOTAL FUNDING	HMS	10,000 C	C
HHL602 - PLANNING AND DEVELOPMENT FOR HAWAIIAN HOMESTEADS					
3.		INFRASTRUCTURE FOR HAWAIIAN HOME LANDS LOT DEVELOPMENT, STATEWIDE			
		PLANS, DESIGN, AND CONSTRUCTION FOR THE DEVELOPMENT OF INFRASTRUCTURE TO PROVIDE NEW HOMESTEAD LEASES ON HAWAIIAN HOME LANDS, STATEWIDE.			
		TOTAL FUNDING	HHL	30,000 C	20,000 C
4.		REPAIR AND MAINTENANCE OF INFRASTRUCTURE ON HAWAIIAN HOME LANDS, STATEWIDE			
		PLANS, DESIGN, AND CONSTRUCTION FOR REPAIR AND MAINTENANCE TO EXISTING INFRASTRUCTURE ON VARIOUS HAWAIIAN HOME LANDS, STATEWIDE.			
		TOTAL FUNDING	HHL	5,000 C	5,000 C
5.		PULEHUNUI IMPROVEMENTS AND INFRASTRUCTURE, MAUI			
		PLANS, DESIGN, CONSTRUCTION, LAND ACQUISITION, AND EQUIPMENT FOR INFRASTRUCTURE FOR PULEHUNUI; PROJECT MAY INCLUDE WASTE WATER AND/OR WATER TRANSMISSION LINES FOR STATE PROJECTS AT PULEHUNUI; PROJECT MAY INCLUDE REPAIR, REFURBISHMENT, RENOVATION, AND/OR NEW CONSTRUCTION; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		TOTAL FUNDING	HHL	17,000 C	C
6.		LAND ACQUISITION FOR LOT DEVELOPMENT, OAHU			
		PLANS AND LAND ACQUISITION FOR LAND ACQUISITION ON OAHU: TMK(S) 39008034, 39005001			
		TOTAL FUNDING	HHL	1,000 C	C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL YEAR 2021-2022	FISCAL YEAR 2022-2023

G. FORMAL EDUCATION

EDN100 - SCHOOL-BASED BUDGETING

1.		LUMP SUM CIP - DEFERRED MAINTENANCE PROJECTS, STATEWIDE				
		PLANS, DESIGN, AND CONSTRUCTION TO MAINTAIN AND IMPROVE FACILITIES AND INFRASTRUCTURE, INCLUDING HAZARDOUS MATERIALS REMEDIATION; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.				
		TOTAL FUNDING	EDN	87,778	C	C
2.		LUMP SUM CIP - INSTRUCTIONAL, STATEWIDE				
		PLANS, LAND ACQUISITION, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR EQUITY, INCLUDING RENOVATION, EXPANSION AND/OR REPLACEMENT OF FACILITIES; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.				
		TOTAL FUNDING	EDN	6,800	C	C
3.		LUMP SUM CIP - SUPPORT, STATEWIDE				
		DESIGN AND CONSTRUCTION FOR THE IMPROVEMENT OF EXISTING OR NEW SCHOOL FACILITIES; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.				
		TOTAL FUNDING	EDN	8,500	C	C
4.		LUMP SUM CIP - COMPLIANCE, STATEWIDE				
		DESIGN AND CONSTRUCTION PROJECTS TO BRING THE DOE IN COMPLIANCE WITH ADA, ABR, AND GENDER EQUITY REQUIREMENTS.				
		TOTAL FUNDING	EDN	13,600	C	C
5.		LUMP SUM CIP - HEALTH AND SAFETY, STATEWIDE				
		PLANS, DESIGN, AND CONSTRUCTION FOR IMPROVEMENTS TO SCHOOL FACILITIES AND GROUNDS TO MEET HEALTH AND SAFETY REQUIREMENTS/ LAWS, AND ORDINANCES AND/OR COUNTY REQUIREMENTS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.				
		TOTAL FUNDING	EDN	10,000	C	C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL YEAR 2021-2022	FISCAL YEAR 2022-2023
6.		LUMP SUM CIP - PROJECT COMPLETION, STATEWIDE			
		PLANS, LAND ACQUISITION, DESIGN, CONSTRUCTION AND EQUIPMENT FOR PROJECT COMPLETION INCLUDING CONSTRUCTION MANAGEMENT COSTS, PURCHASE ORDERS, UTILITIES CHARGES, CHANGE ORDERS, AND ALL OTHER COSTS ASSOCIATED WITH THE COMPLETION OF A PROJECT.			
		TOTAL FUNDING	EDN	25,000	C
7.		AHUIMANU ELEMENTARY SCHOOL, OAHU			
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR ADA ACCESSIBLE PATHWAY FROM UPPER TO LOWER CAMPUS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		TOTAL FUNDING	EDN	750	C
8.		AIEA HIGH SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION FOR A NEW STATE OF THE ART CULINARY PROGRAM AND A NEW MULTIPURPOSE ROOM IN THE CAFETERIA AND RENOVATION OF BUILDING C, ROOM 1 AND 2.			
		TOTAL FUNDING	EDN	6,200	C
9.		ALA WAI ELEMENTARY SCHOOL, OAHU			
		CONSTRUCTION FOR A COVERED PLAYCOURT; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		TOTAL FUNDING	EDN	300	C
10.		ALIOLANI ELEMENTARY SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION TO INSTALL CEILING FANS IN VARIOUS BUILDINGS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES; PROJECT MAY INCLUDE IMPROVEMENTS, RENOVATIONS, OR NEW CONSTRUCTION FOR HEAT ABATEMENT.			
		TOTAL FUNDING	EDN	200	C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL YEAR 2021-2022	FISCAL YEAR 2022-2023
11.		AUGUST AHRENS ELEMENTARY SCHOOL, OAHU PLANS, DESIGN, AND CONSTRUCTION TO MAINTAIN AND IMPROVE FACILITIES AND INFRASTRUCTURE, INCLUDING HAZARDOUS MATERIALS REMEDIATION; PROJECT MAY INCLUDE REPAIR OR RENOVATION OF RESTROOMS; PROJECT MAY INCLUDE HEAT ABATEMENT AND/OR COOLING PROJECTS; VENTILATION IMPROVEMENTS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.	EDN	1,904 V	V
12.		AUGUST AHRENS ELEMENTARY SCHOOL, OAHU DESIGN AND CONSTRUCTION FOR NEW CLASSROOM BUILDING; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.	EDN	23,000 C	C
13.		BALDWIN HIGH SCHOOL, MAUI DESIGN AND CONSTRUCTION FOR CAMPUS WIDE ELECTRICAL UPGRADE, FOR VENTILATION, FUTURE INSTALLATION OF AIR CONDITIONING TO BE INSTALLED CAMPUS WIDE, AND OTHER IMPROVEMENTS; VENTILATION IMPROVEMENTS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.	EDN	5,200 V	V
14.		BLANCHE POPE ELEMENTARY SCHOOL, OAHU PLANS AND DESIGN FOR A NEW FREE-STANDING BUILDING TO HOUSE THE EXISTING HAWAIIAN-LANGUAGE IMMERSION PROGRAM AND ENGLISH-LANGUAGE PRESCHOOL.	EDN	850 C	C
15.		CAMPBELL HIGH SCHOOL, OAHU DESIGN AND CONSTRUCTION FOR ATHLETIC STADIUM AND SUPPORT FACILITIES PER MASTER PLAN; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.	EDN	7,000 C	C
16.		CASTLE HIGH SCHOOL, OAHU DESIGN AND CONSTRUCTION FOR GYM IMPROVEMENTS AND HEAT ABATEMENT; VENTILATION IMPROVEMENTS.	EDN	230 V	V

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2021-2022 F	FISCAL M YEAR O 2022-2023 F
17.		CASTLE HIGH SCHOOL, OAHU PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR TRACK AND FIELD IMPROVEMENTS, FIELD LIGHTING REPLACEMENT AND UPGRADE, AND OTHER RELATED IMPROVEMENTS; GROUND AND SITE IMPROVEMENTS. TOTAL FUNDING EDN		4,500 C	C
18.		CENTRAL MAUI NEW ELEMENTARY AND MIDDLE SCHOOL, MAUI PLANS FOR A NEW CENTRAL MAUI ELEMENTARY AND MIDDLE SCHOOL CAMPUS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES. TOTAL FUNDING EDN		500 C	C
19.		DE SILVA ELEMENTARY SCHOOL, HAWAII PLANS, DESIGN, AND CONSTRUCTION TO MAINTAIN AND IMPROVE FACILITIES AND INFRASTRUCTURE, INCLUDING HAZARDOUS MATERIALS REMEDIATION; PROJECT MAY INCLUDE REPAIRS, REFURBISHMENT, RENOVATION, NEW CONSTRUCTION, OR ALTERATIONS FOR BUILDINGS, COOLING/HEAT ABATEMENT, PLUMBING, RESTROOMS, SCREENS, AND OTHER IMPROVEMENTS OR GENERAL REPAIRS AND MAINTENANCE; VENTILATION IMPROVEMENTS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES. TOTAL FUNDING EDN		774 V	V
20.		DOLE MIDDLE SCHOOL, OAHU PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR OUTDOOR COVERINGS FOR LEARNING AND MEETING SPACE, IMPROVEMENTS TO CAFETERIA TO INCLUDE STRUCTURAL REHABILITATION, REPLACEMENT OF WINDOWS, FURNITURE AND KITCHEN EQUIPMENT. TOTAL FUNDING EDN		2,000 C	C
21.		EAST KAPOLEI ELEMENTARY, HOOPILI, OAHU DESIGN FOR NEW SCHOOL; EQUIPMENT AND APPURTENANCES. TOTAL FUNDING EDN		4,000 C	C
22.		EAST KAPOLEI HIGH SCHOOL, OAHU PLANS FOR A NEW EAST KAPOLEI HIGH SCHOOL; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES. TOTAL FUNDING EDN		500 C	C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL YEAR 2021-2022	FISCAL YEAR 2022-2023
23.		HAIKU ELEMENTARY SCHOOL, MAUI PLANS, DESIGN, AND CONSTRUCTION TO MAINTAIN AND IMPROVE FACILITIES AND INFRASTRUCTURE, INCLUDING HAZARDOUS MATERIALS REMEDIATION; PROJECT MAY INCLUDE REPAIR, REPLACEMENT, RENOVATION, OR NEW CONSTRUCTION OF SCREENS; PROJECT MAY INCLUDE REPAIR, REPLACEMENT, RENOVATION, OR NEW CONSTRUCTION OF BUILDINGS; VENTILATION IMPROVEMENTS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.	EDN	554 V	V
		TOTAL FUNDING			
24.		HANA HIGH AND ELEMENTARY SCHOOL, MAUI DESIGN AND CONSTRUCTION FOR THE RENOVATION OF THE CULINARY ARTS FACILITIES; REPLACE TERMITE DAMAGED FACILITIES, DAMAGED EQUIPMENT AND MEET DEPARTMENT OF HEALTH REQUIREMENTS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.	EDN	880 C	C
		TOTAL FUNDING			
25.		HAWAII SCHOOL FOR THE DEAF AND BLIND, OAHU CONSTRUCTION TO REPLACE THE PLAYGROUND EQUIPMENT AND RUBBERIZED SURFACING; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.	EDN	150 C	C
		TOTAL FUNDING			
26.		HILO HIGH SCHOOL, HAWAII CONSTRUCTION AND EQUIPMENT FOR RUBBERIZED TRACK AND SYNTHETIC TURF, BLEACHERS, AND EQUIPMENT; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.	EDN	4,500 C	C
		TOTAL FUNDING			
27.		HONOWAI ELEMENTARY SCHOOL, OAHU DESIGN AND CONSTRUCTION FOR ELECTRICAL UPGRADE AND AIR CONDITIONING FOR MULTIPLE PORTABLES, GROUND AND SITE IMPROVEMENTS, EQUIPMENT, AND APPURTENANCES; VENTILATION IMPROVEMENTS.	EDN	525 V	V
		TOTAL FUNDING			

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2021-2022 F	FISCAL M YEAR O 2022-2023 F
28.		HOOKENA ELEMENTARY SCHOOL, HAWAII CONSTRUCTION FOR DRAINAGE IMPROVEMENTS AND DESIGN AND CONSTRUCTION FOR CAMPUS IMPROVEMENTS; PROJECT MAY INCLUDE OTHER RELATED IMPROVEMENTS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES. TOTAL FUNDING EDN		555 C	C
29.		ILIMA INTERMEDIATE SCHOOL, OAHU DESIGN FOR 6TH GRADE BUILDING; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES. TOTAL FUNDING EDN		500 C	C
30.		JARRETT MIDDLE SCHOOL, OAHU DESIGN AND CONSTRUCTION TO REROOF BUILDING H AND REPLACE LIGHT FIXTURES FOR BUILDING I; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES. TOTAL FUNDING EDN		200 C	C
31.		JEFFERSON ELEMENTARY SCHOOL, OAHU CONSTRUCTION AND EQUIPMENT FOR HEAT MITIGATION; VENTILATION IMPROVEMENTS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES. TOTAL FUNDING EDN		100 V	V
32.		KAHAKAI ELEMENTARY SCHOOL, HAWAII PLANS DESIGN AND CONSTRUCTION FOR A ADA COMPLIANCE BRIDGE TO CONNECT BUILDING A AND BUILDING B; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES. TOTAL FUNDING EDN		2,500 C	C
33.		KAHALUU ELEMENTARY SCHOOL, OAHU PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT TO RENOVATE BUILDING A RESTROOMS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES. TOTAL FUNDING EDN		550 C	C
34.		KAILUA INTERMEDIATE SCHOOL, OAHU DESIGN AND CONSTRUCTION FOR PLAYCOURT RESURFACING AND IMPROVEMENTS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES TOTAL FUNDING EDN		500 C	C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2021-2022 F	FISCAL M YEAR O 2022-2023 F
35.		KAIMILOA ELEMENTARY SCHOOL, OAHU PLANS, DESIGN, AND CONSTRUCTION FOR MAJOR PAVEMENT IMPROVEMENTS TO THE EXISTING FIRE LANE; FIELD AND CAMPUS IMPROVEMENTS; GROUND AND SITE IMPROVEMENTS.		210 C	C
		TOTAL FUNDING	EDN		
36.		KAIMUKI HIGH SCHOOL, OAHU PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A GIRLS ATHLETIC LOCKER ROOM. PROJECT MAY INCLUDE REFURBISHMENT, REPAIR, RENOVATION, OR NEW CONSTRUCTION, GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.		7,000 C	C
		TOTAL FUNDING	EDN		
37.		KAIMUKI HIGH SCHOOL, OAHU PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR SOFTBALL FIELD IMPROVEMENTS, PROJECT MAY INCLUDE REFURBISHMENT, REPAIR, RENOVATION, OR NEW CONSTRUCTION, GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.		1,200 C	C
		TOTAL FUNDING	EDN		
38.		KAISER HIGH SCHOOL, OAHU PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR IMPROVING VENTILATION, PROJECT MAY INCLUDE AIR CONDITIONING, HEAT ABATEMENT AND OTHER RELATED IMPROVEMENTS AND ELECTRICAL IMPROVEMENTS; VENTILATION IMPROVEMENTS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.		2,500 V	V
		TOTAL FUNDING	EDN		
39.		KALAHEO HIGH SCHOOL, OAHU DESIGN AND CONSTRUCTION FOR PHOTOVOLTAIC; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.		1,000 C	C
		TOTAL FUNDING	EDN		
40.		KALANI HIGH SCHOOL, OAHU CONSTRUCTION TO INSTALL A RUBBERIZED TRACK AND ARTIFICIAL TURF ON THE ATHLETIC FIELD; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.		3,400 C	C
		TOTAL FUNDING	EDN		

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2021-2022 F	FISCAL M YEAR O 2022-2023 F
41.		KALEIOPUU ELEMENTARY SCHOOL, OAHU PLANS, DESIGN, AND CONSTRUCTION TO MAINTAIN AND IMPROVE FACILITIES AND INFRASTRUCTURE, INCLUDING HAZARDOUS MATERIALS REMEDIATION; PROJECT MAY INCLUDE REPAIR, REPLACEMENT, OR NEW CONSTRUCTION OF ROOF/RE-ROOF; PROJECT MAY INCLUDE WHOLE SCHOOL RENOVATION; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.	EDN	2,139	C
		TOTAL FUNDING			
42.		KALIHI ELEMENTARY SCHOOL, OAHU PLANS, DESIGN, AND CONSTRUCTION TO MAINTAIN AND IMPROVE FACILITIES AND INFRASTRUCTURE, INCLUDING HAZARDOUS MATERIALS REMEDIATION; VENTILATION IMPROVEMENTS; PROJECT MAY INCLUDE REPAIR OR REPLACEMENT OF WINDOWS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.	EDN	720	V
		TOTAL FUNDING			
43.		KALIHI KAI ELEMENTARY SCHOOL, OAHU DESIGN AND CONSTRUCTION FOR REPAIRS AND IMPROVEMENTS TO THE PARKING LOT NEXT TO BUILDING K AND ADMIN BUILDING FRONTING KAUMUALII STREET; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.	EDN	500	C
		TOTAL FUNDING			
44.		KALIHI WAENA ELEMENTARY SCHOOL, OAHU PLANS, DESIGN, AND CONSTRUCTION FOR IMPROVEMENTS TO SIDEWALKS AND BRIDGES FOR ACCESS TO KALIHI WAENA ELEMENTARY, AND/OR REPAIR OF FOOTBRIDGE, ACCESSIBILITY IMPROVEMENTS, AND OTHER RELATED IMPROVEMENTS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT.	EDN	3,000	C
		TOTAL FUNDING			
45.		KAPALAMA ELEMENTARY SCHOOL, OAHU DESIGN AND CONSTRUCTION FOR A NEW PARKING WITH STUDENT DROP OFF; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.	EDN	700	C
		TOTAL FUNDING			

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL YEAR 2021-2022	FISCAL YEAR 2022-2023
46.		KAWANANAKOA MIDDLE SCHOOL, OAHU PLANS, DESIGN, AND CONSTRUCTION TO MAINTAIN AND IMPROVE FACILITIES AND INFRASTRUCTURE, INCLUDING HAZARDOUS MATERIALS REMEDIATION; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES. TOTAL FUNDING	EDN	1,165	C
47.		KEAAU MIDDLE SCHOOL, HAWAII DESIGN AND CONSTRUCTION TO INSTALL SPLIT AIR CONDITIONING UNITS IN BUILDING A; VENTILATION IMPROVEMENTS. TOTAL FUNDING	EDN	250	V
48.		KEALAKEHE INTERMEDIATE SCHOOL, HAWAII PLANS, DESIGN, AND CONSTRUCTION TO MAINTAIN AND IMPROVE FACILITIES AND INFRASTRUCTURE, INCLUDING HAZARDOUS MATERIALS REMEDIATION; PROJECT MAY INCLUDE RENOVATION, REPAIR, UPGRADE, OR REPLACEMENT OF CAMPUS FIRE ALARM SYSTEM; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES. TOTAL FUNDING	EDN	1,200	C
49.		KEAUKAHA ELEMENTARY SCHOOL, HAWAII DESIGN AND CONSTRUCTION FOR BUILDING B ELECTRICAL UPGRADE; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES; EXPENSES TO FACILITATE DISTANCE LEARNING INCLUDING TECHNOLOGICAL IMPROVEMENTS IN SCHOOLS. TOTAL FUNDING	EDN	253	V
50.		KING KEKAULIKE HIGH SCHOOL, MAUI DESIGN AND CONSTRUCTION OF A BLACK BOX THEATER AND SUPPORTING FUNCTIONS FOR EXISTING PERFORMING ARTS CENTER; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES. TOTAL FUNDING	EDN	15,000	C
51.		KIPAPA ELEMENTARY SCHOOL, OAHU DESIGN AND CONSTRUCTION FOR COVERED PLAYCOURT; OTHER RELATED IMPROVEMENTS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES. TOTAL FUNDING	EDN	3,000	C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL YEAR 2021-2022	FISCAL YEAR 2022-2023
52.		KOLOA ELEMENTARY SCHOOL, KAUAI			
		DESIGN AND CONSTRUCTION FOR VARIOUS PROJECTS; PROJECTS MAY INCLUDE PARKING LOT REPAIR, REROOFING, AND REPLACEMENT OF CEILING FANS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		TOTAL FUNDING	EDN	932 C	C
53.		LAHAINA INTERMEDIATE, MAUI			
		DESIGN, CONSTRUCTION AND EQUIPMENT FOR RESURFACING OF PLAYCOURTS, AND IMPROVEMENTS TO PLAYCOURTS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		TOTAL FUNDING	EDN	900 C	C
54.		LAHAINALUNA COMPLEX, MAUI			
		PLANS, LAND, DESIGN, CONSTRUCTION AND EQUIPMENT FOR TEACHER HOUSING IN LAHAINALUNA COMPLEX AREA; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		TOTAL FUNDING	EDN	15,000 C	C
55.		LIHOLIHO ELEMENTARY SCHOOL, OAHU			
		CONSTRUCTION FOR DRAINAGE IMPROVEMENTS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES			
		TOTAL FUNDING	EDN	430 C	C
56.		LUNALILO ELEMENTARY SCHOOL, OAHU			
		DESIGN, CONSTRUCTION AND EQUIPMENT FOR HEAT ABATEMENT; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		TOTAL FUNDING	EDN	550 C	C
57.		LUNALILO ELEMENTARY SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION FOR COVERED WALKWAYS; OTHER RELATED IMPROVEMENTS; GROUND AND SITE IMPROVEMENTS.			
		TOTAL FUNDING	EDN	675 C	C
58.		MAILI ELEMENTARY SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION FOR PARKING LOT IMPROVEMENTS AND ADDITIONAL PARKING STALLS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		TOTAL FUNDING	EDN	550 C	C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL YEAR 2021-2022	FISCAL YEAR 2022-2023
59.		MAILI ELEMENTARY SCHOOL, OAHU PLANS, DESIGN, AND CONSTRUCTION TO MAINTAIN AND IMPROVE FACILITIES AND INFRASTRUCTURE, INCLUDING HAZARDOUS MATERIALS REMEDIATION; PROJECT MAY INCLUDE HEAT ABATEMENT OR COOLING PROJECTS; VENTILATION IMPROVEMENTS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.	EDN	885 V	V
60.		MAUI HIGH SCHOOL, MAUI PLANS AND DESIGN FOR FIELD HOUSE.	EDN	2,500 C	C
61.		MAUI WAENA INTERMEDIATE SCHOOL, MAUI PLANS, DESIGN, AND CONSTRUCTION TO MAINTAIN AND IMPROVE FACILITIES AND INFRASTRUCTURE, INCLUDING HAZARDOUS MATERIALS REMEDIATION; PROJECT MAY INCLUDE WHOLE SCHOOL RENOVATION; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.	EDN	2,400 C	C
62.		MAUNAWILI ELEMENTARY SCHOOL, OAHU DESIGN AND CONSTRUCTION FOR A COVERED COURTYARD; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.	EDN	950 C	C
63.		MCKINLEY HIGH SCHOOL, OAHU DESIGN AND CONSTRUCTION FOR ATHLETIC COMPLEX IMPROVEMENTS, INCLUDING BLEACHERS, LOCKER ROOMS, STADIUM AND GENERAL FIELD LIGHTING, AND OTHER PE/ATHLETIC FACILITIES; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.	EDN	4,730 C	18,000 C
64.		MILILANI HIGH SCHOOL, OAHU DESIGN AND CONSTRUCTION FOR ADMINISTRATION BUILDING EXPANSION; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES	EDN	3,500 C	C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2021-2022 F	FISCAL M YEAR O 2022-2023 F
65.		MOANALUA ELEMENTARY SCHOOL, OAHU DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A MULTIPURPOSE INNOVATION CENTER, INCLUDING GROUND AND SITE IMPROVEMENTS, EQUIPMENT AND APPURTENANCES.	EDN	4,000	C
		TOTAL FUNDING			
66.		MOANALUA MIDDLE SCHOOL, OAHU PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A COVERED PLAY COURT; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.	EDN	3,500	C
		TOTAL FUNDING			
67.		MOUNTAIN VIEW ELEMENTARY SCHOOL, HAWAII PLANS, DESIGN, AND CONSTRUCTION TO MAINTAIN AND IMPROVE FACILITIES AND INFRASTRUCTURE, INCLUDING HAZARDOUS MATERIALS REMEDIATION; PROJECT MAY INCLUDE COOLING IMPROVEMENTS, HEAT ABATEMENT, BUILDING IMPROVEMENTS OR REPLACEMENTS, COMPLIANCE IMPROVEMENTS, WALKWAY IMPROVEMENTS OR REPLACEMENTS; VENTILATION IMPROVEMENTS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.	EDN	1,230	V
		TOTAL FUNDING			
68.		NANAIAKAPONO ELEMENTARY SCHOOL, OAHU PLANS, DESIGN, AND CONSTRUCTION FOR EXPANDING FOR CAFÉ BOYS AND GIRLS RESTROOM RENOVATION; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.	EDN	1,000	C
		TOTAL FUNDING			
69.		NANAKULI ELEMENTARY SCHOOL, OAHU PLANS, DESIGN, AND CONSTRUCTION TO MAINTAIN AND IMPROVE FACILITIES AND INFRASTRUCTURE, INCLUDING HAZARDOUS MATERIALS REMEDIATION; PROJECT MAY INCLUDE REPAIR/ RENOVATION OF RESTROOMS; PROJECT MAY INCLUDE ELECTRICAL UPGRADES, REFURBISHMENT, OR REPLACEMENT; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES; VENTILATION IMPROVEMENTS.	EDN	237	V
		TOTAL FUNDING			

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL YEAR 2021-2022	FISCAL YEAR 2022-2023
70.		NUUANU ELEMENTARY SCHOOL, OAHU PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR SCHOOL REPAIR, RENOVATION, REFURBISHMENT, NEW CONSTRUCTION, AND/OR IMPROVEMENT; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES. TOTAL FUNDING EDN		1,450 C	C
71.		PALOLO ELEMENTARY SCHOOL, OAHU DESIGN AND CONSTRUCTION TO INSTALL CEILING FANS IN BUILDING D; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES; PROJECT MAY INCLUDE IMPROVEMENTS, RENOVATIONS, OR NEW CONSTRUCTION FOR HEAT ABATEMENT. TOTAL FUNDING EDN		280 C	C
72.		PAUOA ELEMENTARY SCHOOL, OAHU PLANS, DESIGN, AND CONSTRUCTION TO MAINTAIN AND IMPROVE FACILITIES AND INFRASTRUCTURE, INCLUDING HAZARDOUS MATERIALS REMEDIATION; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES. TOTAL FUNDING EDN		1,165 C	C
73.		PEARL CITY HIGH SCHOOL, OAHU DESIGN, CONSTRUCTION AND EQUIPMENT TO RENOVATE MEDICAL CLASSROOM; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES. TOTAL FUNDING EDN		1,600 C	C
74.		PEARL CITY HIGH SCHOOL, OAHU DESIGN, CONSTRUCTION AND EQUIPMENT TO REPLACE GYMNASIUM BLEACHERS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES. TOTAL FUNDING EDN		950 C	C
75.		PUU KUKUI ELEMENTARY SCHOOL, MAUI PLANS, LAND, AND DESIGN FOR DUE DILIGENCE FOR ACQUISITION OF AN INTEREST IN LAND ADJACENT TO SCHOOL CAMPUS. TOTAL FUNDING EDN		150 C	C
76.		RADFORD HIGH SCHOOL, OAHU PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT TO RENOVATE WEIGHT ROOM. TOTAL FUNDING EDN		2,750 C	C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL YEAR 2021-2022	FISCAL YEAR 2022-2023
77.		RED HILL ELEMENTARY SCHOOL, OAHU			
		CONSTRUCTION FOR A COVERED PLAYCOURT; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		TOTAL FUNDING	EDN	700 C	C
78.		ROOSEVELT HIGH SCHOOL, OAHU			
		DESIGN, CONSTRUCTION AND EQUIPMENT FOR A NEW GYMNASIUM WITH LOCKER ROOMS, CLASSROOMS, AND OTHER RELATED FACILITIES; PARKING BELOW AND AROUND THE GYMNASIUM; BUS AND VEHICLE ACCESS IMPROVEMENTS TO ACCOMMODATE GROUP DROP-OFF AND PICK-UP; GROUND AND SITE IMPROVEMENTS; AND EQUIPMENT AND APPURTENANCES.			
		TOTAL FUNDING	EDN	18,000 C	C
79.		ROYAL KUNIA ELEMENTARY, OAHU			
		PLANS AND DESIGN FOR PROOF OF CONCEPT FOR A NEW SCHOOL; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		TOTAL FUNDING	EDN	200 C	C
80.		SALT LAKE ELEMENTARY SCHOOL, OAHU			
		DESIGN, CONSTRUCTION FOR CAFETERIA STAGE IMPROVEMENTS AND AIR CONDITIONING; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		TOTAL FUNDING	EDN	1,500 C	C
81.		WAIAKEA HIGH SCHOOL, HAWAII			
		DESIGN AND CONSTRUCTION FOR GIRLS ATHLETIC LOCKER ROOM, INCLUDING THE RENOVATION OF LOCKERS, SHOWERS, RESTROOMS AND COACH/TEACHER OFFICES AT BOYS AND GIRLS LOCKER ROOMS FOR ADA AND GENDER EQUITY COMPLIANCE; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		TOTAL FUNDING	EDN	5,000 C	C
82.		WAIALUA HIGH AND INTERMEDIATE SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION OF FACILITIES RENOVATIONS FOR STEM PROGRAM; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		TOTAL FUNDING	EDN	1,350 C	C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL YEAR 2021-2022	FISCAL YEAR 2022-2023
83.		WAIANAЕ HIGH SCHOOL, OAHU DESIGN AND CONSTRUCTION FOR A RUBBERIZED ALL WEATHER TRACK; INCLUDING OTHER RELATED IMPROVEMENTS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES. TOTAL FUNDING	EDN	4,000	C
84.		WAI AU ELEMENTARY SCHOOL, OAHU DESIGN AND CONSTRUCTION FOR A COVERED WALKWAY BETWEEN BUILDINGS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES. TOTAL FUNDING	EDN	2,400	C
85.		WAIHEE ELEMENTARY SCHOOL, MAUI DESIGN FOR COVERED PLAYGROUND. TOTAL FUNDING	EDN	800	C
86.		WAIKELE ELEMENTARY SCHOOL, OAHU DESIGN AND CONSTRUCTION FOR LIGHTING IMPROVEMENT CAMPUS WIDE; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES. TOTAL FUNDING	EDN	970	C
87.		WAILUKU ELEMENTARY SCHOOL, MAUI DESIGN AND CONSTRUCTION FOR PARKING LOT IMPROVEMENTS; GROUND AND SITE IMPROVEMENTS. TOTAL FUNDING	EDN	2,500	C
88.		WAILUKU ELEMENTARY SCHOOL, MAUI DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE INSTALLATION OF AIR CONDITIONING SYSTEMS CAMPUS-WIDE TO AIR CONDITION WAILUKU ELEMENTARY SCHOOL; INCLUDING ELECTRICAL SYSTEM UPGRADES; VENTILATION IMPROVEMENTS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES. TOTAL FUNDING	EDN	2,000	V
89.		WAILUKU ELEMENTARY SCHOOL, MAUI DESIGN AND CONSTRUCTION FOR ELECTRICAL UPGRADE AND RELATED IMPROVEMENTS INCLUDING ENERGY CONSERVATION, LIGHTING, A/C, VENTILATION, ELECTRICAL AND UTILITY INFRASTRUCTURE, AND OTHER SYSTEMS; VENTILATION IMPROVEMENTS. TOTAL FUNDING	EDN	2,850	V

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL YEAR 2021-2022	FISCAL YEAR 2022-2023
90.		WAIMEA HIGH SCHOOL, KAUAI DESIGN AND CONSTRUCTION FOR GYMNASIUM AND OTHER RELATED FACILITIES AND IMPROVEMENTS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.	EDN	27,000	C
		TOTAL FUNDING			
91.		WAIPAHAU ELEMENTARY SCHOOL, OAHU CONSTRUCTION FOR AIR CONDITIONING FOR CLASSROOMS; VENTILATION IMPROVEMENTS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.	EDN	130	V
		TOTAL FUNDING			
92.		WAIPAHAU HIGH SCHOOL, OAHU CONSTRUCTION FOR THE INTEGRATED ACADEMY FACILITY; INCLUDING RENOVATIONS AND RELOCATION FOR THE ACADEMIC HEALTH CENTER; AND OTHER RELATED IMPROVEMENTS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.	EDN	23,060	C
		TOTAL FUNDING			
93.		WASHINGTON MIDDLE SCHOOL, OAHU PLANS AND DESIGN TO BUILD A 21ST CENTURY BAND ROOM; PROJECT MAY INCLUDE RELOCATION OF SEWER LINE AND REMOVAL OF TREES; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.	EDN	2,000	8,000
		TOTAL FUNDING			
94.		WASHINGTON MIDDLE SCHOOL, OAHU PLANS, DESIGN, AND CONSTRUCTION TO MAINTAIN AND IMPROVE FACILITIES AND INFRASTRUCTURE, INCLUDING HAZARDOUS MATERIALS REMEDIATION; PROJECT MAY INCLUDE HEAT ABATEMENT OR COOLING PROJECTS; VENTILATION IMPROVEMENTS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.	EDN	500	V
		TOTAL FUNDING			
95.		WEBLING ELEMENTARY SCHOOL, OAHU DESIGN AND CONSTRUCTION FOR CAMPUS COVERED WALKWAYS; OTHER RELATED IMPROVEMENTS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT.	EDN	1,000	C
		TOTAL FUNDING			

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2021-2022 F	FISCAL M YEAR O 2022-2023 F
EDN400 - SCHOOL SUPPORT					
96.		LUMP SUM - OFFICE OF INFORMATION TECHNOLOGY SERVICES, STATEWIDE			
		DESIGN, CONSTRUCTION, AND EQUIPMENT TO MAINTAIN AND IMPROVE DOE'S CONVERGED INFRASTRUCTURE PROVIDING BELLS AND PAGING FOR SCHOOL SAFETY; CONVERGED INFRASTRUCTURE PROVIDING SCHOOLS ACCESS TO ON-LINE LEARNING AND INTERNET RESOURCES; EQUIPMENT AND APPURTENANCES.			
		TOTAL FUNDING	EDN	5,000 C	C
97.		LUMP SUM BROADBAND INFRASTRUCTURE FOR DEPARTMENT OF EDUCATION, STATEWIDE			
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR BROADBAND INFRASTRUCTURE AT DEPARTMENT OF EDUCATION SCHOOLS; PROJECT MAY INCLUDE RENOVATION, REFURBISHMENT, REPAIR, IMPROVEMENT, NEW CONSTRUCTION, AND/OR ALTERATION; EXPENSES TO FACILITATE DISTANCE LEARNING INCLUDING TECHNOLOGICAL IMPROVEMENTS IN SCHOOLS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		TOTAL FUNDING	EDN	8,910 V	V
EDN600 - CHARTER SCHOOLS					
98.		KANU O KA AINA NEW CENTURY PUBLIC CHARTER SCHOOL, HAWAII			
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR THE COMPLETION OF THE KANU O KA AINA MULTIPURPOSE BUILDING TO INCLUDE A CERTIFIED COMMERCIAL KITCHEN SPACE; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		TOTAL FUNDING	EDN	1,800 C	C
99.		LAUPAHOEHOE COMMUNITY PUBLIC CHARTER SCHOOL, HAWAII			
		PLANS, DESIGN, CONSTRUCTION FOR INSTALLATION OF A PHOTOVOLTAIC SYSTEM TO POWER THE CAMPUS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		TOTAL FUNDING	EDN	580 C	C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL YEAR 2021-2022	FISCAL YEAR 2022-2023
EDN407 - PUBLIC LIBRARIES					
100.		HAWAII STATE PUBLIC LIBRARY SYSTEM, HEALTH AND SAFETY, STATEWIDE			
		CONSTRUCTION AND EQUIPMENT FOR HEALTH, SAFETY, ACCESSIBILITY, AND OTHER CODE REQUIREMENTS. PROJECTS MAY INCLUDE, BUT NOT LIMITED TO, THE REMOVAL OF HAZARDOUS MATERIALS, RENOVATIONS FOR LIBRARY PATRONS AND EMPLOYEES, ENVIRONMENTAL CONTROLS, FIRE PROTECTION, IMPROVEMENTS TO BUILDINGS AND GROUNDS, AND OTHERS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		TOTAL FUNDING	AGS	5,000	C
101.		VARIOUS LIBRARIES, STATEWIDE			
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR IMPROVEMENTS AT LIBRARIES TO ADDRESS HEAT ABATEMENT AND ENERGY EFFICIENCY; PROJECT MAY INCLUDE ELECTRICAL UPGRADES, AIRFLOW AND PATRON OR STAFF COMFORT RELATED IMPROVEMENTS, RENOVATION, REFURBISHMENT, REPAIR, OR NEW CONSTRUCTION; VENTILATION IMPROVEMENTS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		TOTAL FUNDING	AGS	2,500	V
102.		VARIOUS LIBRARIES, STATEWIDE			
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE REPLACEMENT OF AIR CONDITIONING SYSTEMS AT VARIOUS PUBLIC LIBRARIES, INCLUDING MOLOKAI, HANAPEPE, WAIANAE, AND WAIPAHAU PUBLIC LIBRARIES; PROJECT MAY INCLUDE RENOVATION, REFURBISHMENT, REPAIRS, OR NEW CONSTRUCTION; VENTILATION IMPROVEMENTS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		TOTAL FUNDING	AGS	3,500	V
103.		WAILUKU PUBLIC LIBRARY, MAUI			
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR ASSESSMENT OF WAILUKU PUBLIC LIBRARY AND INFRASTRUCTURE; PROJECT MAY INCLUDE IMPROVEMENTS, REFURBISHMENTS, RENOVATIONS, REPAIRS, AND/OR NEW CONSTRUCTION; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		TOTAL FUNDING	AGS	200	C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL YEAR 2021-2022	FISCAL YEAR 2022-2023
104.		KEAAU PUBLIC LIBRARY, HAWAII PLAN, DESIGN, AND CONSTRUCTION FOR A NEW LIBRARY, RELOCATE/CONSOLIDATE THE CURRENT LIBRARIES THAT ARE LOCATED AT KEAAU MIDDLE SCHOOL AND MOUNTAIN VIEW ELEMENTARY SCHOOL. TOTAL FUNDING	AGS	10,000 C	C
105.		MAKAWAO PUBLIC LIBRARY, MAUI PLANS, DESIGN, AND CONSTRUCTION FOR IMPROVEMENTS TO THE LIBRARY BUILDING AND PROPERTY FOR EXPANSION OF LIBRARY SERVICES AND PROGRAMS; PROJECT SHALL INCLUDE PARKING AND PARKING RELATED IMPROVEMENTS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES. TOTAL FUNDING	AGS	10,000 C	C
106.		HAWAII PUBLIC LIBRARIES AND RELATED FACILITIES, STATEWIDE PLAN, DESIGN, AND CONSTRUCTION FOR NETWORKS AND RELATED SUPPORT INFRASTRUCTURE, INCLUDING ELECTRICAL, CONDUITS, POWER DISTRIBUTION AND WIRING AT VARIOUS LIBRARIES STATEWIDE; PROJECT MAY INCLUDE RENOVATION, REFURBISHMENT, IMPROVEMENT, AND/OR NEW CONSTRUCTION; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES. TOTAL FUNDING	AGS	25,000 V	V
UOH100 - UNIVERSITY OF HAWAII, MANOA					
107.		WAIKIKI AQUARIUM DISCHARGE SYSTEM UPGRADE, OAHU PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR VARIOUS REPAIRS AND IMPROVEMENTS TO THE WAIKIKI AQUARIUM; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES. TOTAL FUNDING	UOH	1,500 C	C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2021-2022 F	FISCAL M YEAR O 2022-2023 F
108.		UH MANOA, MINI MASTER PLAN PHASE 2, OAHU PLANS, DESIGN, CONSTRUCT, AND EQUIPMENT FOR THE MINI MASTER PLAN PHASE 2 BUILDING, FACILITIES/ UTILITIES, NEW AND UPGRADED PEDESTRIAN WALKWAYS AND COURTYARD WHICH INCLUDES INFRASTRUCTURE IMPROVEMENTS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES THAT REPLACES THE OLD SNYDER HALL BUILDING TO BE DEMOLISHED IN 2021.			
		TOTAL FUNDING	UOH	35,000 C	35,000 C
109.		CTAHR, WAIALE'E RESEARCH STATION, OAHU PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR SAFETY AND SECURITY IMPROVEMENTS, DEMOLITION OF EXISTING FACILITIES AND INFRASTRUCTURE, AND ALL OTHER PROJECT RELATED COSTS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		TOTAL FUNDING	UOH	1,600 C	C
110.		LYON ARBORETUM, OAHU PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR RENOVATION, REFURBISHMENT, IMPROVEMENT, AND/OR NEW CONSTRUCTION FOR A SEED BANK FACILITY, OAHU; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES, AND ALL PROJECT RELATED COSTS			
		TOTAL FUNDING	UOH	1,200 C	C
UOH210 - UNIVERSITY OF HAWAII, HILO					
111.		HILO, RENEW, IMPROVE, AND MODERNIZE, HAWAII PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR IMPROVEMENTS TO THE UNIVERSITY OF HAWAII, HILO. PROJECTS TO INCLUDE RENEWAL, IMPROVEMENTS, AND MODERNIZATION OF INTERIOR AND EXTERIOR STRUCTURES, ROOFS, MECHANICAL AND ELECTRICAL SYSTEMS, PEDESTRIAN PATHWAYS, ROADWAYS, GROUNDS, AND OTHER PROJECT COSTS TO UPGRADE EXISTING TEMPORARY AND NEW FACILITIES.			
		TOTAL FUNDING	UOH	1,300 C	C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL YEAR 2021-2022	FISCAL YEAR 2022-2023
112.		HILO, RENEW, IMPROVE, AND MODERNIZE, HAWAII			
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR IMPROVEMENTS TO THE UNIVERSITY OF HAWAII, HILO. PROJECTS TO INCLUDE RENEWAL, IMPROVEMENTS, AND MODERNIZATION OF INTERIOR AND EXTERIOR STRUCTURES, ROOFS, MECHANICAL AND ELECTRICAL SYSTEMS, PEDESTRIAN PATHWAYS, ROADWAYS; VENTILATION IMPROVEMENTS; GROUNDS, AND OTHER PROJECT COSTS TO UPGRADE EXISTING TEMPORARY AND NEW FACILITIES.			
		TOTAL FUNDING	UOH	8,700	V
113.		MAUNA KEA TELESCOPE REMOVAL, HAWAII			
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR THE REMOVAL OF THE HOKU KEA TELESCOPE OBSERVATORY STRUCTURE, GENERATOR BUILDING AND ASSOCIATED TELECOMMUNICATIONS AND ELECTRICAL INFRASTRUCTURE, SITE RESTORATION AND ALL RELATED PROJECT COSTS.			
		TOTAL FUNDING	UOH	900	C
UOH700 - UNIVERSITY OF HAWAII, WEST OAHU					
114.		UHWO, RENEW, IMPROVE AND MODERNIZE, OAHU			
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR IMPROVEMENTS TO UNIVERSITY OF HAWAII AT WEST OAHU FACILITIES. PROJECTS TO INCLUDE RENEWAL, IMPROVEMENTS, AND MODERNIZATION OF INTERIOR AND EXTERIOR STRUCTURES, ROOFS, MECHANICAL AND ELECTRICAL SYSTEMS, PEDESTRIAN PATHWAYS, ROADWAYS, GROUNDS, AND OTHER PROJECT COSTS TO UPGRADE EXISTING TEMPORARY AND NEW FACILITIES; PLANNING PROJECTS AND STUDIES; AND ALL PROJECT RELATED COSTS.			
		TOTAL FUNDING	UOH	3,500	C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL YEAR 2021-2022	FISCAL YEAR 2022-2023
UOH800 - UNIVERSITY OF HAWAII, COMMUNITY COLLEGES					
115.		CCS, CAPITAL RENEWAL AND DEFERRED MAINTENANCE, STATEWIDE			
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR IMPROVEMENTS TO UH CCS SYS FACILITIES. PROJECT TO INCLUDE CAPITAL RENEWAL, REDUCTION OF MAINTENANCE BACKLOG, MAJOR AND MINOR RENOVATIONS, MODERNIZATION OF FACILITIES, RE-ROOFING, MECHANICAL AND ELECTRICAL SYSTEMS, RESURFACING, INFRASTRUCTURE, DEMOLITION OF EXISTING FACILITIES, AND OTHER REPAIRS AND PROJECT COSTS TO UPGRADE.			
		TOTAL FUNDING	UOH	25,000 C	C
116.		CCS, MINOR CIP FOR THE COMMUNITY COLLEGES, STATEWIDE			
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR MINOR CAPITAL IMPROVEMENTS PROGRAM PROJECTS FOR CAMPUS FACILITIES WITHIN THE UNIVERSITY OF HAWAII, COMMUNITY COLLEGES SYSTEM. PROJECT MAY INCLUDE RENOVATIONS FOR THE MODERNIZATION OF FACILITIES, ADDITIONS, DEMOLITION OF EXISTING FACILITIES, AND OTHER IMPROVEMENTS AND PROJECT COSTS TO UPGRADE AND IMPROVE FACILITIES OF THE COMMUNITY COLLEGES SYSTEM.			
		TOTAL FUNDING	UOH	15,000 C	20,000 C
117.		HON, TECHNOLOGY RENOVATIONS, PHASE I, OAHU			
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE RENOVATION OF BUILDING 8802, 8803, 8805, 8813, 8820 AT HONOLULU COMMUNITY COLLEGE.			
		TOTAL FUNDING	UOH	15,000 C	C
118.		WINDWARD COMMUNITY COLLEGE, OAHU			
		DESIGN AND CONSTRUCTION FOR AN AGRIPHARMATECH BIOPROCESSING FACILITY AT WINDWARD COMMUNITY COLLEGE. PROJECT TO INCLUDE GROUND AND SITE IMPROVEMENTS, NEW MODULAR FACILITY, INFRASTRUCTURE, EQUIPMENT AND APPURTENANCES, AND ALL PROJECT RELATED COSTS.			
		TOTAL FUNDING	UOH	3,000 C	C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL YEAR 2021-2022	FISCAL YEAR 2022-2023
119.		RESOURCE AND EDUCATION CENTER, OAHU PROJECT TO INCLUDE ALL ENTITLEMENT COSTS, PLANNING, DESIGN, DEMOLITION OF EXISTING FACILITIES. NEW FACILITY WITH ASSOCIATED PARKING, GROUND AND SITE IMPROVEMENTS, INFRASTRUCTURE, AND ALL RELATED PROJECT COSTS. PROJECT TO INCLUDE SPACES FOR STATE DEPARTMENT OF EDUCATION AND LIBRARIES, AND THE UNIVERSITY OF HAWAII COMMUNITY COLLEGES.			
		TOTAL FUNDING	UOH	42,500	C
120.		PROOF OF CONCEPT FOR MAUI HEALTH SYSTEM, MAUI PLANS AND DESIGNS FOR PROOF OF CONCEPT FOR MAUI HEALTH SYSTEM; PROJECT MAY INCLUDE MAUI MEMORIAL CENTER, KULA HOSPITAL, AND LANAI COMMUNITY HEALTH CENTER; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		TOTAL FUNDING	UOH	500	C
UOH900 - UNIVERSITY OF HAWAII, SYSTEMWIDE SUPPORT					
121.		SYSTEM, RENEW, IMPROVE, AND MODERNIZE, STATEWIDE PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR IMPROVEMENTS TO THE UNIVERSITY OF HAWAII SYSTEM FACILITIES. PROJECT TO INCLUDE RENEWAL, IMPROVEMENTS AND MODERNIZATION OF INTERIOR AND EXTERIOR STRUCTURES, ROOFS, MECHANICAL AND ELECTRICAL SYSTEMS, PEDESTRIAN PATHWAYS, ROADWAYS, GROUNDS AND OTHER PROJECT COSTS TO UPGRADE EXISTING TEMPORARY, AND NEW FACILITIES.			
		TOTAL FUNDING	UOH	51,800	47,640 C
122.		MAKAI RESEARCH PIER, OAHU PLANS, DESIGNS, CONSTRUCTION, AND EQUIPMENT FOR THE REPAIR, RENOVATION, REFURBISHMENT, AND/OR NEW CONSTRUCTION OF THE MAKAI RESEARCH PIER AND ALL RELATED STRUCTURES; MAKAI PIER STRUCTURAL REPAIRS AND ALL RELATED WORK; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		TOTAL FUNDING	UOH	5,550	C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL YEAR 2021-2022	FISCAL YEAR 2022-2023
H. CULTURE AND RECREATION					
LNR804 - FOREST AND OUTDOOR RECREATION					
1.		KAIWA RIDGE TRAIL, OAHU			
		CONSTRUCTION FOR RESTORATION OF HIKING TRAIL AND INSTALLATION OF HARDENED TREAD SURFACE; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		TOTAL FUNDING	LNR	900 C	C
LNR806 - PARKS ADMINISTRATION AND OPERATION					
2.		STATE PARKS INFRASTRUCTURE AND PARK IMPROVEMENTS, LUMP SUM, STATEWIDE			
		PLANS, DESIGN, AND CONSTRUCTION FOR STATE PARKS INFRASTRUCTURE AND PARK IMPROVEMENTS AND RELATED IMPROVEMENTS, STATEWIDE. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		TOTAL FUNDING	LNR	5,500 C	5,500 C
			LNR	500 N	500 N
3.		HULIHEE PALACE SM, HAWAII			
		PLANS, DESIGN AND CONSTRUCTION OF STATE PARKS INFRASTRUCTURE AND PARKS IMPROVEMENTS AND RELATED IMPROVEMENTS, STATEWIDE. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID REIMBURSEMENT AND/OR FINANCING.			
		TOTAL FUNDING	LNR	800 C	C
4.		IOLANI PALACE SM, OAHU			
		PLANS, DESIGN AND CONSTRUCTION OF STATE PARKS INFRASTRUCTURE AND PARKS IMPROVEMENTS AND RELATED IMPROVEMENTS, STATEWIDE. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID REIMBURSEMENT AND/OR FINANCING.			
		TOTAL FUNDING	LNR	200 C	C
5.		KAENA POINT STATE PARK, OAHU			
		LAND, PLANS, DESIGN, AND CONSTRUCTION FOR PARK IMPROVEMENTS AND RELATED IMPROVEMENTS IN THE KAENA POINT PARK COMPLEX; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		TOTAL FUNDING	LNR	2,150 C	C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL YEAR 2021-2022	FISCAL YEAR 2022-2023
6.		KOKEE/WAIMEA CANYON SP COMPLEX, KAUAI			
		PLANS, DESIGN AND CONSTRUCTION OF STATE PARKS INFRASTRUCTURE AND PARKS IMPROVEMENTS AND RELATED IMPROVEMENTS, STATEWIDE. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID REIMBURSEMENT AND/OR FINANCING.			
		TOTAL FUNDING	LNR	1,500 C	C
7.		KOKEE/WAIMEA CANYON STATE PARK COMPLEX, KAUAI			
		PLANS, DESIGN, AND CONSTRUCTION OF PARK FACILITY, LOOKOUT, WATER SYSTEM AND RELATED IMPROVEMENTS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		TOTAL FUNDING	LNR	1,000 C	C
8.		PALAAU STATE PARK, MOLOKAI			
		PLANS, DESIGN, AND CONSTRUCTION FOR STATE PARK IMPROVEMENTS AND RELATED IMPROVEMENTS IN PALAAU STATE PARK; PROJECT MAY INCLUDE WATER SYSTEM REPLACEMENT IMPROVEMENTS, COMFORT STATIONS AND SEWER SYSTEM, PAVILION, PICNIC AND FACILITY, BASE YARD AND STORAGE, ROADWAY AND PARKING, TRAIL AND PATHWAY, SECURITY GATE AND BARRIER, KALAUPAPA LOOKOUT, AND OTHER RELATED IMPROVEMENTS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		TOTAL FUNDING	LNR	1,300 C	C
9.		POLIHALE STATE PARK, KAUAI			
		PLANS, DESIGN, AND CONSTRUCTION OF CULTURAL, ENVIRONMENTAL, RECREATIONAL RESOURCE MANAGEMENT, FACILITY AND INFRASTRUCTURE SYSTEMS, ROADWAY AND PARKING IMPROVEMENTS, AND RELATED IMPROVEMENTS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		TOTAL FUNDING	LNR	1,350 C	C
10.		NEW PUBLIC PARK TMK: 42003029, 42001055, OAHU			
		LAND, PLANS, DESIGN AND CONSTRUCTION OF A NEW COMMUNITY PARK AND RELATED IMPROVEMENTS.			
		TOTAL FUNDING	LNR	3,800 C	C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL YEAR 2021-2022	FISCAL YEAR 2022-2023
11.		WAIANAPANAPA STATE PARK, MAUI CONSTRUCTION FOR STATE PARK IMPROVEMENTS AND OTHER RELATED IMPROVEMENTS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES. TOTAL FUNDING	LNR	7,760	C
LNR801 - OCEAN-BASED RECREATION					
12.		KAHANA BOAT RAMP, OAHU DESIGN AND CONSTRUCTION FOR IMPROVEMENTS FOR BOAT RAMP, LOADING DOCK, AND REVETMENTS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES. TOTAL FUNDING	LNR	650	C
13.		KAWAIHAE NORTH SMALL BOAT HARBOR, HAWAII DESIGN FOR IMPROVEMENTS TO HARBOR DOCK, BREAK WALL AND RELATED IMPROVEMENTS. TOTAL FUNDING	LNR	1,600	C
14.		ALA WAI SMALL BOAT HARBOR, OAHU DESIGN AND CONSTRUCTION TO REPLACE FLOATING DOCKS; REPLACEMENT OF FINGER PIERS; AND OTHER RELATED IMPROVEMENTS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT. TOTAL FUNDING	LNR	3,040	C
15.		HONOKOHAU SMALL BOAT HARBOR, HAWAII PLANS, DESIGN, AND CONSTRUCTION FOR SEWER SYSTEM IMPROVEMENTS, OTHER RELATED IMPROVEMENTS, AND ELECTRICAL SYSTEM IMPROVEMENTS; GROUND AND SITE IMPROVEMENT; EQUIPMENT. TOTAL FUNDING	LNR	2,250	C

I. PUBLIC SAFETY

PSD900 - GENERAL ADMINISTRATION

1.		PSD MEDIUM SECURITY HOUSING AT HCCC, MCCC, AND OTHER HOUSING IMPROVEMENTS, STATEWIDE DESIGN, CONSTRUCTION, AND EQUIPMENT TO SUPPLEMENT THE HAWAII COMMUNITY CORRECTIONAL CENTER (HCCC), MAUI COMMUNITY CORRECTIONAL CENTER (MCCC), AND OTHER HOUSING RELATED IMPROVEMENTS, STATEWIDE. TOTAL FUNDING	AGS	12,968	C
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CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL YEAR 2021-2022	FISCAL YEAR 2022-2023
2.		PSD FACILITY-WIDE ADA UPGRADES, RENOVATION, AND IMPROVEMENTS, STATEWIDE PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT TO CORRECT AND ADDRESS CURRENT ADA VIOLATIONS CITED BY THE U.S. DEPT OF JUSTICE, AND ASSOCIATED CODE VIOLATIONS AT PSD FACILITIES STATEWIDE.		7,000	C
		TOTAL FUNDING	AGS		
3.		PSD GENERAL ADMINISTRATION, LUMP SUM CIP, STATEWIDE PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR URGENT AND IMMEDIATE REPAIRS, REHABILITATION, RENOVATIONS, REPLACEMENT, UPGRADES, IMPROVEMENTS OF BUILDINGS, SITES, INFRASTRUCTURE AND RELATED EQUIPMENT, MECHANICAL AND ELECTRICAL SYSTEMS AND PROCESSES, SECURITY AND OPERATIONS EQUIPMENT, AND CITED CODE VIOLATIONS IMPACTING PSD FACILITIES, STATEWIDE.		20,000	C
		TOTAL FUNDING	AGS		
4.		PSD FAC-WIDE REPAIRS, DEFERRED MAINTENANCE, RELATED SUPPORT AND IMPROVEMENTS, STATEWIDE PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT AND RELATED SERVICES IN SUPPORT OF AND TO ADDRESS IMMEDIATE REPAIRS, DEFERRED MAINTENANCE, AND IMPROVEMENTS AFFECTING FACILITY AND BUILDING INFRASTRUCTURE, SECURITY, AND OPERATIONS OR SIMILAR, WHILE ALSO ADDRESSING CODE VIOLATIONS AND/OR CITATIONS AFFECTING PSD FACILITIES, STATEWIDE.		3,000	C
		TOTAL FUNDING	AGS		
DEF110 - AMELIORATION OF PHYSICAL DISASTERS					
5.		DISASTER WARNING AND COMMUNICATIONS DEVICES, STATEWIDE PLANS, LAND ACQUISITION, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR INCREMENTAL ADDITION, REPLACEMENT, AND UPGRADE OF STATE CIVIL DEFENSE WARNING AND COMMUNICATIONS EQUIPMENT, STATEWIDE. THIS WILL EXPAND THE COVERAGE AND RELIABILITY OF THE WARNING AND CONTROL SYSTEM, AS WELL AS MODERNIZE AND ALLEVIATE SIREN COVERAGE GAP AREAS.		2,500	C
		TOTAL FUNDING	AGS		

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL YEAR 2021-2022	FISCAL YEAR 2022-2023
6.		RETROFIT PUBLIC BUILDINGS WITH HURRICANE PROTECTIVE MEASURES, STATEWIDE			
		PLANS, LAND ACQUISITION, DESIGN, CONSTRUCTION, AND EQUIPMENT TO RETROFIT EXISTING BUILDINGS AND/OR REINFORCE NEW BUILDINGS WITH HURRICANE PROTECTIVE MEASURES TO INCREASE THE NUMBER OF EMERGENCY SHELTERS STATEWIDE.			
		TOTAL FUNDING	AGS	3,000 C	3,000 C
7.		BIRKHIRMER EMERGENCY OPERATION CENTER, OAHU			
		PLANS, DESIGN, AND CONSTRUCTION FOR HEALTH AND SAFETY IMPROVEMENTS, RENOVATION, NEW CONSTRUCTION, AND/OR REFURBISHMENT; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		TOTAL FUNDING	AGS	250 C	C

K. GOVERNMENT-WIDE SUPPORT

GOV100 - OFFICE OF THE GOVERNOR

1.		PROJECT ADJUSTMENT FUND, STATEWIDE			
		PLANS FOR THE ESTABLISHMENT OF A CONTINGENCY FUND FOR PROJECT ADJUSTMENT PURPOSES SUBJECT TO THE PROVISIONS OF THE APPROPRIATIONS ACT.			
		TOTAL FUNDING	GOV	1 C	1 C

BED144 - OFFICE OF PLANNING AND SUSTAINABLE DEVELOPMENT

2.		STATE TRANSIT-ORIENTED DEVELOPMENT (TOD) PLANNING, STATEWIDE			
		PLANS, FEASIBILITY AND COST STUDIES, AND COORDINATION OF TOD PROJECTS, TOD PUBLIC INFRASTRUCTURE REQUIREMENTS, AND RELATED ENVIRONMENTAL REVIEW DOCUMENTS FOR TOD PROJECTS IN STATE TOD STRATEGIC PLAN, STATEWIDE.			
		TOTAL FUNDING	BED	2,000 C	C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL YEAR 2021-2022	FISCAL YEAR 2022-2023

TAX107 - SUPPORTING SERVICES - REVENUE COLLECTION

3.		KEELIKOLANI BUILDING, OAHU PLANS, DESIGN, AND CONSTRUCTION FOR RENOVATION, IMPROVEMENT, AND/OR NEW CONSTRUCTION FOR THE KEELIKOLANI BUILDING; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.	AGS	500	C
		TOTAL FUNDING	AGS	500	C

AGS131 - ENTERPRISE TECHNOLOGY SERVICES - OPERATIONS AND INFRASTRUCTURE MAINTENANCE

4.		LUMP SUM HEALTH AND SAFETY, INFORMATION AND COMMUNICATION SERVICES DIVISION, STATEWIDE PLANS, LAND ACQUISITION, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR REPAIRS, MODERNIZATION, AND EXPANSION OF CRITICAL COMMUNICATIONS SYSTEMS, INCLUDING THE STATEWIDE ANUENUE AND HAWAIIAN MICROWAVE SYSTEMS AND LAND MOBILE RADIO, STATEWIDE SHARED BLENDED RADIO SYSTEM, AND NEW RADIO SITES AND TOWERS STATEWIDE.	AGS	4,700	C
		TOTAL FUNDING	AGS	4,700	C
5.		STATE FINANCE SYSTEM (HAWAII MODERNIZATION INITIATIVE), STATEWIDE PLANS FOR STATE FINANCE SYSTEM.	AGS	1,000	C
		TOTAL FUNDING	AGS	1,000	C

LNR101 - PUBLIC LANDS MANAGEMENT

6.		WAIKIKI MASTER PLAN IMPROVEMENTS, OAHU CONSTRUCTION TO CONDUCT VARIOUS IMPROVEMENTS ALONG WAIKIKI BEACH IN THE SHERATON-HALEKULANI, ROYAL HAWAIIAN, AND KUHIO BEACH SECTORS. IMPROVEMENTS TO INCLUDE SAND RESTORATION, REFURBISHMENT OF DERELICT GROINS, AND CONSTRUCTION OF NEW GROINS, WITH OFFSHORE SAND DREDGING, WITH BEACH SAND PLACEMENT.	LNR	3,150	C
		TOTAL FUNDING	LNR	3,150	C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2021-2022 F	FISCAL M YEAR O 2022-2023 F
7.		NA WAI EHA LAND ACQUISITION, MAUI LAND ACQUISITION OF 10,000 ACRES IN WEST MAUI TO PROTECT IMPORTANT FORESTED WATERSHED, NATIVE FOREST AND THE WATER RESOURCES THEY PROVIDE; AND ALL PROJECT RELATED COSTS; PROVIDED THAT THE COUNTY OF MAUI MAKES A GOOD FAITH EFFORT TO SUPPORT THE PROJECT.	LNR	2,000	B
8.		NA WAI EHA LAND ACQUISITION, MAUI USDOJ FISH AND WILDLIFE - LAND ACQUISITION OF 10,000 ACRES IN WEST MAUI TO PROTECT IMPORTANT FORESTED WATERSHED, NATIVE FOREST AND THE WATER RESOURCES THEY PROVIDE; AND ALL PROJECT RELATED COSTS; PROVIDED THAT THE COUNTY OF MAUI MAKES A GOOD FAITH EFFORT TO SUPPORT THE PROJECT. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.	LNR	2,600	N
9.		NA WAI EHA LAND ACQUISITION, MAUI USDA FS - LAND ACQUISITION OF 10,000 ACRES IN WEST MAUI TO PROTECT IMPORTANT FORESTED WATERSHED, NATIVE FOREST AND THE WATER RESOURCES THEY PROVIDE; AND ALL PROJECT RELATED COSTS; PROVIDED THAT THE COUNTY OF MAUI MAKES A GOOD FAITH EFFORT TO SUPPORT THE PROJECT. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.	LNR	3,000	N
10.		NA WAI EHA LAND ACQUISITION, MAUI COUNTY OF MAUI - LAND ACQUISITION OF 10,000 ACRES IN WEST MAUI TO PROTECT IMPORTANT FORESTED WATERSHED, NATIVE FOREST AND THE WATER RESOURCES THEY PROVIDE; AND ALL PROJECT RELATED COSTS; PROVIDED THAT THE COUNTY OF MAUI MAKES A GOOD FAITH EFFORT TO SUPPORT THE PROJECT.	LNR	1,700	S
11.		HAWAII KOA FOREST ACQUISITION, MAKAHANALOA, HAWAII PLANS AND LAND FOR ACQUISITION OF OVER 13,000 ACRES IN SOUTH HILO, HAWAII COUNTY TO PROTECT IMPORTANT WATER RESOURCES AND ENDANGERED SPECIES.	LNR	1,972	C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL YEAR 2021-2022	FISCAL YEAR 2022-2023
AGS221 - PUBLIC WORKS - PLANNING, DESIGN, AND CONSTRUCTION					
12.		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.			
		TOTAL FUNDING	AGS	19,000 C	C
13.		LUMP SUM STATE OFFICE BUILDING REMODELING, STATEWIDE			
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR REMODELING AND UPGRADE OF STATE-OWNED OFFICES TO ACCOMMODATE STATE AGENCIES' OPERATIONAL REQUIREMENTS. PROJECT INCLUDES RENOVATION FOR REORGANIZATION, PROGRAM AND STAFFING CHANGES, AND CONSOLIDATION, AS WELL AS IMPROVEMENTS FOR OFFICE LAYOUTS, ENERGY CONSERVATION, LIGHTING, A/C, VENTILATION, PLUMBING, ELECTRICAL, AND DATA/COMMUNICATIONS SYSTEMS.			
		TOTAL FUNDING	AGS	9,800 C	33,000 C
14.		CARRIER-NEUTRAL CABLE LANDING STATIONS, STATEWIDE			
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR THE DEVELOPMENT OF CARRIER-NEUTRAL LANDING STATIONS TO CREATE A FIBER RING CONNECTING THE ISLANDS OF THE STATE.			
		TOTAL FUNDING	AGS	10,000 V	V
15.		STATE CAPITOL BUILDING, OAHU			
		PLANS, DESIGN, AND CONSTRUCTION FOR INFORMATION TECHNOLOGY INFRASTRUCTURE AND ALL RELATED IMPROVEMENTS; PROJECT MAY INCLUDE RE-WIRING, WIRE REMOVAL, OR NEW WIRE INSTALLATION/PLACEMENT; RENOVATION, AND NEW CONSTRUCTION; EXPENSES TO IMPROVE TELEWORK CAPABILITIES FOR PUBLIC EMPLOYEES; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		TOTAL FUNDING	AGS	1,500 V	V

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL YEAR 2021-2022	FISCAL YEAR 2022-2023

AGS233 - CENTRAL SERVICES - BUILDING REPAIRS AND ALTERATIONS

16.		LUMP SUM FIRE ALARM SYSTEMS REPLACEMENT AND UPGRADE, STATEWIDE				
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT TO REPLACE AND UPGRADE FIRE ALARM SYSTEMS TO MEET CODE REQUIREMENTS, STATEWIDE.				
		TOTAL FUNDING	AGS	3,100	C	C

SUB201 - CITY AND COUNTY OF HONOLULU

17.		DE CORTE NEIGHBORHOOD PARK AND KALIHI DISTRICT PARK, OAHU				
		IMPROVEMENTS TO PARK FACILITIES; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES; PROVIDED THAT PARTIAL MATCHING FUNDS BE PROVIDED BY THE CITY AND COUNTY OF HONOLULU.				
		TOTAL FUNDING	CCH	800	C	C
			CCH	200	S	S

18.		WAHIAWA WASTEWATER TREATMENT PLANT, OAHU				
		CONSTRUCTION AND EQUIPMENT FOR SITE IMPROVEMENTS AND INFRASTRUCTURE DEVELOPMENT AT THE WAHIAWA WASTE WATER TREATMENT PLANT.				
		TOTAL FUNDING	CCH	1,500	C	C

SUB301 - COUNTY OF HAWAII

19.		4 MILE CREEK BRIDGE, HAWAII				
		DESIGN AND CONSTRUCTION TO REPLACE THE CURRENT ONE-LANE BRIDGE FOR THE COMMUTERS BETWEEN HILO AND PUNA; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES. PROVIDED THAT PARTIAL MATCHING FUNDS BE PROVIDED BY THE COUNTY OF HAWAII; PROVIDED FURTHER THAT THE COUNTY OF HAWAII SHALL DESIGN AND/OR CONSTRUCT THE BRIDGE AND RELATED WORK.				
		TOTAL FUNDING	COH	12,000	C	C
			COH	6,000	S	S

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2021-2022 F	FISCAL M YEAR O 2022-2023 F

SUB401 - COUNTY OF MAUI

20.		CENTRAL MAUI WASTE WATER TREATMENT PLANT, MAUI PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A CENTRAL MAUI WASTE WATER TREATMENT PLANT; PLANS MAY INCLUDE IMPROVEMENTS, RENOVATION, REFURBISHMENT, OR NEW CONSTRUCTION; GROUNDS AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES; PROVIDED THAT PARTIAL MATCHING FUNDS BE PROVIDED BY THE COUNTY OF MAUI.			
		TOTAL FUNDING	COM	3,500 C	20,000 C
			COM	3,500 S	20,000 S

SUB501 - COUNTY OF KAUAI

21.		WAILUA-KAPAA WATER SYSTEM, KAUAI DESIGN AND CONSTRUCTION FOR KAPAA HOMESTEADS 313 FOOT TANKS, 1.0 MG (TWO MG TANKS); GROUND AND SITE IMPROVEMENTS, AND EQUIPMENT AND APPURTENANCES; DRAINAGE AND OTHER RELATED IMPROVEMENTS; PROVIDED THAT PARTIAL MATCHING FUNDS BE PROVIDED BY THE COUNTY OF KAUAI.			
		TOTAL FUNDING	COK	7,250 C	C
			COK	7,250 S	S
22.		WAILUA-KAPAA WATER SYSTEM, KAUAI DESIGN AND CONSTRUCTION FOR NEW WELL SITE DEVELOPMENT AND CONNECTING PIPELINE INFRASTRUCTURE; GROUND AND SITE IMPROVEMENTS, AND EQUIPMENT AND APPURTENANCES; PROVIDED THAT PARTIAL MATCHING FUNDS BE PROVIDED BY THE COUNTY OF KAUAI.			
		TOTAL FUNDING	COK	2,600 C	C
			COK	2,600 S	S

PART V. CAPITAL IMPROVEMENT PROGRAM PROVISIONS

SECTION 27. Act 189, Session Laws of Hawaii 2019, is amended by amending section 2 as follows:

“SECTION 2. The director of finance is authorized to issue general obligation bonds in the sum of [~~\$50,000,000~~] \$5,000,000 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 2020-2021 to be deposited into the rental housing revolving fund established pursuant to section 201H-202, Hawaii Revised Statutes.”

SECTION 28. Act 189, Session Laws of Hawaii 2019, is amended by amending section 3 as follows:

“SECTION 3. There is appropriated out of the rental housing revolving fund established pursuant to section 201H-202, Hawaii Revised Statutes, the sum of \$50,000,000 or so much thereof as may be necessary for fiscal year 2019-2020 and ~~[the same sum]~~ the sum of \$5,000,000 or so much thereof as may be necessary for fiscal year 2020-2021 for the purposes for which the revolving fund is established.”

SECTION 29. Provided that of the general obligation bond funds to be deposited into the Hawaii housing finance and development corporation’s (BED160) rental housing revolving fund for fiscal year 2021-2022, the sum of \$40,000,000 or so much thereof as may be necessary shall be utilized for the Hawaii public housing authority’s school street senior affordable housing project on Oahu; provided further that no funding shall be expended for the Hawaii public housing authority’s school street offices; provided further that if construction does not commence by August 31, 2022, the deposited funds may be utilized for other affordable housing projects of the Hawaii housing finance and development corporation; and provided further that the construction commencement date may be extended with the approval of the Hawaii housing finance and development corporation’s board of directors and the governor.

SECTION 30. Provided that the general obligation bond fund appropriations for Maui Health System, a KFH LLC (HTH214), for fiscal biennium 2021-2023 shall be disbursed by the Hawaii health systems corporation to the Maui Health System, a Kaiser Foundation Hospitals LLC, for its capital subsidies in the respective fiscal years; provided further that the Maui Health System has satisfied all of the standards and conditions of section 323F-58, Hawaii Revised Statutes.

SECTION 31. Provided that of the general obligation bond fund appropriation for Maui Health System, KFH LLC (HTH214), the sum of \$6,000,000 or so much thereof as may be necessary for fiscal year 2021-2022 and the same sum or so much thereof as may be necessary for fiscal year 2022-2023 may be expended by Maui Health System for the plans, design, construction, land acquisition, and equipment for:

PROJECT	Amount
1. MAUI MEMORIAL MEDICAL CENTER, MAUI; ED ROOF REPLACEMENT;	700,000
2. MAUI MEMORIAL MEDICAL CENTER, MAUI; STEAM PIPING AND CONDENSATE RETURN REPLACEMENT;	950,000
3. MAUI MEMORIAL MEDICAL CENTER, MAUI; SWITCHBOARD A REPLACEMENT;	700,000
4. MAUI MEMORIAL MEDICAL CENTER, MAUI; HBV ROOM REPLACEMENT;	2,650,000
5. MAUI MEMORIAL MEDICAL CENTER, MAUI; PHARMACY CLEAN ROOM;	1,000,000
6. MAUI MEMORIAL MEDICAL CENTER, MAUI; FIRE SPRINKLER LINES REPLACEMENT;	1,950,000
7. KULA HOSPITAL, MAUI; PLUMBING IMPROVEMENTS;	1,000,000
8. KULA HOSPITAL, MAUI; ELECTRICAL/LIGHTING SYSTEM;	750,000
9. LANAI COMMUNITY HEALTH CENTER, LANAI; FIRE ALARM SYSTEM UPGRADE;	500,000
10. MAUI MEMORIAL MEDICAL CENTER, MAUI; HVAC CHILL WATER PIPING; AND	1,000,000
11. KULA HOSPITAL, MAUI; PATIENT ROOM RENOVATION.	800,000

SECTION 32. Provided that of the general obligation bond fund appropriation for planning and development for Hawaiian homesteads (HHL602), the sum of \$30,000,000 or so much thereof as may be necessary for fiscal year 2021-2022 and \$20,000,000 or so much thereof as may be necessary for fiscal year 2022-2023 may be expended by the department of Hawaiian home lands for the plans, design, construction, land acquisition, and equipment for:

PROJECT	Amount
1. EAST KAPOLEI IIC SITE CONSTRUCTION, OAHU;	2,000,000
2. EAST KAPOLEI TRANSIT ORIENTED DEVELOPMENT AND TELCOM INFRASTRUCTURE, OAHU;	5,132,000
3. HONOMU SUBSISTENCE AGRICULTURE LOT PHASE 2, HAWAII;	2,000,000
4. KEOKEA-WAIOHULI PHASE 2B AND PHASE 3, MAUI;	15,166,000
5. LAIOPUA VILLAGES WATER DEVELOPMENT AND SUBDIVISION IMPROVEMENTS, HAWAII; AND	12,200,000
6. WAIMANALO AGRICULTURAL LOTS, OAHU.	3,500,000

SECTION 33. Provided that of the general obligation bond fund appropriation for planning and development for Hawaiian homesteads (HHL602), the sum of \$5,000,000 or so much thereof as may be necessary for fiscal year 2021-2022 and the same sum or so much thereof as may be necessary for fiscal year 2022-2023 may be expended by the department of Hawaiian home lands for the plans, design, construction, land acquisition, and equipment for:

PROJECT	Amount
1. OAHU TRAFFIC MITIGATION, OAHU;	1,000,000
2. MOLOKAI VETERAN'S CENTER, MOLOKAI;	300,000
3. WAIMANALO CONCRETE FLOOD CONTROL CHANNEL, OAHU;	2,242,000
4. WAIMANALO CONCRETE DRAINAGE CHANNEL, OAHU;	2,255,000
5. HOOLEHUA WATER SYSTEM EQUIPMENT AND SUPPLIES, MOLOKAI;	1,345,000
6. LALAMILO SEPTIC SYSTEM IMPROVEMENTS, HAWAII;	1,000,000
7. NANAKULI CEMETERY RESTORATION/REPAIRS, OAHU; AND	400,000
8. KAU WATER SYSTEM, HAWAII.	1,457,328

SECTION 34. Act 40, Session Laws of Hawaii 2019, is amended by amending section 7 to read as follows:

“SECTION 7. [Provided that of the general obligation fund appropriation for the department of education for lump sum capital improvement projects —repair and maintenance, statewide for school based budgeting (EDN100) the sum of \$70,000,000 or so much thereof as may be necessary for fiscal year 2019-2020 and \$70,000,000 or so much thereof as may be necessary for fiscal year 2020-2021 shall be expended for the department’s job order contracting program where the department determines that it may benefit from either significant savings in project cost or time in project execution and completion.]”

SECTION 35. Part III of Act 40, Session Laws of Hawaii 2019, as amended by section 4 of Act 6, Session Laws of Hawaii 2020, is amended as follows:

1. By amending section 4, item G-9 to read:

“9. BALDWIN HIGH SCHOOL, MAUI

DESIGN [AND CONSTRUCTION FOR GIRLS ATHLETIC LOCKER ROOM] FOR PE AND ATHLETIC FACILITIES, INCLUDING LOCKER ROOMS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.

	TOTAL FUNDING EDN	1,400 C	C”
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2. By amending section 4, item G-25 to read:

“25. HAAHEO ELEMENTARY SCHOOL, HAWAII

CONSTRUCTION[;] AND EQUIPMENT [AND ELECTRICAL UPGRADES FOR A FOUR CLASSROOM BUILDING AND] FOR A MULTIPURPOSE/CAFETERIA, LIBRARY AND CLASSROOM BUILDINGS, OTHER CAMPUS RENOVATIONS AND IMPROVEMENTS AND ELECTRICAL UPGRADES; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.

	TOTAL FUNDING EDN	22,710 C	C”
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3. By amending section 4, item G-75 to read:

“75. KAPUNAHALA ELEMENTARY SCHOOL, OAHU

DESIGN AND CONSTRUCTION FOR [A PORTABLE CLASSROOM; PROJECT TO INCLUDE DUE DILIGENCE EFFORT TO CONSTRUCT A NEW PORTABLE CLASSROOM] PORTABLE CLASSROOMS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.

	TOTAL FUNDING EDN	250 C	1,750 C”
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4. By amending section 4, item G-185.3 to read:

“185.3 ~~[KUALAPUU ELEMENTARY PUBLIC CHARTER SCHOOL, MOLOKAI]~~

p²

[PLANS, DESIGN, CONSTRUCTION AND INSTALLATION FOR PLAYGROUND EQUIPMENT INCLUDING SHADE STRUCTURE, FLOORING MATT AND FENCING.]

	TOTAL FUNDING EDN	C	[1,000] C”
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5. By amending section 4, item G-185.4 to read:

“185.4 KUALAPUU ELEMENTARY PUBLIC CHARTER SCHOOL, MOLOKAI

PLANS, DESIGN, EQUIPMENT AND INSTALLATION FOR [SHADE STRUCTURE AND COVER FOR BASKETBALL COURT] PLAY SHADES AND AGE APPROPRIATE PLAY EQUIPMENT, PLAY EQUIPMENT SAFETY SURFACINGS, FENCING; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.

	TOTAL FUNDING EDN	C	[150] 1,150 C”
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ACT 88

6. By amending section 4, item G-185.30 to read:
 “185.30 KAAHUMANU ELEMENTARY SCHOOL, OAHU
 DESIGN AND CONSTRUCTION FOR
 CAFETERIA IMPROVEMENTS [CEILING-
 FANS]; GROUND AND SITE IMPROVEMENTS;
 EQUIPMENT AND APPURTENANCES.
 TOTAL FUNDING EDN C 300C”
7. By amending section 4, item G-188.7 to read:
 “188.7 BALDWIN HIGH SCHOOL, MAUI
 DESIGN AND CONSTRUCTION FOR
~~[BOYS ATHLETIC LOCKER ROOM,]PE~~
 AND ATHLETIC FACILITIES INCLUDING,
 WEIGHT ROOM[-WITH DANCE FLOOR,-
 AND OTHER RELATED FACILITIES AND-
 IMPROVEMENTS]; GROUND AND SITE
 IMPROVEMENTS; EQUIPMENT AND
 APPURTENANCES.
 TOTAL FUNDING EDN C 7,000C”
8. By amending section 4, item G-183.71 to read:
 “183.71 MOANALUA HIGH SCHOOL, OAHU
 PLANS, DESIGNS, CONSTRUCTION,
 AND EQUIPMENT [~~FOR TITLE IX-
 IMPROVEMENTS ON SOFTBALL FIELD;-
 GROUND AND SITE IMPROVEMENTS;-
 EQUIPMENT AND APPURTENANCES;-
 REPAIR, IMPROVEMENTS, RENOVATION,-
 REFURBISHMENT, AND/OR NEW-
 CONSTRUCTION]~~ DESIGN AND
 CONSTRUCTION FOR SOFTBALL AND
 BASEBALL FIELD IMPROVEMENTS,
 INCLUDING IMPROVEMENTS FOR
 GENDER EQUITY; GROUND AND SITE
 IMPROVEMENTS; EQUIPMENT AND
 APPURTENANCES.
 TOTAL FUNDING EDN C 3,175C”

SECTION 36. Provided that of the general obligation bond fund appropriation for school-based budgeting (EDN100), the sum of \$6,800,000 or so much thereof as may be necessary for fiscal year 2021-2022 may be expended by the department of education for the plans, design, construction, land acquisition, and equipment for:

PROJECT	Amount
1. HAWAII SCHOOL FOR THE DEAF AND BLIND, OAHU; RENOVATION OF DORMS PHASE 2.	3,800,000

SECTION 37. Provided that of the general obligation bond fund appropriation for school-based budgeting (EDN100), the sum of \$10,000,000 or so much thereof as may be necessary for fiscal year 2021-2022 may be expended by the Department of Education for the plans, design, construction, land acquisition, and equipment for:

PROJECT	Amount
1. KAU HIGH AND PAHALA ELEMENTARY SCHOOL, HAWAII; REPLACEMENT OF WATER SUPPLY LINE;	110,000
2. AIEA HIGH SCHOOL, OAHU; DRAINAGE IMPROVEMENTS THAT MAY BE NECESSARY TO PREVENT MOLD GROWTH;	1,000,000

3.	WAIANAE HIGH SCHOOL, OAHU; ENVIRONMENTAL CLEAN UP;	430,000
4.	LAIE ELEMENTARY SCHOOL, OAHU; SEPTIC TANK REMOVAL;	160,000
5.	KAPOLEI HIGH SCHOOL, OAHU; ADDITIONAL RESTROOMS;	500,000
6.	KAIMUKI HIGH SCHOOL, OAHU; CAMPUS FIRE ALARM SYSTEM UPGRADE OR REPLACEMENT;	2,600,000
7.	CENTRAL MIDDLE SCHOOL, OAHU; CAMPUS PERIMETER SECURITY FENCING;	1,000,000
8.	KOHALA MIDDLE SCHOOL, HAWAII; CAMPUS FIRE ALARM SYSTEM REPAIR AND/OR REPLACEMENT;	460,000
9.	KALIHI ELEMENTARY, OAHU; COVERED PLAYCOURT STRUCTURAL REPAIRS AND/OR REPLACEMENT;	140,000
10.	PAHOA HIGH AND INTERMEDIATE SCHOOL, HAWAII; REPAIR AND/OR REPLACEMENT OF ROTTING LANAI STAIRS ON ALL PORTABLES AS NEEDED;	700,000
11.	WAIMEA HIGH SCHOOL, KAUAI; GYM FLOOR STRUCTURAL REPAIRS;	200,000
12.	ALIAMANU ELEMENTARY SCHOOL, OAHU; REPAIR/REPLACEMENT OF ARIZONA ROAD STAIRS;	200,000
13.	KOKO HEAD ELEMENTARY SCHOOL, OAHU; VARIOUS BUILDING SAFETY IMPROVEMENTS INCLUDING CEILING RELATED IMPROVEMENTS AND HEAT ABATEMENT RELATED IMPROVEMENTS; AND	500,000
14.	WAIPAHU HIGH SCHOOL, OAHU; IMPROVEMENTS TO BUS DROP OFF AND PEDESTRIAN ENTRY.	1,000,000

SECTION 38. Provided that of the general obligation bond fund appropriation for school-based budgeting (EDN100), the sum of \$8,500,000 or so much thereof as may be necessary for fiscal year 2021-2022 may be expended by the Department of Education for the plans, design, construction, land acquisition, and equipment for:

PROJECT	Amount
1. KOHALA HIGH SCHOOL, HAWAII; GYM AND ALL OTHER RELATED WORK;	2,500,000
2. MOLOKAI HIGH SCHOOL, MOLOKAI; RENOVATION OF GYMNASIUM.	6,000,000

SECTION 39. (a) Provided that of the general obligation bond fund appropriation for office of planning and sustainable development (BED144), the sum of \$300,000 or so much thereof as may be necessary for fiscal year 2021-2022 shall be expended by the office of planning and sustainable development for plans, design, construction, and equipment to:

- (1) Perform a study to identify and assess alternative financing, project delivery, and cost recovery mechanisms to recapture the State's up-front investment in transit-oriented development infrastructure;
- (2) Propose specific financing, cost recovery, and project delivery tools to be implemented at one transit-oriented development site in each county as a pilot project;
- (3) Analyze barriers and strategies to implement alternative financing, project delivery, and cost recovery mechanisms for transit-oriented development; and

(4) Make recommendations, including any proposed legislation, needed to implement the tools listed in paragraph (2) for transit-oriented development.

(b) Provided further that the office of planning and sustainable development shall consult with the following persons in performing the study and other actions required by subsection (a):

- (1) The director of the office of planning and sustainable development;
- (2) The executive director of the Hawaii housing finance and development corporation;
- (3) The administrative director of the office of the governor;
- (4) The director of finance;
- (5) The executive director of the Hawaii community development authority;
- (6) The house of representatives capital improvement projects manager;
- (7) The senate capital improvement projects manager;
- (8) One member of the house of representatives to be designated by the speaker of the house of representatives;
- (9) One member of the senate to be designated by the president of the senate; and
- (10) The mayor of each county.

SECTION 40. Provided that the appropriation for public lands management (LNR101), Hawaii koa forest acquisition, Makahanaloa, Hawaii, shall be expended for acquisition of land that includes the purpose of hunting.

SECTION 41. Any law to the contrary notwithstanding, the appropriations under Act 49, Session Laws of Hawaii 2017, Part IV, as amended and renumbered by Act 53, Session Laws of Hawaii 2018, section 5, in the amount indicated or balances thereof, unallotted, unencumbered, or encumbered and unrequired are hereby lapsed:

“Item No.	Amount	(MOF)
G-45	\$13,600,000	C
G-69	4,730,000	C
I-3	12,968,000	C”

SECTION 42. Any law to the contrary notwithstanding, the appropriations under Act 9, Session Laws of Hawaii 2020, Part VII, in the amount indicated or balances thereof, unallotted, unencumbered, or encumbered and unrequired are hereby lapsed:

“Item No.	Amount	(MOF)
A-1	\$200,000	C
A-2	1,103,000	C
A-3	1,200,000	C
A-4	2,510,000	C
A-5	512,000	C
A-7	814,000	C
H-1	3,800,000	C”

SECTION 43. Any law to the contrary notwithstanding, the appropriations under Act 40, Session Laws of Hawaii 2019, Part III, as amended and renumbered by Act 6, Session Laws of Hawaii 2020, section 4, in the amount indicated or balances thereof, unallotted, unencumbered, or encumbered and unrequired are hereby lapsed:

“Item No.	Amount	(MOF)
A-18.1	\$50,000	C
F-9	1,000,000	C
G-33	400,000	C
G-165	5,000,000	C
G-166	500,000	C
G-185.13	3,000,000	C
G-187.10	3,000,000	C
G-202	3,700,000	C
K-1	1,800,000	C
G-200	4,000,000	D”

PART VI. ISSUANCE OF BONDS

SECTION 44. AIRPORT REVENUE BONDS. The department of transportation may issue airport revenue bonds for airport 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 debt service cost to be paid from special funds, in a principal amount as shall be required to yield the amounts appropriated for the capital improvement projects and, if so determined by the department and approved by the governor, any additional principal amount as may be necessary by the department to pay interest on the airport revenue bonds during the estimated period of construction of the capital improvement projects for which the airport revenue bonds are issued, to establish, maintain, or increase reserves for the airport revenue bonds and to pay the expenses of issuance of the bonds. The airport revenue bonds shall be issued pursuant to part III of chapter 39, Hawaii Revised Statutes, as amended. The principal of and interest on airport revenue bonds, to the extent not paid from the proceeds of the 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 the 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, and passenger facility charges pursuant to section 261-5.5, Hawaii Revised Statutes, as amended, as determined by the department. The expenses of the issuance of the airport revenue bonds, to the extent not paid from the proceeds of the bonds, shall be paid from the airport revenue fund and passenger facility charge special fund as determined by the department.

The governor, in the governor’s discretion, may use the airport revenue fund and passenger facility charge special 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; provided that the governor shall submit a report to the legislature of all uses of this authority for the previous twelve month period from December 1 to November 30 no later than thirty days prior to the convening of regular sessions of 2022 and 2023.

SECTION 45. RENTAL MOTOR VEHICLE CUSTOMER FACILITY REVENUE BONDS. The department of transportation may issue rental motor vehicle customer facility revenue bonds for airport capital improvement projects relating to consolidated rental car facilities authorized in part II and listed in part IV of this Act and designated to be financed by revenue bond

funds with debt service cost to be paid from the rental motor vehicle customer facility charge special fund, as authorized by section 261-5.6, Hawaii Revised Statutes, in a principal amount as shall be required to yield the amounts appropriated for the capital improvement projects and, if so determined by the department and approved by the governor, any additional principal amount as may be necessary by the department to pay interest on the rental motor vehicle customer facility revenue bonds during the estimated period of construction of the capital improvement projects for which the rental motor vehicle customer facility revenue bonds are issued, to establish, maintain, or increase reserves for the rental motor vehicle customer facility revenue bonds and to pay the expenses of issuance of the bonds. The rental motor vehicle customer facility revenue bonds shall be issued pursuant to part III of chapter 39, Hawaii Revised Statutes, as amended. The principal of and interest on rental motor vehicle customer facility revenue bonds, to the extent not paid from the proceeds of the bonds, shall be payable solely from and secured solely by the revenues from the rental motor vehicle surcharge tax and the rental motor vehicle customer facility charge special fund pursuant to section 261-5.6, Hawaii Revised Statutes, as amended, as determined by the department. The expenses of the issuance of the rental motor vehicle customer facility revenue bonds, to the extent not paid from the proceeds of the bonds, shall be paid from the rental motor vehicle customer facility charge special fund as determined by the department.

The governor, in the governor's discretion, may use the rental motor vehicle customer facility charge special 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 rental motor vehicle customer facility revenue bond funds; provided that the governor shall submit a report to the legislature of all uses of this authority for the previous twelve month period from December 1 to November 30 no later than thirty days prior to the convening of the regular sessions of 2022 and 2023.

SECTION 46. HARBOR REVENUE BONDS. The department of transportation may issue harbor revenue bonds for harbor 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 debt service cost to be paid from special funds, in a principal amount as shall be required to yield the amounts appropriated for the capital improvement projects and, if so determined by the department and approved by the governor, any additional principal amount as may be deemed necessary by the department to pay interest on the revenue bonds during the estimated construction period of the capital improvement projects for which the 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 the bonds. The harbor revenue bonds shall be issued pursuant to part III of chapter 39, Hawaii Revised Statutes, as amended. The principal of and interest on harbor revenue bonds, to the extent not paid from the proceeds of the 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, port entry 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 the harbor revenue bonds, to the extent not paid from the proceeds of the bonds, shall be paid from the harbor special fund. The governor, in the governor's discretion, may 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; provided that the governor shall submit a report to the legislature of all uses of this authority for the previous twelve month period from December 1 to November 30 no later than thirty days prior to the convening of the regular sessions of 2022 and 2023.

SECTION 47. HIGHWAY REVENUE BONDS. The department of transportation may 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 a principal amount as shall be required to yield the amounts appropriated for the capital improvement projects and, if so determined by the department and approved by the governor, any additional principal amount as may be deemed necessary by the department to pay interest on the highway revenue bonds during the estimated period of construction of the capital improvement projects for which the highway revenue bonds are issued, to establish, maintain, or increase reserves for the 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 the highway revenue bonds. The highway revenue bonds shall be issued pursuant to part III of chapter 39, Hawaii Revised Statutes, as amended. The principal of and interest on the highway revenue bonds, to the extent not paid from the proceeds of the 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; from federal moneys received by the State or any department thereof that are available to pay principal of or interest on indebtedness of the State, or the part of any thereof as the department may determine; and from 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 the highway revenue bonds, to the extent not paid from the proceeds of the bonds, shall be paid from the state highway fund.

The governor, in the governor's discretion, may use the state highway 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 highway revenue bond funds; provided that the governor shall submit a report to the legislature of all uses of this authority for the previous twelve month period from December 1 to November 30 no later than thirty days prior to the convening of the regular sessions of 2022 and 2023.

PART VII. SPECIAL PROVISIONS

SECTION 48. 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 the general obligation reimbursable bond funds is deemed appropriate for the project; provided that the governor shall submit a report to the legislature of all uses of this authority for the previous twelve month period from December 1 to November 30 no later than thirty days prior to the convening of the regular sessions of 2022 and 2023.

SECTION 49. 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, net user tax receipts, or combination of both of the 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, in the governor's discretion, may use the state highway fund, the harbor special fund, the boating special fund, the airport revenue fund, the special land and development fund, or other appropriate special funds 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; provided that the governor shall submit a report to the legislature of all uses of this authority for the previous twelve month period from December 1 to November 30 no later than thirty days prior to the convening of the regular sessions of 2022 and 2023.

SECTION 50. If the authorized appropriations specified for capital improvement projects 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 unlapsed projects in this Act or prior appropriation acts that 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 the supplemental allotments shall not be used to increase the scope of the project; provided further that the supplemental allotments shall not impair the ability of the fund to meet the purposes for which it was established; provided further that the governor shall submit a report to the legislature of all uses of this authority for the previous twelve month period from December 1 to November 30 no later than thirty days prior to the convening of the regular sessions of 2022 and 2023.

SECTION 51. If the authorized appropriations specified for capital improvement projects 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 unlapsed projects in this Act or prior appropriation acts that authorized the use of airport passenger facility charge funds; provided that the supplemental allotments shall not be used to increase the scope of the project; provided further that the supplemental allotments shall not impair the ability of the fund to meet the purposes for which it was established; provided further that the governor, at the governor's discretion, may increase the passenger facility charge fund authorization ceiling for the program to accommodate the expenditure of the funds; provided further that the governor shall submit a report to the legislature of all uses of this authority for the previous twelve month period from December 1 to November 30 no later than thirty days prior to the convening of the regular sessions of 2022 and 2023.

SECTION 52. The governor may supplement funds for any cost element for capital improvement projects authorized under this Act by transferring 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 that has not lapsed; provided that the total expenditure of funds for all cost elements shall not exceed the total appropriations for that project; provided further that the governor shall submit a report to the legislature of all uses of this authority for the previous twelve month period from December 1 to November 30 no later than thirty days prior to the convening of the regular sessions of 2022 and 2023.

SECTION 53. Any 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 the appropriations made to be expended in fiscal biennium 2021-2023 which are unencumbered as of June 30, 2024 shall lapse as of that date; provided further that non-general fund appropriations for projects described in section 26 of this Act where such appropriations have been deemed necessary to qualify for federal aid financing and reimbursement which are unencumbered as of June 30, 2028 shall lapse as of that date.

SECTION 54. 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.

SECTION 55. 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 56. 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.

SECTION 57. Where county capital improvement projects are partially or totally funded by state grants as authorized in this Act or any other act of the legislature, this fact shall be appropriately acknowledged during construction and upon completion of these projects.

SECTION 58. 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; and provided further that the governor shall use the powers conferred under section 127A-13, Hawaii Revised Statutes, or any other applicable law 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 authority and submit a report to the legislature of all uses of this authority for the previous fiscal year no later than September 1 of each year.

SECTION 59. 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, 2024, as provided in section 53 of this Act.

SECTION 60. 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.

SECTION 61. Any provision of this Act to the contrary notwithstanding, 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 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; provided further that this authority shall not extend beyond July 1 of the immediately succeeding fiscal year; provided further that any funds unencumbered or unexpended as of July 1 of the immediately succeeding fiscal year shall lapse as of that date; and provided further that the governor shall notify the legislature within five days of each use of this authority and submit a report to the legislature of all uses of this authority for the previous fiscal year no later than September 1 of each year.

SECTION 62. 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, the 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 the projects shall be correspondingly decreased.

SECTION 63. Whenever the expending agency to which an appropriation is made is changed due to legislation enacted during any session of the legislature that 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 64. If the State should assume the direct operation of any non-governmental agency receiving state funds under the provisions of this Act, all related state 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 the non-governmental agency. This credit shall be applicable regardless of when the acquisition takes place.

SECTION 65. Any provision of this Act to the contrary notwithstanding, the federal fund or other federal fund appropriations made for operating costs authorized under this Act for fiscal year 2021-2022 shall not lapse at the end of the fiscal year for which the appropriation is made; provided that all federal fund or other federal fund appropriations made to be expended in fiscal year 2021-2022 which are unencumbered as of June 30, 2023 shall lapse as of that date; and provided further that the governor shall notify the legislature within five days of each use of this authority and submit a report to the legislature of all uses of this authority for the previous fiscal year no later than September 1 of each year.

SECTION 66. If unanticipated federal funding cutbacks diminish or curtail essential, federally funded state programs, the governor may utilize savings as may be available from other state programs for the purpose of maintaining the pre-existing funding levels of the programs until July 1 of the immediately succeeding fiscal year; provided that the governor may not use this authority beyond July 1 of the immediately succeeding fiscal year for which the need is initially identified; provided further the governor shall submit a request to the legislature for the continued supplemental funding of the essential federally funded programs that have been funded pursuant to this section no later than thirty days prior to the convening of the regular sessions of 2022 and 2023; and provided further that the governor shall notify the legislature within five days of each use of this authority and submit a report to the legislature of all uses of this authority for the previous fiscal year no later than September 1 of each year.

SECTION 67. Any provision of this Act to the contrary notwithstanding, where federal funding becomes available after the legislature adjourns sine die, the governor may approve the expenditure of federal funds that are in excess of levels authorized by the legislature; provided that the approval of excess funding shall not extend beyond July 1 of the immediately succeeding fiscal year unless appropriated by the legislature; provided further that the governor may allow for an increase in the appropriate federal fund authorization ceiling for the program to accommodate the expenditure of the funds; and provided further that the governor shall notify the legislature within ten days of each use of this authority and submit a report to the legislature of all uses of this authority for the previous fiscal year no later than September 1 of each year.

SECTION 68. Any provision of this Act to the contrary notwithstanding, the governor may approve the extension of the lapse dates for appropriated federal funds and appropriations of other means of financing, except general funds, deemed necessary to qualify for federal aid financing and/or federal reimbursement that are appropriated in this Act and deemed necessary to meet the intent of the federal grant awards; provided that all federal fund appropriations and appropriations of other means of financing, made to be expended in fiscal year 2021-2022 which are unencumbered as of June 30, 2023 shall lapse as of that date; provided further that all federal fund appropriations and appropriations of other means of financing, made to be expended in fiscal year 2022-2023

which are unencumbered as of June 30, 2024 shall lapse as of that date; and provided further that the governor shall notify the legislature within five days of each use of this authority and submit a report to the legislature of all uses of this authority for the previous fiscal year no later than September 1 of each year.

SECTION 69. 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 the undertaking; provided that the provisions of the undertaking comply with applicable state constitutional and statutory requirements; provided further that the governor shall submit a report to the legislature of all uses of this authority for the previous twelve month period from December 1 to November 30 no later than thirty days prior to the convening of the regular sessions of 2022 and 2023.

SECTION 70. 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 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 the acquisition and exchange are necessary for the completion of any project specifically authorized by this Act.

SECTION 71. 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 72. 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 that the governor shall submit a report to the legislature within five days of each use of this authority; 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, the impact to the program ID funds are transferred from, and 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 authority for the previous twelve month period from December 1 to November 30 no later than thirty days prior to the convening of the regular sessions of 2022 and 2023.

SECTION 73. Except as otherwise provided in this Act, each department or agency is authorized to transfer positions within its respective authorized position ceiling for the purpose of maximizing the utilization of personnel resources and staff productivity; provided that all such actions shall be with the prior approval of the governor and shall be consistent with appropriations provided in this Act and with provisions of part II of chapter 37, Hawaii Revised Statutes; provided further that the governor shall submit a report to the legislature within five days of each use of this authority; 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 maxi-

mizes 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 authority for the previous fiscal year no later than September 1 of each year.

SECTION 74. 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.

SECTION 75. 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 the internal post audit program (AGS104), when it is determined by such agencies that it is advantageous to do so.

SECTION 76. With the approval of the governor, expending agencies that use operating appropriations authorized in part II of this Act for planning, land acquisition, design, construction, and equipment for repair and alterations may delegate responsibility and transfer funds to the construction program (AGS221) for the implementation of the repair and alterations, when it is determined by the agencies that it is advantageous to do so.

SECTION 77. Agencies with appropriations authorized in part II of this Act for risk management costs shall transfer funds authorized for that purpose to risk management (AGS203) for the administration and implementation of state risk management costs and expenses, except as otherwise provided by law.

SECTION 78. 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.

SECTION 79. 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.

SECTION 80. The department of human services is authorized to enter into agreements with the department of health to furnish outpatient, hospital, and skilled 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.

SECTION 81. Provided that of the appropriation for each principal state department as defined by section 26-4, Hawaii Revised Statutes, the sum of \$2,500 for fiscal year 2021-2022 and the sum of \$2,500 in fiscal year 2022-2023 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, president, or attorney general).

SECTION 82. Provided that of the general fund appropriation for Hawaii state public library system (EDN407), the sum of \$2,500 for fiscal year 2021-2022 and the sum of \$2,500 for fiscal year 2022-2023 may be used to establish a separate protocol account to be expended at the discretion of the state librarian.

SECTION 83. Provided that of the general fund appropriation for financial administration (BUF115), the sum of \$4,000 for fiscal year 2021-2022 and the sum of \$4,000 for fiscal year 2022-2023 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.

SECTION 84. Provided that of the special fund appropriation for spectator events and shows – aloha stadium (AGS889), the sum of \$2,500 for fiscal year 2021-2022 and the sum of \$2,500 for fiscal year 2022-2023 may be expended at the discretion of the stadium manager for promotion and other stadium-related purposes.

SECTION 85. Except as otherwise provided, the appropriation for the office of the governor (GOV100) shall be expended at the discretion of the governor.

SECTION 86. Except as otherwise provided, the appropriation for the office of the lieutenant governor (LTG100) shall be expended at the discretion of the lieutenant governor.

SECTION 87. 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 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 88. Provided that the director of finance shall ensure that non-facility per pupil general fund amounts allocated for department of education and charter school students are equal on an annualized fiscal year basis; provided further that, for the purposes of this section, all general fund appropriations for school-based budgeting (EDN100), instructional support (EDN200), state administration (EDN300), and school support (EDN400) shall be considered non-facility appropriations for department of education; provided further that for the purposes of this section, the general fund appropriation for charter schools (EDN600) shall be considered the non-facility appropriation for charter schools; provided further that, for the purposes of this section, all grant appropriations issued pursuant to chapter 42F, Hawaii Revised Statutes, shall be

excluded from non-facility appropriations for the department of education and charter schools; and provided further that, notwithstanding any other law to the contrary, for fiscal year 2021-2022 and fiscal year 2022-2023, the director of finance shall:

- (1) Determine the sum of general fund appropriations made for the department of education and charter school student non-facility costs;
- (2) Determine the sum of department of education and charter school student enrollment based upon verified actual student enrollment counts as of October 15;
- (3) Determine a per pupil amount by dividing the sum of general fund appropriations determined under paragraph (1) by the sum of student enrollment determined under paragraph (2);
- (4) Transfer a general fund amount between the department of education and charter schools prior to November 1, 2021, and November 1, 2022, respectively, that will provide each with a per pupil allocation equal to the amount determined on an annualized fiscal year basis under paragraph (3); and
- (5) Account for all calculations and transfers made pursuant to this section in a report to the legislature, governor, department of education, and charter schools within ten days of any transfer made pursuant to this section.

SECTION 89. If the governor imposes a restriction on an allotment to the department of accounting and general services that may affect the expenditure of the appropriation for school repair and maintenance, neighbor island districts (AGS807), the comptroller shall consult with the superintendent of education before enforcing the restriction.

SECTION 90. Any law to the contrary notwithstanding, the departments shall provide contract provisions in solicitations for energy performance contracts prohibiting the claiming of the state renewable energy technologies income tax credit for work performed by the energy savings contractor.

SECTION 91. Provided that, notwithstanding any provision or law to the contrary, the transfer of appropriations and positions within the General Appropriations Act of 2021 shall not impact any incumbent employee's:

- (1) Civil service status, whether permanent or temporary; and
- (2) Salary, seniority (except as may be prescribed by an applicable collective bargaining agreement), retention points, prior service credit, any vacation and sick leave credits previously earned, and other rights, benefits, and privileges, in accordance with state personnel laws.

PART VIII. MISCELLANEOUS AND EFFECTIVE DATE

SECTION 92. 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.

ACT 89

SECTION 93. If manifest clerical, typographical, or other mechanical errors are found in this Act, the governor may correct such errors.

SECTION 94. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 95. This Act shall take effect upon its approval.

(Approved June 24, 2021.)

Notes

1. Item vetoed, replaced, and initialed "DYI".
2. So in original.

ACT 89

H.B. NO. 1041

A Bill for an Act Relating to Conformity to the Internal Revenue Code.

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

SECTION 1. The purpose of this Act is to conform Hawaii income and estate and generation-skipping transfer tax laws to the Internal Revenue Code.

SECTION 2. 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, ~~[2019,]~~ 2020, as used in this chapter, except as provided in this section and section 235-2.35, "Internal Revenue Code" means subtitle A, chapter 1, of the federal Internal Revenue Code of 1986, as amended as of ~~[March 27, 2020,]~~ December 31, 2020, 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 which, pursuant to this chapter, do not apply or are otherwise limited in application.

Sections 276(b)(1) (relating to subsequent paycheck protection program loans), 277 (relating to emergency financial aid grants), 278(b)(1) (relating to emergency EIDL grants and targeted EIDL advances), 278(c)(1) (relating to subsidy for certain loan payments), and 278(d)(1) (relating to grants for shuttered venue operators) of Division N of Public Law 116-260 shall be operative for purposes of this chapter. Sections 213 (relating to modification of limitations on charitable contributions) and 214 (relating to temporary special rules for health and dependent care flexible spending arrangements) of Division EE of Public Law 116-260 shall be operative for purposes of this chapter. Sections 301, 302, and 304 (relating to disaster tax relief) of Division EE of Public Law 116-260 shall be operative for purposes of this chapter. No amount received under section 272 (relating to additional 2020 recovery rebates for individuals) of Division N of Public Law 116-260 shall be included in gross income for purposes of this chapter.

Sections ~~[1106(i)(relating]~~ 1106(i) (relating to exclusion of loan forgiveness from gross income), ~~[2202(b)(relating]~~ 2202(b) (relating to loans from retirement plans), and 2205 (relating to charitable contributions) of Public Law 116-136 shall be operative for purposes of this chapter. No amount received

under section 2201 (relating to recovery rebates) of Public Law 116-136 shall be included in gross income for purposes of this chapter.

Prior law 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 prior law applies; and
- (2) Gross income, adjusted gross income, ordinary income and loss, and taxable income for a taxable year to which prior law applies.”

SECTION 3. Section 236E-3, Hawaii Revised Statutes, is amended to read as follows:

“§236E-3 Conformance to the Internal Revenue Code; general application. For all decedents dying, or transfers occurring, after December 31, ~~[2019;]~~ 2020, as used in this chapter, “Internal Revenue Code” means subtitle B of the federal Internal Revenue Code of 1986, as amended as of December 31, ~~[2019;]~~ 2020, as it applies to the determination of gross estate, adjusted gross estate, federal taxable estate, and generation-skipping transfers, except those provisions of the Internal Revenue Code and federal public laws that, pursuant to this chapter, do not apply or are otherwise limited in application.”

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) Section 2 shall apply to taxable years beginning after December 31, 2020; and
- (2) Section 3 shall apply to decedents dying or taxable transfers occurring after December 31, 2020.

(Approved June 25, 2021.)

ACT 90

H.B. NO. 1043

A Bill for an Act Relating to Transient Accommodations Tax.

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

SECTION 1. The purpose of this Act is to make numerous amendments to the transient accommodations tax for the purpose of simplifying and streamlining administration of the transient accommodations tax.

SECTION 2. Section 237D-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““Taxpayer” means any person liable for any tax in this chapter.”

SECTION 3. Section 237D-2, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Every transient accommodations broker, travel agency, and tour packager who arranges transient accommodations at noncommissioned negotiated contract rates and every operator or other taxpayer who receives gross rental proceeds shall pay to the State the tax imposed by subsection (a), as provided in this chapter.”

SECTION 4. Section 237D-4, Hawaii Revised Statutes, is amended to read as follows:

“§237D-4 Certificate of registration. (a) ~~[Each operator or plan manager]~~ Every taxpayer not required to register under section 237D-4.5, as a condition precedent to engaging or continuing in the business of furnishing transient accommodations or in business as a resort time share vacation plan, shall register with the director the name and address of each place of business within the State subject to this chapter. The ~~[operator or plan manager]~~ taxpayer shall make a one-time payment as follows:

- (1) \$5 for each registration for transient accommodations consisting of one to five units;
- (2) \$15 for each registration for transient accommodations consisting of six or more units; and
- (3) \$15 for each resort time share vacation plan within the State;

upon receipt of which the director shall issue a certificate of registration in ~~[such a form [as] determined by the director [determines],~~ attesting that the registration has been made. The registration shall not be transferable and shall be valid only for the ~~[operator or plan manager]~~ taxpayer in whose name it is issued and for the transaction of business at the place designated therein. Acquisition of additional transient accommodation units after payment of the one-time fee shall not result in additional fees.

(b) The registration, or in lieu thereof a notice stating where the registration may be inspected and examined, shall at all times be conspicuously displayed at the place for which it is issued. The name, phone number, and electronic mail address of the local contact shall at all times be conspicuously displayed in the same place as the registration or the same place as the notice stating where the registration may be inspected and examined. Failure to meet the requirements of this subsection shall be unlawful. The department may issue citations to any person who fails to conspicuously display the registration or notice, or the local contact’s name, phone number, or electronic mail address as required by this subsection. A citation issued pursuant to this subsection for each transient accommodation or resort time share vacation interest, plan, or unit in violation of this subsection shall include a monetary fine of ~~[not]~~ no less than:

- (1) \$500 per day, for a first violation for which a citation is issued;
- (2) \$1,000 per day, for a second violation for which a citation is issued; and
- (3) \$5,000 per day, for a third and any subsequent violation for which a citation is issued.

(c) Any advertisement, including an online advertisement, for any transient accommodation or resort time share vacation interest, plan, or unit shall conspicuously provide:

- (1) The registration identification number or an electronic link to the registration identification number ~~[of the operator or plan manager]~~ issued pursuant to this section; and
- (2) The local contact’s name, phone number, and electronic mail address~~;~~ provided that this paragraph shall be considered satisfied if this information is provided to the transient or occupant prior to the furnishing of the transient accommodation or resort time share vacation unit.

(d) Failure to meet the requirements of subsection (c) shall be unlawful. The department may issue citations to any person~~[- including operators, plan managers, and transient accommodations brokers,]~~ who violates subsection (c). A citation issued pursuant to this subsection for each transient accommodation or resort time share vacation interest, plan, or unit in violation of subsection (c) shall include a monetary fine of ~~[not]~~ no less than:

- (1) \$500 per day, for a first violation for which a citation is issued;

- (2) \$1,000 per day, for a second violation for which a citation is issued; and
- (3) \$5,000 per day, for a third and any subsequent violation for which a citation is issued.

(e) The registration provided for by this section shall be effective until canceled in writing. Any application for the reissuance of a previously canceled registration identification number shall be regarded as a new registration application and shall be subject to the payment of the one-time registration fee. The director may revoke or cancel any license issued under this chapter for cause as provided by rule under chapter 91.

(f) If the license fee is paid, the department shall not refuse to issue a registration or revoke or cancel a registration for the exercise of a privilege protected by the First Amendment of the Constitution of the United States, or for the carrying on of interstate or foreign commerce, or for any privilege the exercise of which, under the Constitution and laws of the United States, cannot be restrained on account of nonpayment of taxes, nor shall section 237D-14 be invoked to restrain the exercise of such a privilege, or the carrying on of such commerce.

~~[(g) Any person who may lawfully be required by the State, and who is required by this chapter, to register as a condition precedent to engaging or continuing in the business of furnishing transient accommodations or as a plan manager subject to taxation under this chapter, who engages or continues in the business without registering in conformity with this chapter, shall be guilty of a misdemeanor. Any director, president, secretary, or treasurer of a corporation who permits, aids, or abets such corporation to engage or continue in business without registering in conformity with this chapter, shall likewise be guilty of a misdemeanor. The penalty for the misdemeanors shall be the same as that prescribed by section 231-35 for individuals, corporations, or officers of corporations, as the case may be, for violation of that section.]~~

~~[(h)]~~ (g) Any monetary fine assessed under this section shall be due and payable thirty days after issuance of the citation, subject to appeal rights provided under this subsection. Citations may be appealed to the director ~~[of taxation]~~ or the director's designee.

~~[(h) Any person who is required by this section to register, as a condition precedent to engaging or continuing in the business of furnishing transient accommodations or in business as a resort time share vacation plan subject to taxation under this chapter, and who engages or continues in the business without registering in conformity with this section shall be subject to the citation process and monetary fines under subsections (d) and (g).]~~

~~[(i) For purposes of this section, "engaging or continuing in the business of furnishing transient accommodations" includes posting any advertisement for the furnishing of a transient accommodation.]~~

SECTION 5. Section 237D-4.5, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§237D-4.5]] Certificate of registration for transient accommodations broker, travel agency, and tour packager.~~ (a) Each transient accommodations broker, travel agency, or tour packager, as a condition precedent to entering into an arrangement to furnish transient accommodations at noncommissioned negotiated contract rates, shall register with the director. The transient accommodations broker, travel agency, or tour packager shall make a one-time payment of \$15 for each registration, upon receipt of which the director shall issue a certificate of registration in a form as the director determines, attesting that the registration has been made. The registration shall not be transferable and shall

be valid only for the transient accommodations broker, travel agency, or tour packager in whose name it is issued.

The registration shall be effective until canceled in writing. Any application for the reissuance of a previously canceled registration identification number shall be regarded as a new application for registration and shall be subject to the payment of the one-time registration fee. The director may revoke or cancel any registration issued under this section for cause, as provided by rule under chapter 91.

(b) Any person who enters into an agreement to furnish transient accommodations without registering in conformity with this section shall be subject to the citation process and monetary fines under section 237D-4(d) and (g)."

SECTION 6. Section 237D-6, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) On or before the twentieth day of each calendar month, every ~~operator taxable, or plan manager~~ person liable under this chapter during the preceding calendar month shall file a sworn return with the director in ~~[such]~~ a form ~~[as the]~~ prescribed by the director ~~[shall prescribe]~~ together with a remittance for the amount of the tax ~~[in the form required by section 237D-6.5]~~. Sections 237-30 and 237-32 shall apply to returns and penalties made under this chapter to the same extent as if the sections were set forth specifically in this section."

SECTION 7. Section 237D-6.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) All remittances of taxes imposed under this chapter shall be made by cash, bank drafts, cashier's check, money order, or certificate of deposit ~~[to the office of the taxation district to which the return was transmitted]."~~

SECTION 8. Section 237D-7, Hawaii Revised Statutes, is amended to read as follows:

§237D-7 Annual return. On or before the twentieth day of the fourth month following the close of the taxable year, every person who has become liable for the payment of the taxes under this chapter during the preceding tax year shall file a return summarizing that person's liability under this chapter for the year, in ~~[such]~~ a form ~~[as the]~~ prescribed by the director ~~[prescribes. The operator or plan manager]~~, and shall transmit with the return a remittance covering the residue of the tax ~~[chargeable to the operator or plan manager,]~~ due, if any, ~~to the office of the appropriate state district tax assessor designated in section 237D-8]~~. The return shall be signed by the taxpayer, if made by an individual, or by the president, vice-president, secretary, or treasurer of a corporation, if made on behalf of a corporation. If made on behalf of a partnership, firm, society, unincorporated association, group, hui, joint adventure, joint stock company, corporation, trust estate, decedent's estate, trust, or other entity, any individual delegated by the entity shall sign the same on behalf of the taxpayer. If for any reason it is not practicable for the individual taxpayer to sign the return, it may be done by any duly authorized agent. The department, for good cause shown, may extend the time for making the return on the application of any taxpayer and grant ~~[such]~~ reasonable additional time within which to make the return as the department may deem advisable.

Section 232-2 applies to the annual return, but not to a monthly return."

SECTION 9. Section 237D-9, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) If any [~~operator or plan manager~~] person fails to make a return as required by this chapter, the director shall make an estimate of the tax liability of the [~~operator or plan manager~~] person from any information the director obtains, and according to the estimate so made, assess the taxes, interest, and penalty due the State from the [~~operator or plan manager,~~] person, give notice of the assessment to the [~~operator or plan manager,~~] person, and make demand upon the [~~operator or plan manager~~] person for payment. The assessment shall be presumed to be correct until and unless, upon an appeal duly taken as provided in section 237D-11, the contrary shall be clearly proved by the person assessed, and the burden of proof upon [~~such~~] appeal shall be upon the person assessed to disprove the correctness of assessment.”

SECTION 10. Section 237D-10, Hawaii Revised Statutes, is amended to read as follows:

“**§237D-10 Overpayment; refunds.** Upon application [~~by an operator or plan manager~~], if the director determines that any tax, interest, or penalty has been paid more than once, or has been erroneously or illegally collected or computed, the tax, interest, or penalty shall be credited by the director on any taxes then due from the [~~operator or plan manager~~] taxpayer under this chapter. The director shall refund the balance to the [~~operator or plan manager or the operator's or plan manager's~~] taxpayer or the taxpayer's successors, administrators, executors, or assigns in accordance with section 231-23. No credit or refund shall be allowed for any tax imposed by this chapter, unless a claim for [~~such~~] the credit or refund is filed as follows:

- (1) If an annual return is timely filed, or is filed within three years after the date prescribed for filing the annual return, then the credit or refund shall be claimed within three years after the date the annual return was filed or the date prescribed for filing the annual return, whichever is later[-]; or
- (2) If an annual return is not filed, or is filed more than three years after the date prescribed for filing the annual return, a claim for credit or refund shall be filed within:
 - (A) Three years after the payment of the tax; or
 - (B) Three years after the date prescribed for the filing of the annual return,
 whichever is later.

Paragraphs (1) and (2) are mutually exclusive. The preceding limitation shall not apply to a credit or refund pursuant to an appeal, provided for in section 237D-11.

As to all tax payments for which a refund or credit is not authorized by this section (including, without prejudice to the generality of the foregoing, cases of unconstitutionality), the remedies provided by appeal or by section 40-35 are exclusive.”

SECTION 11. Section 237D-12, Hawaii Revised Statutes, is amended to read as follows:

“**§237D-12 Records to be kept; examination.** Every [~~operator and plan manager~~] taxpayer shall keep in the English language within the State, and preserve for a period of three years, suitable records of gross rental, gross rental proceeds, or fair market rental value relating to the business taxed under this chapter, and such other books, records of account, and invoices as may be required by the department, and all such books, records, and invoices shall be open for examination at any time by the department or the Multistate Tax Commission pursuant to chapter 255, or the authorized representative thereof.”

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SECTION 12. Section 237D-16, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The director of taxation shall administer and enforce this chapter.

In respect of:

- (1) The examinations of books and records and of taxpayers and other persons[;];
- (2) Procedure and powers upon failure or refusal by a taxpayer to make a return or proper return[;]; and
- (3) The general administration of this chapter,

the director of taxation shall have all rights and powers conferred by chapter 237 with respect to taxes thereby or thereunder imposed; and, without restriction upon these rights and powers, sections 237-8 and 237-36 to [237-41] 237-41.5 are made applicable to and with respect to the taxes, taxpayers, tax officers, and other persons, and the matters and things affected or covered by this chapter, insofar as not inconsistent with this chapter, in the same manner, as nearly as may be, as in similar cases covered by chapter 237.”

SECTION 13. Section 237D-8, Hawaii Revised Statutes, is repealed.

SECTION 14. Statutory material to be repealed is bracketed and stricken.¹ New statutory material is underscored.

SECTION 15. This Act shall take effect on January 1, 2022.

(Approved June 25, 2021.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 91

H.B. NO. 1086

A Bill for an Act Relating to Veterinarians.

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

SECTION 1. Chapter 471, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

“§471- Exception to liability; emergency care; veterinarian-client-patient relationship. (a) Any veterinarian duly licensed under this chapter who, in good faith, without remuneration or expectation of remuneration, renders emergency care to a sick or injured animal at large shall not be liable to the owner of that animal for any civil damages resulting from the veterinarian’s acts or omissions, except for damages as may result from the veterinarian’s gross negligence or wanton acts or omissions.

(b) A veterinarian duly licensed under this chapter may, in good faith, render necessary and prompt care and treatment to an animal patient without establishing a veterinarian-client-patient relationship if conditions do not allow the establishment of the relationship in a timely manner. A veterinarian who renders emergency treatment shall not be liable to the owner of the animal for any civil damages resulting from the veterinarian’s acts or omissions, except for damages as may result from the veterinarian’s gross negligence or wanton acts or omissions.

(c) A veterinarian acting under this section shall make an appropriate record including the basis for proceeding under this section.

§471- Reporting; duty; dogfighting; animal cruelty; immunity from civil liability. (a) Whenever any veterinarian duly licensed under this chapter has reasonable cause to believe that an animal has been injured or killed through participation in a staged animal fight, as prescribed in section 711-1109.3 or 711-1109.35, it shall be the duty of the veterinarian to promptly report the event to the appropriate law enforcement authorities of the county where the event occurred.

(b) Whenever any veterinarian duly licensed under this chapter has reasonable cause to believe an animal under the veterinarian's care has been a victim of animal cruelty, as prescribed in section 711-1108.5 or 711-1109, it shall be the duty of the veterinarian to promptly report the event to the appropriate law enforcement authorities of the county where the event occurred.

(c) No veterinarian duly licensed under this chapter shall incur any civil liability as a result of making any report pursuant to this section or as a result of making any report of a violation of section 711-1108.5, 711-1109, 711-1109.3, or 711-1109.35.”

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.¹

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

(Approved June 25, 2021.)

Note

1. Edited pursuant to HRS §23G-16.5

ACT 92

H.B. NO. 1333

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 in the 1990s, the federal government began to get involved in the research and development of solar energy and developed grants and tax incentives for homeowners who installed and used solar systems. Since then, manufacturing costs for solar panels have decreased and efficiency has dramatically increased, and the past ten years have seen an increasing number of solar panels being installed in the United States each year. Some appliances, such as solar water heaters, use solar power to reduce reliance upon traditional heating sources, including oil, electricity, and natural gas, to meet state energy goals. In 2008, the legislature passed Act 204, Session Laws of Hawaii 2008, known as the “solar water heater mandate”, for the benefit of consumers, which required that new homes utilize solar water heating except in narrowly limited circumstances, thereby potentially increasing the use of solar panels in the State.

The legislature further finds that solar panels have a life expectancy of up to thirty years, and panels installed in the 1990s will start requiring disposal

in the very near future. After about thirty years, many crystalline silicon solar panels will begin having significant dips in energy production and will need to be disposed of, recycled, or replaced. Heavy metals such as cadmium and lead are found in solar cells, which can harm the natural environment if not recycled or disposed of properly. Solar panels that are disposed of carelessly may end up in large landfills. The legislature also finds that over time some of the rare elements in photovoltaic cells, like gallium and indium, are being depleted from the environment and recovery of these elements would conserve the limited amount available on earth for continued use in solar panels and other products. A 2016 study by the International Renewable Energy Agency estimated that \$15,000,000,000 could be recovered by 2050 from recycling solar modules.

The purpose of this Act is to require the Hawaii natural energy institute, in consultation with the department of health, to conduct a comprehensive study to determine best practices for disposal, recycling, or secondary use of clean energy products in the State.

SECTION 2. (a) The Hawaii natural energy institute, in consultation with the department of health, shall conduct a comprehensive study to determine best practices for disposal, recycling, or secondary use of clean energy products in the State.

(b) The study shall address:

- (1) The amount of aging photovoltaic and solar water heater panels in the State that will need to be disposed of or recycled;
- (2) Other types of clean energy materials expected to be discarded in the State in significant quantities, including glass, frames, wiring, inverters, and batteries;
- (3) The type and chemical composition of those clean energy materials;
- (4) Best practices for collection, disposal, recycling, or reuse of those clean energy materials;
- (5) Whether a fee should be charged for disposal or recycling of those clean energy materials; and
- (6) Any other issues that the Hawaii natural energy institute and department of health consider appropriate for management, recycling, and disposal of those clean energy materials.

(c) The Hawaii natural energy institute shall submit an interim report on the progress of the study, including findings, recommendations, and any proposed legislation, to the legislature no later than twenty days prior to the convening of the regular session of 2022. The Hawaii natural energy institute shall submit a final report of the study, including findings, recommendations, and any proposed legislation, to the legislature no later than twenty days prior to the convening of the regular session of 2023.

SECTION 3. This Act shall take effect on July 1, 2021.

(Approved June 25, 2021.)

ACT 93

H.B. NO. 1352

A Bill for an Act Relating to Surplus Military Land.

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

SECTION 1. The legislature finds that many properties in the State are under federal ownership or control and are being, or have been, used as military

facilities. This use has resulted in contamination of the water and soil on and adjacent to many of these properties, or created hazards, such as from the presence of unexploded ordnance.

The upcoming expiration of land leases between the State and the United States federal government and the return to the State of ceded lands requires a proactive approach by the State.

Accordingly, the purpose of this Act is to gather data on federally leased and controlled lands, the condition of these lands, and potential alternative uses of these lands should they be returned to the State.

SECTION 2. (a) The office of planning shall seek input from all executive branch departments and agencies and the office of Hawaiian affairs on remediation and restoration needs of, and proposed alternative uses for, the lands identified pursuant to section 3 that would be consistent with the respective missions of those departments and agencies if the lands are returned to the State.

(b) The office of planning shall submit a report to the legislature, no later than twenty days prior to the convening of the regular session of 2022, containing the following:

- (1) The inventory report prepared by the department of land and natural resources pursuant to section 3 of this Act;
- (2) The report prepared by the department of health pursuant to section 4 of this Act;
- (3) Input derived pursuant to subsection (a); and
- (4) The office of planning's findings and recommendations based on the information gathered pursuant to paragraph (3) and sections 3 and 4 of this Act, including any proposed legislation.

SECTION 3. The department of land and natural resources shall submit to the office of planning, no later than a date to be determined by the office of planning, an inventory report of all lands within the State that are leased to the federal government or under federal government control, including information pertaining to lease expiration dates, plans to close any military facilities on those lands, and other relevant information.

SECTION 4. The department of health shall consult with the Environmental Protection Agency and submit to the office of planning, no later than a date to be determined by the office of planning, a report identifying any known contaminants or environmental hazards discovered on the lands identified pursuant to section 3 or associated with past environmental studies performed in connection with those lands.

SECTION 5. This Act shall take effect on July 1, 2021.

(Approved June 25, 2021.)

ACT 94

S.B. NO. 186

A Bill for an Act Relating to Restrictions on Agricultural Uses and Activities.

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

SECTION 1. The legislature finds that subdivisions on agricultural lands have significantly increased over the past few decades. Homes within these subdivisions are often marketed as "gentlemen estates" where wealthy individu-

als can purchase large parcels of land on which to live and pursue farming as a hobby. The rise of subdivisions has led to homeowners' associations, which govern those subdivisions, imposing restrictions that limit bona fide agricultural uses on agricultural lands.

The legislature further finds that provisions restricting agricultural uses on agricultural lands conflict with article XI, section 3, of the Hawaii State Constitution, which mandates that the State "conserve and protect agricultural lands, promote diversified agriculture, increase agricultural self-sufficiency and assure the availability of agriculturally suitable lands." The legislature also finds that Act 170, Session Laws of Hawaii 2004, exempted agricultural leases and utility and access easements from the prohibition of private restrictions on agricultural uses and activities within state agricultural districts, thus prohibiting homeowners' associations from restricting agricultural activities on agricultural lands. However, to avoid impairing any existing contracts, the Act only applied to restrictions made after July 8, 2003.

The legislature believes that some homeowners' associations have been circumventing the law by renewing agricultural restrictions that existed as of July 8, 2003, claiming that the renewed terms continue to be exempt from the law despite those agreements, by their own terms, expiring after 2003. Bona fide farmers seeking to enforce the law have had to accept the restriction or hire an attorney for a costly lawsuit against the well-funded homeowners' association.

The purpose of this Act is to clarify that renewed contracts restricting agricultural uses and activities within agricultural lands are considered new contracts and are therefore voidable, subject to limited circumstances.

SECTION 2. Section 205-4.6, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Agricultural uses and activities as defined in sections 205-2(d) and 205-4.5(a) on lands classified as agricultural shall not be restricted by any private agreement contained in any:

- (1) Deed, agreement of sale, or other conveyance of land recorded in the bureau of conveyances after July 8, 2003, that ~~[subject such]~~ subjects the agricultural lands to any servitude, including but not limited to covenants, easements, or equitable and reciprocal negative servitudes; ~~[and] provided that any private agreement contained in a conveyance of land recorded on or before July 8, 2003, that:~~
 - (A) Limits or prohibits agricultural use or activity; and
 - (B) Is renewed and recorded in the bureau of conveyances after July 8, 2003,shall be considered a new private agreement that is subject to the prohibition on agricultural use and activity restrictions under this section; and
- (2) Condominium declaration, map, bylaws, and other documents executed and submitted in accordance with chapter 514B or any predecessor thereto.

Any ~~[such]~~ private restriction limiting or prohibiting agricultural use or activity shall be voidable, subject to special restrictions enacted by the county ordinance pursuant to section 46-4; except that restrictions taken to protect environmental or cultural resources, agricultural leases, utility easements, and access easements shall not be subject to 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.

(Approved June 25, 2021.)

ACT 95

S.B. NO. 225

A Bill for an Act Relating to Infrastructure Improvement Districts.

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

SECTION 1. Section 201H-191.5, Hawaii Revised Statutes, is amended to read as follows:

“~~§~~201H-191.5 Regional state infrastructure subaccounts. (a) The corporation, upon request by a county, may establish and operate a regional state infrastructure subaccount within the dwelling unit revolving fund established pursuant to section 201H-191 for the benefit of the housing and mixed-use transit-oriented development projects within the county.

(b) Each regional state infrastructure subaccount shall consist of the following sources of revenue:

- (1) Moneys received by the corporation from counties for the repayment of the loan principal and the payment of simple interest from various assessments or fees from special improvement districts, improvement districts, tax increment financing districts, community facilities districts, and other areas where property value increases are captured over periods of time for the purposes of infrastructure financing;
- (2) Appropriations from the legislature;
- (3) Federal grants and subsidies to the State or counties;
- (4) Private investments; and
- (5) Voluntary contributions.

(c) The corporation shall expend revenues in the subaccounts to make grants and loans to state agencies, and loans to counties or private developers, for the costs, in whole or in part, of infrastructure improvements that would increase the capacity of the infrastructure facilities, including regional sewer systems, water systems, drainage systems, roads, and telecommunications and broadband.

(d) Whenever the corporation undertakes, or causes to be undertaken, a regional infrastructure improvement project, the cost of providing regional infrastructure improvements may be assessed against transit-oriented development projects specially benefiting from the improvements, and the corporation shall take into consideration previous contributions by project owners to infrastructure improvements; provided that:

- (1) The corporation may fix the assessments against real property specially benefited. All assessments made pursuant to this subsection shall be a statutory lien against each lot or parcel of land assessed from the date of the notice declaring the assessment until paid and the lien shall have priority over all other liens except the lien of property taxes. As between liens of assessments, the earlier lien shall be superior to the later lien;
- (2) Notwithstanding any other law to the contrary, in assessing real property specially benefiting from improvements, the corporation may utilize various methods including but not limited to:
 - (A) Assessment on a frontage basis;

- (B) According to the area of real property for transit-oriented development projects;
 - (C) According to the area of real property within an assessment area;
 - (D) Any other assessment method that assesses the real property according to the special benefit conferred; or
 - (E) Any combination thereof;
 - (3) The assessments made under this subsection shall not apply to projects within the stadium development district as established pursuant to section 206E-223;
 - (4) The corporation shall adopt rules pursuant to chapter 91, providing for the method of assessment of real properties specially benefited; and
 - (5) All sums collected under this subsection shall be deposited in the dwelling unit revolving fund established pursuant to section 201H-191.
- (e) Grants and loans shall be made only for capital improvement projects approved by the respective county council and mayor, or state agency, as applicable, with a view towards planned growth rather than upkeep and maintenance. The Hawaii interagency council for transit-oriented development shall review and make recommendations on applications for subaccount funds for infrastructure projects related to transit-oriented development.
- ~~[(d)]~~ (f) Eligible costs shall include those for planning, design, feasibility studies, construction, and materials. No grant or loan shall be made:
- (1) For maintenance or repair costs unless the construction would simultaneously increase the carrying capacity of the infrastructure facility; or
 - (2) Solely for mass transit or electrical utilities.
- (g) The corporation may also expend revenues in the subaccounts to repay private investors for their investment plus any interest accrued on their investments made into the subaccounts to finance, in whole or in part, infrastructure improvements that would increase the capacity of the infrastructure facilities, including regional sewer systems, water systems, drainage systems, roads, and telecommunications and broadband.
- ~~[(e)]~~ (h) The corporation may accept improved land from the counties or private developers in repayment of their loans.
- ~~[(f)]~~ (i) The corporation shall adopt rules in accordance with chapter 91 for the purposes of this section.”

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 25, 2021.)

ACT 96

S.B. NO. 320

A Bill for an Act Relating to Tax Return Preparers.

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

SECTION 1. This Act shall be known and may be cited as the Hawaii Taxpayer Protection Act.

SECTION 2. The legislature finds that tax fraud and errors harm the taxpayers of the State and the tax base. The annual tax refund is the most significant financial transaction of the year for most local families. Thus, the legislature finds it necessary to establish minimum standards for professional tax return preparers to protect local families and taxpayers from unscrupulous and unqualified tax return preparers.

The purpose of this Act is to protect the State's taxpayers by requiring tax return preparers to provide a valid preparer tax identification number for claims and returns prepared for compensation submitted to the State.

SECTION 3. Chapter 231, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§231- Tax return preparers; preparer tax identification number required. (a) A tax return preparer shall have a valid preparer tax identification number.

(b) A tax return preparer shall not:

- (1) For compensation, prepare any return or claim for refund without having a valid preparer tax identification number; or
- (2) Omit its preparer tax identification number from any return or claim for refund prepared for compensation where the department requires the preparer tax identification number to be disclosed.

(c) A tax return preparer who violates subsection (b) shall be liable for the following penalties:

- (1) \$100 per violation for the first one hundred violations;
- (2) \$500 per violation for the one hundred first violation to the five hundredth violation; and
- (3) \$1,000 per violation for all subsequent violations.

Each return or claim for refund prepared by a tax return preparer or submitted to the department in violation of subsection (b) shall be a separate violation; provided that preparing and submitting the same return or claim for refund shall not constitute two separate violations. The director of taxation may waive the penalties under this section in part or in full if the tax return preparer shows that the violation was due to reasonable cause.

(d) If within thirty days after the notice and demand of any penalty under subsection (c) is made, the tax return preparer:

- (1) Pays an amount that is no less than fifteen per cent of the penalty amount; and
- (2) Files a claim for refund of the amount so paid,

no action to levy or file a proceeding in court to collect the remainder of the penalty shall be commenced except in accordance with subsection (e).

(e) An action that is stayed pursuant to subsection (d) may be brought thirty days after either of the following events, whichever occurs first:

- (1) The tax return preparer fails to file an appeal to the tax appeal court within thirty days after the day on which the claim for refund of any partial payment of any penalty under subsection (c) is denied; or
- (2) The tax return preparer fails to file an appeal to the tax appeal court for the determination of the tax return preparer's liability for the penalty assessed under subsection (c) within six months after the day on which the claim for refund was filed.

Nothing in this subsection shall be construed to prohibit any counterclaim for the remainder of the penalty in any proceeding.

(f) If there is a final administrative determination pursuant to section 231-7.5, or a final judicial decision that the penalty assessed under subsection (c) should not apply, then that portion of the penalty assessed shall be voided.

Any portion of the penalty that has been paid shall be refunded to the tax return preparer as an overpayment of tax without regard to any period of limitations that, but for this subsection, would apply to the making of the refund.

(g) At the request of the director of taxation, a civil action may be brought to enjoin a tax return preparer from further acting as a tax return preparer or from engaging in conduct as follows:

- (1) Any action under this subsection may be brought in the circuit court of the circuit in which the tax return preparer resides or has a principal place of business, or in which the taxpayer with respect to whose tax return the action is brought resides;
- (2) The court may exercise its jurisdiction over the action separate and apart from any other action brought by the State against the tax return preparer or taxpayer;
- (3) If the court finds that a tax return preparer has engaged in conduct subject to the penalty under subsection (c) and that injunctive relief is appropriate to prevent the recurrence of that conduct, the court may enjoin the preparer accordingly; and
- (4) If the court finds that a tax return preparer has continually or repeatedly engaged in conduct prohibited under subsection (b) and that an injunction prohibiting that conduct would not be sufficient to prevent the tax return preparer's interference with the proper administration of this chapter, the court may enjoin the preparer from acting as a tax return preparer.

(h) The department may adopt rules pursuant to chapter 91 necessary to effectuate the implementation of this section.

(i) For purposes of this section:

“Preparer tax identification number” means an identifying number issued by the Internal Revenue Service in accordance with section 6109 of the Internal Revenue Code of 1986, as amended, and title 26 Code of Federal Regulations section 1.6109-2.

“Tax return preparer” shall have the same meaning as that term is defined in section 231-36.5.”

SECTION 4. New statutory material is underscored.¹

SECTION 5. This Act shall take effect on January 1, 2022.

(Approved June 25, 2021.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 97

S.B. NO. 324

A Bill for an Act Relating to the Practice of Medicine.

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

SECTION 1. The legislature finds that the definition of the practice of medicine was last amended in 2008 to include a distinct definition of osteopathic medicine. The legislature further finds that medical doctors and osteopathic doctors are both physicians of equivalent education and training and should be regulated as such.

Accordingly, the purpose of this Act is to establish a definition of the practice of medicine that provides uniformity of practice for both medical and osteopathic physicians.

SECTION 2. Section 453-1, Hawaii Revised Statutes, is amended to read as follows:

“§453-1 Practice of medicine defined. For the purposes of this chapter, the practice of medicine by a physician or an osteopathic physician includes the use of drugs and medicines~~[-];~~ surgery; manual medicine; water[-]; electricity[-]; hypnotism[-]; telehealth; the interpretation of tests, including primary diagnosis of pathology specimens, medical imaging, or any physical; osteopathic medicine~~[-; or]~~; any means, ~~[or]~~ method, or ~~[any]~~ agent, either tangible or intangible, ~~[for the treatment of] to diagnose, treat, prescribe for, palliate, or correct disease, or prevent any human disease, condition, ailment, pain, injury, deformity, illness, infirmity, defect, physical or mental condition~~ in the human subject~~[-; provided that when a duly licensed physician or osteopathic physician pronounces a person affected with any disease hopeless and beyond recovery and gives a written certificate to that effect to the person affected or the person’s attendant nothing herein shall forbid any person from giving or furnishing any remedial agent or measure when so requested by or on behalf of the affected person].~~

This section shall not amend or repeal the law respecting the treatment of those affected with Hansen’s disease.

~~[For purposes of this chapter, “osteopathic medicine” means the utilization of full methods of diagnosis and treatment in physical and mental health and disease, including the prescribing and administration of drugs and biologicals of all kinds, operative surgery, obstetrics, radiological, and other electromagnetic emissions, and placing special emphasis on the interrelation of the neuro-musculoskeletal system to all other body systems, and the amelioration of disturbed structure-function relationships by the clinical application of the osteopathic diagnosis and therapeutic skills for the maintenance of health and treatment of disease.]”~~

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 25, 2021.)

ACT 98

S.B. NO. 329

A Bill for an Act Relating to Condominiums.

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

SECTION 1. Section 514B-139, Hawaii Revised Statutes, is amended to read as follows:

“~~[[~~§514B-139~~]]~~ Upkeep of condominium; disposition of unclaimed possessions. (a) When personalty in or on the common elements of a project has been abandoned, the board may sell the personalty in a commercially reasonable manner, store the personalty at the expense of its owner, donate the personalty to a charitable organization, or otherwise dispose of the personalty in its sole discretion; provided that:

- (1) If the identity and address of the owner are known, no sale, storage, ~~[or] donation, or other disposal~~ shall occur until ~~[sixty]~~ thirty days after the ~~[board complies with the following:~~
- (+) ~~The]~~ board notifies the owner in writing of:
 - (A) The identity and location of the personalty; and
 - (B) The board's 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 ~~[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.]~~ may proceed directly to sell, store, donate, or otherwise dispose of the personalty.
- (b) The proceeds of any sale or disposition of personalty under subsection ~~[(a);~~ (a)(1), after deduction of any accrued costs of mailing, ~~[advertising,~~ storage, and sale, shall be held for the owner for thirty days. Any proceeds not claimed within this period shall become the property of the association. The proceeds of any sale or disposition of personalty under subsection (a)(2) shall immediately become the property of the association."

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 25, 2021.)

ACT 99

S.B. NO. 384

A Bill for an Act Relating to Tax Appeals.

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

SECTION 1. Section 232-22, Hawaii Revised Statutes, is amended to read as follows:

“§232-22 [Costs; deposit for on appeal.] Filing fee. (a) No ~~[costs]~~ filing fee shall be charged on appeal to the state board of review.

(b) The nonrefundable ~~[costs to be deposited]~~ filing fee in any one case per taxpayer on any appeal to the tax appeal court shall be an amount set pursuant to rules adopted by the supreme court, which shall not exceed \$100.

(c) On appeal to the intermediate appellate court, the ~~[deposit for costs, and costs chargeable,]~~ nonrefundable filing fee shall be the same as in appeals from decisions of circuit courts, as provided by sections 607-5 and 607-6. ~~[If the decision of the intermediate appellate court or the supreme court on transfer from or review of the intermediate appellate court is in favor of the taxpayer, the taxpayer shall pay no costs for the appeal, and any payment or deposit therefor shall be returned to the taxpayer. If the decision is only partly in favor of the taxpayer, the costs shall be prorated in the manner provided by section 232-23.]~~ No costs shall be payable by, and no deposit shall be required from, the assessor or the county in any case.”

SECTION 2. Section 232-23, Hawaii Revised Statutes, is amended to read as follows:

~~“§232-23 [Costs, taxation.] Taxation. [(a) In the event of an appeal by a taxpayer to the state board of review, if the appeal is compromised, or is sustained as to fifty per cent or more of the amount in dispute, the costs deposited shall be returned to the appellant. Otherwise the entire amount of costs deposited shall be retained.~~

~~(b) In the event of an appeal by a taxpayer to the tax appeal court, if the appeal or objection is sustained in whole, the costs deposited shall be returned to the appellant. If the appeal or objection is sustained in part only, or if an agreement or compromise is made between the appellant and the tax assessor or other proper officer, whereby a reduction is made in the total amount of the valuation assessed (in cases of real property tax appeals) or the tax assessed (in other cases), then a part of the costs proportionate to the amount for which the appellant obtains a judgment or proportionate to the amount of the reduction, as the case may be, shall be returned to the appellant. In the event of dismissal of the appeal without hearing upon the merits, the costs deposited in the amount set pursuant to rules adopted by the supreme court shall be returned to the appellant.]~~

In the event of a final determination of an appeal by a county to the tax appeal court, the intermediate appellate court, or the supreme court on review, that a higher assessment should be made of the property involved, the additional tax due shall be collected in the same manner as the tax based upon the original assessment.”

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, 2022.

(Approved June 25, 2021.)

ACT 100

S.B. NO. 489

A Bill for an Act Relating to Agricultural Buildings.

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

SECTION 1. Section 46-88, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Notwithstanding any law to the contrary, the following agricultural buildings, structures, and appurtenances thereto that are not used as dwellings or lodging units are exempt from building permit and building code requirements where they are no more than one thousand square feet in floor area:

- (1) Nonresidential manufactured pre-engineered commercial buildings and structures;
- (2) Single stand alone recycled ocean shipping or cargo containers that are used as nonresidential commercial buildings and are properly anchored;
- (3) Notwithstanding the one thousand square foot floor area restriction, agricultural shade cloth structures, cold frames, or greenhouses not exceeding [twenty] sixty thousand square feet in area per structure; provided that where multiple structures are erected, the minimum horizontal separation between each shade cloth structure, cold frame, or greenhouse is fifteen feet;

- (4) Aquacultural or aquaponics structures, including above-ground water storage or production tanks, troughs, and raceways with a maximum height of six feet above grade, and in-ground ponds and raceways, and piping systems for aeration, carbon dioxide, or fertilizer or crop protection chemical supplies within agricultural or aquacultural production facilities;
 - (5) Livestock watering tanks, water piping and plumbing not connected to a source of potable water, or separated by an air gap from such a source;
 - (6) Non-masonry fences not exceeding ten feet in height and masonry fences not exceeding six feet in height;
 - (7) One-story masonry or wood-framed buildings or structures with a structural span of less than twenty-five feet and a total square footage of no more than one thousand square feet, including farm buildings used as:
 - (A) Barns;
 - (B) Greenhouses;
 - (C) Farm production buildings including aquaculture hatcheries and plant nurseries;
 - (D) Storage buildings for farm equipment or plant or animal supplies or feed; or
 - (E) Storage or processing buildings for crops; provided that the height of any stored items shall not collectively exceed twelve feet in height;
 - (8) Raised beds containing soil, gravel, cinders, or other growing media or substrates with wood, metal, or masonry walls or supports with a maximum height of four feet;
 - (9) Horticultural tables or benches no more than four feet in height supporting potted plants or other crops; and
 - (10) Nonresidential indigenous Hawaiian hale that do not exceed five hundred square feet in size, have no kitchen or bathroom, and are used for traditional agricultural activities or education;
- provided that the buildings, structures, and appurtenances thereto comply with all applicable state and county zoning codes.”

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, 2022.

(Approved June 25, 2021.)

ACT 101

S.B. NO. 506

A Bill for an Act Relating to the Issuance of Special Purpose Revenue Bonds to Assist Wahiawa General Hospital.

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

SECTION 1. The legislature finds that refinancing outstanding debt obligations of a health care facility with the proceeds of bonds issued by the State, in order to improve the ability of the facility to continue to serve the needs of the community, to be in the public interest.

The legislature further finds that over the past fifteen years, Wahiawa General Hospital has experienced financial difficulties due to circumstances beyond its control, including the reopening of The Queen's Medical Center West Oahu in Ewa, Oahu; reductions in medicare, medicaid, and private insurance reimbursements; the ongoing shortage of physicians in the State and, in particular, central Oahu; new requirements under the federal Patient Protection and Affordable Care Act; uncertainty in the availability of state and federal funding caused by instability in federal health care policy; and an increasing need for provision of indigent care, which includes the homeless population. The legislature further finds because of these financial difficulties, Wahiawa General Hospital has had to cut some of its programs, services, and personnel, while allowing basic infrastructure repair and maintenance needs to go unmet. Among other actions, Wahiawa General Hospital has reduced staff by over one hundred full-time equivalent positions, severely curtailed the long-running family practice residency teaching program in the facility, and cut more than \$17,000,000 from the annual budget over the past five years. Furthermore, due to Wahiawa General Hospital's financial difficulties, it has been unable to repay certain long-term debts.

Accordingly, the legislature finds that the continued financial fitness of Wahiawa General Hospital is in the public interest and critical to preserving the public health, safety, and welfare of the island of Oahu and the State.

The purpose of this Act is to authorize the issuance of special purpose revenue bonds to facilitate the consolidation, liquidation, or both, of the long-term debt of Wahiawa General Hospital in order to facilitate its continued operation as a health care facility providing for the health, welfare, and safety of the residents of central Oahu and the people of the State.

The legislature further 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 chapter 39A, part II, 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 \$12,000,000 in one or more series, for the purpose of assisting Wahiawa General Hospital, a Hawaii nonprofit corporation, for debt consolidation, debt liquidation, or both, necessary to allow its continued operation preserving the health and safety of the central Oahu community and the State. The legislature hereby finds and determines that the consolidation, liquidation, or both, of the long-term debt of Wahiawa General Hospital constitutes a project as defined in chapter 39A, part II, 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 3. The special purpose revenue bonds and the refunding special purpose revenue bonds issued under this Act shall be issued pursuant to chapter 39A, part II, Hawaii Revised Statutes, relating to the power to issue special purpose revenue bonds to assist not-for-profit corporations that provide health care facilities to the general public.

SECTION 4. The department of budget and finance is authorized, from time to time, including times subsequent to June 30, 2026, 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, 2026.

SECTION 6. This Act shall take effect on July 1, 2021.

(Approved June 25, 2021.)

ACT 102

S.B. NO. 599

A Bill for an Act Relating to Massage Therapists.

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

SECTION 1. The legislature finds that the practice of massage therapy in the State affects public health and safety. As a matter of public interest and concern, massage therapist licensees should regularly maintain their knowledge and education and receive basic first aid and emergency-related training through mandatory continuing education requirements.

Accordingly, the purpose of this Act is to require massage therapist licensees, beginning with the renewal for the licensing biennium commencing on July 1, 2024, and every biennial renewal thereafter, to complete twelve hours of continuing education within the two-year period preceding the renewal date, of which two hours shall include first aid, cardiopulmonary resuscitation, or other emergency-related course.

SECTION 2. Section 452-16, Hawaii Revised Statutes, is amended to read as follows:

“§452-16 Renewal of license; fees[-]; continuing education. (a) Massage therapist and massage therapy establishment licenses shall expire on June 30 of each even-numbered year following the date of issuance unless renewed for the next biennium. These licenses may be renewed by filing an application therefor, accompanied by a renewal fee[-] and submitting proof of compliance with the continuing education requirements established by subsection (b). The application shall be made between May 1 and June 30 of each even-numbered year. Failure to apply for renewal as provided in this section shall constitute a forfeiture of the license as of the date of expiration. Any license so forfeited may be restored within one year after expiration upon the filing of an application in the same manner, submitting proof of compliance with the continuing education requirements established by subsection (b), and payment of a penalty fee in addition to all delinquent fees. Thereafter, the person shall apply as a new applicant and the board may require the person to take and pass the examination and satisfy all requirements for the examination, including training, if the board is not satisfied that the person possesses current knowledge and skills for the practice of massage therapy.

(b) Beginning with the renewal for the licensing biennium commencing on July 1, 2024, and every biennial renewal thereafter, each massage thera-

pist licensee shall submit proof of having completed twelve hours of continuing education within the two-year period preceding the renewal date, of which two hours shall include first aid, cardiopulmonary resuscitation, or other emergency-related courses. The board shall adopt rules relating to the requirements and standards that continuing education programs shall meet to obtain recognition and approval from the board.

(c) The board may conduct random audits of licensees to determine compliance with the continuing education requirements of subsection (b). The board shall provide written notice of an audit to a licensee randomly selected for audit. Within sixty days of notification, the licensee shall provide the board with documentation verifying compliance with the continuing education requirements established by subsection (b)."

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 25, 2021.)

ACT 103

S.B. NO. 696

A Bill for an Act Relating to the Festival of Pacific Arts.

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

SECTION 1. The legislature finds that Act 104, Session Laws of Hawaii 2017, created the temporary commission on the thirteenth festival of pacific arts to plan the thirteenth festival of pacific arts and culture originally scheduled to be held in Hawaii in June 2020. Due to the outbreak of the coronavirus disease 2019 (COVID-19), the Pacific Community, the international custodian of the festival, notified the State of its intent to postpone the festival to 2024. Therefore, the temporary commission, which was to cease to exist on June 30, 2021, must be extended to fulfill its duties to plan the thirteenth festival of pacific arts and culture in 2024.

The legislature further finds that although previous festivals have had a contractor to carry out the hands-on details of planning a festival, there is currently no contractor to fill this role. To ensure a successful festival, the commission members themselves have had to carry out the responsibilities of planning several components of the festival in a hands-on manner, including fundraising, communicating with the foreign delegations, scheduling events, organizing volunteers, and securing housing, transportation, meals, security, and medical services. To carry out and coordinate these responsibilities between the scheduled meetings, smaller groups of commission members must be able to communicate expeditiously and outside of the confines of chapter 92, Hawaii Revised Statutes. At the same time, the legislature finds that the commission is committed to fulfilling the policy and intent of chapter 92, Hawaii Revised Statutes, including by holding regularly scheduled open meetings and posting notices and minutes. The commission has been holding its meetings every two weeks and is committed to continuing to regularly meet on that schedule. Thus, the legislature finds that a permitted interaction allowing groups of less than a quorum of commission members to work on commission business between its regular meetings, while still requiring the commission to hold those meetings subject to the Sunshine Law, will balance the public interest in access to government decision-making

ACT 104

under the Sunshine Law with the commission members' need to carry out the hands-on portion of running a festival between the regularly scheduled meetings at which the commission considers larger issues and makes decisions regarding the festival.

The purpose of this Act is to:

- (1) Extend the date on which the temporary commission on the thirteenth festival of pacific arts shall cease to exist to August 31, 2025; and
- (2) Permit less than a quorum of commission members to discuss matters relating to official board business outside a commission meeting as a permitted interaction under part I of chapter 92, Hawaii Revised Statutes, to enable them to perform their duties faithfully; provided that the commission shall hold a meeting at least once a month.

SECTION 2. Act 104, Session Laws of Hawaii 2017, is amended by amending section 4 to read as follows:

“SECTION 4. The commission shall cease to exist on ~~June 30, 2021~~ August 31, 2025.”

SECTION 3. Less than a quorum of members of the temporary commission on the thirteenth festival of pacific arts may discuss matters relating to official board business outside of a properly noticed public meeting in the course of planning the festival, and those discussions shall be a permitted interaction under section 92-2.5, Hawaii Revised Statutes; provided that the commission shall hold a public meeting noticed pursuant to part I of chapter 92, Hawaii Revised Statutes, at least once a month, at which time it shall report its progress in the matters discussed outside a meeting pursuant to 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.

(Approved June 25, 2021.)

ACT 104

S.B. NO. 766

A Bill for an Act Relating to Motor Carrier Penalties.

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

SECTION 1. Section 271-27, Hawaii Revised Statutes, is amended by amending subsection (h) to read as follows:

“(h) Any motor carrier or lessor, or any officer, agent, employee, or representative thereof, who fails or refuses to comply with any provision of this chapter, or any rule, requirement, or order thereunder, and any person located in this State, or any officer, agent, employee, or representative of any such person, who engages the services of any motor carrier or lessor, or any officer, agent, employee, or representative thereof, who fails or refuses to comply with any provision of this chapter, or any rule, requirement, or order, may be assessed a civil penalty for an amount determined by the commission subject to this section payable to the State in a sum:

- (1) Up to \$1,000 for each offense; [~~and~~]
- (2) In the case of a continuing violation, not less than \$50 and not more than \$500 for each additional day during which the failure or refusal continues[~~;~~]; and
- (3) Up to \$5,000 for each fourth or subsequent violation within one calendar year.”

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 25, 2021.)

ACT 105

H.B. NO. 943

A Bill for an Act Relating to Nondepository Trusts.

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

SECTION 1. Chapter 412, Hawaii Revised Statutes, is amended by adding a new part to article 8 to be appropriately designated and to read as follows:

“PART . NONDEPOSITORY TRUST COMPANIES

§412:8- Powers and duties. (a) Unless otherwise prohibited or restricted by this section or any other law, a nondepository trust company shall have the general powers specified in section 412:8-200.

(b) Notwithstanding any other provision in this chapter, a nondepository trust company shall not:

- (1) Solicit, accept, or hold deposits;
- (2) Engage in banking business;
- (3) Engage in business for which a real estate broker’s license is required;
- (4) Engage in any business for which an insurance producer license is required; or
- (5) Engage in any business of a securities broker or dealer.

(c) A nondepository trust company shall not itself perform, and instead shall contract for, the following services for its clients, if needed:

- (1) Financial advisors for client investments;
- (2) Property management for client rental properties; or
- (3) Real estate brokerages for client real estate transactions.

(d) A nondepository trust company shall be responsible for the performance of the service providers that it engages for its clients.”

SECTION 2. Section 412:2-105.2, Hawaii Revised Statutes, is amended to read as follows:

“§412:2-105.2 Hawaii financial institutions; assessments; fees; penalty.

(a) Beginning January 1, 2014, every Hawaii financial institution shall be assessed a yearly fee in accordance with the following:

- (1) For financial institutions with total assets under \$750,000, the assessment shall be the sum of \$1,000 plus the product of 0.00029111 [~~times~~] multiplied by total assets;

- (2) For financial institutions with total assets of at least \$750,000 but under \$7,500,000, the assessment shall be the sum of \$2,000 plus the product of 0.00029111 ~~[times]~~ multiplied by total assets;
- (3) For financial institutions with total assets of at least \$7,500,000 but under \$20,000,000, the assessment shall be the sum of \$4,800 plus the product of 0.00029111 ~~[times]~~ multiplied by total assets;
- (4) For financial institutions with total assets of at least \$20,000,000 but under \$75,000,000, the assessment shall be the sum of \$9,900 plus the product of 0.000064 ~~[times]~~ multiplied by total assets;
- (5) For financial institutions with total assets of at least \$75,000,000 but under \$200,000,000, the assessment shall be the sum of \$15,000 plus the product of 0.00005333 ~~[times]~~ multiplied by total assets;
- (6) For financial institutions with total assets of at least \$200,000,000 but under \$1,000,000,000, the assessment shall be the sum of \$21,100 plus the product of 0.00004750 ~~[times]~~ multiplied by total assets; and
- (7) For financial institutions with total assets of at least \$1,000,000,000 but under \$20,000,000,000, the assessment shall be the sum of \$29,000 plus the product of 0.00004 ~~[times]~~ multiplied by total assets;

provided that the yearly fee assessed for financial institutions with total assets of at least \$2,000,000,000 but less than \$10,000,000,000 shall be no more than \$100,000, and the yearly fee assessed for financial institutions with total assets of at least \$10,000,000,000 shall be no more than \$150,000.

(b) Beginning July 1, 2021, subsection (a) shall not apply to nondepository trusts, and nondepository trusts shall be assessed a yearly fee in accordance with the following:

- (1) For nondepository trusts with total assets under management under \$750,000, the assessment shall be the sum of \$1,000 plus the product of 0.00029111 multiplied by total assets under management;
- (2) For nondepository trusts with total assets under management of at least \$750,000 but under \$7,500,000, the assessment shall be the sum of \$2,000 plus the product of 0.00029111 multiplied by total assets under management;
- (3) For nondepository trusts with total assets under management of at least \$7,500,000 but under \$20,000,000, the assessment shall be the sum of \$4,800 plus the product of 0.00029111 multiplied by total assets under management;
- (4) For nondepository trusts with total assets under management of at least \$20,000,000 but under \$75,000,000, the assessment shall be the sum of \$9,900 plus the product of 0.000064 multiplied by total assets under management;
- (5) For nondepository trusts with total assets under management of at least \$75,000,000 but under \$200,000,000, the assessment shall be the sum of \$15,000 plus the product of 0.00005333 multiplied by total assets under management;
- (6) For nondepository trusts with total assets under management of at least \$200,000,000 but under \$1,000,000,000, the assessment shall be the sum of \$21,100 plus the product of 0.00004750 multiplied by total assets under management; and
- (7) For nondepository trusts with total assets under management of at least \$1,000,000,000 but under \$20,000,000,000, the assessment shall be the sum of \$29,000 plus the product of 0.00004 multiplied by total assets under management;

provided that the yearly fee assessed for nondepository trusts with total assets under management of at least \$2,000,000,000 but under \$10,000,000,000 shall be no more than \$100,000, and the yearly fee assessed for nondepository trusts with total assets under management of at least \$10,000,000,000 shall be no more than \$150,000.

~~[(b)]~~ (c) The assessments shall be paid semiannually on March 1 and September 1 of each year based on the institution's total assets or total assets under management reported as of the previous December 31 and June 30, respectively.

~~[(e)]~~ (d) In addition to the assessments established in subsection (a), a financial institution or financial institution applicant shall pay fees as follows:

- (1) A nonrefundable fee of \$10,000 for an application for preliminary approval by the commissioner for the organization of a Hawaii financial institution pursuant to section 412:3-201, 412:3-202, 412:3-206, or 412:3-301;
- (2) A nonrefundable fee of \$9,000 for an application for preliminary approval by the commissioner for the organization of a Hawaii financial institution pursuant to section 412:5-402;
- (3) A nonrefundable fee of \$2,500 for a final application for a charter or license to engage in the business of a Hawaii financial institution pursuant to section 412:3-212;
- (4) A nonrefundable fee of \$10,000 for an application for a merger or consolidation or acquisition of control involving a Hawaii financial institution;
- (5) A nonrefundable fee of \$2,500 for an application for the conversion of a federal financial institution to a Hawaii financial institution or the conversion of a Hawaii financial institution to another Hawaii financial institution charter;
- (6) A nonrefundable fee of \$5,000 for an application of a bank to conduct a trust business through a subsidiary, division, or department of the bank pursuant to section 412:5-205;
- (7) A nonrefundable fee of \$5,000 for an application of a bank to conduct insurance activities pursuant to section 412:5-205.5;
- (8) A nonrefundable fee of \$5,000 for an application of a bank to engage in securities activities pursuant to section 412:5-205.7;
- (9) A nonrefundable fee of \$2,000 for an application for a bank, savings bank, or depository financial services loan company to comply with lending limits applicable to federal financial institutions pursuant to section 412:5-302, 412:6-303, or 412:9-404;
- (10) A nonrefundable fee of \$2,000 for an application to exceed certain permitted investment limits pursuant to sections 412:5-305(f) and (h), 412:6-306(f) and (h), 412:7-306(f) and (h), 412:8-301(f), 412:9-409(f) and (i), and 412:10-502(g); and
- (11) A nonrefundable fee of \$2,500 for an application to engage in the business of a credit union.

~~[(d)]~~ (e) The annual fee for each intra-Pacific financial institution and interstate branch of out-of-state banks is the sum of \$1,000 for each office, agency, and branch office maintained by the financial institution, payment of which shall be made before December 31 of each year. The commissioner may establish, increase, decrease, or repeal this fee pursuant to rules adopted in accordance with chapter 91.

~~[(e)]~~ (f) Intra-Pacific bank fees shall be as follows:

- (1) A nonrefundable fee of \$9,000 to establish an initial branch pursuant to section 412:5-401;

- (2) A nonrefundable fee of \$750 to establish an additional branch or agency of an intra-Pacific bank; and
- (3) A nonrefundable fee of \$500 for an application to relocate a branch or agency of an intra-Pacific bank established or acquired pursuant to section 412:5-401.

~~[(f)]~~ (g) A nonrefundable fee of \$500 shall be assessed for an application to relocate a branch or office established pursuant to section 412:12-107.

~~[(g)]~~ (h) A nonrefundable fee of \$100 shall be assessed for each certificate of good standing for any Hawaii financial institution; provided that an additional fee of \$100 shall be assessed for each certificate of good standing that is requested to be provided in two business days from receipt of request.

~~[(h)]~~ (i) All assessments and fees shall be deposited into the compliance resolution fund established pursuant to section 26-9(o).

~~[(i)]~~ (j) For purposes of this section ~~[-“total”~~; “Total assets” means for an insured depository institution the total assets reported in the financial institution’s quarterly reports of condition, or call reports, which are required to be filed pursuant to section 7(a)(3) of the Federal Deposit Insurance Act or in the unaudited financial statements filed pursuant to section 412:3-112.

“Total assets under management” means the total market value of the assets that a trust company oversees, administers, or manages on behalf of its clients pursuant to its fiduciary and trust powers in article 8, including assets for which a trust company has engaged a third-party platform investment service, property management services, or real estate services.

~~[(j)]~~ (k) A Hawaii financial institution that fails to make a payment required by this section shall be subject to an administrative fine of not more than \$250 per day for each day it is in violation of this section, which fine, together with the amount due under this section, may be recovered pursuant to section 412:2-611 and shall be deposited into the compliance resolution fund established pursuant to section 26-9(o).”

SECTION 3. Section 412:3-209, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Every financial institution existing or organized under the laws of this State shall at all times, and every applicant in organization shall, before filing the final application for a charter or license under this part and at all times thereafter, have paid-in capital and surplus of not less than the following amounts for each type of institution specified below:

Banks	\$5,000,000
Savings banks	\$3,000,000
Savings and loan associations	\$2,000,000
Trust companies	\$1,500,000
<u>Nondepository trust companies</u>	<u>\$1,000,000</u>
Depository financial services loan companies	\$1,000,000”

SECTION 4. Section 412:8-101, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““Nondepository trust company” means a type of trust company that is not authorized to accept deposits.”

SECTION 5. Section 412:8-202, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) A trust company may act as an agent ~~in~~ on behalf of a principal in the transaction of any business or in the management of any property, real, personal or mixed, with such powers as the trust company may exercise under sections 412:8-200 ~~and~~, 412:8-201~~;~~, and 412:8-; provided~~;~~ that its duties as ~~such~~ agent and the terms and conditions of the agency or power are set forth either specifically or generally in a written memorandum signed by the principal.”

SECTION 6. There is appropriated out of the compliance resolution fund established pursuant to section 26-9(o), Hawaii Revised Statutes, the sum of \$4,000 or so much thereof as may be necessary for fiscal year 2021-2022 and the same sum or so much thereof as may be necessary for fiscal year 2022-2023 for the division of financial institutions of the department of commerce and consumer affairs to administer nondepository trusts under this Act.

The sums appropriated shall be expended by the department of commerce and consumer affairs for the purposes 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, 2021.

(Approved June 28, 2021.)

ACT 106

H.B. NO. 1297

A Bill for an Act Relating to State Finances.

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

SECTION 1. House Bill 200, H.D. 1, S.D. 1, C.D. 1,¹ passed by the legislature during the regular session of 2021, is amended by adding a new section as follows:

“SECTION 4.3 There are appropriated or authorized from the source of funding indicated below to collective bargaining statewide (BUF 102) the following sums or so much thereof as may be necessary to fund for fiscal biennium 2021-2023 collective bargaining:

	<u>FY 2021-2022</u>	<u>FY 2022-2023</u>
<u>General Funds</u>	<u>\$10,000,000</u>	<u>\$40,600,000</u>

The funds appropriated by this section 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 section.

Salary increases and cost adjustments provided in this section 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.

Funds appropriated or authorized by this section that are not expended or encumbered by June 30, 2022, and June 30, 2023, of the respective fiscal years, shall lapse as of those dates.”

SECTION 2. New statutory material is underscored.

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

(Approved June 24, 2021.)

Note

1. Act 88.

A Bill for an Act Relating to the Department of Business, Economic Development, and Tourism.

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

SECTION 1. The legislature finds that significant investment in clean energy technology and infrastructure will be required to achieve the State's goals of energy self-sufficiency, energy security, and energy diversification. Additional investment is also needed to meet the renewable portfolio and energy efficiency portfolio standards in chapter 269, Hawaii Revised Statutes, as well as the Hawaii clean energy initiative's target of one hundred sixty-five million gallons of petroleum used per year for ground transportation by 2030. The current aggregate level of green infrastructure investment is in excess of \$15,350,000,000.

The legislature also finds that green infrastructure investment supports Hawaii's evolving energy market and provides affordable options for Hawaii's ratepayers. Due to the significant amount of capital required for green infrastructure investment, the State must leverage private investment with limited public funds. A growth in the clean energy market will reduce the cost of clean energy for ratepayers, drive job creation, and save billions of taxpayer dollars currently being spent on importing petroleum oil.

The legislature has made various efforts to invest in green technology. Act 155, Session Laws of Hawaii 2009, established the building energy efficiency revolving loan fund to provide low cost financing to eligible public, private, and nonprofit borrowers to make energy efficiency improvements to buildings. Act 211, Session Laws of Hawaii 2013, established the Hawaii green infrastructure authority to make cost-effective green infrastructure financing options accessible and affordable to customers under the green energy market securitization loan program.

The legislature further finds that a significant barrier to clean energy adoption has been the unavailability of flexible financing and low-cost capital. Building Hawaii's clean energy infrastructure at the lowest possible cost is vital to reach the State's goal of one hundred per cent clean energy by 2045. Public funds must be used in a sustainable manner to simultaneously spark customer demand for clean energy technology and attract private investment in green technology. It is the State's goal that each public dollar spent will have an investment multiplier effect throughout the green technology industry.

The legislature also finds that a variety of financing options must be available to support Hawaii's clean energy investment. Ratepayer-funded programs, such as energy efficiency rebates and the green energy market securitization loan program, have made progress but do not serve all ratepaying customers or the entire clean energy technology market. The green energy market securitization loan program has facilitated over \$110,000,000 in solar photovoltaic and energy efficiency projects, but the program is not able to serve all ratepayers and focuses only on established technology. The green energy market securitization bond was an innovative use of a rate reduction bond, but due to the time lag between the issuance of the bond and expenditures for improvements, using bond financing was inefficient compared to using revolving loan funds, which are expended annually and in a more expedient manner.

Further, the coronavirus disease 2019 pandemic has had significant negative impacts on Hawaii's tourism industry and economy, resulting in projections of severe state budgetary shortfalls over the next four years. With only a limited number of financing mechanisms available to install solar photovoltaic systems,

state agencies have historically lowered their energy costs by entering into energy performance contracts and power purchase agreements with private partners to install and own energy retrofits and solar systems on their behalf. While individual results are dependent on the negotiated terms of the consummated energy performance contract or power purchase agreement, many of these arrangements have successfully reduced the cost of energy for the State. Additionally, most agreements include an option for state agencies to purchase the installed equipment during the term of the agreement. For example, in examining a power purchase agreement executed on September 30, 2016, between a state agency and an investor for a twenty-year term, the agency is estimated to reduce its energy cost by forty-two per cent. If, however, this state agency had access to financing under the green infrastructure loan program to exercise its purchase option, the agency would be projected to reduce its energy cost by sixty-one per cent over the same twenty-year term of the power purchase agreement. This sixty-one per cent reduction in cost, which includes the loan repayment and ongoing equipment maintenance costs, creates a new source of cash flow for the agency.

With the number of energy performance contracts and power purchase agreements in existence throughout the State, there is a tremendous opportunity for additional energy savings to be utilized to finance the conversion of the State's retiring internal combustion fleet to short-term leases on electric vehicles as well as install electric vehicle charging systems while remaining budget neutral. Using the aforementioned example of the state agency with reduced energy costs, this agency could install one level three charging system and lease seven electric vehicles with its savings.

The purpose of this Act is to strengthen the Hawaii green infrastructure authority's ability to support investment in clean energy technology, including electric vehicles and electric vehicle charging systems and infrastructure, by:

- (1) Creating a clean energy and energy efficiency revolving loan fund to finance a broad range of clean energy technologies;
- (2) Repealing the building energy efficiency revolving loan fund;
- (3) Expanding the objective of the Hawaii green infrastructure special fund \$50,000,000 sub-fund to allow state agencies to finance their purchase option under existing energy performance contracts and power purchase agreements to further reduce and stabilize future energy costs, with the option to utilize savings to finance the installation of electric vehicle charging systems and lease or purchase electric vehicles; and
- (4) Making an appropriation out of the clean energy and energy efficiency revolving loan fund to provide clean energy investment loans or for other approved uses.

SECTION 2. Chapter 196, Hawaii Revised Statutes, is amended by adding a new section to part IV to be appropriately designated and to read as follows:

“§196- Clean energy and energy efficiency revolving loan fund. (a) There is established in the Hawaii green infrastructure special fund established under section 196-65, the clean energy and energy efficiency revolving loan fund, similar to a revolving line of credit, which shall be administered by the authority. Funds deposited into the clean energy and energy efficiency revolving loan fund shall not be under the jurisdiction of, nor be subject to approval by, the commission and shall include:

- (1) Any amounts, up to a total amount not to exceed \$50,000,000, of moneys borrowed by the authority, with the approval of the gover-

nor, from federal, county, private, or other funding sources, pursuant to part III of chapter 39;

- (2) Funds from federal, state, county, private, or other funding sources;
- (3) Investments from public or private investors;
- (4) Moneys received as repayment of loans and interest payments; provided that the repayment of loans and interest payments under this paragraph shall not include repayment of loans and interest collected as a result of funds advanced from proceeds of the green energy market securitization bonds; and
- (5) Any fees collected by the authority under this section; provided that moneys collected as a result of the funds advanced from proceeds of the green energy market securitization bonds shall be kept separate from fees collected as a result of funds advanced from proceeds of the clean energy and energy efficiency revolving loan fund.

(b) Moneys in the clean energy and energy efficiency revolving loan fund shall be used to provide low-cost loans at below-market rates or other authorized financial assistance to eligible public, private, and nonprofit borrowers for clean energy investments or other authorized uses, or both, on terms approved by the authority. Moneys from the fund may be used to cover administrative and legal costs of fund management and management associated with individual loans, which include personnel, services, technical assistance, data collection and reporting, materials, equipment, and travel for the purposes of this section.

(c) Funds appropriated or authorized from the clean energy and energy efficiency revolving loan fund shall be expended by the authority. The authority may contract with other public or private entities for the provision of all or a portion of the services necessary for the administration and implementation of the loan fund program. The authority may set fees or charges for fund management and technical site assistance provided under this section.

(d) All interest earned on the loans, deposits, or investments of the moneys in the fund shall become part of the fund.

(e) The authority may establish subaccounts within the fund as necessary.

(f) The authority may adopt rules pursuant to chapter 91 to carry out the purposes of this section.”

SECTION 3. Section 196-61, Hawaii Revised Statutes, is amended as follows:

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

““Clean energy investments” means the purchase, installation, or both, of clean energy technology, including energy-efficiency measures, green transportation infrastructure, recycling, and renewable energy technology.

“Electric vehicle” has the same meaning as defined in section 291-71.

“Electric vehicle charging system” has the same meaning as defined in section 291-71.

“Energy performance contract” has the same meaning as defined in section 36-41.

“Green energy money saver on-bill program” means the tariff-based on-bill repayment mechanism approved for the exclusive use of the authority by the commission.

“Limited liability company” means a limited liability company formed under chapter 428.

“Loan fund program” means the clean energy and energy efficiency revolving loan fund program.

“Option to purchase” means a legally binding agreement between a buyer and a seller, which gives the buyer the option, but not the obligation, to purchase the solar energy system or other installed equipment at an agreed upon price, prior to the maturity date of the power purchase agreement or energy performance contract.

“Power purchase agreement” means a contract between two parties, one that generates electricity, or the seller, and one that seeks to purchase electricity, or the buyer, that defines all of the commercial terms for the sale of electricity between the two parties.

“Qualified security” shall have the same meaning as defined in section 227D-1.

“Renewable energy” shall have the same meaning as defined in section 269-91.

“Renewable energy technology” means the equipment and related accessories required to generate or produce renewable energy.

“Special purpose entity” means a legal entity created to fulfill narrow, specific, or temporary objectives and is typically used by companies to isolate the firm from financial risk.

“Subaccount” means a fund that is established within, but separate from, another fund and is reserved for a specific purpose.”

2. By amending the definition of “loan program” and “green infrastructure loans” to read:

“~~“Loan program” and “green~~ “Green infrastructure [loans]” loan program” and “green infrastructure loans” means the program established by this part under section 196-62 and [loans made] capitalized by the issuance of green energy market securitization bonds to finance the purchase or installation of green infrastructure equipment for clean energy technology, demand response technology, and energy use reduction and demand side management infrastructure, programs, and services as authorized by the public utilities commission using the proceeds of bonds [~~or other proceeds~~].”

SECTION 4. Section 196-62.5, Hawaii Revised Statutes, is amended to read as follows:

~~“[§196-62.5] Financing for state government agencies.~~ (a) ~~[With the approval of the governor, a]~~ Any state agency may apply for financing, subject to availability under the revolving line of credit for fiscal year ~~[2018-2019,]~~ 2021-2022, and annually thereafter, from the green infrastructure loan program pursuant to section 196-65(b)(2), upon terms and conditions as are agreed to between the department or agency and the Hawaii green infrastructure authority; provided that the loans shall be issued at an interest rate of 3.5 per cent a year; provided further that the loans shall not adversely affect the sustainability of the sub-fund or Hawaii green infrastructure special fund such that the replenishment of funds requires a higher interest rate in other financing agreements or an appropriation from the general fund.

(b) ~~[A]~~ As may be applicable, an agency shall consult with the public benefits fee administrator of the ~~[public utilities]~~ commission prior to planning an energy-efficiency measure subject to this section. The agency’s proposed energy-efficiency measures shall meet or exceed the public benefits fee administrator’s enhanced efficiency levels and requirements to be eligible for the Hawaii green infrastructure loan program. The agency shall coordinate with the public benefits fee administrator throughout the entire project cycle to ensure that energy efficiency is maximized. All supporting documentation required by the public benefits fee administrator shall be provided by the agency to ensure compliance with the State’s energy-efficiency portfolio standard under section 269-96.

(c) An agency shall submit an expenditure plan to the executive director of the Hawaii green infrastructure authority, who shall serve as the fiscal administrator for the loans issued pursuant to subsection (a) and shall make payment on behalf of the agency, as appropriate, upon submission of requests for payment from the agency.

(d) Beginning with fiscal year ~~[2018-2019,]~~ 2021-2022, and annually thereafter, an agency shall repay a loan issued pursuant to subsection (a) using general revenue savings that result from reduced ~~[utility]~~ energy costs due to ~~[implementation of]~~ financing the purchase of solar energy systems or other clean energy equipment, implementing energy-efficient lighting and other energy-efficiency measures[-], as well as operational and fuel cost savings achieved by the conversion of internal combustion vehicles to electric vehicles."

SECTION 5. Section 196-64, Hawaii Revised Statutes, is amended to read as follows:

~~“[§196-64]~~ **Functions, powers, and duties of the authority.** (a) In the performance of, and with respect to the functions, powers, and duties vested in the authority by this part, the authority, as directed by the director and in accordance with a green infrastructure loan program order or orders under section 269-171 or an annual plan submitted by the authority pursuant to this section, as approved by the ~~[public utilities]~~ commission for the green infrastructure loan program, may:

- (1) Make loans and expend funds to finance the purchase or installation of green infrastructure equipment for clean energy technology, demand response technology, and energy use reduction and demand side management infrastructure, programs, and services;
- (2) Hold and invest moneys in the green infrastructure special fund in investments as permitted by law and in accordance with approved investment guidelines established in one or more orders issued by the ~~[public utilities]~~ commission pursuant to section 269-171;
- (3) Hire employees necessary to perform its duties, including an executive director. The executive director shall be appointed by the authority, and the employees' positions, including the executive director's position, shall be exempt from chapter 76;
- (4) Enter into contracts for the service of consultants for rendering professional and technical assistance and advice, and any other contracts that are necessary and proper for the implementation of the loan program;
- (5) Enter into contracts for the administration of the loan program, without the necessity of complying with chapter 103D;
- (6) Establish loan program guidelines to be approved in one or more orders issued by the ~~[public utilities]~~ commission pursuant to section 269-171 to carry out the purposes of this part;
- (7) Be audited at least annually by a firm of independent certified public accountants selected by the authority, and provide the results of this audit to the department and the ~~[public utilities]~~ commission; and
- (8) Perform all functions necessary to effectuate the purposes of this part.

(b) The authority shall submit to the ~~[public utilities]~~ commission an annual plan for the green infrastructure loan program for review and approval no later than ninety days prior to the start of each fiscal year. The annual plan submitted by the authority shall include the authority's projected operational budget for the succeeding fiscal year.

(c) In the performance of the functions, powers, and duties vested in the authority by this part, the authority shall administer the clean energy and energy efficiency revolving loan fund pursuant to section 196- and may:

- (1) Make loans and expend funds to finance the purchase or installation of clean energy technology and services;
- (2) Implement and administer loan programs on behalf of other state departments or agencies through a memorandum of agreement and expend funds appropriated to the department or agency for purposes authorized by the legislature;
- (3) Utilize all repayment mechanisms, including the green energy money saver on-bill program, financing tools, servicing and other arrangements, and sources of capital available to the authority;
- (4) Exercise powers to organize and establish special purpose entities as limited liability companies under the laws of the State;
- (5) Acquire, hold, and sell qualified securities;
- (6) Pledge unencumbered net assets, loans receivable, assigned agreements, and security interests over equipment financed, as collateral for the authority's borrowings from federal, county, or private lenders or agencies;
- (7) Utilize the employees of the authority, including the executive director;
- (8) Enter into contracts for the service of consultants for rendering professional and technical assistance and advice and any other contracts that are necessary and proper for the implementation of the loan fund program;
- (9) Enter into contracts for the administration of the loan fund program exempt from chapter 103D;
- (10) Establish loan fund program guidelines;
- (11) Be audited at least annually by a firm of independent certified public accountants selected by the authority and provide the results of the audit to the department and legislature; and
- (12) Perform all functions necessary to effectuate the purposes of this part.

(d) The authority shall submit an annual report for the clean energy and energy efficiency revolving loan fund to the legislature no later than twenty days prior to the convening of each regular session describing the projects funded and the projected energy impacts."

SECTION 6. Section 196-65, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Moneys in the Hawaii green infrastructure special fund may be used, subject to the approval of the [public utilities] commission, for the purposes of:

- (1) Making green infrastructure loans, including for installation costs for energy-efficient lighting and other energy-efficiency measures[;], to finance the option to purchase solar energy systems and other clean energy equipment under existing power purchase agreements and energy performance contracts, finance the purchase or lease of electric vehicles, and to install electric vehicle charging systems;
- (2) Creating a \$50,000,000 sub-fund, as a revolving line of credit within the Hawaii green infrastructure special fund, for any state agency to obtain financing to implement cost-effective energy-efficiency measures[;], finance the option to purchase solar energy systems and other clean energy equipment under existing power purchase agreements and energy performance contracts, finance the purchase

or lease of electric vehicles, and install electric vehicle charging systems;

- (3) Paying administrative costs of the Hawaii green infrastructure loan program;
- (4) Paying any other costs related to the Hawaii green infrastructure loan program; or
- (5) Paying financing costs, as defined in section 269-161, to the extent permitted by the ~~[public utilities]~~ commission in a financing order issued pursuant to section 269-163.”

SECTION 7. Section 201-12.8, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Subject to legislative appropriation, moneys from the fund may be expended by the Hawaii state energy office for the following purposes and used for no other purposes, except for those set forth in this section:

- (1) To support the Hawaii clean energy initiative program and projects that promote and advance dependable and affordable energy, renewable energy, energy efficiency, energy self-sufficiency, and greater energy security and resiliency for the State and public facilities;
- (2) To fund, to the extent possible, the climate change mitigation and adaptation commission and the greenhouse gas sequestration task force;
- (3) To support achieving the zero emissions clean economy target set forth in section 225P-5;
- ~~[(4) To fund the building energy efficiency revolving loan fund established in section 201-20;~~
- ~~[(5)]~~ (4) To fund projects and incentives to promote the adoption of clean transportation technologies, develop clean vehicle charging infrastructure, and upgrade infrastructure to support the development of clean vehicle charging infrastructure; and
- ~~[(6)]~~ (5) To fund, to the extent possible, the duties of the state building code council in section 107-24, as they relate to the development of energy conservation codes.”

SECTION 8. Section 201-20, Hawaii Revised Statutes, is repealed.

SECTION 9. There is appropriated out of the clean energy and energy efficiency revolving loan fund the sum of \$50,000,000 or so much thereof as may be necessary for fiscal year 2021-2022 to provide loans or other financial assistance to eligible borrowers for clean energy investments or other authorized uses.

The sum appropriated shall be expended by the Hawaii green infrastructure authority for the purposes of this Act.

SECTION 10. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 11. This Act shall take effect on July 1, 2021.

(Approved June 28, 2021.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 108

S.B. NO. 973

A Bill for an Act Relating to Hawaii Money Transmitter Act.

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

SECTION 1. The legislature finds that the money transmission industry has evolved since the enactment of Hawaii's Money Transmitters Act in 2006, when money transmission was conducted by mom and pop store fronts and a few large companies for consumers who wished to send funds to family and friends abroad. Today, the industry is largely dominated by internationally based companies with global reach and instant payment processing capabilities, who are continually innovating their financial technology and seeking the most efficient way to transmit funds with ease for the consumer.

Over the years, regulation of money transmitters has evolved from a single state regulator licensing, supervising, and examining a money transmitter to a network of states working together to license, supervise, and examine trans-global money transmission companies as a multi-state system. In 2000, the National Conference of Commissioners of Uniform State Laws adopted a model law, known as the Uniform Money Services Act, to harmonize the varied state regulatory frameworks. The goal was to have various states adopt the Uniform Money Services Act to create uniformity with respect to the regulation of money transmitters in various states. The Uniform Money Services Act was last amended in 2004. In 2019, the Conference of State Bank Supervisors published a draft model law for money services businesses based on the Uniform Money Services Act to address areas in need of standardization and alignment across jurisdictions. The Conference of State Bank Supervisors model law focused on protecting consumers, establishing barriers to the entry of bad actors, and facilitating coordination among state agencies.

The legislature further finds that the instantaneous global money transmission activity today necessitates additional oversight of money transmitters to provide appropriate consumer protection. Furthermore, the fast-paced nature of money transmissions and innovation of financial technology necessitates a quicker response to protect consumers. Hawaii's Money Transmitters Act incorporates many provisions from the Uniform Money Services Act, including provisions for networked supervision, allowing the State some networked oversight of these trans-global money transmission companies. However, the legislature also finds that the law in its current form does not provide sufficient flexibility for the State to share supervisory information with other states to allow the quick response required to protect consumers.

The purpose of this Act is to ensure that Hawaii can effectively license, regulate, and supervise nationally and globally operating money transmission companies without unnecessarily impacting money transmission businesses that operate regionally or in a single state by amending Hawaii's Money Transmitters Act to:

- (1) Incorporate definitions of key terms provided in the Conference of State Bank Supervisors' model law;
- (2) Add supporting documentation required to be submitted by an applicant for licensure;
- (3) Extend the period of an applicant's litigation and criminal conviction history review from five to ten years prior to the date of the application, which is the maximum period reported by federal agencies;
- (4) Require an applicant to submit information concerning any bankruptcy or receivership proceedings affecting the licensee;

- (5) Clarify the authority of the commissioner of financial institutions to examine and investigate licensees; and
- (6) Allow the commissioner of financial institutions to participate in nationwide protocols for licensing cooperation and coordination with other state regulators.

SECTION 2. Chapter 489D, Hawaii Revised Statutes, is amended by amending its title to read as follows:

**“CHAPTER 489D
MONEY TRANSMITTERS MODERNIZATION ACT”**

SECTION 3. Section 489D-1, Hawaii Revised Statutes, is amended to read as follows:

“~~[[~~~~§~~~~489D-1~~~~]]~~ **Short title.** This chapter may be cited as the Money Transmitters Modernization Act.”

SECTION 4. Section 489D-4, Hawaii Revised Statutes, is amended as follows:

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

“Acting in concert” means individuals knowingly acting together with a common goal of jointly acquiring control of a licensee whether or not pursuant to an express agreement.

“Individual” means a natural person.

“Key individual” means any individual ultimately responsible for establishing or directing policies and procedures of the licensee, such as an executive officer, manager, director, or trustee.

“Passive investor” means a person who:

- (1) Does not have the power to elect a majority of key individuals;
- (2) Is not employed by and does not have any managerial duties of the licensee or person in control of a licensee;
- (3) Does not have the power to exercise directly or indirectly a controlling influence over the management or policies of a licensee or person in control of a licensee; and
- (4) Either:
 - (A) Attests to paragraphs (1), (2), and (3) in a form prescribed by the commissioner; or
 - (B) Commits to the passivity characteristics of paragraphs (1), (2), and (3) in a written document.

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

“Control” means [ownership]:

- (1) Ownership of, or the power to vote, twenty-five per cent or more of the outstanding voting securities or voting interests of a licensee or [controlling] person[-] in control. For purposes of determining the percentage of a licensee controlled by any person, there shall be aggregated with the [controlling person’s] person in control’s interest, the interest of any other person controlled by the person, [or by] including any spouse, parent, [or] child [of the person-], sibling, and any other person who shares the person’s home;
- (2) The power to elect or appoint a majority of key individuals of a licensee; and
- (3) The power to exercise directly or indirectly a controlling influence over the management or policies of a licensee or person in control of a licensee.”

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

““NMLS” means a [~~mortgage~~] multi-state licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the state licensing and registration of state-licensed [~~loan originators and other~~] financial services providers[~~, or any system provided by the Consumer Financial Protection Bureau.~~”

4. By amending the definition of “principal” to read:

““Principal” means any person, or group of persons acting in concert, who exercises control over or has a twenty-five per cent ownership interest or more in an applicant or licensee under this chapter. [~~Principal~~] “Principal” also includes a manager and [~~executive officers;~~] key individual.”

5. By deleting the definition of “controlling person”.

[~~““Controlling person” means any person in control of a licensee.”~~]

SECTION 5. Section 489D-9, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) An application for a license under this chapter shall be made in writing, and in a form prescribed by NMLS or by the commissioner. Each application shall contain the following:

(1) For all applicants:

- (A) The exact name of the applicant, any fictitious or trade name used by the applicant in the conduct of its business, the applicant’s principal address, and the location of the applicant’s business records;
- (B) The history of the applicant’s material litigation and criminal convictions for the [~~five-year~~] ten-year period prior to the date of the application;
- (C) A description of the business activities conducted by the applicant and a history of operations;
- (D) A description of the business activities in which the applicant seeks to engage within the State;
- (E) A list identifying the applicant’s proposed authorized delegates in the State, if any, at the time of the filing of the license application;
- (F) A sample authorized delegate contract, if applicable;
- (G) A sample form of payment instrument[~~;~~] or instrument upon which stored value is recorded, if applicable;
- (H) The locations where the applicant and its authorized delegates, if any, propose to conduct their licensed activities in the State;
- (I) The name and address of the clearing bank or banks on which the applicant’s payment instruments will be drawn or through which payment instruments will be payable;
- (J) Disclosure of any pending or final suspension, revocation, or other enforcement action by any state or governmental authority for the five-year period prior to the date of the application; [~~and~~]
- (~~K~~) Information concerning any bankruptcy or receivership proceedings affecting the licensee, key individual, person in control of a licensee, or person seeking to acquire control of a licensee; and

[~~(K)~~] (L) Any other information the commissioner may require;

(2) If the applicant is a corporation, the applicant shall also provide:

- (A) The date of the applicant’s incorporation and state of incorporation;

- (B) A certificate of good standing from the state in which the applicant was incorporated;
 - (C) A description of the corporate structure of the applicant, including the identity of any parent or subsidiary company of the applicant, and the disclosure of whether any parent or subsidiary company is publicly traded on any stock exchange;
 - (D) The name, business and residence address, and employment history, for the past five years, of the applicant's principals, and each person who, upon approval of the application, will be a principal of the licensee;
 - (E) For the ~~[five-year]~~ ten-year period prior to the date of the application, the history of material litigation involving, and criminal convictions of, each principal of the applicant;
 - (F) A copy of the applicant's most recent audited financial statement, including balance sheets, statements of income or loss, statements of changes in shareholder equity and statements of changes in financial position, and, if available, the applicant's audited financial statements for the preceding two-year period or, if the applicant is a wholly owned subsidiary of another corporation, either the parent corporation's consolidated audited financial statements for the current year and for the preceding two-year period, or the parent corporation's Form 10-K reports filed with the United States Securities and Exchange Commission for the prior three years in lieu of the applicant's financial statements, or if the applicant is a wholly owned subsidiary of a corporation having its principal place of business outside the United States, similar documentation filed with the parent corporation's non-United States regulator;
 - (G) Copies of all filings, if any, made by the applicant with the United States Securities and Exchange Commission, or with a similar regulator in a country other than the United States, within the year preceding the date of filing of the application; and
 - (H) Information necessary to conduct a criminal history record check in accordance with section 846-2.7 of each person who, upon approval of the application, will be a principal of the licensee, accompanied by the appropriate payment of the applicable fee for each record check; and
- (3) If the applicant is not a corporation, the applicant shall also provide:
- (A) The name, business and residence address, personal financial statement, and employment history, for the past five years, of each principal of the applicant;
 - (B) The name, business and residence address, and employment history, for the past five years, of any other persons who, upon approval of the application, will be a principal of the licensee;
 - (C) The place and date of the applicant's registration or qualification to do business in this State;
 - (D) The history of material litigation and criminal convictions for the ~~[five-year]~~ ten-year period before the date of the application for each principal of the applicant;
 - (E) Copies of the applicant's audited financial statements, including balance sheets, statements of income or loss, and statements of changes in financial position for the current year and, if available, for the preceding two-year period; and

- (F) Information necessary to conduct a criminal history record check in accordance with section 846-2.7 of each principal of the applicant, accompanied by the appropriate payment of the applicable fee for each record check.”

SECTION 6. Section 489D-15, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) After review of a request for approval under subsection (a), the commissioner may require the licensee or person or group of persons requesting approval of a proposed change of control of the licensee, or both, to provide additional information concerning the persons who are to assume control of the licensee. The additional information shall be limited to similar information required of the licensee or persons in control of the licensee as part of its original license or renewal application under sections 489D-9 and 489D-12. The information shall include the history of the material litigation and criminal convictions of each person who upon approval of the application for change of control will be a principal of the licensee, for the [five-year] ten-year period prior to the date of the application for change of control of the licensee, and authorizations necessary to conduct criminal history record checks of such persons, accompanied by the appropriate payment of the applicable fee for each record check.”

SECTION 7. Section 489D-17, Hawaii Revised Statutes, is amended to read as follows:

§489D-17 Examinations[-] and investigations. ~~[(a) The commissioner may conduct an annual on-site examination of a licensee upon sixty days written notice to the licensee. The commissioner may examine a licensee without prior notice if the commissioner has a reasonable basis to believe that the licensee is not in compliance with this chapter. The on-site examination may be conducted in conjunction with examinations performed by representatives of agencies of the federal government, or of another state or states. The commissioner, in lieu of an on-site examination, may accept the examination report of the federal government, an agency of another state, or an independent accounting firm. Accepted reports are considered, for all purposes, an official report of the commissioner. The licensee shall bear the cost of reasonable expenses incurred by the division, agencies of another state, or an independent licensed or certified public accountant in conducting an examination or making a report.~~

~~(b) The commissioner may request financial data from a licensee in addition to that required under section 489D-12, or conduct an on-site examination of any authorized delegate or location of a licensee within the State without prior notice to the authorized delegate or licensee only if the commissioner has a reasonable basis to believe that the licensee or authorized delegate is not in compliance with this chapter. When the commissioner examines an authorized delegate's operations, the authorized delegate shall pay all reasonably incurred costs of the examination. When the commissioner examines a licensee's location within the State, the licensee shall pay all reasonably incurred costs of the examination.]~~

(a) The commissioner may examine or investigate a licensee or authorized delegate of a licensee as reasonably necessary or appropriate to administer and enforce this chapter, rules adopted or orders issued under this chapter, and other applicable law including but not limited to the Bank Secrecy Act, title 31 United States Code section 5311 et seq.; Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001, P.L. 107-56; Electronic Fund Transfer Act,

Title 15 United States Code section 1693 et seq.; and Gramm-Leach Bliley Act of 1999, P.L. 106-102.

(b) The commissioner may:

- (1) Conduct an examination or investigation as the commissioner may reasonably require;
- (2) Conduct an on-site or off-site examination or investigation or an off-site review of records;
- (3) Conduct an examination or investigation in conjunction with an examination or investigation conducted by representatives of agencies of another state or the federal government;
- (4) Accept the examination report of agencies of another state or the federal government or a report prepared by an independent accounting firm, in which event the accepted report shall be considered for all purposes as an official report of the commissioner; and
- (5)¹ Summon and examine under oath a key individual or employee of a licensee or authorized delegate of a licensee and require the person to produce records regarding any matter related to the condition and business of the licensee or authorized delegate.

(c) A licensee or authorized delegate of a licensee shall provide, and the commissioner shall have full and complete access to, all records the commissioner may reasonably require to conduct a complete examination or investigation. The records shall be provided at the location and in the format specified by the commissioner; provided that the commissioner may utilize multi-state record production standards and examination procedures when the standards will reasonably achieve the requirements of this section.

(d) Unless otherwise directed by the commissioner, a licensee shall pay all costs reasonably incurred in connection with an examination of the licensee's authorized delegate.

(e) To efficiently and effectively administer and enforce this chapter and to minimize regulatory burden, the commissioner may participate in the multi-state, networked supervisory processes established between states and coordinated through the Conference of State Bank Supervisors, Money Transmitter Regulator Association, and affiliates and successors for all licensees that hold licenses in this State and other states; provided that:

- (1) As a participant in this multi-state supervision, the commissioner may:
 - (A) Cooperate, coordinate, and share information with other state and federal regulators;
 - (B) Enter into a written cooperation, coordination, or information-sharing contract or agreement with the organizations, the membership of which is made up of state or federal governmental agencies; and
 - (C) Cooperate, coordinate, and share information with organizations, the membership of which is made up of state or federal governmental agencies; provided further that the organizations agree in writing to maintain the confidentiality and security of the shared information;
- (2) For the purposes of paragraph (1), the commissioner shall:
 - (A) Conduct a joint or concurrent examination or other investigation or enforcement action with the agency of another state or the federal government;
 - (B) Accept a report of examination or investigation by, or a report submitted to, the agency of another state or federal govern-

- ment, in which event the accepted report shall serve as an official report of the commissioner for all purposes; and
- (C) Take other action as the commissioner considers reasonably necessary or appropriate to carry out and achieve the purposes of this chapter;
- (3) The commissioner shall not waive, and nothing in this section shall constitute a waiver of, the commissioner's authority to conduct an examination or investigation or otherwise take independent action authorized by this chapter, or a rule adopted or order issued under this chapter, to enforce compliance with applicable state or federal law; and
- (4) A joint examination or investigation, or acceptance of an examination or investigation report, shall not waive an examination assessment authorized by this chapter.
- (f) The submission of any information to the commissioner by a person subject to this chapter or shared with the commissioner by another federal or state regulator of a person subject to this chapter, for any purpose in the course of any examination or investigation or otherwise, shall not be construed as waiving, destroying, or otherwise affecting any privilege the person may claim with respect to the information under federal or state law as to any person or entity other than the commissioner; provided that this subsection shall not be construed as implying or establishing that:
- (1) Any person waives any privilege applicable to information that is submitted or transferred under circumstances to which this subsection does not apply; and
- (2) Any person would waive any privilege applicable to any information by submitting the information to the commissioner but for this subsection.
- ~~(e)~~ (g) The commissioner shall charge an examination fee to each licensee and authorized delegate examined or investigated by the commissioner or the commissioner's staff, based upon the cost per hour per examiner. The hourly fee shall be \$60.
- ~~(d)~~ (h) In addition to the examination fee, the commissioner shall charge any money transmitter or authorized delegate examined or investigated by the commissioner or the commissioner's staff, additional amounts for travel, per diem, mileage, and other reasonable expenses incurred in connection with the examination."

SECTION 8. Section 489D-34, Hawaii Revised Statutes, is amended to read as follows:

"§489D-34 Powers of the commissioner. In addition to any other powers provided by law, the commissioner may:

- (1) Adopt rules pursuant to chapter 91 to implement this chapter;
- (2) Administer and enforce the provisions and requirements of this chapter;
- (3) Issue declaratory rulings and informal nonbinding interpretations;
- (4) Develop requirements for licensure;
- (5) Process and investigate complaints, subpoena witnesses and documents, administer oaths, and receive affidavits and oral testimony, including telephonic communications;
- (6) Investigate and conduct hearings, including contested case proceedings under chapter 91, regarding any violation of this chapter, or any rule or order of, or agreement with, the commissioner;

- (7) Create fact-finding committees that may make recommendations to the commissioner for the commissioner’s deliberations;
- (8) Require disclosure of relevant criminal history in accordance with this chapter and conduct criminal history record checks in accordance with chapter 846;
- (9) Contract with or employ qualified persons who may be exempt from chapter 76, including investigators, examiners, auditors, and attorneys, to assist the commissioner in exercising the commissioner’s powers and duties;
- (10) Require that all revenues, fees, and fines collected by the commissioner under this chapter be deposited into the compliance resolution fund established pursuant to section 26-9(o);
- (11) Revoke, suspend, or otherwise limit the license of any money transmitter for any violation of this chapter, or any rule or order of, or agreement with, the commissioner;
- (12) Report any violation of this chapter or violation of federal or state law to the Consumer Financial Protection Bureau or other federal agency having jurisdiction over the licensee; ~~and~~
- (13) Participate in nationwide protocols for licensing cooperation and coordination among state regulators; and
- ~~(14)~~ (14) Do any and all things necessary or incidental to the exercise of the commissioner’s power and duties.”

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.

SECTION 11. This Act shall take effect on July 1, 2021.

(Approved June 28, 2021.)

Note

- 1. So in original.

ACT 109

S.B. NO. 1053

A Bill for an Act Relating to the Hawaii Community-Based Economic Development Technical and Financial Assistance Program.

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

SECTION 1. Section 210D-11, Hawaii Revised Statutes, is amended to read as follows:

“§210D-11 Grants; conditions and qualifications. (a) Grants shall be made for amounts not to exceed \$100,000 for each applicant. Applications for grants shall be made to the department and contain such information as the department shall require by rules adopted pursuant to chapter 91. At a minimum, the applicant must show that:

- (1) The grant shall be used exclusively for community-based economic development activities, a community-based business or enterprise, or the provision of technical assistance ~~[to community-based organizations]~~, consistent with the purposes of this chapter;
- (2) The community-based business or enterprise shall have applied for or received all applicable licenses and permits;
- (3) The applicant shall 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, disability, or any other characteristic protected under applicable federal or state law;

- (4) The grant shall not be used for purposes of entertainment or perquisites;
 - (5) The applicant shall comply with other requirements as the department may prescribe;
 - (6) All activities and improvements undertaken with funds received shall comply with all applicable federal, state, and county statutes and ordinances, including applicable building codes and agency rules;
 - (7) The applicant shall indemnify and save harmless the State of Hawaii and its officers, agents, and employees from and against any and all claims arising out of or resulting from activities carried out or projects undertaken with funds provided hereunder, and procure sufficient insurance to provide this indemnification if requested to do so by the department; and
 - (8) The facilities shall not be used and are not intended to be used for sectarian instruction or as a place of worship.
- (b) To receive a grant under this section for community-based economic development activities, a community-based enterprise or business, or the provision of technical assistance [~~to community-based organizations~~], an applicant shall:
- (1) Be either:
 - (A) A profit subsidiary of a nonprofit community-based organization incorporated under the laws of the State;
 - (B) A nonprofit community-based organization determined to be exempt from federal income taxation by the Internal Revenue Service;
 - (C) A cooperative association; or
 - (D) An organization providing technical assistance [~~to community-based organizations~~];
 - (2) In the case of a nonprofit organization, have a governing board whose members have no material conflict of interest and serve without compensation, have bylaws or policies that describe the manner in which business is conducted and policies relating to nepotism and management of potential conflict of interest situations, and employ or contract with no two or more members of a family or kin of the first or second degree unless specifically permitted by the department;
 - (3) Agree to make available to the department all records the applicant may have relating to the grant, to allow state agencies to monitor the applicant's compliance with the purpose of this chapter; and
 - (4) Establish, to the satisfaction of the department, that sufficient funds are available for the effective operation of the activity, business, enterprise, or technical assistance for the purpose for which the grant is awarded."

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

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

(Approved June 28, 2021.)

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 section to part II of article 9 to be appropriately designated and to read as follows:

“§431:9- **Contracts between public adjuster and insured.** (a) All contracts for services provided by a public adjuster shall be in writing and contain the following terms:

- (1) Title of “Public Adjuster Contract”;
- (2) Description of services to be provided to the insured;
- (3) Full salary, fee, commission, or other consideration the public adjuster is to receive for services;
- (4) Initial expenses to be reimbursed to the public adjuster from the proceeds of the claim payment, specified by type, with dollar estimates set forth in the contract, and with any additional expenses first approved by the insured;
- (5) Attestation language stating that the public adjuster is fully bonded pursuant to section 431:9-223;
- (6) Insured’s full name, street address, insurance company name, and policy number, if known;
- (7) Description of the loss and its location, if applicable;
- (8) Legible full name of the public adjuster signing the contract;
- (9) The public adjuster’s permanent home state, business address, and phone number;
- (10) License number on record with the insurance division;
- (11) Signatures of the public adjuster and the insured; and
- (12) Date the contract was signed by the public adjuster and date the contract was signed by the insured.

(b) A public adjuster contract shall not contain any contract term that:

- (1) Requires the insured to authorize an insurance company to issue a check only in the name of the public adjuster;
- (2) Imposes collection costs or late fees; or
- (3) Precludes the insured from pursuing civil remedies.

(c) No public adjuster shall charge, agree to, or accept as compensation or reimbursement any payment, fee, commission, or other thing of value that is determined to be unreasonable by the commissioner. If the compensation is based on a share of the insurance settlement or proceeds, the exact percentage shall be specified in the contract.

(d) If the insurer, no later than seventy-two hours after the date on which the loss is reported to the insurer, either pays or commits in writing to pay the insured the limits of any coverage that are or may be applicable to the specific claim, the public adjuster shall:

- (1) Not receive a commission consisting of a percentage of the total amount paid by an insurer to resolve a claim;
- (2) Inform the insured that the amount of a recovered loss might not be increased by the insurer; and
- (3) Be entitled only to reasonable compensation from the insured for services provided by the public adjuster on behalf of the insured, based on the time spent on a claim and expenses incurred by the public adjuster, until the claim is paid or the insured receives a written commitment to pay from the insurer.

(e) A public adjuster shall provide the insured a written disclosure concerning any direct or indirect financial interest that the public adjuster has with any other party who is involved in any aspect of the claim, other than the salary, fee, commission, or other consideration established in the written contract with the insured, including but not limited to any ownership of, other than as a minority stockholder, or any compensation expected to be received from, any construction firm, salvage firm, building appraisal firm, motor vehicle repair shop, or any other firm that provides estimates for work, or that performs any work, in conjunction with damages caused by the insured loss on which the public adjuster is engaged. For purposes of this subsection, “firm” includes any corporation, partnership, association, joint-stock company, or person.

(f) The insured shall have the right to rescind the contract within three business days after the date the contract was signed. The rescission shall be in writing and mailed or delivered to the public adjuster at the address in the contract within the three business-day period.

(g) If the insured exercises the right to rescind the contract pursuant to subsection (f), anything of value given by the insured under the contract shall be returned to the insured within fifteen business days following the receipt of the cancellation notice by the public adjuster.

(h) Compensation provisions in a public adjusting contract shall be made available to the commissioner upon request.”

SECTION 2. Chapter 431, Hawaii Revised Statutes, is amended by adding a new section to part II of article 9A to be appropriately designated and to read as follows:

“§431:9A- **Standard of conduct.** A person issued a limited lines motor vehicle rental company producer license shall act in good faith, abstain from deception, and practice honesty and equity in all insurance matters.”

SECTION 3. Chapter 431, Hawaii Revised Statutes, is amended by adding a new section to part IV of article 9A to be appropriately designated and to read as follows:

“§431:9A- **Standard of conduct.** An owner issued a limited lines self-service storage producer license shall act in good faith, abstain from deception, and practice honesty and equity in all insurance matters.”

SECTION 4. Chapter 431, Hawaii Revised Statutes, is amended by adding a new section to article 31 to be appropriately designated and to read as follows:

“§431:31- **Standard of conduct.** A vendor issued a limited lines license shall act in good faith, abstain from deception, and practice honesty and equity in all insurance matters.”

SECTION 5. Section 431:2-201, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

- (c) The commissioner may:
- (1) Make reasonable rules for effectuating any provision of this code, except those relating to the commissioner’s appointment, qualifications, or compensation. The commissioner shall adopt rules to effectuate article 10C of chapter 431, subject to the approval of the governor’s office and the requirements of chapter 91;
 - (2) Conduct examinations and investigations to determine whether any person has violated any provision of this code or to secure information useful in the lawful administration of any provision;

- (3) Require applicants to provide fingerprints and pay a fee to allow the commissioner to make a determination of license eligibility after obtaining state and national criminal history record checks from the Hawaii criminal justice data center and the Federal Bureau of Investigation; ~~and~~
- (4) Require, upon reasonable notice, that insurers report any claims information the commissioner may deem necessary to protect the public interest~~[-]; and~~
- (5) Upon showing of good cause, waive or modify, in whole or part, any or all fees by order.

SECTION 6. Section 431:7-202, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

“(f) The taxes imposed by subsections (a), (b), (c), and (d) shall be paid monthly. The monthly tax shall be due and payable by electronic payment via the ~~[Automated Clearing House debit or credit payment system]~~ National Association of Insurance Commissioners’ Online Premium Tax for Insurance or an equivalent service approved by the commissioner on or before the twentieth day of the calendar month following the month in which it accrues, coinciding with the filing of the statement provided for in section 431:7-201.

In addition to the monthly tax and monthly tax statement, the annual tax shall be due and payable by electronic payment via the ~~[Automated Clearing House debit or credit payment system]~~ National Association of Insurance Commissioners’ Online Premium Tax for Insurance or an equivalent service approved by the commissioner on or before March 1 coinciding with the filing of the statement provided for in section 431:7-201.

All amounts paid under this subsection, other than fines, shall be allowed as a credit on the annual tax imposed by subsections (a), (b), (c), and (d).

If the total amount of installment payments for any calendar year exceeds the amount of annual tax for that year, the excess shall be treated as an overpayment of the annual tax and be allowed as a refund under section 431:7-203.

Any insurer failing or refusing to pay the required taxes above stated when due and payable shall be liable for a fine of \$500 or ten per cent of the tax due, whichever is greater; plus interest at a rate of twelve per cent per annum on the delinquent taxes. The taxes may be collected by distraint, or the taxes, fine, and interest may be recovered by an action to be instituted by the commissioner in the name of this State, in any court of competent jurisdiction. The commissioner may suspend the certificate of authority of the delinquent insurer until the taxes, fine, and interest, should any be imposed, are fully paid.

~~[As used in this subsection, “Automated Clearing House debit or credit payment system” means the network for the interbank clearing of electronic payments for participating depository financial institutions.]”~~

SECTION 7. Section 431:8-313, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Each ~~surplus lines broker shall file with the commissioner on or before March 15, 2011, a verified statement of all surplus lines insurance transacted during 2010. Each surplus lines broker shall file with the commissioner on or before September 15, 2011, a verified statement of all surplus lines insurance transacted after December 31, 2010, and before July 1, 2011. After June 30, 2011, each~~ surplus lines broker shall file electronically with the commissioner within forty-five days of the end of each calendar quarter a verified statement of all surplus lines insurance transacted during the calendar quarter as follows:

- (1) The statement for the quarter ending March 31 shall be filed on or before May 15;
- (2) The statement for the quarter ending June 30 shall be filed on or before August 15;
- (3) The statement for the quarter ending September 30 shall be filed on or before November 15; and
- (4) The statement for the quarter ending December 31 shall be filed on or before February 15.”

SECTION 8. Section 431:8-315, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) ~~On or before March 15, 2011, each surplus lines broker shall pay to the director of finance, through the commissioner, a premium tax on surplus lines insurance transacted by the broker during 2010. On or before September 15, 2011, each surplus lines broker shall pay to the director of finance, through the commissioner, a premium tax on surplus lines insurance transacted by the broker after December 31, 2010, and before July 1, 2011. After June 30, 2011, within~~ Within forty-five days after the end of each calendar quarter, each surplus lines broker shall pay to the director of finance, through the commissioner~~;~~ via the National Association of Insurance Commissioners’ Online Premium Tax for Insurance or an equivalent service approved by the commissioner, a premium tax on surplus lines insurance transacted by the broker during the calendar quarter for insurance for which this State is the home state of the insured. The tax rate shall be in the amount of 4.68 per cent of gross premiums, less return premiums, on surplus lines insurance for which the home state is this State.

As used in this subsection, “gross premiums” means the amount of the policy or coverage premium charged by the insurer in consideration for the insurance contract. Any charges for policy, survey, inspection, service, or similar fees or other charges added by the broker shall not be considered part of gross premiums.”

SECTION 9. Section 431:9-230, Hawaii Revised Statutes, is amended to read as follows:

“**§431:9-230 Reporting and accounting for ~~[premiums.] funds.~~** (a) Every licensed adjuster shall have the responsibilities of a trustee for all ~~[premium] funds~~ and return ~~[premium] funds~~ received or collected under this article.

- (b) The licensee, upon receipt of the funds, shall either:
 - (1) Remit the ~~[premiums (less commissions)] funds~~ and return ~~[premiums] funds~~ received or held by the licensee to the ~~[insurers or the] persons entitled to [such] the funds~~; or
 - (2) Maintain the funds at all times in a federally insured account with a bank, savings and loan association, or financial services loan company situated in Hawaii, separate from the licensee’s own funds or funds held by the licensee in any other capacity, ~~[in an amount at least equal to the premiums (net of commissions)]~~ and return ~~[premiums] funds~~ received by ~~[such] the licensee~~ and unpaid to the insurers or persons entitled to ~~[such] the funds~~. Return ~~[premiums] funds~~ shall be returned within thirty days, unless directed otherwise in writing by the person entitled to the funds.

The licensee shall not be required to maintain a separate bank account or other account for the funds of each ~~[insurer or] person~~ entitled to ~~[such] the funds~~, ~~[if and]~~ so long as the funds held for the ~~[insurer or] person~~ entitled to ~~[such] the funds~~ are reasonably ascertainable from the books of account and records of the licensee. Only ~~[such] additional funds [as may be]~~ reasonably necessary to pay

bank, savings and loan association, or financial services loan company charges may be commingled with the [premium] funds. In the event the bank, savings and loan association, or financial services loan company account is an interest earning account, [such] the licensee may not retain the interest earned on [such] the funds to the licensee’s own use or benefit without the prior written consent of the [insurers or] person entitled to [such] the funds. A [premium] trustee account shall be designated on the records of the bank, savings and loan association, or financial services loan company as a “trustee account established pursuant to section 431:9-230, Hawaii Revised Statutes”, or words of similar import.

(c) Any [such] licensee who, not being lawfully entitled to [such] the funds, diverts or appropriates [such] the funds or any portion of them [to] for the licensee’s own use, shall be guilty of embezzlement[.] and shall be punished as provided in the criminal statutes of this State.”

SECTION 10. Section 431:9-235, Hawaii Revised Statutes, is amended to read as follows:

“§431:9-235 Denial, suspension, revocation of licenses. (a) The commissioner may suspend, revoke, or refuse to extend any license issued under this article for any cause specified in any other provision of this article, or for any of the following causes:

- (1) For any cause for which issuance of the license could have been refused had it then existed and been known to the commissioner;
- (2) If the licensee wilfully violates or knowingly participates in the violation of any provision of this code;
- (3) If the licensee has obtained or attempted to obtain any license issued under this article through wilful misrepresentation or fraud, or has failed to pass any examination required by section 431:9-206;
- (4) If the licensee has misappropriated, converted to the licensee’s own use, or illegally withheld moneys required to be held in a fiduciary capacity;
- (5) If the licensee, with intent to deceive, has materially misrepresented the terms or effect of any insurance contract; or has engaged or is about to engage in any fraudulent transaction;
- (6) If the licensee has been [~~guilty of~~] found to have committed any unfair practice or fraud as defined in article 13;
- (7) If in the conduct of the licensee’s affairs under the license, the licensee has shown oneself to be a source of injury and loss to the public; or
- (8) If the licensee has dealt with, or attempted to deal with, insurance or to exercise powers relative to insurance outside the scope of the licensee’s licenses.

(b) The license of any partnership or corporation may be [sø] suspended, revoked, or refused for any of the causes that relate to any individual designated in the license to exercise its powers.

(c) The holder of any license, which has been revoked or suspended, shall surrender the license certificate to the commissioner at the commissioner’s request.

(d) The commissioner may suspend, revoke, or refuse to extend any license for any cause specified in this article by an order:

- (1) Given to the licensee at least fifteen days prior to the order’s effective date, subject to the right of the licensee to have a hearing as provided in section 431:2-308. The license shall be suspended pending the hearing; or

- (2) Made after a hearing as provided in section 431:2-308. The effective date of the order shall be ten days after the date the order is given to the licensee. The order may be appealed to the circuit court of the first judicial circuit of this State as provided in chapter 91.”

SECTION 11. Section 431:9A-107.5, Hawaii Revised Statutes, is amended to read as follows:

“**§431:9A-107.5 Limited license.** (a) Notwithstanding any other provision of this article, the commissioner may issue:

- (1) A limited license to persons selling travel tickets of a common carrier of persons or property who shall act only as to travel ticket policies of accident and health or sickness insurance or baggage insurance on personal effects;
- (2) A limited license to each individual who has charge of vending machines used in this State for the effectuation of travel insurance;
- (3) A limited license to any individual who sells policies of accident and health or sickness insurance as a promotional device to improve the circulation of a newspaper in this State;
- (4) A limited line credit insurance producer license to any individual who sells, solicits, or negotiates limited line credit insurance; or
- (5) A limited license to any owner of a self-service storage facility, as defined in section 507-61, to sell stored property insurance, as defined in section 431:9A-171.

(b) The commissioner may prescribe and furnish forms calling for any information that the commissioner deems proper in connection with the application for or extension of these limited licenses.

(c) The limited license shall not be issued until the license fee has been paid.

(d) A person issued a limited license shall act in good faith, abstain from deception, and practice honesty and equity in all insurance matters.”

SECTION 12. Section 431:10C-405, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The commissioner shall establish a board of governors within the bureau~~[-a board of governors for the purpose of providing]~~ to provide expertise and consultation on all matters pertaining to the operation of the bureau and the joint underwriting plan. The ~~[board]~~ commissioner shall appoint members to the board, which shall be composed of:

- (1) ~~[Five]~~ Four persons from, and members or representatives of, nationally organized insurers or their domestic insurer affiliates;
- (2) One person to represent insurance producers;
- ~~[(3) Two members, each a self-insurer under this article, and nominated by all the certified self-insurers in the State;~~
- ~~(4) Two members, not affiliated with the foregoing organizations, nominated by such nonaffiliated insurers;]~~ and
- ~~[(5) (3) Two members [each, to be] selected by the commissioner or nominated by each of the classifications provided for in section 431:10C-407(b).]~~”

SECTION 13. Section 431:10D-107, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) The interest rate used in determining minimum nonforfeiture amounts shall be an annual rate of interest determined as the lesser of three per

cent a year and the following, which shall be specified in the contract if the interest rate will be reset:

- (1) The five-year constant maturity treasury rate reported by the Federal Reserve as of a date, or average over a period, rounded to the nearest one-twentieth of one per cent, specified in the contract not later than fifteen months prior to the contract issue date or redetermination date under paragraph (4);
- (2) Reduced by one hundred twenty-five basis points;
- (3) Where the resulting interest rate is ~~not~~ no less than fifteen-hundredth of one per cent; and
- (4) The interest rate shall apply for an initial period and may be redetermined for additional periods. The redetermination date, basis, and period, if any, shall be stated in the contract. As used in this paragraph, “basis” means the date or average over a specified period that produces the value of the five-year constant maturity treasury rate to be used at each redetermination date.”

SECTION 14. 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:]~~ that:
 - (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 as-

- sertion, 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 policy of life insurance or 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 confi-

- dentiality 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 life insurance policy or 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; and
 - (E) A reward under a wellness program established under a health care plan that favors an individual if the wellness program meets the following requirements:
 - (i) The wellness program is reasonably designed to promote health or prevent disease;
 - (ii) An individual has an opportunity to qualify for the reward at least once a year;
 - (iii) The reward is available for all similarly situated individuals;
 - (iv) The wellness program has alternative standards for individuals who are unable to obtain the reward because of a health factor;
 - (v) Alternative standards are available for an individual who is unable to participate in a reward program because of a health condition;

- (vi) The insurer provides information explaining the standard for achieving the reward and discloses the alternative standards; and
 - (vii) The total rewards for all wellness programs under the health care plan do not exceed twenty per cent of the cost of coverage;
- (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~~] that 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 or advanced practice registered nurse 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~~]

that 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]~~ the complaints, and the time it took to process each complaint. For purposes of this section, “complaint” means any written communication primarily expressing a grievance;

- (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-623(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 15. Section 431K-3.5, Hawaii Revised Statutes, is amended to read as follows:

~~“[§431K-3.5]~~ **Registration fees and service fees of risk retention groups not chartered in this State.** (a) A risk retention group chartered in states other than this State and seeking to do business as a risk retention group in this State shall pay an initial registration fee of \$300 to the commissioner and shall thereafter pay annually a service fee of \$150 on or before ~~[August 16 of each year in which the risk retention group intends to do business in this State.]~~ the extension date of the certificate of authority, as established pursuant to section 431:3-214. The commissioner may, upon showing of good cause, waive or modify, in whole or part, all fees in this subsection by order.

(b) If the service fee is not paid on or before ~~[August 16 of the year in which payment is due,]~~ the extension date, a penalty shall be imposed in the amount of fifty per cent of the service fee. The commissioner shall provide written notice of the delinquency of payment and the imposition of the authorized penalty. If the service fee and the penalty are not paid within thirty days immediately following the date of the notice of delinquency, the commissioner may revoke the registration of the risk retention group and may not reinstate the registration until the service fee and the penalty have been paid.”

SECTION 16. Section 431K-7.1, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) A purchasing group that intends to do business in this State shall pay an initial registration fee of \$300 to the commissioner and shall thereafter pay annually a service fee of \$150 on or before ~~[August 16 of each year in which the purchasing group intends to do business in this State.]~~ the extension date of the certificate of authority, as established pursuant to section 431:3-214. The commissioner may, upon showing of good cause, waive or modify, in whole or part, all fees in this subsection by order.”

SECTION 17. Section 431S-3, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Each person seeking to register as a pharmacy benefit manager shall file with the commissioner an application on a form prescribed by the commissioner. The application shall include:

- (1) The name, address, official position, and professional qualifications of each individual who is responsible for the conduct of the affairs of the pharmacy benefit manager, including all members of the board of directors; board of trustees; executive commission; other governing board or committee; principal officers, as applicable; partners or members, as applicable; and any other person who exercises control or influence over the affairs of the pharmacy benefit manager;
- (2) The name and address of the applicant's agent for service of process in the State; and
- (3) A nonrefundable [application] issuance fee of \$140.

The commissioner may, upon showing of good cause, waive or modify, in whole or part, the fee in this subsection by order."

SECTION 18. Section 431S-4, Hawaii Revised Statutes, is amended to read as follows:

~~“§431S-4~~ **Annual renewal requirement.** (a) Each pharmacy benefit manager shall renew its registration by March 31 each year.

(b) When renewing its registration, a pharmacy benefit manager shall submit to the commissioner the following:

- (1) An application for renewal on a form prescribed by the commissioner; and
- (2) A [renewal] service fee of \$140.

The commissioner may, upon showing of good cause, waive or modify, in whole or part, the fee in this subsection by order.

~~“(c) Failure on the part of a pharmacy benefit manager to renew its registration as provided in this section shall result in a penalty of \$140 and may cause the registration to be revoked or suspended by the commissioner until the requirements for renewal have been met.”]~~

SECTION 19. Section 432:1-108, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The commissioner shall collect, in advance, the following fees:

- (1) Certificate of authority:
 - (A) Application for a certificate of authority: \$900; and
 - (B) Issuance of certificate of authority: \$600;
- (2) Organization of domestic mutual benefit societies:
 - (A) Application for a certificate of registration: \$1,500; and
 - (B) Issuance of certificate of registration: \$150; and
- (3) For all services subsequent to the issuance of a certificate of authority, including extension of the certificate of authority: \$600 per year.

The commissioner may, upon showing of good cause, waive or modify, in whole or part, all fees in this subsection by order."

SECTION 20. Section 432:2-108, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The commissioner shall collect, in advance, the following fees:

- (1) Certificate of authority:
 - (A) Application for a certificate of authority: \$900;
 - (B) Issuance of certificate of authority: \$600;
- (2) Organization of domestic fraternal benefit societies:
 - (A) Application for a preliminary certificate of authority: \$1,500;
 - (B) Issuance of preliminary certificate of authority: \$150; and

- (3) For all services subsequent to the issuance of a certificate of authority, including extension of the certificate of authority: \$600 per year.

The commissioner may, upon showing of good cause, waive or modify, in whole or part, all fees in this subsection by order.”

SECTION 21. Section 432D-17, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The commissioner shall collect, in advance, the following fees:

- (1) Certificate of authority:
 - (A) Application for a certificate of authority: \$900; and
 - (B) Issuance of certificate of authority: \$600; and
- (2) For all services subsequent to the issuance of certificate of authority, including extension of the certificate of authority: \$600 per year.

The commissioner may, upon showing of good cause, waive or modify, in whole or part, all fees in this subsection by order.”

SECTION 22. Section 432G-12, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The commissioner shall collect, in advance, the following fees:

- (1) Certificate of authority:
 - (A) Application for a certificate of authority: \$900; and
 - (B) Issuance of certificate of authority: \$600; and
- (2) For all services subsequent to the issuance of a certificate of authority, including extension of the certificate of authority: \$600 per year.

The commissioner may, upon showing of good cause, waive or modify, in whole or part, all fees in this subsection by order.”

SECTION 23. 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 24. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 25. This Act shall take effect upon its approval.

(Approved June 28, 2021.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 111

S.B. NO. 1098

A Bill for an Act Relating to the Regulatory Authority of the Insurance Commissioner.

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

SECTION 1. Section 431:7-101, Hawaii Revised Statutes, is amended to read as follows:

“**§431:7-101 Fees.** (a) The commissioner shall collect, in advance, the following fees:

- | | | |
|-------------------|---|--------------------|
| (1) | Certificate of authority: | |
| | (A) Application for certificate of authority | \$900 |
| | (B) Issuance of certificate of authority | \$600 |
| | (C) Application for motor vehicle self-insurance | \$300 |
| (2) | Organization of domestic insurers and affiliated corporations: | |
| | (A) Application for solicitation permit | \$1,500 |
| | (B) Issuance of solicitation permit | \$150 |
| (3) | Producer's Resident producer's license: | |
| | (A) Issuance of regular license | \$50 |
| | (B) Issuance of 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) | Claims adjuster's limited license: Issuance | \$75 |
| (8) | Administrator's license: Issuance | \$150 |
| (9) | Independent bill reviewer's license: Issuance | \$80 |
| (10) | Limited producer's license: Issuance | \$60 |
| (11) | Managing general agent's license: Issuance | \$75 |
| (12) | Reinsurance intermediary's license: Issuance | \$75 |
| (13) | Surplus lines broker's license: Issuance | \$150 |
| (14) | Pharmacy benefit manager's registration: Issuance | \$140 |
| [(14)] | (15) Service contract provider's registration: Issuance | \$75 |
| [(15)] | (16) Approved course provider certificate: Issuance | \$100 |
| [(16)] | (17) Approved continuing education course
certificate: Issuance | \$30 |
| [(17)] | (18) Vehicle protection product warrantor's
registration: Issuance | \$75 |
| [(18)] | (19) Criminal history record check; fingerprinting:
For each criminal history record check and fingerprinting
check, a fee to be established by the commissioner. | |
| [(19)] | (20) Limited line motor vehicle rental company
producer's license: Issuance | \$1,000 |
| | (21) Limited lines portable electronics producer's
license: Issuance | \$5,000 |
| | (22) Limited lines self-service storage producer's license:
Issuance | \$60 |
| [(20)] | (23) Legal service plan certificate of authority:
Issuance before July 1, 2014 | \$1,000 |
| | Issuance on or after July 1, 2014 | \$500 |
| [(21)] | (24) Life settlement provider's license:
Issuance before July 1, 2014 | \$150 |
| | Issuance on or after July 1, 2014 | \$75 |
| [(22)] | (25) Life settlement broker's license:
Issuance before July 1, 2014 | \$150 |
| | Issuance on or after July 1, 2014 | \$75 |
| [(23)] | (26) 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, <u>registra-
tion</u> , 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 <u>resident</u> 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 claims adjuster's limited license;
- (7) \$150 per year for all services (including extension of the license) for an administrator's license;
- (8) \$60 per year for all services (including extension of the license) for a regularly licensed independent bill reviewer;
- (9) \$45 per year for all services (including extension of the license) for a producer's limited license;
- (10) \$75 per year for all services (including extension of the license) for a regularly licensed managing general agent;
- (11) \$75 per year for all services (including extension of the license) for a regularly licensed reinsurance intermediary;
- (12) \$45 per year for all services (including extension of the license) for a licensed surplus lines broker;
- (13) \$140 per year for all services (including renewal of registration) for a pharmacy benefit manager;
- ~~[(13)]~~ (14) \$75 per year for all services (including renewal of registration) for a service contract provider;
- ~~[(14)]~~ (15) \$65 per year for all services (including extension of the certificate) for an approved course provider;
- ~~[(15)]~~ (16) \$20 per year for all services (including extension of the certificate) for an approved continuing education course;
- ~~[(16)]~~ (17) \$75 per year for all services (including renewal of registration) for a vehicle protection product warrantor;
- ~~[(17)]~~ (18) A fee to be established by the commissioner for each criminal history record check and fingerprinting;
- ~~[(18)]~~ (19) \$600 per year for all services (including extension of the license) for a regularly licensed limited line motor vehicle rental company producer;
- (20) \$2,500 per year for all services (including extension of the license) for a regularly licensed limited lines portable electronics producer;
- (21) \$45 per year for all services (including extension of the license) for a regularly licensed limited lines self-service storage producer;
- ~~[(19)]~~ (22) \$1,000 per year for all services provided before July 1, 2014, (including extension of the certificate) for an authorized legal service plan;
- ~~[(20)]~~ (23) \$500 per year for all services provided on or after July 1, 2014, (including extension of the certificate) for an authorized legal service plan;
- ~~[(21)]~~ (24) \$1,200 per year for all services (including extension of the license) for a regularly licensed life settlement provider; and
- ~~[(22)]~~ (25) \$150 per year for all services (including extension of the license) for a regularly licensed life settlement broker.

The services referred to in paragraphs (1) to ~~[(22)]~~ (25) 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.

(c) The commissioner shall notify the holder of a certificate of authority issued under article 3 by written notice at least thirty days prior to the ex-

tension date of the certificate of authority~~[-license,]~~ or other certificate. The annual fee for all services shall be due and payable by electronic payment via the National Association of Insurance Commissioners' Online Premium Tax for Insurance or an equivalent service approved by the commissioner. If the fee is not paid before or on the extension date, the fee shall be increased by a penalty in the amount of fifty per cent of the fee. The commissioner shall provide notice in writing of the delinquency of extension and the imposition of the authorized penalty. If the fee and the penalty are not paid within thirty days immediately following the date of notice of delinquency, the commissioner may revoke, suspend, or inactivate the certificate of authority~~[-license,]~~ or other certificate, and may not reissue, remove the suspension of, or reactivate the certificate of authority~~[-license,]~~ or other certificate until the fee and penalty have been paid.

(d) The commissioner shall notify licensees and registrants by written notice at least thirty days prior to the extension date of the license or registration. If the fee is not paid before or on the renewal date for a license or registration, the fee shall be increased by a penalty in the amount of double the unpaid renewal fee.

~~[(d)] (e)~~ Failure to pay the fee before or on the renewal or extension date for a license, registration, or other certificate ~~[issued under article 9 or 9A]~~ shall cause the automatic inactivation of the license, registration, or other certificate ~~[effective as of the extension date].~~

~~[(e)] (f)~~ All fees and penalties are nonrefundable and shall be deposited to the credit of the compliance resolution fund.”

SECTION 2. Section 431:8-102, Hawaii Revised Statutes, is amended as follows:

1. By amending the definition of “business entity” to read:
 ““Business entity” means an association, corporation, ~~[individual,]~~ limited liability company, limited liability partnership, partnership, ~~[person,]~~ or other legal entity.”

2. By amending the definition of “individual” to read:
 ““Individual” means a natural person ~~[or a business entity].”~~

SECTION 3. Section 431:8-310, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) A surplus lines broker license shall be inactivated if the licensee fails to pay any required fee or penalty. A surplus lines broker who allows the surplus lines broker’s license to become inactive for nonpayment of the renewal fee may reinstate that license without the necessity of a written examination; provided that the surplus lines broker:

(1) Pays the fee and a penalty in the amount of ~~[fifty per cent of]~~ double the [then-unpaid] then-unpaid fees within ~~[twenty-four]~~ twelve months from the inactivation date; and

(2) Is in compliance with all the requirements of chapter 431.

~~[The license shall automatically expire if the surplus lines broker does not reinstate the surplus lines broker’s license within the twenty-four month period.]”~~

SECTION 4. Section 431:8-327, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

“(a) To qualify for a license renewal, a licensee shall:

(1) ~~[During the twenty-four months preceding]~~ Preceding a license renewal, complete the required number of credit hours specified in subsection (b) in approved continuing education courses; and

(2) Pay the fees as required under section 431:7-101.”

2. By amending subsection (h) to read:

“(h) A licensee need not retake the surplus lines broker license examination; provided that all renewal requirements in this section are met or reactivation occurs within ~~[two years]~~ twelve months of the date of inactivation.”

SECTION 5. Section 431:9-206, Hawaii Revised Statutes, is amended to read as follows:

“**§431:9-206 Examinations for license.** ~~[(a) Each]~~ Prior to the issuance of the license, each applicant for license as an adjuster or independent bill reviewer shall ~~[prior to the issuance of any such license,]~~ personally take and pass to the satisfaction of the commissioner an examination given by the commissioner as a test of the applicant’s qualifications and competence.

~~[(b) This requirement shall not apply to applicants who at any time within the three-year period next preceding date of application held a license in this State which conferred powers comparable to those being applied for.~~

~~[(c) Applicants who held a license on December 31, 1987, shall not, for the purpose of qualifying for the issuance or extension of such license after January 1, 1988, be required to take an examination.]”~~

SECTION 6. Section 431:9-232, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) Prior to the renewal or extension of a license, each licensee shall ~~[annually]~~ pay the fee required in section 431:7-101.

(b) A license for an adjuster or independent bill reviewer shall be inactivated if a licensee fails to pay any required fees or penalties.

An adjuster or independent bill reviewer who allows the adjuster’s or independent bill reviewer’s license to become inactive for nonpayment of the renewal fee may reinstate that license without the necessity of a written examination; provided that the adjuster or independent bill reviewer:

(1) Pays the fee and a penalty in the amount of ~~[fifty per cent of]~~ double the ~~[then-unpaid]~~ then-unpaid fees within ~~[twenty-four]~~ twelve months from the inactivation date; and

(2) Is in compliance with all the requirements of chapter 431.

~~[The license shall automatically expire if the adjuster or independent bill reviewer does not reinstate the license within the twenty-four month period.]”~~

SECTION 7. Section 431:9A-102, Hawaii Revised Statutes, is amended as follows:

1. By amending the definition of “business entity” to read:

““Business entity” means an association, corporation, ~~[individual,]~~ limited liability company, limited liability partnership, partnership, ~~[person,]~~ or other legal entity.”

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

““Individual” means a natural person ~~[or a business entity].”~~

SECTION 8. Section 431:9A-106, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) A person applying for an insurance producer license shall make application to the commissioner on the uniform application and declare under penalty of denial, suspension, or revocation of the license that the statements made in the application are true, accurate, and complete to the best of the applicant’s knowledge and belief. Before approving the application, the commissioner shall find that the applicant:

- (1) Is at least eighteen years of age;
- (2) Has not committed any act that is a ground for a licensure sanction set forth in section 431:9A-112;
- (3) Has paid the applicable fees set forth in section 431:7-101;
- (4) Has passed, within the two years immediately preceding the [date of the examination or] issuance of the license, [whichever is later,] the applicable examination for each line of authority for which the applicant has applied; and
- (5) Has submitted a full set of fingerprints, including a scanned file from a hard copy fingerprint, for the commissioner to obtain and receive national and state criminal history [[record[]] checks from the Federal Bureau of Investigation and the Hawaii criminal justice data center, pursuant to section 846-2.7.”

SECTION 9. Section 431:9A-107, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) An insurance producer who allows the producer’s license to become inactive for nonpayment of the renewal fee may reinstate that license without the necessity of passing a written examination, if the fee payable and a penalty in the amount of [~~fifty per cent of then unpaid~~] double the then-unpaid renewal fees are paid within [~~twenty-four~~] twelve months from the inactivation date and the producer is in compliance with all the requirements of chapter 431. [~~If the license is not reinstated within the twenty-four-month period, the license shall automatically expire.~~”

SECTION 10. Section 431:9A-124, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

“(a) To qualify for a license renewal, a licensee shall:

- (1) [~~During the twenty-four months preceding~~] Preceding a license renewal, complete the required number of credit hours as set forth in subsection (b) in approved continuing education courses; and
- (2) Pay the fees as required under section 431:7-101.”

2. By amending subsection (h) to read:

“(h) A licensee need not retake the producer license examination; provided that renewal requirements in this section are met or reactivation occurs within [~~two years~~] twelve months of the date of inactivation.”

SECTION 11. Section 431:9A-176, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) Each owner licensed under this part shall pay to the commissioner the limited lines producer’s [~~application fee and license~~] fee pursuant to section 431:7-101.”

SECTION 12. Section 431:9B-102, Hawaii Revised Statutes, is amended by amending subsections (a) through (f) to read as follows:

“(a) [~~Persons, firms, associations, and corporations acting as a reinsurance intermediary broker in this State shall maintain a license as a reinsurance intermediary broker in this State. The reinsurance intermediary broker shall maintain a license in every state where it maintains an office, either directly, as a member or employee of a firm or association, or as an officer, director, or employee of a corporation.~~] No person, firm, association, or corporation shall act as a reinsurance intermediary broker in this State if the reinsurance intermediary-

broker maintains an office either directly or as a member or employee of a firm or association, or as an officer, director, or employee of a corporation:

- (1) In this State, unless the reinsurance intermediary-broker is a licensed producer or reinsurance intermediary in this State; or
- (2) In another state, unless the reinsurance intermediary-broker is a licensed producer in this State or another state having a law substantially similar to this article.

~~(b) [Persons, firms, associations, and corporations acting as a reinsurance intermediary manager for a reinsurer domiciled in this State shall maintain a license as a reinsurance intermediary manager in this State. A reinsurance intermediary manager license shall be required to act as a reinsurance intermediary manager in this State for a nondomestic reinsurer.]~~ No person, firm, association, or corporation shall act as a reinsurance intermediary manager in this State unless:

- (1) In the case of a reinsurer domiciled in this State, the reinsurance intermediary manager is a licensed producer in this State; or
- (2) The reinsurance intermediary manager maintains an office either directly or as a member or employee of a firm or association, or as an officer, director, or employee of a corporation in this State, and is a licensed producer or reinsurance intermediary in this State.

(c) The commissioner may require a reinsurance intermediary manager subject to subsection (b) to:

- (1) File a bond from an insurance company licensed to do business within the State or with an insurance company approved by the commissioner, in an amount equal to \$500,000 or ten per cent of the annual reinsurance premiums managed by the reinsurance intermediary manager, whichever is greater, except that the bond amount under this paragraph shall not exceed \$10,000,000, for the protection of the reinsurer;
- (2) Maintain an errors and omissions policy~~[-]~~ with an insurance company licensed to do business within the State or with an insurance company approved by the commissioner, in an amount equal to \$250,000 or twenty-five per cent of the annual reinsurance premiums managed by the reinsurance intermediary manager, whichever is greater, except that the policy limits under this paragraph shall not exceed \$10,000,000; and
- (3) Provide any other report required by the commissioner.

At the commissioner's request, the reinsurance intermediary manager shall provide the commissioner with proof of the bond and ~~[the]~~ policy~~[-]~~ and appropriate documentation to show that the bond and ~~[the]~~ policy continue to be in effect, or that a new bond and ~~[a]~~ new policy have been secured.

- (d)(1) The commissioner may issue a reinsurance intermediary license to any person, firm, association, or corporation that has complied with the requirements of this article. Any ~~[such]~~ reinsurance intermediary license issued to a firm or an association shall authorize all the members of that firm or association and any designated employees to act as reinsurance intermediaries under the license, and all those persons shall be named in the application and any supplements thereto. Any ~~[such]~~ reinsurance intermediary license issued to a corporation shall authorize all of the officers, and any designated employees and directors thereof, to act as reinsurance intermediaries on behalf of the corporation, and all those persons shall be named in the application and any supplements thereto.

- (2) If the applicant for a reinsurance intermediary license is a nonresident, the applicant, as a condition precedent to receiving or holding a license, shall designate the commissioner as agent for service of process in the manner^[;] and with the same legal effect^[;] provided for by this article for service of process upon unauthorized insurers^[; and]. The applicant also shall furnish the commissioner with the name and address of a resident of this State upon whom notices or orders of the commissioner or process affecting the nonresident reinsurance intermediary may be served. The licensee shall promptly notify the commissioner in writing of every change in its designated agent for service of process, and ~~[such]~~ the change shall not become effective until acknowledged by the commissioner.
- (3) The commissioner shall issue a nonresident reinsurance intermediary license if:
- (A) The applicant is currently licensed as a resident reinsurance intermediary or an insurance producer pursuant to article 9A and in good standing in the applicant's home state;
 - (B) The applicant has submitted the proper request for licensure and paid the fees required by section 431:7-101;
 - (C) The applicant has submitted or transmitted to the commissioner the application for licensure that the applicant submitted to the applicant's home state^[;] or, in lieu of the same, a completed uniform application; and
 - (D) The person's home state awards nonresident licenses to residents of this State on the same basis.
- (e) The commissioner may refuse to issue a reinsurance intermediary license if, in the commissioner's judgment, the applicant, anyone named on the application, or any member, principal, officer, or director of the applicant, is not trustworthy, or that any controlling person of the applicant is not trustworthy to act as a reinsurance intermediary, or that any of the foregoing has given cause for revocation or suspension of ~~[such]~~ the license, or has failed to comply with any prerequisite for the issuance of the license. Upon written request therefor, the commissioner shall furnish a summary of the basis for refusal to issue a license, which document shall be privileged and not subject to disclosure pursuant to chapter 92F.
- (f) Licensed attorneys at law of this State, when acting in their professional capacity as such, shall be exempt from this section."

SECTION 13. Section 431:9J-102, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

"(f) The license shall be renewable or extendable biennially. ~~[The renewal or extension date for a license issued to a natural person shall be the sixteenth day of the licensee's birth month. The renewal or extension date for a license issued to an artificial person shall be the sixteenth day of April for a nonresident licensee, and the sixteenth day of July for a resident licensee.]~~ The license shall remain in effect so long as the fees set forth in section 431:7-101 are paid."

SECTION 14. Section 431:31-107, Hawaii Revised Statutes, is amended to read as follows:

§431:31-107 Application for license and fees. (a) A sworn application for a license under this article shall be filed with the commissioner on forms prescribed and furnished by the commissioner.

- (b) The application for a license shall provide the:

- (1) Name, residence address, ~~[electronic-mail]~~ electronic mail address, and other information required by the commissioner for an employee or officer of the vendor that is designated by the applicant as the person responsible for the vendor’s compliance with the requirements of this article; provided that[;] if the vendor derives more than fifty per cent of its revenue from the sale of portable electronics insurance, the information in this paragraph shall be provided for all officers, directors, and shareholders of record having beneficial ownership of ten per cent or more of any class of securities registered under the federal securities law; and

- (2) Location of the applicant’s home office.

(c) Any vendor engaging in portable electronics insurance transactions on or before ~~[[January 1, 2013,]]~~ shall apply for licensure within ninety days of the application’s being made available by the commissioner. Any applicant commencing operations after ~~[[January 1, 2013,]]~~ shall obtain a license prior to offering portable electronics insurance.

(d) ~~[Initial licenses issued pursuant to this article shall be valid for a period of not less than twenty-four months. Renewed licenses shall be valid for a period of twenty-four months.]~~ The license shall be renewable biennially. Licens-ing fees shall be governed by section 431:7-101.

~~[(e) Each vendor licensed under this article shall pay to the commis-sioner a fee of \$5,000 for the issuance of the initial portable electronics limited lines license, plus a license fee of \$2,500 per year for the initial or renewal term. A pro rata portion of the license fee may be applied for a partial year of the initial term.]”~~

SECTION 15. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 16. This Act shall take effect on January 1, 2022.

(Approved June 28, 2021.)

ACT 112

S.B. NO. 1100

A Bill for an Act Relating to Insurance Data Security.

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

SECTION 1. The legislature finds that the National Association of Insurance Commissioners adopted the Insurance Data Security Model Law in 2017 to strengthen existing data privacy and consumer breach notification obligations of insurance licensees. The National Association of Insurance Commissioners strongly encourages that states adopt this model law by 2022, to avoid risking federal preemption of state laws in this area. While some licensees may already have cybersecurity policies and protocols in place, this Act will ensure and formalize insurance data security protections for all insurance licensees.

The purpose of this Act is to adopt the National Association of Insurance Commissioners Insurance Data Security Model Law to establish exclusive state standards applicable to insurance data security standards for Hawaii insurance licensees.

SECTION 2. Chapter 431, Hawaii Revised Statutes, is amended by adding a new article to be appropriately designated and to read as follows:

“ARTICLE
INSURANCE DATA SECURITY LAW
PART I. GENERAL PROVISIONS

§431: -101 Definitions. As used in this article:

“Authorized individual” means an individual known to and screened by the licensee and determined to be necessary and appropriate to have access to the nonpublic information held by the licensee and its information systems.

“Commissioner” means the insurance commissioner of the State.

“Consumer” means an individual, including but not limited to applicants, policyholders, insureds, beneficiaries, claimants, and certificate holders, who is a resident of this State and whose nonpublic information is in a licensee’s possession, custody, or control.

“Cybersecurity event” means an event resulting in unauthorized access to, or disruption or misuse of, an information system or nonpublic information stored on that information system. “Cybersecurity event” does not include:

- (1) The unauthorized acquisition of encrypted nonpublic information if the encryption, process, or key is not also acquired, released, or used without authorization; and
- (2) An event in which the licensee has determined that the nonpublic information accessed by an unauthorized person has not been used or released and has been returned or destroyed.

“Encrypted” means the transformation of data into a form that results in a low probability of assigning meaning without the use of a protective process or key.

“Information security program” means the administrative, technical, and physical safeguards that a licensee uses to access, collect, distribute, process, protect, store, use, transmit, dispose of, or otherwise handle nonpublic information.

“Information system” means a discrete set of electronic information resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of electronic nonpublic information, as well as any specialized systems, such as industrial controls systems, process controls systems, telephone switching and private branch exchange systems, and environmental control systems.

“Licensee” means every licensed insurer, producer, and any other person licensed or required to be licensed, authorized or required to be authorized, or registered or required to be registered, under chapter 431 or 432, or holding a certificate of authority under chapter 432D. “Licensee” does not include a purchasing group or risk retention group chartered and licensed in a state other than this State, or a licensee that is acting as an assuming insurer that is domiciled in another state or jurisdiction.

“Multi-factor authentication” means authentication through verification of at least two of the following types of authentication factors:

- (1) Knowledge factors, such as a password;
- (2) Possession factors, such as a token or text message on a mobile phone; or
- (3) Inherence factors, such as a biometric characteristic.

“Nonpublic information” means electronic information that is not publicly available information and is:

- (1) Any information concerning a consumer that, because of name, number, personal mark, or other identifier, can be used to identify the consumer, in combination with any one or more of the following data elements:
 - (A) Social security number;

- (B) Driver’s license number or non-driver identification card number;
- (C) Financial account number or credit or debit card number;
- (D) Any security code, access code, or password that would permit access to a consumer’s financial account; or
- (E) Biometric records; or
- (2) Any information or data subject to the Health Insurance Portability and Accountability Act of 1996, P.L. 104-191, except age or gender, in any form or medium created by or derived from a health care provider or a consumer that identifies a particular consumer and that relates to:
 - (A) The past, present, or future physical, mental, or behavioral health or condition of any consumer or a member of the consumer’s family;
 - (B) The provision of health care to any consumer; or
 - (C) Payment for the provision of health care to any consumer.

“Person” means any individual or any non-governmental entity, including but not limited to any non-governmental partnership, corporation, branch, agency, or association.

“Publicly available information” means any information that a licensee has a reasonable basis to believe is lawfully made available to the general public from federal, state, or local government records; widely distributed media; or disclosures to the general public that are required to be made by federal, state, or local law. For purposes of this definition, a licensee has a reasonable basis to believe that information is lawfully made available to the general public if the licensee has taken steps to determine:

- (1) That the information is of the type that is available to the general public; and
- (2) Whether a consumer can direct that the information not be made available to the general public and, if so, that the consumer has not done so.

“Risk assessment” means the risk assessment that each licensee is required to conduct under section 431: -202.

“State” means the State of Hawaii.

“Third-party service provider” means a person, not otherwise defined as a licensee, that contracts with a licensee to maintain, process, store, or otherwise is permitted access to nonpublic information through its provision of services to the licensee.

§431: -102 Powers of the commissioner. (a) The licensee’s regulator shall have the power to examine and investigate the affairs of any licensee to determine whether the licensee has been or is engaged in any conduct in violation of this article.

(b) Any examination or investigation of a licensee domiciled in the State shall be conducted pursuant to section 431:2-301.7.

(c) Whenever the commissioner has reason to believe that a licensee has been or is engaged in conduct in the State that violates this article, the commissioner may take action that is necessary or appropriate to enforce the provisions of this article.

§431: -103 Confidentiality. (a) Any documents, materials, or other information in the control or possession of the commissioner that is furnished by a licensee, or an employee or agent thereof acting on behalf of the licensee pursuant to sections 431: -208 and 431: -302, or that are obtained by the com-

missioner in an examination or investigation pursuant to section 431: -102, shall be confidential by law and privileged, shall not be subject to chapter 92F, shall not be subject to subpoena, and shall not be subject to discovery or admissible as evidence in any private civil action; provided that the commissioner may use the documents, materials, or other information obtained in an examination or investigation in the furtherance of any regulatory or legal action brought as a part of the commissioner's duties.

(b) Neither the commissioner nor any person acting under the direction of the commissioner shall be allowed or required to testify in any private civil action concerning any confidential documents, materials, or information subject to subsection (a).

(c) To assist in the performance of the commissioner's duties under this article, the commissioner may:

- (1) Share documents, materials, or other information, including the confidential and privileged documents, materials, or information subject to subsection (a), with other state, federal, and international regulatory agencies; National Association of Insurance Commissioners, its affiliates or subsidiaries; and state, federal, and international law enforcement authorities; provided that the recipient agrees in writing to maintain the confidentiality and privileged status of the document, material, or other information;
- (2) Receive documents, materials, or information, including otherwise confidential and privileged documents, materials, or information, from the National Association of Insurance Commissioners, its affiliates or subsidiaries, and from regulatory and law enforcement officials of other foreign or domestic jurisdictions; provided that the commissioner 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;
- (3) Share documents, materials, or other information subject to subsection (a) with a third-party consultant or vendor; provided that the consultant or vendor agrees in writing to maintain the confidentiality and privileged status of the document, material, or other information; and
- (4) Enter into agreements governing sharing and use of information consistent with this subsection.

(d) 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 or as a result of sharing as authorized in subsection (c).

(e) Nothing in this article shall prohibit the commissioner from releasing final, adjudicated actions that are open to public inspection pursuant to chapter 92F to a database or other clearinghouse service maintained by the National Association of Insurance Commissioners, its affiliates, or subsidiaries.

§431: -104 Exceptions. (a) The following exceptions shall apply to this article:

- (1) A licensee with fewer than ten employees, including any independent contractors, shall be exempt from part II;
- (2) A licensee subject to the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, that has established and maintains an information security program pursuant to the statutes,

rules, regulations, procedures, or guidelines established thereunder shall be considered to have met the requirements of part II of this article; provided that the licensee is compliant with and submits a written statement certifying its compliance with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191; and

- (3) An employee, agent, representative, or designee of a licensee, who is also a licensee, shall be exempt from part II of this article and shall not be required to develop its own information security program; provided that the employee, agent, representative, or designee is covered by the information security program of the other licensee.

(b) In the event that a licensee ceases to qualify for an exception pursuant to this section, the licensee shall have one hundred eighty days to comply with this article.

§431: -105 Penalties. In the case of a violation of this article, a licensee may be penalized in accordance with section 431:2-203.

§431: -106 Private cause of action. This article shall not be construed to create or imply a private cause of action for any violation of its provisions, and it shall not be construed to curtail a private cause of action that would otherwise exist in the absence of this article.

§431: -107 Rules. The commissioner may adopt rules pursuant to chapter 91 as necessary to carry out the provisions of this article.

PART II. INFORMATION SECURITY PROGRAM

§431: -201 Implementation of an information security program. Commensurate with the size and complexity of the licensee, the nature and scope of the licensee’s activities, including its use of third-party service providers, and the sensitivity of the nonpublic information used by the licensee or in the licensee’s possession, custody, or control, each licensee shall develop, implement, and maintain a comprehensive written information security program based on the licensee’s risk assessment and that contains administrative, technical, and physical safeguards for the protection of nonpublic information and the licensee’s information system.

§431: -202 Objectives of the information security program; risk assessment. (a) A licensee’s information security program shall be designed to:

- (1) Protect the security and confidentiality of nonpublic information and the security of the information system;
- (2) Protect against any threats or hazards to the security or integrity of nonpublic information and the information system;
- (3) Protect against unauthorized access to or use of nonpublic information, and minimize the likelihood of harm to any consumer; and
- (4) Define and periodically reevaluate a schedule for retention of nonpublic information and a mechanism for its destruction when no longer needed.

(b) Regarding risk assessment, the licensee shall:

- (1) Designate one or more employees, an affiliate, or a third-party service provider to act on behalf of the licensee who is responsible for the information security program;

- (2) Identify reasonably foreseeable internal or external threats that could result in unauthorized access, transmission, disclosure, misuse, alteration, or destruction of nonpublic information, including the security of information systems and nonpublic information that are accessible to or held by third-party service providers;
- (3) Assess the likelihood and potential damage of the reasonably foreseeable internal or external threats, taking into consideration the sensitivity of the nonpublic information;
- (4) Assess the sufficiency of policies, procedures, information systems, and other safeguards in place to manage the reasonably foreseeable internal or external threats, including consideration of threats in each relevant area of the licensee's operations, including:
 - (A) Employee training and management;
 - (B) Information systems, including network and software design, as well as information classification, governance, processing, storage, transmission, and disposal; and
 - (C) Detecting, preventing, and responding to attacks, intrusions, or other systems failures; and
- (5) Implement information safeguards to manage the threats identified in its ongoing assessment, and no less than annually, assess the effectiveness of the safeguards' key controls, systems, and procedures.

§431: -203 Risk management. Based on its risk assessment, the licensee shall:

- (1) Design its information security program to mitigate the identified risks, commensurate with the size and complexity of the licensee's activities, including its use of third-party service providers, and the sensitivity of the nonpublic information used by the licensee or in the licensee's possession, custody, or control;
- (2) Determine which security measures listed in this paragraph are appropriate and implement those security measures:
 - (A) Place access controls on information systems, including controls to authenticate and permit access only to authorized individuals to protect against the unauthorized acquisition of nonpublic information;
 - (B) Identify and manage the data, personnel, devices, systems, and facilities that enable the licensee to achieve business purposes in accordance with their relative importance to business objectives and the licensee's risk strategy;
 - (C) Restrict access at physical locations containing nonpublic information only to authorized individuals;
 - (D) Protect by encryption or other appropriate means, all nonpublic information while being transmitted over an external network and all nonpublic information stored on a laptop computer or other portable computing or storage device or media;
 - (E) Adopt secure development practices for in-house developed applications used by the licensee and procedures for evaluating, assessing, or testing the security of externally developed applications used by the licensee;
 - (F) Modify the information system in accordance with the licensee's information security program;

- (G) Use effective controls, which may include multi-factor authentication procedures for any individual accessing nonpublic information;
 - (H) Regularly test and monitor systems and procedures to detect actual and attempted attacks on, or intrusions into, information systems;
 - (I) Include audit trails within the information security program designed to detect and respond to cybersecurity events and reconstruct material financial transactions sufficient to support normal operations and obligations of the licensee;
 - (J) Implement measures to protect against destruction, loss, or damage of nonpublic information due to environmental hazards, such as fire and water damage or other catastrophes or technological failures; and
 - (K) Develop, implement, and maintain procedures for the secure disposal of nonpublic information in any format;
- (3) Include cybersecurity risks in the licensee's enterprise risk management process;
 - (4) Stay informed regarding emerging threats or vulnerabilities and use reasonable security measures when sharing information relative to the character of the sharing and the type of information shared; and
 - (5) Provide its personnel with cybersecurity awareness training that is updated as necessary to reflect risks identified by the licensee in the risk assessment.

§431: -204 Oversight by board of directors. If the licensee has a board of directors, the board or an appropriate committee of the board shall, at a minimum:

- (1) Require the licensee's executive management or its delegates to develop, implement, and maintain the licensee's information security program;
- (2) Require the licensee's executive management or its delegates to report in writing at least annually, the following information:
 - (A) The overall status of the information security program and the licensee's compliance with this article; and
 - (B) Material matters related to the information security program, addressing issues such as risk assessment, risk management and control decisions, third-party service provider arrangements, results of testing, cybersecurity events or violations and management's responses thereto, and recommendations for changes in the information security program; and
- (3) If executive management delegates any of its responsibilities under this part, it shall oversee the development, implementation, and maintenance of the licensee's information security program prepared by the delegate and shall receive a report from the delegate complying with the requirements of the report to the board of directors specified in paragraph (2).

§431: -205 Oversight of third-party service provider arrangements. A licensee shall:

- (1) Exercise due diligence in selecting its third-party service provider; and

- (2) Where appropriate, require a third-party service provider to implement appropriate administrative, technical, and physical measures to protect and secure the information systems and nonpublic information that are accessible to or held by the third-party service provider; provided that encrypted nonpublic information is not accessible to or held by the third-party service provider within the meaning of this paragraph if the third-party service provider does not possess the associated protective process or key necessary to assign meaning to the nonpublic information.

§431: -206 Program adjustments. The licensee shall monitor, evaluate, and adjust, as appropriate, the information security program consistent with any relevant changes in technology, the sensitivity of its nonpublic information, internal or external threats to information, and the licensee's own changing business arrangements, such as mergers and acquisitions, alliances and joint ventures, outsourcing arrangements, and changes to information systems.

§431: -207 Incident response plan. (a) As part of its information security program, each licensee shall establish a written incident response plan designed to promptly respond to and recover from any cybersecurity event that compromises the confidentiality, integrity, or availability of nonpublic information in its possession, the licensee's information systems, or the continuing functionality of any aspect of the licensee's business or operations.

- (b) The incident response plan shall address the following areas:
- (1) The internal process for responding to a cybersecurity event;
 - (2) The goals of the incident response plan;
 - (3) The definition of clear roles, responsibilities, and levels of decision-making authority;
 - (4) External and internal communications and information sharing;
 - (5) Identification of requirements for the remediation of any identified weaknesses in information systems and associated controls;
 - (6) Documentation and reporting regarding cybersecurity events and related incident response activities; and
 - (7) The evaluation and revision, as necessary, of the incident response plan following a cybersecurity event.

§431: -208 Annual certification to commissioner. (a) Each insurer domiciled in the State shall annually submit to the commissioner a written statement by March 31, certifying that the insurer is in compliance with the requirements set forth in this part.

(b) Each insurer shall maintain all records, schedules, and data supporting this certificate for a period of five years for examination by the commissioner.

(c) To the extent an insurer has identified areas, systems, or processes that require material improvement, updating, or redesign, the insurer shall document the identification and the remedial efforts planned and underway to address those areas, systems, or processes. The documentation shall be available for inspection by the commissioner.

PART III. CYBERSECURITY EVENTS

§431: -301 Investigation of a cybersecurity event. (a) If the licensee learns that a cybersecurity event has or may have occurred, the licensee or third-party service provider designated to act on behalf of the licensee shall conduct a prompt investigation.

(b) During the investigation, the licensee or third-party service provider designated to act on behalf of the licensee shall, at a minimum, determine as much of the following information as possible:

- (1) Whether a cybersecurity event has occurred;
- (2) The nature and scope of the cybersecurity event; and
- (3) Any nonpublic information that may have been involved in the cybersecurity event.

The licensee or third-party service provider designated to act on behalf of the licensee shall perform or oversee reasonable measures to restore the security of the information systems compromised in the cybersecurity event to prevent further unauthorized acquisition, release, or use of nonpublic information in the licensee’s possession, custody, or control.

(c) If the licensee provides nonpublic information to a third-party service provider and learns that a cybersecurity event has or may have impacted the licensee’s nonpublic information in a system maintained by a third-party service provider, the licensee shall meet the requirements of subsection (b) or confirm and document that the third-party service provider has met the requirements of subsection (b).

(d) The licensee shall maintain records concerning all cybersecurity events for a period of at least five years from the date of the cybersecurity event and shall produce those records upon demand of the commissioner.

§431: -302 Notification of a cybersecurity event. (a) Each licensee shall notify the commissioner as promptly as possible, but in no event later than three business days from a determination that a cybersecurity event impacting two hundred fifty or more consumers has occurred. If law enforcement officials instruct a licensee not to distribute information regarding a cybersecurity event, the licensee shall not be required to provide notification until instructed to do so by law enforcement officials. Notification shall be provided when either of the following criteria has been met:

- (1) The licensee is domiciled in the State, in the case of an insurer, or the licensee’s home state is Hawaii, in the case of an independent insurance producer; or
- (2) The licensee reasonably believes that the nonpublic information involved is of two hundred fifty or more consumers residing in the State and is a cybersecurity event that has a reasonable likelihood of materially harming:
 - (A) Any consumer residing in the State; or
 - (B) Any material part of the normal operation of the licensee.

(b) The licensee shall provide as much of the following information as possible and practicable and as promptly as possible:

- (1) The date of the cybersecurity event;
- (2) The description of how the nonpublic information was exposed, lost, stolen, or breached, including the specific roles and responsibilities of third-party service providers, if any;
- (3) How the cybersecurity event was discovered;
- (4) Whether any lost, stolen, or breached information has been recovered and, if so, how it was recovered;
- (5) The identity of the source of the cybersecurity event;
- (6) Whether the licensee has filed a police report or has notified any regulatory, government, or law enforcement agencies and, if so, when the notification was provided;
- (7) A description of the specific types of information acquired without authorization. For purposes of this paragraph, “specific types of

information” means particular data elements, including but not limited to types of medical information, types of financial information, or types of information allowing identification of the consumer;

- (8) The period during which the information system was compromised by the cybersecurity event;
 - (9) The number of total consumers in the State affected by the cybersecurity event. The licensee shall provide the best estimate in the initial notification to the commissioner and update this estimate with each subsequent notification to the commissioner pursuant to this section;
 - (10) The results of any internal review identifying a lapse in either automated controls or internal procedures, or confirming that all automated controls or internal procedures were followed;
 - (11) A description of efforts being undertaken to remediate the situation that permitted the cybersecurity event to occur;
 - (12) A copy of the licensee’s privacy policy and a statement outlining the steps the licensee will take to investigate and notify consumers affected by the cybersecurity event; and
 - (13) The name of a contact person who is both familiar with the cybersecurity event and authorized to act for the licensee.
- (c) The licensee shall provide the information in electronic form as directed by the commissioner.
- (d) The licensee shall have a continuing obligation to update and supplement initial and subsequent notifications to the commissioner regarding material changes to previously provided information concerning the cybersecurity event.
- (e) This section shall not supersede any reporting requirements in chapter 487N.

§431: -303 Notification to consumers. The licensee shall comply with chapter 487N, as applicable, and provide a copy of the notice sent to consumers under chapter 487N to the commissioner when a licensee is required to notify the commissioner under section 431: -302.

§431: -304 Notice regarding cybersecurity events of third-party service providers. (a) In the case of a cybersecurity event impacting a licensee’s nonpublic information in a system maintained by a third-party service provider, of which the licensee has become aware, the licensee shall treat the event as it would under section 431: -302 unless the third-party service provider provides the notice required under section 431: -302.

(b) The computation of the licensee’s deadlines shall begin on the day after the third-party service provider notifies the licensee of the cybersecurity event or the licensee otherwise has actual knowledge of the cybersecurity event, whichever is sooner.

(c) Nothing in this article shall prevent or abrogate an agreement between a licensee and another licensee, a third-party service provider, or any other party to fulfill any of the investigation requirements imposed under section 431: -301 or notice requirements imposed under this part.

§431: -305 Notice regarding cybersecurity events of reinsurers to insurers. (a) In the case of a cybersecurity event involving nonpublic information that is used by the licensee that is acting as an assuming insurer or in the possession, custody, or control of a licensee that is acting as an assuming insurer and that does not have a direct contractual relationship with the affected consumers, the

assuming insurer shall notify its affected ceding insurers and the commissioner of its state of domicile within three business days of making the determination that a cybersecurity event has occurred.

(b) In the case of a cybersecurity event involving nonpublic information that is in the possession, custody, or control of a third-party service provider of a licensee that is an assuming insurer, the assuming insurer shall notify its affected ceding insurers and the commissioner of its state of domicile within three business days of receiving notice from its third-party service provider that a cybersecurity event has occurred.

(c) The ceding insurers that have a direct contractual relationship with affected consumers shall fulfill the consumer notification requirements imposed under chapter 487N and any other notification requirements relating to a cybersecurity event imposed under this part.

§431: -306 Notice regarding cybersecurity events of insurers to producers of record. (a) In the case of a cybersecurity event involving nonpublic information that is in the possession, custody, or control of a licensee that is an insurer or its third-party service provider, and for which a consumer accessed the insurer’s services through an independent insurance producer, the insurer shall notify the producers of record of all affected consumers as soon as practicable as directed by the commissioner.

(b) The insurer is exempt from this obligation in instances where it does not have the current producer of record information for any individual consumer.”

SECTION 3. Section 431:19-115, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) No insurance laws of this State other than those contained in this article, article 15, or specifically referenced in this article shall apply to captive insurance companies; provided that:

- (1) Sections 431:3-302 to 431:3-304.5, 431:3-307, 431:3-401 to 431:3-409, 431:3-411, 431:3-412, and 431:3-414; articles 1, 2, 4A, 5, 6, 9A, 9B, 9C, 11, [~~and~~] 11A[;], and ; and chapter 431K shall apply to risk retention captive insurance companies; and
- (2) Articles 1, 2, and 6 shall apply to class 5 companies.”

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 that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

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

SECTION 6. This Act shall take effect on July 1, 2021; provided that:

- (1) Licensees, other than risk retention groups chartered and licensed in this State, shall have:
 - (A) One year from the effective date of this Act to implement sections 431: -201, 431: -202, 431: -203, 431: -204, 431: -206, 431: -207, and 431: -208, Hawaii Revised Statutes, established by section 2 of this Act; and
 - (B) Two years from the effective date of this Act to implement section 431: -205, Hawaii Revised Statutes, established by section 2 of this Act; and

- (2) Risk retention groups chartered and licensed in this State shall have:
 - (A) Two years from the effective date of this Act to implement sections 431: -201, 431: -202, 431: -203, 431: -204, 431: -206, 431: -207, and 431: -208, Hawaii Revised Statutes, established by section 2 of this Act; and
 - (B) Three years from the effective date of this Act to implement section 431: -205, Hawaii Revised Statutes, established by section 2 of this Act.

(Approved June 28, 2021.)

ACT 113

S.B. NO. 1102

A Bill for an Act Relating to Mixed Martial Arts.

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

SECTION 1. Section 440E-7, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(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 cash or 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.”

SECTION 2. New statutory material is underscored.

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

(Approved June 28, 2021.)

A Bill for an Act Relating to the Peer Review Oversight Committee.

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

SECTION 1. Section 466-42, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) ~~[Effective January 1, 2013, the]~~ The peer review oversight committee shall consist of three individuals approved by the board who hold permits to practice under section 466-7[-] and who are currently in the practice of public accountancy at the partner or equivalent level. No member of the peer review oversight committee shall be a current member of the board, the Hawaii Society of Certified Public Accountants Peer Review or Professional Ethics Committees, or the American Institute of Certified Public Accountants Professional Ethics Executive Committee. ~~[The members shall have significant experience with attest engagements and currently be in the practice of public accountancy at the partner or equivalent level. The member’s firm shall have received a report with a rating of pass or an unmodified opinion from its last peer review.]~~ In selecting committee members, the board shall consider, among other things, the prospective member’s experience with attest engagements and the peer review rating of the prospective member’s firm.”

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 28, 2021.)

A Bill for an Act Relating to Withholding Tax.

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

SECTION 1. Section 235-63, Hawaii Revised Statutes, is amended to read as follows:

“**§235-63 Statements to employees.** (a) Every employer required to deduct and withhold any tax on the wages of any employee shall furnish to each employee in respect of the employee’s employment during the calendar year, on or before January 31 of the succeeding year, or if the employee’s employment is terminated before the close of a calendar year, within thirty days after the date of receipt of a written request from the employee if ~~[such]~~ the thirty-day period ends before January 31, a written statement, showing the period covered by the statement, the wages paid by the employer to the employee during ~~[such]~~ the period~~[-]~~ covered by the statement, and the amount of the tax deducted and withheld or paid in respect of ~~[such]~~ those wages. Each ~~[such]~~ employer required to furnish a statement under this section shall file on or before ~~[the last day of February]~~ January 31 following the close of the calendar year a duplicate copy of each ~~[such]~~ statement. The department of taxation may grant to any employer a reasonable extension of time, not in excess of sixty days, with respect to any statement required by this section to be furnished to an employee or filed, and may by regulation provide for the furnishing or filing of statements at ~~[such]~~

other times and containing [such] other information as may be required for the administration of this chapter. The department shall prescribe the form of the statement required by this section and may adopt any federal form appropriate for the purpose.

(b) In regard to the statement required under subsection (a), an employer that:

- (1) Wilfully fails to furnish the statement to the employee by the prescribed due date;
- (2) Fails to file the statement with the department by the prescribed due date; or
- (3) Fails to electronically file the statement with the department if the employer is required to file electronically under section 231-8.5;

shall be subject to a penalty of \$25 per failure; provided that the penalty imposed under this section shall not exceed \$50 per employee.”

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, 2022.

(Approved June 28, 2021.)

ACT 116

S.B. NO. 1202

A Bill for an Act Relating to Taxation.

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

SECTION 1. Chapter 243, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§243- Chapter 235 and chapter 237 applicable. All of the provisions of chapters 235 and 237 not inconsistent with this chapter and that may appropriately be applied to the taxes, persons, circumstances, and situations involved in this chapter, including (without prejudice to the generality of the foregoing) provisions as to penalties and interest, and provisions granting administrative powers to the director of taxation, and provisions for the assessment, levy, and collection of taxes, shall be applicable to the taxes imposed by this chapter, and to the assessment, levy, and collection thereof.”

SECTION 2. Section 243-2, Hawaii Revised Statutes, is amended to read as follows:

“§243-2 Distributors to register and be licensed. (a) Every distributor, and any person before becoming a distributor, shall register as such with the department of taxation on forms to be prescribed, prepared, and furnished by the department and the department shall issue to such distributor a license which shall be valid until revoked by the department as hereinafter provided. [~~However, distributors who cannot legally be required by the State to so register and be licensed, or to perform the duties required of distributors by any other provisions of this chapter, shall be deemed to be excluded from the operation of such provisions.~~]

(b) Any license issued under this chapter shall not be assignable and shall be conspicuously displayed on the licensed premises of the licensee. Whenever a license is defaced, destroyed, or lost, or the licensed premises are relocated,

the department may issue a duplicate license to the licensee upon the payment of a fee of 50 cents.

(c) The department may suspend or revoke any license issued under this chapter whenever the department finds that the licensee has failed to comply with this chapter or any rule adopted under this chapter, or for any other good cause. Good cause includes but is not limited to instances where an applicant or licensee has:

- (1) Submitted a false or fraudulent application or provided a false statement in an application;
- (2) Possessed or displayed a false or fraudulent license;
- (3) Failed to comply with, violated, or been convicted of violating any county, state, or federal law directly pertaining to the sale, importation, acquisition, possession, distribution, transportation, or smuggling of fuel, including petroleum products and alternative fuels; or
- (4) Failed to maintain complete and accurate records when and if required to be kept.

Upon suspending or revoking any license, the department may request that the licensee surrender the license or any duplicate issued to or printed by the licensee, and the licensee shall surrender the license or duplicate promptly to the department as requested.

(d) When the department suspends or revokes a license, the department shall immediately notify the licensee and afford the licensee a hearing, if requested; provided that a hearing has not already been afforded. The department shall provide no less than thirty days' notice to the licensee of a hearing afforded under this subsection. After the hearing, the department shall:

- (1) Rescind its order of suspension;
- (2) Continue the suspension;
- (3) Revoke the license; or
- (4) Rescind its order of revocation."

SECTION 3. Section 243-3, Hawaii Revised Statutes, is amended to read as follows:

“§243-3 Retail dealers, permits; certificates. (a) The certificate of a retail dealer as to the amount of the retail dealer's retail sales during the month, referred to in section 243-10, is of no validity unless at the time of making the certificate the retail dealer holds a permit from the department of taxation, which is then in effect. In order to obtain a permit, a retail dealer shall make an application to the department therefor, in such form as the department prescribes, and containing such information as the department requires.

(b) Any person who makes a false or fraudulent application or certificate or false statement in an application or certificate provided for by this chapter, with intent to defraud the State or to obtain, for a licensed distributor, an unauthorized credit, or who in any manner intentionally deceives or attempts to deceive the department in relation to an application or certificate provided for by this chapter, shall be fined not more than \$5,000 or imprisoned not more than one year, or both.

(c) No permit shall be issued to a retail dealer unless the department is satisfied that:

- (1) The retail dealer, as to all of the liquid fuel purchased by the retail dealer from licensed distributors, is engaged exclusively in selling the same at retail, and is not using the liquid fuel for any other purpose;
- (2) The retail dealer maintains on the premises a pump or pumps drawing on tanks into which fuel is delivered by licensed distributors and

from which no liquid fuel is drawn by the retailer for any purpose other than the sale thereof at retail, and the retail dealer further maintains records showing the quantity of liquid fuel on hand in those tanks at the beginning and end of each month and the deliveries into those tanks made by licensed distributors during the month;

- or
- (3) The retail dealer maintains records by which retail sales of liquid fuel purchased from licensed distributors are segregated from all other sales or uses of liquid fuel, and further showing the quantity of liquid fuel on hand at the beginning and end of each month and the purchases of liquid fuel from licensed distributors during the month.

(d) Permits to retail dealers shall be issued on an annual basis and shall expire at the end of each calendar year. A fee of \$5 shall be charged for each permit or renewal thereof. Permits shall be numbered and each certificate made by a retail dealer holding a permit shall bear the same identifying number as the permit which the retail dealer holds.

~~[(e) The department may revoke a permit upon the grounds hereinafter stated, after notice to the retail dealer holding the permit informing the retail dealer of the grounds of the proposed revocation and of the time and place at which a hearing will be held thereon. If the department finds, after the hearing, that there is good cause therefor it may revoke the permit. The permit may be revoked upon any of the following grounds:~~

- ~~(1) A false or fraudulent application or false statement in an application;~~
- ~~(2) The giving of a false or fraudulent certificate or a false statement in a certificate;~~
- ~~(3) Failure to maintain the practices or records required by paragraphs (1), (2), or (3) of subsection (c), whichever is applicable as shown by the retail dealer's application for the permit;~~
- ~~(4) Incomplete or inaccurate records when and if required to be kept.]~~

(e) Any entity that operates as a distributor and also sells fuel to consumers at retail shall acquire a separate retail dealer permit.

(f) Each retail dealer who holds a permit issued by the department ~~[which] that~~ remains in effect~~[-]~~ may make a certificate showing the amount of retail sales, made by the retail dealer during the month, of liquid fuel purchased from a licensed distributor, and ~~[further]~~ may further furnish ~~[such]~~ the certificate to the licensed distributor from whom the retail dealer purchased the liquid fuel, for the retail dealer's use as provided, in section 243-10.

(g) A retail dealer permit shall be nonassignable and nontransferable from one entity to another entity. A retail dealer permit may be transferred from one business location to another business location after an application has been filed with the department requesting the transfer and approval has been obtained from the department.

(h) A retail dealer permit issued under this section shall be displayed at all times in a conspicuous place at the place of business requiring the permit.

(i) The department may suspend, revoke, or decline to renew any permit issued under this chapter whenever the department finds that the applicant or permittee has failed to comply with this chapter or any rule adopted under this chapter, or for any other good cause. Good cause includes but is not limited to instances where an applicant or permittee has:

- (1) Submitted a false or fraudulent application or provided a false statement in an application;
- (2) Possessed or displayed a false or fraudulent permit;

- (3) Provided a false or fraudulent certificate or made a false statement in a certificate;
- (4) Failed to comply with, violated, or been convicted of violating any county, state, or federal law directly pertaining to the sale, importation, acquisition, possession, distribution, transportation, or smuggling of fuel, including but not limited to petroleum products and alternative fuels; or
- (5) Failed to maintain complete and accurate records when and if required to be kept.

Upon suspending or revoking any permit, the department may request that the permittee surrender the permit or any duplicate issued to or printed by the permittee, and the permittee shall surrender the permit or duplicate promptly to the department as requested.

(j) When the department suspends, revokes, or declines to renew a permit, the department shall immediately notify the applicant or permittee and afford the applicant or permittee a hearing, if requested; provided that a hearing has not already been afforded. The department shall provide no less than thirty days' notice to the applicant or permittee of a hearing afforded under this subsection. After the hearing, the department shall:

- (1) Rescind its order of suspension;
- (2) Continue the suspension;
- (3) Revoke the permit;
- (4) Rescind its order of revocation;
- (5) Decline to renew the permit; or
- (6) Renew the permit.”

SECTION 4. Section 243-10, Hawaii Revised Statutes, is amended to read as follows:

“§243-10 Statements and payments. Each distributor and each person subject to section ~~[243-4(b),]~~ 243-4, on or before the twentieth day of each calendar month, shall file with the ~~[director of taxation,]~~ department, on forms prescribed~~[-, prepared, and furnished]~~ by the ~~[director,]~~ department, a statement, authenticated as provided in section 231-15, showing separately for each county and for the island of Lanai and the island of Molokai within which and whereon fuel is sold or used during each preceding month of the calendar year, the following:

- (1) The total number of gallons of fuel refined, manufactured, or compounded by the distributor or person within the State and sold or used by the distributor or person, and if for ultimate use in another county or on either island, the name of that county or island;
- (2) The total number of gallons of fuel acquired by the distributor or person during the month from persons not subject to the tax on the transaction or only subject to tax thereon at the rate of 1 cent per gallon, as the case may be, and sold or used by the distributor or person, and if for ultimate use in another county or on either island, the name of that county or island;
- (3) The total number of gallons of fuel sold by the distributor or person to the United States or any department or agency thereof, or to any other person or entity, or used in any manner, the effect of which sale or use is to exempt the fuel from the tax imposed by this chapter; and
- (4) Additional information relative to the acquisition, purchase, manufacture, or importation into the State, and the sale, use, or other dis-

position, of diesel oil by the distributor or person during the month, as the department of taxation by rule shall prescribe.

At the time of submitting the foregoing report to the department, each distributor and person shall pay the tax on each gallon of fuel (including diesel oil) sold or used by the distributor or person in each county and on the island of Lanai and the island of Molokai during the preceding month, as shown by the statement and required by this chapter; provided that the tax shall not apply to any fuel exempted and so long as the same is exempted from the imposition of the tax by the Constitution or laws of the United States; and the tax shall be paid only once upon the same fuel; provided further that a licensed distributor shall be entitled, in computing the tax the licensed distributor is required to pay, to deduct from the gallons of fuel reported for the month for each county or for the island of Lanai or the island of Molokai, as the case may be, one gallon for each ninety-nine gallons of like liquid fuel sold by retail dealers in that county or on that island during the month, as shown by certificates furnished by the retail dealers to the distributor and attached to the distributor's report. All taxes payable for any month shall be delinquent after the expiration of the twentieth day of the following month.

Statements filed under this section concerning the number of gallons of fuel refined, manufactured, compounded, imported, sold or used by the distributor or person are public records. All other information filed under this chapter and not expressly made public record under this section shall not be public records."

SECTION 5. Section 244D-1, Hawaii Revised Statutes, is amended by amending the definition of "dealer" to read as follows:

"“Dealer” means the holder of a manufacturer’s license, [a] wholesaler’s license, [or a] brewpub’s license, winery’s license, or small craft producer’s license under the liquor law.”

SECTION 6. Section 244D-2, Hawaii Revised Statutes, is amended to read as follows:

“[§244D-2] Permit. (a) It shall be unlawful for any dealer to sell liquor unless a permit has been issued to the dealer as hereinafter prescribed, and such permit is in full force and effect.

(b) The liquor commission shall certify to the department ~~[of taxation from time to time and within forty-eight hours after such license is issued]~~ the name of every dealer, together with the dealer's place of business and the period covered by the dealer's license. The department ~~[thereupon]~~ shall issue its permit to such person for the period covered by the person's license upon the payment of a permit fee of \$2.50. The permit shall be issued by the department as of the date when the liquor commission issued the license.

(c) Any permit issued under this chapter shall be for the period covered by dealer's license; it shall not be assignable; it shall be conspicuously displayed on the licensed premises of the permittee; it shall expire upon the expiration of the period covered by the permittee's license, or on June 30 next succeeding the date upon which it is issued, whichever is earlier, unless sooner suspended, surrendered, or revoked for good cause by the department; and it shall be renewed annually before July 1, upon fulfillment of all requirements as in the case of an original permit and the payment of a renewal fee of \$2.50. Whenever a permit is defaced, destroyed, or lost, or the licensed premises are relocated, the department may issue a duplicate permit to the permittee upon the payment of a fee of 50 cents.

~~(d) The department may suspend, or, after hearing, revoke, any permit issued under this chapter whenever it finds that the permittee has failed to comply with this chapter, or any rule or regulation of the department prescribed, adopted, and promulgated under this chapter. Upon suspending or revoking any permit the department shall request the permittee to surrender to it immediately the permit, or any duplicate thereof issued to the permittee, and the permittee shall surrender the same promptly to the department as requested.]~~

(d) The department may suspend, revoke, or decline to renew any permit issued under this chapter whenever the department finds that the applicant or permittee has failed to comply with this chapter or any rule adopted under this chapter, or for any other good cause. Good cause includes but is not limited to instances where an applicant or permittee has:

- (1) Submitted a false or fraudulent application or provided a false statement in an application;
- (2) Possessed or displayed a false or fraudulent permit;
- (3) Failed to comply with, violated, or been convicted of violating any county, state, or federal law directly pertaining to the sale, importation, acquisition, possession, distribution, transportation, or smuggling of liquor; or
- (4) Failed to maintain complete and accurate records when and if required to be kept.

Upon suspending or revoking any permit, the department may request that the permittee surrender the permit or any duplicate issued to, or printed by the permittee, and the permittee shall surrender the permit or duplicate promptly to the department as requested.

(e) Whenever the department suspends, revokes, or declines to renew a permit, [it] the department shall notify the applicant or permittee immediately and afford the applicant or permittee a hearing, if desired[-and if]; provided that a hearing has not already been afforded. The department shall provide no less than thirty days' notice to the applicant or permittee of a hearing afforded under this subsection. After the hearing the department shall [either rescind its order of suspension, or good cause appearing therefor, shall continue the suspension or revoke the permit:]

- (1) Rescind its order of suspension;
- (2) Continue the suspension;
- (3) Revoke the permit;
- (4) Rescind its order of revocation;
- (5) Decline to renew the permit; or
- (6) Renew the permit.”

SECTION 7. Section 245-2, Hawaii Revised Statutes, is amended to read as follows:

“§245-2 License. (a) It shall be unlawful for any person to engage in the business of a wholesaler or dealer in the State without having received first a license therefor issued by the department of taxation under this chapter; provided that this section shall not be construed to supersede any other law relating to licensing of persons in the same business.

(b) The license shall be issued by the department upon application therefor, in such form and manner as shall be required by rule of the department, and the payment of a fee of \$2.50, and shall be renewable annually on July 1 for the twelve months ending the succeeding June 30.

(c) Any license issued under this chapter shall not be assignable and shall be conspicuously displayed on the licensed premises of the licensee. Whenever a license is defaced, destroyed, or lost, or the licensed premises are relocated,

the department may issue a duplicate license to the licensee upon the payment of a fee of 50 cents.

~~[(e)]~~ (d) The department may suspend ~~[or, after hearing]~~, revoke, or decline to renew any license issued under this chapter whenever the department finds that the applicant or licensee has failed to comply with this chapter or any rule adopted under this chapter, or for any other good cause. Good cause includes but is not limited to instances where an applicant or licensee has:

- (1) Submitted a false or fraudulent application or provided a false statement in an application; ~~[or]~~
- (2) Possessed or displayed a false or fraudulent license~~[-]~~;
- (3) Failed to comply with, violated, or been convicted of violating any county, state, or federal law directly pertaining to the sale, importation, acquisition, possession, stamping, distribution, transportation, or smuggling of cigarettes, counterfeit cigarettes, counterfeit tax stamps, or other tobacco products; or
- (4) Failed to maintain complete and accurate records when and if required to be kept.

Upon suspending or revoking any license, the department ~~[shall]~~ may request that the licensee immediately surrender the license or any duplicate issued to or printed by the licensee, and the licensee shall surrender the license or duplicate promptly to the department as requested.

~~[(d)]~~ (e) Whenever the department suspends, revokes, or declines to renew a license, the department shall notify the applicant or licensee immediately and afford the applicant or licensee a hearing, if requested ~~[and if]~~; provided that a hearing has not already been afforded. The department shall provide no less than thirty days' notice to the applicant or licensee of a hearing afforded under this subsection. After the hearing, the department shall:

- (1) Rescind its order of suspension;
- (2) Continue the suspension;
- (3) Revoke the license;
- (4) Rescind its order of revocation;
- (5) Decline to renew the license; or
- (6) Renew the license.”

SECTION 8. Section 245-2.5, Hawaii Revised Statutes, is amended by amending subsections (m) and (n) to read as follows:

“(m) The department may suspend ~~[or, after hearing]~~, revoke, or decline to renew any retail tobacco permit issued under this chapter whenever the department finds that the applicant or permittee has failed to comply with this chapter or any rule adopted under this chapter, or for any other good cause. Good cause includes but is not limited to instances where an applicant or permittee has:

- (1) Submitted a false or fraudulent application or provided a false statement in an application; ~~[or]~~
- (2) Possessed or displayed a false or fraudulent retail tobacco permit~~[-]~~;
- (3) Failed to comply with, violated, or been convicted of violating any county, state, or federal law directly pertaining to the sale, importation, acquisition, possession, stamping, distribution, transportation, or smuggling of cigarettes, counterfeit cigarettes, counterfeit tax stamps, or other tobacco products; or
- (4) Failed to maintain complete and accurate records when and if required to be kept.

Upon suspending or revoking any retail tobacco permit, the department ~~[shall]~~ may request that the permittee immediately surrender any retail tobacco permit

or duplicate issued to or printed by the permittee, and the permittee shall surrender the permit or duplicate promptly to the department as requested.

(n) Whenever the department suspends, revokes, or declines to renew a retail tobacco permit, the department shall notify the applicant or permittee immediately and afford the applicant or permittee a hearing, if requested ~~[and if]~~; provided that a hearing has not already been afforded. The department shall provide no less than thirty days' notice to the applicant or permittee of a hearing afforded under this subsection. After the hearing, the department shall:

- (1) Rescind its order of suspension;
- (2) Continue the suspension;
- (3) Revoke the retail tobacco permit;
- (4) Rescind its order of revocation;
- (5) Decline to renew the retail tobacco permit; or
- (6) Renew the retail tobacco permit.”

SECTION 9. Section 245-9, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The department and the attorney general may examine all records[~~including tax returns and reports under section 245-31,~~] required to be kept or filed under this chapter, and books, papers, and records of any person engaged in the business of wholesaling or dealing cigarettes and tobacco products, to verify the accuracy of the payment of the taxes imposed by this chapter. Every person in possession of any books, papers, and records, and the person’s agents and employees, are directed and required to give the department and the attorney general the means, facilities, and opportunities for the examinations.”

SECTION 10. Section 245-33, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§245-33]]~~ **Unused stamps; cancellation of stamps.** The department shall adopt rules for a refund or credit to a licensee in the amount of the denominated values less any discount applied pursuant to section 245-22(e) of any unused stamps. The department may provide by rule for the cancellation of stamps.”

SECTION 11. Section 243-8, Hawaii Revised Statutes, is repealed.

SECTION 12. Section 245-31, Hawaii Revised Statutes, is repealed.

SECTION 13. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 14. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 15. This Act shall take effect on July 1, 2021.

(Approved June 28, 2021.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 117

S.B. NO. 1203

A Bill for an Act Relating to Title 14, Hawaii Revised Statutes.

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

PART I

SECTION 1. The purpose of this Act is to make numerous amendments to title 14, Hawaii Revised Statutes, for the purpose of simplifying and streamlining administration of the tax law.

PART II

SECTION 2. Section 231-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““Director” means the director of taxation, unless the context clearly indicates otherwise.”

SECTION 3. Section 231-15.7, Hawaii Revised Statutes, is amended to read as follows:

“§231-15.7 Returns by fiduciaries. The returns, statements, or answers required under chapters of the law under title 14 administered by the department shall be made, in the form and manner prescribed by the department, by the personal representative, trustee, guardian, or other fiduciary in such capacity [in any taxation district in which returns are required].”

SECTION 4. Section 231-31, Hawaii Revised Statutes, is amended to read as follows:

“§231-31 Nonresidents engaged in business, etc., service of process on, designation of agent for service of process. Every nonresident individual who, jointly, severally, or jointly and severally, is subject to a tax upon the gross or net income from, or sales of, an occupation, trade, or business carried on in the State, in whole or in part, or upon the carrying on of [such] the occupation, trade, or business, or upon the use or keeping for use of property therein, shall file with the department of taxation [in the district in which the occupation, trade, or business is carried on,] in the form and manner prescribed by the department, the name and address of a person residing within the State upon whom process may be served, and in default of [such] the designation, and if the nonresident individual cannot be found in the State, service of process in any action for the collection of the taxes may be made on any manager, superintendent, or other person in charge, employed in the carrying on of the occupation, trade, or business, with like effect as if the person so served had been designated by the nonresident as the nonresident’s agent for such purpose; provided that nothing therein shall preclude the service of process in any other manner provided by law.”

SECTION 5. Section 235-7, Hawaii Revised Statutes, is amended by amending subsections (c) and (d) to read as follows:

“(c) The deductions of or based on dividends paid or received, allowed to a corporation under chapter 1, subchapter B, part VIII of the Internal Revenue Code, shall not be allowed. In lieu thereof there shall be allowed as a deduction the entire amount of [dividends]:

- (1) Dividends received by any corporation upon the shares of stock of a national banking association[; qualifying];

- (2) Qualifying dividends, as defined in section 243(b) of the Internal Revenue Code, received by members of an affiliated group~~[- or dividends]; provided that “includible corporation” as used therein shall include domestic and foreign corporations;~~
- (3) Dividends received by a small business investment company operating under the Small Business Investment Act of 1958 (Public Law 85-699) ~~[upon shares of stock qualifying under paragraph (3), seventy];~~
- (4) Seventy per cent of the amount received by any corporation as dividends~~];~~
- (1) ~~Upon~~ upon the shares of stock of another corporation, if ~~[at the date of payment of the dividend at least ninety five per cent of the other corporation’s capital stock is owned by one or more corporations doing business in this State and if the other corporation is subjected to an income tax in another jurisdiction (but subsection to federal tax does not constitute subsection to income tax in another jurisdiction); and~~
- (2) ~~Upon the shares of stock of a bank or insurance company organized and doing business under the laws of the State;~~
- (3) ~~Upon the shares of stock of another corporation, if at least fifteen per cent of the latter corporation’s business, for the taxable year of the latter corporation preceding the payment of the dividend, has been attributed to this State.~~

However, except for national bank dividends, the deductions under this subsection are not allowed when they would not have been] otherwise allowed under section 243 of the Internal Revenue Code~~[- as amended by Public Law 85-866, by reason of subsections (b) and (c) of section 246 of the Internal Revenue Code. For the purposes of this subsection fifteen per cent of a corporation’s business shall be deemed to have been attributed to this State if fifteen per cent or more of the entire gross income of the corporation as defined in this chapter (which for the purposes of this subsection shall be computed without regard to source in the State and shall include income not taxable by reason of the fact that it is from property not owned in the State or from a trade or business not carried on in the State in whole or in part), under section 235-5 and the other provisions of this chapter, shall have been attributed to the State and subjected to assessment of the taxable income therefrom (including the determination of the resulting net loss, if any)].~~

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

- (2) (A) ~~(d)~~ With respect to net operating loss deductions resulting from net operating losses for taxable years ending after December 31, 1966, the net operating loss deduction provisions of the Internal Revenue Code shall apply~~[- provided that there shall be no net operating loss deduction carried back to any taxable year ending prior to January 1, 1967;~~
- (B) ~~In the case of a taxable year beginning in 1966 and ending in 1967, the entire amount of all net operating loss deductions carried back to the taxable year shall be limited to that portion~~

- of taxable income for such taxable year which the number of days in 1967 bears to the total days in the taxable year ending in 1967; and
- (C) ~~The computation of any net operating loss deduction for a taxable year covered by this subsection shall require the further modifications stated in paragraphs (3), (4), and (5) of this subsection; provided that:~~
- [~~(3)~~] (1) In computing the net operating loss deduction allowed by this subsection, there shall be included in gross income the amount of interest which is excluded from gross income by subsection (a), decreased by the amount of interest paid or accrued which is disallowed as a deduction by subsection (c). In determining the amount of the net operating loss deduction under this subsection of any corporation, there shall be disregarded the net operating loss of such corporation for any taxable year for which the corporation is an electing small business corporation;
- [~~(4)~~] (2) No net operating loss carryback or carryover shall be allowed by this chapter if not allowed under section 172 of the Internal Revenue Code; ~~and~~
- [~~(5)~~] (3) The election to relinquish the entire carryback period with respect to a net operating loss allowed under section 172(b)(3)(C) of the Internal Revenue Code shall be operative for the purposes of this chapter; provided that no taxpayer shall make such an election as to a net operating loss of a business where such net operating loss occurred in the taxpayer's business prior to the taxpayer entering business in this State; ~~and~~
- (6) ~~The five-year carryback period for net operating losses for any taxable year ending during 2001 and 2002 in section 172(b)(1)(H) of the Internal Revenue Code as it read on December 31, 2008, shall not be operative for purposes of this chapter; and~~
- (7) ~~The election for the carryback for 2008 or 2009 net operating losses of small businesses as provided in section 172(b)(1)(H) of the Internal Revenue Code as it read on December 31, 2009, shall not be operative for purposes of this chapter.]”~~

SECTION 6. Section 235-12.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) [~~When the requirements of subsection (d) are met, each~~] Each individual or corporate 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. The tax credit may be claimed as follows:

- (1) For each solar energy system: thirty-five per cent of the actual cost or the cap amount determined in subsection (b); provided that:
 - (A) For taxable years beginning after December 31, 2019, and except as provided in subparagraphs (B) and (C), no tax credit may be claimed for a solar energy system that is five megawatts in total output capacity or larger and requires a power purchase agreement approved by the public utilities commission;
 - (B) A solar energy system that is five megawatts in total output capacity or larger, installed and placed in service pursuant to a power purchase agreement approved or pending approval by a

decision and order by the public utilities commission prior to December 31, 2019, shall continue to receive a tax credit equal to thirty-five per cent of the actual cost, or \$500,000 per solar energy system that has a total output capacity of at least one thousand kilowatts per system of direct current, whichever is less; and

- (C) For each solar energy system integrated with a pumped hydro-electric energy storage system, the tax credit may be claimed for thirty-five per cent of the actual cost or the cap amount determined in subsection (b), whichever is less; provided that applicable project approval filings have been made to the public utilities commission by December 31, 2021; or
- (2) For each wind-powered energy system: twenty per cent of the actual cost or the cap amount determined in subsection (b), whichever is less;

provided further 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 administrative rule.”

SECTION 7. Section 235-51, Hawaii Revised Statutes, is amended by amending subsections (a), (b), and (c) to read as follows:

- “(a) There is hereby imposed on the taxable income of every:
 - (1) Taxpayer who files a joint return under section 235-93; and
 - (2) Surviving spouse,

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 \$4,000	1.40% of taxable income
Over \$4,000 but not over \$8,000	\$56.00 plus 3.20% of excess over \$4,000
Over \$8,000 but not over \$16,000	\$184.00 plus 5.50% of excess over \$8,000
Over \$16,000 but not over \$24,000	\$624.00 plus 6.40% of excess over \$16,000
Over \$24,000 but not over \$32,000	\$1,136.00 plus 6.80% of excess over \$24,000
Over \$32,000 but not over \$40,000	\$1,680.00 plus 7.20% of excess over \$32,000
Over \$40,000 but not over \$60,000	\$2,256.00 plus 7.60% of excess over \$40,000
Over \$60,000 but not over \$80,000	\$3,776.00 plus 7.90% of excess over \$60,000
Over \$80,000	\$5,356.00 plus 8.25% of excess over \$80,000.

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

If the taxable income is:	The tax shall be:
Not over \$4,800	1.40% of taxable income
Over \$4,800 but not over \$9,600	\$67.00 plus 3.20% of excess over \$4,800

Over \$9,600 but not over \$19,200	\$221.00 plus 5.50% of excess over \$9,600
Over \$19,200 but not over \$28,800	\$749.00 plus 6.40% of excess over \$19,200
Over \$28,800 but not over \$38,400	\$1,363.00 plus 6.80% of excess over \$28,800
Over \$38,400 but not over \$48,000	\$2,016.00 plus 7.20% of excess over \$38,400
Over \$48,000 but not over \$72,000	\$2,707.00 plus 7.60% of excess over \$48,000
Over \$72,000 but not over \$96,000	\$4,531.00 plus 7.90% of excess over \$72,000
Over \$96,000	\$6,427.00 plus 8.25% of excess over \$96,000.]

In the case of any taxable year beginning after December 31, 2017:

If the taxable income is:	The tax shall be:
Not over \$4,800	1.40% of taxable income
Over \$4,800 but not over \$9,600	\$67.00 plus 3.20% of excess over \$4,800
Over \$9,600 but not over \$19,200	\$221.00 plus 5.50% of excess over \$9,600
Over \$19,200 but not over \$28,800	\$749.00 plus 6.40% of excess over \$19,200
Over \$28,800 but not over \$38,400	\$1,363.00 plus 6.80% of excess over \$28,800
Over \$38,400 but not over \$48,000	\$2,016.00 plus 7.20% of excess over \$38,400
Over \$48,000 but not over \$72,000	\$2,707.00 plus 7.60% of excess over \$48,000
Over \$72,000 but not over \$96,000	\$4,531.00 plus 7.90% of excess over \$72,000
Over \$96,000 but not over \$300,000	\$6,427.00 plus 8.25% of excess over \$96,000
Over \$300,000 but not over \$350,000	\$23,257.00 plus 9.00% of excess over \$300,000
Over \$350,000 but not over \$400,000	\$27,757.00 plus 10.00% of excess over \$350,000
Over \$400,000	\$32,757.00 plus 11.00% of excess over \$400,000.

(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 \$18,000 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:

Not over \$3,600	The tax shall be: 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
Over \$28,800 but not over \$36,000	\$1,512.00 plus 7.20% of excess over \$28,800
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.]

In the case of any taxable year beginning after December 31, 2017:

If the taxable income is:

Not over \$3,600	The tax shall be: 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
Over \$28,800 but not over \$36,000	\$1,512.00 plus 7.20% of excess over \$28,800
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 but not over \$225,000	\$4,820.00 plus 8.25% of excess over \$72,000
Over \$225,000 but not over \$262,500	\$17,443.00 plus 9.00% of excess over \$225,000
Over \$262,500 but not over \$300,000	\$20,818.00 plus 10.00% of excess over \$262,500
Over \$300,000	\$24,568.00 plus 11.00% of excess over \$300,000.

(c) There is hereby imposed on the taxable income of (1) every unmarried individual (other than a surviving spouse, or the head of a household) and (2) on the taxable income of every married individual who does not make a

single return jointly with the individual's spouse under section 235-93 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 \$2,000	1.40% of taxable income
Over \$2,000 but not over \$4,000	\$28.00 plus 3.20% of excess over \$2,000
Over \$4,000 but not over \$8,000	\$92.00 plus 5.50% of excess over \$4,000
Over \$8,000 but not over \$12,000	\$312.00 plus 6.40% of excess over \$8,000
Over \$12,000 but not over \$16,000	\$568.00 plus 6.80% of excess over \$12,000
Over \$16,000 but not over \$20,000	\$840.00 plus 7.20% of excess over \$16,000
Over \$20,000 but not over \$30,000	\$1,128.00 plus 7.60% of excess over \$20,000
Over \$30,000 but not over \$40,000	\$1,888.00 plus 7.90% of excess over \$30,000
Over \$40,000	\$2,678.00 plus 8.25% of excess over \$40,000.

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

If the taxable income is:	The tax shall be:
Not over \$2,400	1.40% of taxable income
Over \$2,400 but not over \$4,800	\$34.00 plus 3.20% of excess over \$2,400
Over \$4,800 but not over \$9,600	\$110.00 plus 5.50% of excess over \$4,800
Over \$9,600 but not over \$14,400	\$374.00 plus 6.40% of excess over \$9,600
Over \$14,400 but not over \$19,200	\$682.00 plus 6.80% of excess over \$14,400
Over \$19,200 but not over \$24,000	\$1,008.00 plus 7.20% of excess over \$19,200
Over \$24,000 but not over \$36,000	\$1,354.00 plus 7.60% of excess over \$24,000
Over \$36,000 but not over \$48,000	\$2,266.00 plus 7.90% of excess over \$36,000
Over \$48,000	\$3,214.00 plus 8.25% of excess over \$48,000.]

In the case of any taxable year beginning after December 31, 2017:

If the taxable income is:	The tax shall be:
Not over \$2,400	1.40% of taxable income
Over \$2,400 but not over \$4,800	\$34.00 plus 3.20% of excess over \$2,400
Over \$4,800 but not over \$9,600	\$110.00 plus 5.50% of excess over \$4,800
Over \$9,600 but not over \$14,400	\$374.00 plus 6.40% of excess over \$9,600
Over \$14,400 but not over \$19,200	\$682.00 plus 6.80% of excess over \$14,400
Over \$19,200 but not over \$24,000	\$1,008.00 plus 7.20% of excess over \$19,200
Over \$24,000 but	\$1,354.00 plus 7.60% of

not over \$36,000	excess over \$24,000
Over \$36,000 but not over \$48,000	\$2,266.00 plus 7.90% of excess over \$36,000
Over \$48,000 but not over \$150,000	\$3,214.00 plus 8.25% of excess over \$48,000
Over \$150,000 but not over \$175,000	\$11,629.00 plus 9.00% of excess over \$150,000
Over \$175,000 but not over \$200,000	\$13,879.00 plus 10.00% of excess over \$175,000
Over \$200,000	\$16,379.00 plus 11.00% of excess over \$200,000.”

SECTION 8. Section 235-62, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The return shall be in ~~such~~ the form, including computer printouts or other electronic formats, and contain ~~such~~ the information ~~[as may be]~~ prescribed by the director of taxation. The return shall be filed ~~[with the director at the first taxation district in Honolulu.]~~ in the form and manner prescribed by the department.”

SECTION 9. Section 235-99, Hawaii Revised Statutes, is amended to read as follows:

“**§235-99 [Same;] Returns; place for filing.** Returns shall be filed ~~[with the collector for the taxation district in which is located the legal residence or principal place of business of the person making the return, or, if such person has no legal residence or principal place of business in the State, then with the collector at Honolulu.]~~ in the form and manner prescribed by the department.”

SECTION 10. Section 237-30, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The taxes levied hereunder shall be payable in monthly installments on or before the twentieth day of the calendar month following the month in which they accrue. The taxpayer, on or before the twentieth day of the calendar month following the month in which the taxes accrue, shall make out and sign a return of the installment of tax for which the taxpayer is liable for the preceding month and transmit the same, together with a remittance, in the form required by section 237-31, for the amount of the tax, to ~~[the office of]~~ the department of taxation in the [appropriate district hereinafter designated.] form and manner prescribed by the department.”

SECTION 11. Section 237-33, Hawaii Revised Statutes, is amended to read as follows:

“**§237-33 Annual return, payment of tax.** On or before the twentieth day of the fourth month following the close of the taxable year, each taxpayer shall make a return showing the value of products, gross proceeds of sales or gross income, and compute the amount of tax chargeable against the taxpayer in accordance with this chapter and deduct the amount of monthly payments (as hereinbefore provided), and transmit with the taxpayer’s report a remittance in the form required by section 237-31 covering the residue of the tax chargeable against the taxpayer ~~[to the district office of the department of taxation hereinafter designated].~~ The return shall be signed by the taxpayer, if made by an individual, or by the president, vice-president, secretary, or treasurer of a corporation, if made on behalf of a corporation. If made on behalf of a partnership, firm, society, unincorporated association, group, hui, joint adventure,

joint stock company, corporation, trust estate, decedent's estate, trust, or other entity, any individual delegated by the entity shall sign the same on behalf of the taxpayer. If for any reason it is not practicable for the individual taxpayer to sign the return, it may be done by any duly authorized agent. The department, for good cause shown, may extend the time for making the return on the application of any taxpayer and grant such reasonable additional time within which to make the same as may, by it, be deemed advisable.

Section 232-2 applies to the annual return, but not to a monthly return.”

SECTION 12. Section 237-34, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) All monthly and annual returns shall be transmitted ~~[to the office of the taxation district in which the privilege upon which the tax accrued is exercised. Where the privilege is exercised in more than one taxation district the returns shall be transmitted to the office of the first district.]~~ in the form and manner prescribed by the department.”

SECTION 13. Section 237-37, Hawaii Revised Statutes, is amended to read as follows:

“**§237-37 Refunds and credits.** If the amount already paid exceeds that which should have been paid on the basis of the tax recomputed as provided in section 237-36, the excess so paid shall be immediately refunded to the taxpayer in the manner provided in section 231-23(c). The taxpayer may, at the taxpayer's election, apply an overpayment credit to taxes subsequently accruing hereunder. ~~[All refunds and the details thereof, including the names of the persons receiving the refund and the amount refunded shall be accessible for the inspection of the public in the office of the department of taxation in the taxation district in which the person receiving the refund made the person's returns.]~~

No recourse may be had except under section 40-35 or by appeal for refunds of taxes paid pursuant to an assessment by the director of taxation[-]; provided that if the assessment by the director shall contain clerical errors, transposition of figures, typographical errors, and errors in calculation or if there shall be an illegal or erroneous assessment, the usual refunds procedures shall apply. No refund or overpayment credit may be had under this section in any event unless the original payment of the tax was due to the law having been interpreted or applied in respect of the taxpayer concerned differently than in respect of taxpayers generally. As to all tax payment for which a refund or credit is not authorized by this section (including without prejudice to the generality of the foregoing cases of unconstitutionality) the remedies provided by appeal or under section 40-35 are exclusive.”

SECTION 14. Section 237D-6.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) All remittances of taxes imposed under this chapter shall be made by cash, bank drafts, cashier's check, money order, or certificate of deposit ~~[to the office of the taxation district to which the return was transmitted.]~~ in the form and manner prescribed by the department.”

SECTION 15. Section 237D-7, Hawaii Revised Statutes, is amended to read as follows:

“**§237D-7 Annual return.** On or before the twentieth day of the fourth month following the close of the taxable year, every person who has become liable for the payment of the taxes under this chapter during the preceding tax year

shall file a return summarizing that person's liability under this chapter for the year, in ~~[such]~~ the form [as] and manner prescribed by the [director prescribes.] department. The operator or plan manager shall transmit with the return a remittance covering the residue of the tax chargeable to the operator or plan manager, if any~~], to the office of the appropriate state district tax assessor designated in section 237D-8].~~ The return shall be signed by the taxpayer, if made by an individual, or by the president, vice-president, secretary, or treasurer of a corporation, if made on behalf of a corporation. If made on behalf of a partnership, firm, society, unincorporated association, group, hui, joint adventure, joint stock company, corporation, trust estate, decedent's estate, trust, or other entity, any individual delegated by the entity shall sign the same on behalf of the taxpayer. If for any reason it is not practicable for the individual taxpayer to sign the return, it may be done by any duly authorized agent. The department, for good cause shown, may extend the time for making the return on the application of any taxpayer and grant such reasonable additional time within which to make the return as the department may deem advisable.

Section 232-2 applies to the annual return, but not to a monthly return.”

SECTION 16. Section 237D-1, Hawaii Revised Statutes, is amended by deleting the definition of “director”.

[““Director” means the director of taxation.”]

SECTION 17. Section 237D-8, Hawaii Revised Statutes, is amended to read as follows:

“**§237D-8 Filing of returns.** All monthly, quarterly, semiannual, and annual returns shall be transmitted ~~[to the office of the taxation district in which the taxes arose or to the office of the first taxation district in Honolulu.]~~ in the form and manner prescribed by the department.”

SECTION 18. Section 238-5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) On or before the twentieth day of each calendar month, any person who has become liable for the payment of a tax under this chapter during the preceding calendar month in respect of any property, services, or contracting, or the use thereof, shall file a return ~~[with the assessor of the taxation district in which the property was held or the services or contracting were received when the tax first became payable, or with the director of taxation at Honolulu,]~~ in the form and manner prescribed by the department, setting forth a description of the property, services, or contracting and the character and quantity thereof in sufficient detail to identify the same or otherwise in such reasonable detail as the director by rule shall require, and the purchase price or value thereof as the case may be. The return shall be accompanied by a remittance in full of the tax, computed at the rate specified in section 238-2 or 238-2.3 upon the price or value so returned. Any tax remaining unpaid after the twentieth day following the end of the calendar month during which the tax first became payable shall become delinquent; provided that a receipt from a seller required or authorized to collect the tax, given to a taxpayer in accordance with section 238-6, shall be sufficient to relieve the taxpayer from further liability for the tax to which the receipt may refer, or for the return thereof.”

SECTION 19. Section 239-4, Hawaii Revised Statutes, is amended to read as follows:

“**§239-4 Returns.** Each public service company, on or before the twentieth day of the fourth month following the close of the taxable year, shall file

~~[with the office of the department of taxation for the district within which the principal office of the public service company is maintained]~~ a return in ~~[such]~~ the form ~~[as]~~ and manner prescribed by the department ~~[may prescribe]~~, showing its taxable gross income for the preceding taxable year. In case any public service company engages in lines of business other than its public service company business, the receipts therefrom shall not be subject to tax under this chapter, but the same tax liabilities shall attach to the public service company on account of the other lines of business as would exist if no public service company business were engaged in. In the case of a public utility subject to the rate of tax imposed by section 239-5(a) or (b), if the public utility engages in lines of business other than its public utility business the real property used in connection with the other lines of business shall be taxed, in accordance with the applicable county tax ordinance, the same as if no public utility business were done. In the case of a public utility remitting payments to a county of a portion of the revenues generated from the tax imposed by section 239-5(a), the public utility shall also file with the director of finance of the county to which such payment is paid, a statement showing all gross income from the public utility business upon which the tax is calculated and the allocation of that gross income among the counties.”

SECTION 20. Section 243-1, Hawaii Revised Statutes, is amended by deleting the definition of “director”.

~~[““Director” means the director of finance of the State.”]~~

SECTION 21. Section 243-3.5, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) Each distributor subject to the tax imposed by subsection (a) or (b), on or before the last day of each calendar month, shall file ~~[with the director, on forms prescribed, prepared, and furnished by the director], in the form and manner prescribed by the department,~~ a return statement of the tax under this section for which the distributor is liable for the preceding month. The form and payment of the tax shall be transmitted to the department ~~[of taxation in the appropriate district.] in the form and manner prescribed by the department.”~~

SECTION 22. Section 243-10, Hawaii Revised Statutes, is amended to read as follows:

“§243-10 Statements and payments. Each distributor and each person subject to section ~~[243-4(b),]~~ 243-4, on or before the twentieth day of each calendar month, shall file with the ~~[director of taxation,]~~ department, on forms prescribed~~[- prepared, and furnished]~~ by the ~~[director,]~~ department, a statement, authenticated as provided in section 231-15, showing separately for each county and for the island of Lanai and the island of Molokai within which and whereon fuel is sold or used during each preceding month of the calendar year, the following:

- (1) The total number of gallons of fuel refined, manufactured, or compounded by the distributor or person within the State and sold or used by the distributor or person, and if for ultimate use in another county or on either island, the name of that county or island;
- (2) The total number of gallons of fuel acquired by the distributor or person during the month from persons not subject to the tax on the transaction or only subject to tax thereon at the rate of 1 cent per gallon, as the case may be, and sold or used by the distributor or person, and if for ultimate use in another county or on either island, the name of that county or island;

- (3) The total number of gallons of fuel sold by the distributor or person to the United States or any department or agency thereof, or to any other person or entity, or used in any manner, the effect of which sale or use is to exempt the fuel from the tax imposed by this chapter; and
- (4) Additional information relative to the acquisition, purchase, manufacture, or importation into the State, and the sale, use, or other disposition, of diesel oil by the distributor or person during the month, as prescribed by the department [~~of taxation~~] by rule [~~shall prescribe~~].

At the time of submitting the foregoing report to the department, each distributor and person shall pay the tax on each gallon of fuel (including diesel oil) sold or used by the distributor or person in each county and on the island of Lanai and the island of Molokai during the preceding month, as shown by the statement and required by this chapter; provided that the tax shall not apply to any fuel exempted and so long as the same is exempted from the imposition of the tax by the Constitution or laws of the United States; and the tax shall be paid only once upon the same fuel; provided further that a licensed distributor shall be entitled, in computing the tax the licensed distributor is required to pay, to deduct from the gallons of fuel reported for the month for each county or for the island of Lanai or the island of Molokai, as the case may be, one gallon for each ninety-nine gallons of like liquid fuel sold by retail dealers in that county or on that island during the month, as shown by certificates furnished by the retail dealers to the distributor and attached to the distributor's report. All taxes payable for any month shall be delinquent after the expiration of the twentieth day of the following month.

Statements filed under this section concerning the number of gallons of fuel refined, manufactured, compounded, imported, sold or used by the distributor or person [~~are~~] shall be public records.”

SECTION 23. Section 244D-4, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Every person who sells or uses any liquor in the State not taxable under this chapter, in respect of the transaction by which the person or the person's vendor acquired the liquor, shall pay a gallonage tax [~~which~~] that is hereby imposed at the following rates for the various liquor categories defined in section 244D-1:

[For the period July 1, 1997, to June 30, 1998, the tax rate shall be:

- (1) \$5.92 per wine gallon on distilled spirits;
- (2) \$2.09 per wine gallon on sparkling wine;
- (3) \$1.36 per wine gallon on still wine;
- (4) \$0.84 per wine gallon on cooler beverages;
- (5) \$0.92 per wine gallon on beer other than draft beer;
- (6) \$0.53 per wine gallon on draft beer;]

On July 1, 1998, and thereafter, the tax rate shall be:

- (1) \$5.98 per wine gallon on distilled spirits;
- (2) \$2.12 per wine gallon on sparkling wine;
- (3) \$1.38 per wine gallon on still wine;
- (4) \$0.85 per wine gallon on cooler beverages;
- (5) \$0.93 per wine gallon on beer other than draft beer; and
- (6) \$0.54 per wine gallon on draft beer;

and at a proportionate rate for any other quantity so sold or used.”

SECTION 24. Section 244D-6, Hawaii Revised Statutes, is amended to read as follows:

“§244D-6 Return, form, contents. Every taxpayer shall, on or before the twentieth day of each month, file with the department [of taxation in the taxation district in which the taxpayer’s business premises are located, or with the department in Honolulu,] a return showing all sales of liquor by gallonage and dollar volume in each liquor category defined in section 244D-1 and taxed under section 244D-4(a) made by the taxpayer during the preceding month, showing separately the amount of the nontaxable sales, and the amount of the taxable sales, and the tax payable thereon. [The return shall also show the amount of liquor by gallonage and dollar volume in each liquor category defined in section 244D-1 and taxed under section 244D-4(a) used during the preceding month which is subject to tax, and the tax payable thereon.] The form and manner of the return shall be prescribed by the department and shall contain [such] any information [as it] the department may deem necessary for the proper administration of this chapter.”

SECTION 25. Section 245-2.5, Hawaii Revised Statutes, is amended as follows:

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

“(a) [~~Beginning December 1, 2006, every~~] Every retailer engaged in the retail sale of cigarettes and other tobacco products upon which a tax is required to be paid under this chapter shall obtain a retail tobacco permit.

(b) [~~Beginning March 1, 2007, it~~] It shall be unlawful for any retailer engaged in the retail sale of cigarettes and other tobacco products upon which a tax is required to be paid under this chapter to sell, possess, keep, acquire, distribute, or transport cigarettes or other tobacco products for retail sale unless a retail tobacco permit has been issued to the retailer under this section and the retail tobacco permit is in full force and effect.”

2. By amending subsection (l) to read:

“(l) A permittee shall keep a complete and accurate record of the permittee’s cigarette or tobacco product inventory. The records shall:

(1) Include:

- (A) A written statement containing the name and address of the permittee’s source of its cigarettes and tobacco products;
- (B) The date of delivery, quantity, trade name or brand, and price of the cigarettes and tobacco products; and
- (C) Documentation in the form of any purchase orders, invoices, bills of lading, other written statements, books, papers, or records in whatever format, including electronic format, which substantiate the purchase or acquisition of the cigarettes and tobacco products stored or offered for sale; and

(2) Be offered for inspection and examination within twenty-four hours of demand by the department or the attorney general, and shall be preserved for a period of [~~three~~] five years; provided that:

- (A) Specified records may be destroyed if the department and the attorney general both consent to their destruction within the [~~three-year~~] five-year period; and
- (B) Either the department or the attorney general may adopt rules pursuant to chapter 91 that require specified records to be kept longer than a period of [~~three~~] five years.”

SECTION 26. Section 245-9, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) The department and the attorney general may examine all records, including tax returns [~~and reports under section 245-31,~~] required to be kept or filed under this chapter, and books, papers, and records of any person engaged in the business of wholesaling or dealing cigarettes and tobacco products, to verify the accuracy of the payment of the taxes imposed by this chapter. Every person in possession of any books, papers, and records, and the person’s agents and employees, are directed and required to give the department and the attorney general the means, facilities, and opportunities for the examinations.

(b) The department and the attorney general may inspect the operations, premises, and storage areas of any entity engaged in the sale of cigarettes, or the contents of a specific vending machine, during regular business hours. This inspection shall include inspection of all statements, books, papers, and records in whatever format, including electronic format, pertaining to the acquisition, possession, transportation, sale, or use of packages of cigarettes and tobacco products other than cigarettes, to verify the accuracy of the payment of taxes imposed by this chapter, and of the contents of cartons and shipping or storage containers to ascertain that all individual packages of cigarettes have an affixed stamp of proper denomination as required by this chapter. This inspection may also verify that all stamps were produced under the authority of the department. Every entity in possession of any books, papers, and records, and the entity’s agents and employees, are directed and required to give the department and the attorney general the means, facilities, and opportunities for the examinations. [~~For purposes of this chapter “entity” means one or more individuals, a company, corporation, a partnership, an association, or any other type of legal entity.~~]

SECTION 27. Section 245-41, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) Where the attorney general [~~initiates and~~] conducts an investigation resulting in the imposition and collection of a criminal fine pursuant to this part, one hundred per cent of the fine shall be distributed to the attorney general to be deposited to the credit of the department of the attorney general’s tobacco enforcement special fund; provided that if the attorney general engages the prosecuting attorney for the investigation or prosecution, or both, resulting in the imposition and collection of a criminal fine under this part, the fine shall be shared equally between the attorney general and the prosecuting attorney.”

SECTION 28. Section 251-1, Hawaii Revised Statutes, is amended by deleting the definition of “director”.

[~~““Director” means the director of taxation.”~~]

SECTION 29. Section 251-5, Hawaii Revised Statutes, is amended to read as follows:

“**§251-5 Remittances.** All remittances of surcharge taxes imposed under this chapter shall be made by cash, bank draft, cashier’s check, money order, or certificate of deposit [~~to the office of the taxation district to which the return was transmitted,~~] in the form and manner prescribed by the department. The department shall deposit the moneys into the state treasury to the credit of the state highway fund.”

SECTION 30. Section 251-7, Hawaii Revised Statutes, is amended to read as follows:

“**[[§251-7]] Filing of returns.** All monthly, quarterly, semiannual, and annual returns shall be transmitted [~~to the office of the taxation district in which~~

~~the person's place of business is situated or to the office of the first taxation district in Honolulu.] in the form and manner prescribed by the department."~~

SECTION 31. Section 235-5.6, Hawaii Revised Statutes, is repealed.

SECTION 32. Section 235-111.5, Hawaii Revised Statutes, is repealed.

SECTION 33. Section 239-11, Hawaii Revised Statutes, is repealed.

SECTION 34. Section 239-12, Hawaii Revised Statutes, is repealed.

SECTION 35. Section 243-8, Hawaii Revised Statutes, is repealed.

SECTION 36. Section 245-31, Hawaii Revised Statutes, is repealed.

PART III

SECTION 37. Section 235-2.45, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) Section 704 of the Internal Revenue Code (with respect to a partner's distributive share) shall be operative for purposes of this chapter; except that section 704(b)(2) shall not apply to:

- (1) Allocations of the high technology business investment tax credit allowed by section 235-110.9 for investments made before May 1, 2009;
- ~~[(2) Allocations of net operating loss pursuant to section 235-111.5;]~~ or
- ~~[(3)]~~ (2) Allocations of low-income housing tax credits among partners under section 235-110.8."

SECTION 38. Section 257-10, Hawaii Revised Statutes, is repealed.

PART IV

SECTION 39. Statutory material to be repealed is bracketed and stricken.¹ New statutory material is underscored.

SECTION 40. This Act shall take effect upon its approval.

(Approved June 28, 2021.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 118

S.B. NO. 1204

A Bill for an Act Relating to Tax Appeals.

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

SECTION 1. Section 26-10, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) There shall be within the department of taxation a taxation board of review [~~for each taxation district~~] and a tax appeal court. The composition

of [each] the taxation board of review and the tax appeal court and [its] their respective functions, duties, and powers shall be as [heretofore] provided [by law for the boards of review and tax appeal court existing immediately prior to November 25, 1959.] in chapter 232.”

SECTION 2. Section 232-1, Hawaii Revised Statutes, is amended to read as follows:

“**§232-1 Appeals by persons under contractual obligations.** Whenever any person is under a contractual obligation to pay a tax assessed against another, the person shall have the same rights of appeal to the taxation board of review, the tax appeal court, and the intermediate appellate court, subject to chapter 602, in the person’s own name, as if the tax were assessed against the person. The person against whom the tax is assessed shall also have a right to appear and be heard on any such application or appeal.”

SECTION 3. Section 232-6, Hawaii Revised Statutes, is amended to read as follows:

“**§232-6 [Appointment,] Taxation board of review; appointment, removal, compensation.** (a) There is created a taxation board of review for [each taxation district. Additional boards may be created in any taxation district by the director of taxation where the number of disputes to be decided cannot be reasonably decided within one year. Each taxation district shall have no more than three boards. Each board] the State.

(b) The board shall consist of [five] no more than ten members who shall be [citizens] residents of the State [and residents of the district for which the board is appointed, shall have resided at the time of appointment for at least three years in the State,] and shall be appointed and be removable by the governor as provided in section 26-34. The governor shall designate a member of [each] the board to act as chairperson thereof. In addition, the governor shall designate a member of [each] the board to act as vice chairperson who shall serve as the chairperson of the board during the temporary absence from the State, illness, or disqualification of the chairperson. Any vacancy in [any] the board shall be filled for the unexpired term. Each member shall receive and be paid out of the treasury compensation for the member’s services at the rate of \$10 per day for each day’s actual attendance and the member’s actual traveling expenses. No officer or employee of the State shall be eligible for appointment to [any such] the board.

(c) Any vacancy in the board shall not impair the authority of the remaining members to exercise all the powers of the board. The governor may appoint, without regard to section 26-34, an acting member of the board during any regular member’s temporary absence from the State, temporary inability to act due to recusal, disqualification, or illness. An acting member, during the acting member’s term of service, shall have the same powers and duties as the regular member; provided that an acting member appointed due to a regular member’s recusal or disqualification shall be appointed for the case in which the recusal or disqualification occurred, and the acting member’s appointment shall terminate when the final decision is filed or the case is withdrawn.”

SECTION 4. Section 232-7, Hawaii Revised Statutes, is amended to read as follows:

“**§232-7 [Boards] Taxation board of review; duties, powers, procedure before.** (a) The taxation board of review [for each district] shall hear informally all disputes between the assessor and any taxpayer in all cases in which appeals have been duly taken and the fact that a notice of appeal has been duly filed by a

taxpayer shall be conclusive evidence of the existence of a dispute; provided that this ~~[provision]~~ subsection shall not be construed to permit a taxpayer to dispute an assessment to the extent that it is in accordance with the taxpayer's return.

(b) ~~[Each]~~ At least three board members shall be present at any meeting or proceeding of the board to constitute a quorum. The board shall hold public meetings at some central location in [its] each taxation district at least once annually and shall hear, as speedily as possible, all appeals presented for each year. Taxpayers and others appearing before the board may also participate via teleconference or any other cost-efficient means of the board's choosing.

(c) A taxpayer's identity and final documents submitted in support or opposition of an appeal shall be public information; provided that an individual taxpayer ~~[is]~~ shall be authorized to redact all but the last four digits of the taxpayer's social security number from any accompanying tax return. ~~[Each]~~ The board [shall have the power and authority to] may decide all questions of fact and all questions of law, excepting questions involving the Constitution or laws of the United States, necessary to the determination of the objections raised by the taxpayer in the notice of appeal; provided that ~~[no]~~ the board shall not have the power to determine or declare an assessment illegal or void. Without prejudice to the generality of the foregoing, ~~[each]~~ the board shall have the power to allow or disallow exemptions pursuant to law, whether or not previously allowed or disallowed by the assessor, and to increase or lower any assessment.

~~[(e)]~~ (d) The board shall base its decision on the evidence before it, and, as provided in section 231-20, the assessment made by the assessor shall be deemed prima facie correct. All decisions of the board shall be reduced to writing and shall state separately the board's findings of fact and conclusions of law. The board shall file with the assessor concerned its decision in writing on each appeal decided by it, and a certified copy of the decision shall be furnished by the assessor to the taxpayer concerned by delivery or by mailing the copy addressed to the taxpayer's last known place of residence.

~~[(d) Each]~~ (e) The board and each member thereof, in addition to all other powers, shall also have the power to subpoena witnesses, administer oaths, examine books and records, and hear and take evidence in relation to any subject pending before the board. The tax appeal court shall have the power, upon request of the [boards,] board, to enforce by proper proceedings the attendance of witnesses [and the,] giving of testimony by [them,] witnesses, and [the] production of books, records, and papers at the hearings of the [boards,] board.

~~[(e) If there exists more than one board of review in a taxation district, the chair of one board, administratively and without requirement of any formal action, may assign a member of that board to serve as a temporary member of the requesting board for purposes of establishing a quorum at a designated meeting of the requesting board. The temporary member shall serve only for the specific board meeting for which the assignment is made and only for the period necessary to establish and maintain a quorum. A temporary member may participate in discussion and vote on all matters before the board. Nothing herein shall prevent a member from being assigned multiple times under this subsection.]”~~

SECTION 5. Section 232-13, Hawaii Revised Statutes, is amended to read as follows:

“§232-13 Hearing de novo; bill of particulars. The hearing before the tax appeal court shall be a hearing de novo. Irrespective of which party prevails in proceedings before [a] the state taxation board of review or any equivalent administrative body established by county ordinance, the assessment as made by the assessor, or if increased by the board, or equivalent county administra-

tive body, the assessment as so increased, shall be deemed prima facie correct. Each party shall have the right to introduce, or the tax appeal court, of its own motion, may require the taking of ~~[such]~~ evidence in relation to the subject pending as in the court's discretion may be deemed proper. The court, in the manner provided in section 232-16, shall determine all questions of fact and all questions of law, including constitutional questions, involved in the appeal.

The jurisdiction of the tax appeal court ~~[is]~~ shall be limited to the amount of valuation or taxes, as the case may be, in dispute as shown on the one hand by the amount claimed by the taxpayer or county and on the other hand by the amount of the assessment, or if increased by the board, or equivalent county administrative body, the assessment as so increased.

Assessments for the same year upon other similar property situated in the State shall be receivable in evidence upon the hearing.

Upon the application of either the taxpayer, ~~[the]~~ county, or ~~[the]~~ assessor, the judge of the tax appeal court, upon notice, may allow and direct a bill of particulars of the claim of either the taxpayer, ~~[the]~~ county, or ~~[the]~~ assessor to be delivered to the other, and, in case of default, the judge shall preclude the person ~~[ø]~~ defaulting from giving evidence of the part or parts of the person's affirmative claim of which particulars have not been delivered."

SECTION 6. Section 232-14, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The ~~[boards]~~ taxation board of review ~~[shall have power]~~, consistent with this chapter and chapter 91, ~~[tø]~~ may make rules relating to procedure~~[-]~~ and ~~[tø]~~ prescribe forms to be used, including procedure and forms for the issuance of subpoenas and other process by the ~~[boards of review]~~ board or members ~~[thereof.] of the board.~~ The rules shall have the force and effect of law."

SECTION 7. Section 232-14.5, Hawaii Revised Statutes, is amended to read as follows:

"~~[[§232-14.5]]~~ **Appeals relating to claims for refund.** (a) The denial in whole or in part by the department of taxation of a tax refund claim may be appealed by the filing of a written notice of appeal to ~~[a]~~ the taxation board of review or the tax appeal court within thirty days after notice of the denial of the claim.

(b) An appeal may be filed with ~~[a]~~ the taxation board of review or the tax appeal court for review of the merits of a tax refund claim, upon a notice of appeal filed at any time after one hundred eighty days from the date that the claim was filed; provided that the department has not given notice of a denial of the claim within that period.

(c) Notwithstanding any law to the contrary under title 14, this section shall apply to tax refund claims for all taxes administered by the department of taxation. The procedures for appeals from tax assessors, ~~[a]~~ the taxation board of review, and the tax appeal court provided under this chapter and under section 235-114 shall apply to appeals relating to tax refund claims under this section. Any claimed tax refund or credit appealed pursuant to this section shall be awarded only if the claim therefor was filed within the applicable statutory period of limitation."

SECTION 8. Section 232-15, Hawaii Revised Statutes, is amended to read as follows:

"**§232-15 Appeal to taxation board of review.** ~~[The appeal to a board of review may be either to the board of review for the district in which the taxpayer has the taxpayer's principal place of business or to the board of review for~~

~~the district in which the taxpayer resides or has the taxpayer's principal office or to the board of review of the first district.] (a) The notice of appeal [must] to the taxation board of review shall be lodged with the board and assessor [on or before] no later than the date fixed by law for the taking of the appeal. An appeal to the taxation board of review shall be deemed to have been taken in time if the notice thereof shall have been [deposited in the mail, postage prepaid,] post-marked and properly addressed to the board and assessor, on or before [such] that date.~~

(b) The notice of appeal [must] shall be in writing and any [such] notice, however informal it may be, identifying the assessment involved in the appeal and stating the grounds of objection to the assessment shall be sufficient. ~~[Upon the necessary information being furnished by the taxpayer to the assessor, the assessor shall prepare the notice of appeal upon request of the taxpayer and any notice so prepared by the assessor shall be deemed sufficient as to its form.]~~

(c) The appeal shall be considered and treated for all purposes as a general appeal and shall bring up for determination all questions of fact and all questions of law, excepting questions involving the Constitution or laws of the United States, necessary to the determination of the objections raised by the taxpayer in the notice of appeal. ~~[Any] If any~~ objection involving the Constitution or laws of the United States ~~[may be] is~~ included by the taxpayer in the notice of appeal ~~[and in such case], the [objections] objection~~ may be heard and determined by the tax appeal court on appeal from a decision of the taxation board of review; ~~[but] provided that~~ this ~~[provision] subsection~~ shall not be construed to confer upon the board ~~[of review] the power to hear or determine [such objections;] the objection.~~ Any notice of appeal may be amended at any time ~~[prior to] before~~ the board's decision; provided ~~that~~ the amendment does not substantially change the dispute.”

SECTION 9. Section 232-16, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) A taxpayer or county may appeal directly to the tax appeal court without appealing to [a] the state taxation board of review or any equivalent administrative body established by county ordinance; provided that a taxpayer appealing a real property tax assessment shall first obtain a decision from an administrative body established by county ordinance, ~~[prior to] before~~ appealing to the tax appeal court, if county ordinance requires a taxpayer to do so. 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.

(b) 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 taxation board of review and may be amended at any time; provided that it sets forth a brief description of the property involved in sufficient detail to identify the same and the valuation placed thereon by the assessor.”

SECTION 10. Section 232-17, Hawaii Revised Statutes, is amended to read as follows:

“**§232-17 Appeals from [boards] taxation board of review to tax appeal court.** An appeal shall lie to the tax appeal court from the decision of [a] the state taxation board of review, or equivalent administrative body established by county ordinance. An appeal to the tax appeal court [is] shall be properly com-

menced by the filing, by the taxpayer, ~~[or the]~~ county, or ~~[the]~~ 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 taxation board of review¹ or an 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, 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 director of taxation appeals from the decision of the state taxation board of review, or an 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 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, director of taxation, taxpayer or taxpayers, and, if relevant, the real property assessment division of the county involved, respectively, within the time period provided by this section.”

SECTION 11. Section 232-18, Hawaii Revised Statutes, is amended to read as follows:

“**§232-18 Certificate of appeal to tax appeal court.** (a) Upon the perfecting of an appeal to the tax appeal court, the tax assessor ~~[of the district from which the appeal is taken]~~ shall immediately send up to the tax appeal court a certificate in which there shall be set forth the information required by section 232-16 to be set forth in the notice of appeal where an appeal is taken direct from the assessment to the tax appeal court.

(b) The certificate shall be accompanied by the taxpayer’s return, if any has been filed; provided that the department of taxation ~~[is authorized to]~~ may redact all but the last four digits of an individual taxpayer’s social security number from an accompanying tax return, a copy of the notice of appeal to the state taxation board of review, or an equivalent administrative body established by county ordinance, and any amendments thereto, and the decision or action, if any, of the state taxation board of review or equivalent administrative body. Failure of the assessor to comply ~~[herewith]~~ with this section shall not prejudice or affect the taxpayer’s, county’s, or assessor’s appeal, and the certificate of appeal may be amended at any time up to the final determination of the appeal.”

SECTION 12. Section 232-20, Hawaii Revised Statutes, is amended to read as follows:

“**§232-20 Certificate of appeal.** Upon the perfection of an appeal, the ~~[judge of the]~~ tax appeal court shall send to the appellate court a certificate ~~[in which there]~~ that shall [be set forth, among other things:] include:

- (1) A brief description of the assessment and the property involved in the appeal, if any, in sufficient detail to identify the same together with the valuation placed on the property by the assessor;
- (2) The valuation claimed by the taxpayer or county;
- (3) The taxpayer’s or county’s grounds of objection to the assessment;

- (4) The valuation, if any, placed thereon by an administrative body established by county ordinance equivalent to [a] the state taxation board of review; and
- (5) The valuation placed thereon by the tax appeal court.

The certificate shall be accompanied by the taxpayer's return, if any[-]; a copy of the notice of appeal from the assessment and any amendments thereof[-]; the decision, if any, of the state taxation board of review or equivalent county administrative body[-]; a copy of the notice of appeal from the decision of the state taxation board of review or equivalent county administrative body, if any, and any amendments thereof[-]; and a transcript or statement of the evidence before and the decision of the tax appeal court[-] and all exhibits, motions, orders, or other documents specified by either the taxpayer, [the] county, or [the] assessor. No failure of the judge of the tax appeal court to send or properly prepare the certificate or the accompanying documents shall prejudice, limit, or in any manner affect the taxpayer's, county's, or assessor's appeal, and the certificate of appeal may be amended at any time up to the final determination of the appeal."

SECTION 13. Section 232-22, Hawaii Revised Statutes, is amended to read as follows:

"§232-22 Costs; deposit for on appeal. No costs shall be charged on appeal to the state taxation board of review.

The nonrefundable costs to be deposited in any one case per taxpayer on any appeal to the tax appeal court shall be an amount set pursuant to rules adopted by the supreme court, which shall not exceed \$100.

On appeal to the intermediate appellate court, the deposit for costs, and costs chargeable, shall be the same as in appeals from decisions of circuit courts, as provided by sections 607-5 and 607-6. If the decision of the intermediate appellate court or the supreme court on transfer from or review of the intermediate appellate court is in favor of the taxpayer, the taxpayer shall pay no costs for the appeal, and any payment or deposit therefor shall be returned to the taxpayer. If the decision is only partly in favor of the taxpayer, the costs shall be prorated in the manner provided by section 232-23. No costs shall be payable by, and no deposit shall be required from, the assessor or the county in any case."

SECTION 14. Section 232-23, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"§232-23 Costs, taxation.² (a) In the event of an appeal by a taxpayer to the state taxation board of review, if the appeal is compromised, or is sustained as to fifty per cent or more of the amount in dispute, the costs deposited shall be returned to the appellant. Otherwise the entire amount of costs deposited shall be retained."

SECTION 15. Section 232-24, Hawaii Revised Statutes, is amended to read as follows:

"§232-24 Taxes paid pending appeal. (a) The tax paid upon the amount of any assessment, actually in dispute and in excess of that admitted by the taxpayer, and covered by an appeal to the tax appeal court duly taken, shall, pending the final determination of the appeal, be paid by the director of finance into the "litigated claims fund". If the final determination is in whole or in part in favor of the appealing taxpayer, the director of finance shall repay to the taxpayer out of the fund, or if investment of the fund should result in a deficit therein, out of the general fund of the State, the amount of the tax paid upon the amount held by the court to have been excessive or nontaxable, together with, from the date of each payment into the litigated claims fund, the interest

to be paid from the general fund of the State. For purposes of this section, the rate of interest shall be computed by reference to section 6621(a) [~~(with)~~, with respect to interest rate determination~~)]~~, of the Internal Revenue Code of 1986, as of January 1, 2010. The balance, if any, of the payment made by the appealing taxpayer, or the whole of the payment, in case the decision is wholly in favor of the assessor, shall, upon the final determination become a realization under the tax law concerned.

(b) In a case of an appeal to [a] the taxation board of review, the tax paid, if any, upon the amount of the assessment actually in dispute and in excess of that admitted by the taxpayer, shall, during the pendency of the appeal and until and unless an appeal is taken to the tax appeal court, be held by the director of finance in a special deposit. In the event of final determination of the appeal in the taxation board of review, the director of finance shall repay to the appealing taxpayer out of the deposit the amount of the tax paid upon the amount held by the board to have been excessive or nontaxable, if any, the balance, if any, or the whole of the deposit, in case the decision is wholly in favor of the assessor, to become a realization under the tax law concerned.”

SECTION 16. Section 235-114, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) Any person aggrieved by any assessment of the tax or liability imposed by this chapter may appeal from the assessment in the manner and within the time hereinafter set forth. Appeal may be made either to the [~~district~~] taxation board of review or to the tax appeal court. The first appeal to either the [~~district~~] taxation board of review or to the tax appeal court may be made without payment of the tax [sø] assessed. Either the taxpayer or the assessor may appeal to the tax appeal court from a decision by the board or to the intermediate appellate court from a decision by the tax appeal court; provided that if the decision by the board or the tax appeal court is appealed by the taxpayer, or the decision by the board in favor of the department is not appealed, the taxpayer shall pay the tax [sø] assessed plus interest as provided in section 231-39(b)(4).

(b) If the appeal is first made to the board, the appeal shall either be heard by the board or be transferred to the tax appeal court for hearing at the election of the taxpayer or employer. If heard by the board, an appeal shall lie from the decision thereof to the tax appeal court and to the intermediate appellate court, subject to chapter 602, in the manner and with the costs provided by chapter 232. The supreme court shall prescribe forms to be used in the appeals. The forms shall show:

- (1) The amount of taxes or liability upon the basis of the taxpayer’s computation of the taxpayer’s taxable income or the employer’s computation of the employer’s liability;
- (2) The amount upon the basis of the assessor’s computation;
- (3) The amount upon the basis of the decisions of the taxation board of review and tax appeal court, if any; and
- (4) The amount in dispute.

If or when the appeal is filed with or transferred to the tax appeal court, the court shall proceed to hear and determine the appeal, subject to appeal to the intermediate appellate court as is provided in chapter 232.”

SECTION 17. Any member serving a term of appointment to one of the existing district boards of taxation review on the effective date of this Act shall be considered to be appointed to the new statewide taxation board of review for the remainder of the member’s current term, notwithstanding section 232-6(b), Hawaii Revised Statutes; provided that if more than ten members are

still serving terms of appointment to their respective district boards on the effective date of this Act, priority preference for appointment to the new statewide taxation board of review shall be based on length of term remaining.

SECTION 18. Any appeal or pending appeal to one of the district boards of taxation review in which a decision has not yet been rendered as of the effective date of this Act shall be automatically transferred to the jurisdiction of the newly constituted statewide taxation board of review for adjudication.

SECTION 19. This Act shall not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date; provided that any affected taxpayer who has already appeared before a district board of taxation review but has not yet had a decision rendered in the taxpayer's appeal may elect to either have the new statewide taxation board of review issue a ruling based on all available information in the case or request a new hearing before the statewide board.

SECTION 20. This Act shall not affect county real property tax appeals and the respective county boards of review to which they are appealed, nor shall it abrogate any county ordinance relating to a county's real property tax appeal procedures.

SECTION 21. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 22. This Act shall take effect upon its approval.

(Approved June 28, 2021.)

Notes

1. Prior to amendment “,” appeared here.
2. So in original.

ACT 119

S.B. NO. 1340

A Bill for an Act Relating to Emergency Medical Services.

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

SECTION 1. The legislature finds that existing laws relating to the licensing or certification of emergency medical personnel address only emergency ambulance personnel, including licensed emergency medical technicians, advanced emergency medical technicians, mobile intensive care technicians, and paramedics. There is currently no licensure category for emergency medical technicians with National Registry Emergency Medical Technician certification only. The legislature further finds that emergency medical technicians with National Registry Emergency Medical Technician certification provide at-the-scene, life-saving care with minimal equipment to critical care patients and have the knowledge and skills necessary to provide immediate interventions while awaiting arrival of additional emergency medical services. Emergency medical technicians are a vital part of a comprehensive emergency medical services system response and includes firefighters and ocean safety lifeguards who provide

immediate life-saving interventions to patients but do not provide emergency ambulance services.

The purpose of this Act is to align the State with national trends and mitigate the unintended consequences associated with the deregulation of the State's emergency medical services system by:

- (1) Requiring the Hawaii medical board to establish a pilot program to issue licenses for emergency medical technicians with National Registry Emergency Medical Technician certification only and whose practice is limited to populations greater than 500,000, which shall be based on certain requirements;
- (2) Requiring the Hawaii medical board to issue licenses for emergency ambulance personnel, which shall be based on certain requirements; and
- (3) Appropriating funds from the compliance resolution fund for hiring a 0.5 full time equivalent permanent position for the purposes of this Act.

SECTION 2. Chapter 453, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§453- Licensure consistent with levels of practice; licensure of emergency medical technician 1. (a) The Hawaii medical board shall issue licenses upon application therefor, consistent with the following levels of practice:

- (1) Emergency medical technician 1;
- (2) Emergency medical technician;
- (3) Advanced emergency medical technician; or
- (4) Mobile intensive care technician or paramedic.

(b) Beginning July 1, 2022, the Hawaii medical board shall accept applications for licensure as an emergency medical technician 1; provided that the applicant shall:

- (1) Demonstrate successful completion of a Hawaii medical board-approved emergency medical technician course that meets or exceeds the National Emergency Medical Services Education Standards for Emergency Medical Technicians;
- (2) Provide a current cardiopulmonary resuscitation certification;
- (3) Demonstrate proficiency in basic life support for health care providers;
- (4) Demonstrate successful completion of the National Registry of Emergency Medical Technician emergency medical technician cognitive examination and National Registry of Emergency Medical Technician psychomotor examination;
- (5) Pay any fees assessed in amounts equivalent to fees paid by emergency medical technicians pursuant to section 16-53-21.5, Hawaii Administrative Rules; and
- (6) Meet any other requirements determined by the Hawaii medical board.

(c) Any emergency medical technician 1 licensed under this part shall document care in a pre-hospital emergency medical records system compatible with the emergency medical services system's pre-hospital medical records system. Emergency medical technicians 1 shall:

- (1) Practice under a physician or osteopathic physician licensed pursuant to this chapter; and
- (2) Restrict their scope of practice to the performance of basic emergency medical care of patients.

(d) Licensure under this section is limited to individuals whose practice is performed in a county with a population of 500,000 or greater.”

SECTION 3. Section 321-229, Hawaii Revised Statutes, is amended by amending subsections (a) to (c) to read as follows:

“(a) The University of Hawaii shall provide training courses in basic, intermediate, and advanced life support for emergency medical services personnel. The curricula and syllabi of these courses shall be approved in advance by the department of health. The curricula and syllabi of courses for ambulance personnel shall be consistent with the scope and level of the practice of emergency medical services associated with emergency ambulance personnel [~~certification~~] licensure defined by the Hawaii medical board under part II of chapter 453.

(b) The University of Hawaii, or other accredited community college, college, or university, or any professional organization that is approved by the department of health to provide emergency medical services training, shall consult with the department of health to determine the number and type of emergency medical services courses necessary to support the staffing requirements for emergency medical services. The basic life support and advanced life support training programs shall be relevant to and consistent with the training course required for [~~certification~~] licensure under chapter 453.

(c) The department shall develop standards for emergency medical services course instructors and standards for emergency medical services training facilities for all basic life support personnel, advanced life support personnel, users of the automatic external defibrillator, and emergency medical dispatch personnel that shall be at least equivalent to or exceed the standards necessary to meet the requirements, pursuant to part II of chapter 453, for the [~~certification~~] licensure of basic life support personnel and advanced life support personnel.”

SECTION 4. 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; 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, including a commissioned medical officer employed by the United States Department of Defense, while providing direct telehealth support or services to neighbor island beneficiaries within a Hawaii National Guard armory on the island of Kauai, Hawaii, Molokai, or Maui; provided that the commissioned medical officer employed by the United States Department of Defense is credentialed by Tripler Army Medical Center;
- (4) Apply to any practitioner of medicine and surgery from another state when in actual consultation, including in-person, mail, electronic, telephonic, fiber-optic, or other telehealth consultation with a licensed physician or osteopathic physician of this State, if the physician or osteopathic physician from another state at the time of consultation is licensed to practice in the state in which the physician or osteopathic physician resides; provided that:
 - (A) The physician or osteopathic 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;

- (B) The licensed physician or osteopathic physician of this State retains control and remains responsible for the provision of care for the patient who is located in this State; and
 - (C) The laws and rules relating to contagious diseases are not violated;
- (5) Prohibit services rendered by any person [~~certified~~] licensed 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 or osteopathic 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 or osteopathic physician. Any physician or osteopathic physician who employs or directs a person [~~certified~~] licensed under part II of this chapter to provide emergency medical services, or a physician assistant, shall retain full professional and personal responsibility for any act that constitutes the practice of medicine when performed by the [~~certified~~] licensed person or physician assistant;
- (6) Prohibit automated external defibrillation by:
- (A) Any first responder personnel certified by the department of health to provide automated external defibrillation when it is rendered under the medical oversight of a physician or osteopathic physician licensed in this State; or
 - (B) Any person acting in accordance with section 663-1.5(e); or
- (7) Prohibit a radiologist duly licensed to practice medicine and provide radiology services in another state from using telehealth 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:

“Distant site” means the location of the radiologist delivering services through telehealth at the time the services are provided.

“Originating site” means the location where the patient is located, whether accompanied or not by a health care provider, at the time services are provided by a radiologist through telehealth, including but not limited to a radiologist’s or health care provider’s office, hospital, health care facility, a patient’s home, and other non-medical environments such as school-based health centers, university-based health centers, or the work location of a patient.

“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.

“Telehealth” means the use of telecommunications, as that term is defined in section 269-1, to encompass four modalities: store and forward technologies, remote monitoring, live consultation, and mobile health; and which shall include but not be limited to real-time video conferencing-based communication, secure interactive and non-interactive web-based communication, and secure asynchronous information exchange, to transmit patient medical information, including diagnostic-quality digital images and laboratory results for medical interpretation and diagnosis, for the pur-

pose of delivering enhanced health care services and information while a patient is at an originating site and the radiologist is at a distant site. Standard telephone contacts, facsimile transmissions, or e-mail texts, in combination or by themselves, do not constitute a telehealth service for the purposes of this paragraph.”

SECTION 5. Section 453-31, Hawaii Revised Statutes, is amended to read as follows:

“**§453-31 Emergency ambulance service personnel.** The practice of any emergency medical services by any individual employed by an emergency ambulance service who is not licensed under part I of this chapter or under chapter 457 shall be subject to ~~[certification]~~ licensure under this part. In the event of any conflict between this part and any rules adopted under section 453-2, this part shall control with regard to emergency ambulance service personnel.

The Hawaii medical board shall define the scope of the practice of emergency medical services, different levels of the practice, and degree of supervision required of a supervising physician or osteopathic physician when a person ~~[certified]~~ licensed under this part provides services within the practice of medicine.”

SECTION 6. Section 453-32, Hawaii Revised Statutes, is amended to read as follows:

“**§453-32 [~~Certification of emergency ambulance personnel~~] License requirements for emergency medical services.** (a) The Hawaii medical board shall ~~[certify]~~ issue licenses to individuals ~~[as]~~ qualified in emergency medical services, upon application therefor; provided that the applicant for ~~[certification]~~ licensure:

- (1) Holds a current certificate from the National Registry of Emergency Medical Technicians~~[-has]~~ for the requisite level of practice, has satisfactorily passed a course of training in emergency medical services for emergency ambulance services personnel ~~[which]~~ that shall be based on and may exceed the national curriculum of the United States Department of Transportation and approved by the board~~[-]~~ if required for the applicable level of practice, and meets other standards and qualifications, including passage of an examination, set by the Hawaii medical board pertinent to the practice of emergency medical services in Hawaii;
- (2) Meets continuing education requirements ~~[which]~~ that shall be set by the Hawaii medical board; and
- (3) Meets other qualifications set by the Hawaii medical board.

(b) The board shall directly review the credentials of applicants and administer examinations required. ~~[Certification]~~ Licensure under this section shall be a prerequisite to the practice of emergency medical services as an employee of an emergency ambulance service.

(c) The Hawaii medical board shall provide standard application forms for the ~~[certification of emergency ambulance personnel]~~ licensure under this part, and shall provide for the periodic renewal of such ~~[certification]~~ license. The Hawaii medical board shall assess a fee for such application, ~~[certification]~~ licensure, and renewal. The Hawaii medical board shall provide for the revocation, suspension, or limitation of ~~[certification]~~ licensure in the event an individual once ~~[certified]~~ licensed under this section fails to maintain or meet requirements for continued ~~[certification]~~ licensure, or for good cause shown.

(d) For purposes of this section, “emergency ambulance personnel” means emergency medical technicians, advanced emergency medical technicians, mobile intensive care technicians, or paramedics.”

SECTION 7. Section 453-32.1, Hawaii Revised Statutes, is amended to read as follows:

“§453-32.1 Renewal of [~~certification~~] licensure. (a) Every person holding a [~~certificate~~] license under this part shall renew the [~~certificate~~] license with the board no later than January 31 of each even-numbered year, pay a renewal fee, and comply with the continuing education requirements set forth in the board’s rules.

(b) To determine compliance, the board may conduct a random audit. A person selected for audit shall be notified by the board. Within sixty days of notification, the person shall provide to the board documentation to verify compliance with the continuing education requirements.

(c) Failure to renew, pay the renewal fee, and, in the case of audited persons, provide documentation of compliance shall constitute a forfeiture of the [~~certificate~~] license which may only be restored upon the submission of written application, payment to the board of a restoration fee, and in the case of audited persons, documentation of compliance.

(d) A [~~certificate~~] license that has been forfeited for one renewal term shall be automatically terminated and cannot be restored, and a new application for [~~certification~~] licensure shall be required.”

SECTION 8. Section 453-32.5, Hawaii Revised Statutes, is amended to read as follows:

“§453-32.5 [~~Temporary certification~~] Provisional licensure. (a) The board shall approve [~~temporary certification~~] provisional licensure of an applicant under section 453-32 if the applicant has graduated from a board approved training program within twelve months of the date of application and has never taken the written and practical examination of the National Registry of Emergency Medical Technicians for that level of practice but otherwise meets the requirements of section 453-32, has filed a complete application with the board, and has paid all required fees.

(b) If the applicant fails to apply for, or to take, the next succeeding examination or fails to pass the examination or fails to receive a [~~certificate~~] license, all privileges under this section shall automatically cease upon written notification sent to the applicant by the board. A [~~temporary certificate~~] provisional license for each level of practice may be issued only once to each person.

(c) Prior to practicing under [~~temporary certification~~] any provisional license, applicants shall notify the board in writing of any and all employers under whom they will be performing services.”

SECTION 9. Section 453-32.51, Hawaii Revised Statutes, is amended to read as follows:

“§453-32.51 Limited [~~temporary certification~~] provisional licensure. (a) The Hawaii medical board shall approve limited [~~temporary certification~~] provisional licensure of an applicant under this section if the applicant:

- (1) Has graduated from a board or state-approved training program as developed and promulgated by the United States Department of Transportation[;], if required for the applicable level of practice;
- (2) Has passed the written and practical examinations of the National Registry of Emergency Medical Technicians for that level of practice;
- (3) Holds a current certificate from the National Registry of Emergency Medical Technicians for that level of practice;

- (4) Has submitted a letter verifying acceptance into a period of peer review as an emergency medical technician, advanced emergency medical technician, [or] mobile intensive care technician, or paramedic;
 - (5) Has filed a completed application with the board; and
 - (6) Has paid all the required fees.
- (b) Limited [~~certification~~] licensure of any applicant shall be restricted to a maximum of one year.
- (c) All privileges under this section shall automatically cease if the applicant receives [~~certification~~] licensure under section 453-32 or 453-32.1 or is no longer participating in a period of peer review.”

SECTION 10. Section 453-32.6, Hawaii Revised Statutes, is amended to read as follows:

“**§453-32.6 Delegation to committee of practicing emergency physicians or osteopathic physicians and emergency ambulance personnel.** The Hawaii medical board shall establish a committee consisting of practicing emergency physicians or osteopathic physicians and emergency ambulance personnel to assist the board in the performance of duties under this part.

The board, by written order, may delegate to the committee any of its powers and duties for administration of this part, except that the board shall not delegate any authority to adopt, amend, or repeal rules, take disciplinary action against a [~~certificate~~] license holder, or restore a [~~certificate~~] license which has been revoked.”

SECTION 11. There is appropriated out of the compliance resolution fund the sum of \$31,000 or so much thereof as may be necessary for fiscal year 2021-2022 and the same sum or so much thereof as may be necessary for fiscal year 2022-2023 for the Hawaii medical board to establish and hire a 0.5 full-time equivalent (0.5 FTE) permanent position for the purposes of this Act.

The sums appropriated shall be expended by the department of commerce and consumer affairs for the purposes of this Act.

SECTION 12. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 13. This Act shall take effect on July 1, 2021; provided that section 2 shall be repealed on July 1, 2027.

(Approved June 28, 2021.)

Note

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

ACT 120

S.B. NO. 1412

A Bill for an Act Relating to Special Purpose Revenue Bonds for the Honokea Surf Village.

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

SECTION 1. The legislature finds that HK Management LLC, a Hawaii limited liability company, proposes to build a surf industry center on state lands to be leased from the Hawaii community development authority in Kalae-

loa on the island of Oahu. The proposed surf center includes research, development, manufacturing, and testing facilities, together with a surf and aquatic film studio.

The legislature further finds that development of the surf industry center will advance the State's interest by promoting Hawaii's surfing and film industries and supporting cultural education, smart tourism, and economic development. Other benefits the legislature expects the surf center to provide include:

- (1) Supporting local surf-related businesses by allowing the State to remain a leader in surfboard design, manufacturing, and testing;
- (2) Providing a world-class surf and aquatic film studio to support and attract local, national, and international film projects;
- (3) Providing an artificial surf facility to serve as a training and meet venue and design testing facility; and
- (4) Providing employment opportunities and opportunities to promote awareness of surf history and Hawaii surf culture.

Accordingly, 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 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 \$95,000,000, in one or more series, for the purpose of assisting HK Management LLC, a Hawaii limited liability company, in financing or refinancing the costs of planning, designing, constructing, reconstructing, renovating, acquiring, equipping, and improving surf industry center facilities. The legislature hereby finds and determines that planning, designing, constructing, reconstructing, renovating, acquiring, equipping, and improving these facilities constitutes a project as defined in part V, chapter 39A, Hawaii Revised Statutes, and the financing or refinancing 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, 2026, 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, 2026.

SECTION 6. This Act shall take effect on July 1, 2021.

(Approved June 28, 2021.)

ACT 121

S.B. NO. 1421

A Bill for an Act Relating to Dual Use Technology.

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

SECTION 1. The legislature finds that dual use technology companies in Hawaii are vital to economic growth and a diversified economy. Dual use refers to technologies that can be used for peaceful and military aims. The legislature further finds that Hawaii businesses are in an exceptional position to take advantage of the strong presence of the military in the State and the research conducted on its behalf. However, the legislature additionally finds that the State's focus on tourism has taken away from potentially innovative concepts, new approaches to technology, and the leveraging of existing facilities and military funding. Technologies developed for military use have been appropriated by businesses in the past with extraordinary success, and such technologies have the potential to significantly contribute to Hawaii's economic recovery and subsequently decrease its reliance on tourism.

Accordingly, the purpose of this Act is to establish a task force to explore how dual use technology can be used to promote the State's economic recovery and diversify its economy.

SECTION 2. (a) There is established the dual use technology task force within the department of business, economic development, and tourism for administrative purposes. The dual use technology task force shall:

- (1) Explore potential dual use technology research and development projects for technology companies;
 - (2) Establish high-growth new venture company infrastructure development for dual use technology companies; and
 - (3) Create ideas for high-income job opportunities for Hawaii's residents and graduates of Hawaii's educational institutions.
- (b) The dual use technology task force shall consist of the following

members:

- (1) One representative from the department of business, economic development, and tourism, designated by the department's director;
- (2) One representative from the University of Hawaii;
- (3) One representative from the Economic Development Alliance of Hawaii, Inc., who shall be jointly selected and invited to participate by the speaker of the house of representatives and president of the senate;
- (4) One representative from the Hawaii technology development corporation;
- (5) One representative from the department of labor's workforce development task force; and
- (6) One representative from the Chamber of Commerce Hawaii, who shall be jointly selected and invited to participate by the speaker of the house of representatives and president of the senate.

The speaker of the house of representatives and president of the senate may recommend additional members with appropriate specialized expertise to be invited to participate on the dual use technology task force.

(c) Members of the dual use technology task force shall serve without compensation but shall be reimbursed for reasonable expenses, including travel expenses, necessary for the performance of their duties.

- (d) The dual use technology task force shall:

- (1) Submit a preliminary 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 2023; provided that the preliminary report shall discuss the objectives and issues listed in subsection (a); and
- (2) Submit a final 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 2025.

(e) The department of business, economic development, and tourism shall provide administrative and clerical support as required by the dual use technology task force.

(f) For the purposes of this section, “dual use technology” means technology that has military and civilian applications; provided that “dual use technology” may be amended and refined by the task force over time as part of its findings and recommendations.

(g) The dual use technology task force shall be dissolved on July 1, 2025.

SECTION 3. This Act shall take effect on July 1, 2021.

(Approved June 28, 2021.)

ACT 122

S.B. NO. 1212

A Bill for an Act Relating to Motor Vehicle Registration.

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

SECTION 1. Section 286-2, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““Out-of-service order” means a declaration by an authorized enforcement officer of a federal, state, Canadian, Mexican, or local jurisdiction that a driver, commercial motor vehicle, or motor carrier operation is out-of-service pursuant to title 49 Code of Federal Regulations sections 386.72, 392.5, 392.9a, 395.13, or 396.9, or title 49 United States Code section 31106(b)(2), or compatible laws, or the North American Standard Out-of-Service Criteria.”

SECTION 2. Section 286-41, Hawaii Revised Statutes, is amended to read as follows:

“§286-41 Application for registration; full faith and credit to current certificates; this part not applicable to certain equipment. (a) Every owner of a motor vehicle ~~[which]~~ that is to be operated upon the public highways shall, for each vehicle owned, except as herein otherwise provided and except as provided in section 286-42(c), apply to the director of finance of the county where the vehicle is to be operated, for the registration thereof. If a vehicle is moved to another county and is to be operated upon the public highways of that county, the existing certificate of registration shall be valid until its expiration date, at which time the owner shall apply to the director of finance of the county in which the vehicle is then located for the registration of the vehicle, whether or not the owner is domiciled in the county or the owner’s principal place of business is in that county, except that this provision shall not apply to vehicles ~~[which]~~ that are temporarily transferred to another county for a period of not more than three months.

(b) Application for the registration of a vehicle shall be made upon the appropriate form furnished by the director of finance and shall contain the name, occupation, and address of the owner and legal owner; and, if the applicant is a member of the United States naval or military forces, the applicant shall give the organization and station. All applications shall also contain a description of the vehicle, including the name of the maker~~[-];~~ the type of fuel for the use of which it is adapted [~~e.g.~~, such as gasoline, diesel oil, liquefied petroleum gas~~[-];~~]; the serial or motor number~~[-; and];~~ the date first sold by the manufacturer or dealer~~[-; and such];~~ a further description of the vehicle as is called for in the form~~[-];~~ and ~~[such]~~ other information as may be required by the director of finance, to establish legal ownership. A person applying for initial registration of a neighborhood electric vehicle shall certify in writing that a notice of the operational restrictions applying to the vehicle as provided in section 291C-134 are contained on a permanent notice attached to or painted on the vehicle in a location that is in clear view of the driver.

(c) If the vehicle to be registered is specially constructed, reconstructed, or rebuilt; is a special interest vehicle; or is an imported vehicle, this fact shall be stated in the application and upon the registration of the special interest motor vehicle and imported motor vehicle, which has been registered until that time in any other state or county, and the owner shall surrender to the director of finance the certificates of registration or other evidence of ~~[such]~~ a form of registration as may be in the applicant's possession or control. The director of finance shall grant full faith and credit to the currently valid certificates of title and registration describing the vehicle, the ownership thereof, and any liens noted thereon, issued by any title state or county in which the vehicle was last registered. The acceptance by the director of finance of a certificate of title or of registration issued by another state or county, as provided in this subsection, in the absence of knowledge that the certificate is forged, fraudulent, or void, shall be a sufficient determination of the genuineness and regularity of the certificate and of the truth of the recitals therein, and no liability shall be incurred by any officer or employee of the director of finance by reason of so accepting the certificate.

(d) The owner of every motor vehicle of the current, previous, and subsequent year model bought out-of-state, subsequently brought into the State, and subject to the use tax under chapter 238 shall provide with the application for registration proof of payment of the use tax pursuant to requirements established by the department of taxation. No registration certificate shall be issued without proof of payment of the use tax.

(e) Notwithstanding any other law to the contrary, the director of finance of the county in which the application for registration is sought shall not require proof of insurance as a condition to satisfy the requirements of this part. This subsection shall apply only to the initial registration of any motor vehicle.

(f) Any motor carrier, as defined in section 286-201, that has not resolved any outstanding federal operations out-of-service order issued by the United States Secretary of Transportation shall not complete an initial registration of a motor carrier vehicle until all federal operations out-of-service orders are resolved.

~~[(f)]~~ (g) The provisions of this part requiring the registration of motor vehicles shall not apply to:

- (1) Special mobile equipment;
- (2) Implements of husbandry temporarily drawn, moved, or otherwise propelled upon the public highways;
- (3) Aircraft servicing vehicles ~~[which]~~ that are being used exclusively on lands set aside to the department of transportation for airport purposes; and

- (4) Tractor trucks, forklifts, and top picks being used as marine terminal equipment temporarily moving in or between terminals at:
 - (A) Sand Island and along Sand Island Parkway and Sand Island Access Road;
 - (B) Kalanianaʻole Avenue between Kuhio Street and Kahanu Street, abutting Hilo Harbor;
 - (C) Kawaihae-Mahukona Road abutting Kawaihae Harbor;
 - (D) East Kaahumanu Avenue between Hobron Avenue and Kane Street, abutting Kahului Harbor; and
 - (E) Waipaa Road abutting Nawiliwili Harbor.”

SECTION 3. Section 286-51, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The certificate of registration for each motor vehicle in the counties of the State shall be renewed on a staggered basis as established by each county. The director of finance of each county may adopt rules to carry out the purposes stated in this section and shall expend the necessary funds from the director’s operating funds as may be necessary for these purposes; provided that the director of finance, if the director has ascertained as of the date of the application that the registered owner has not deposited or paid bail with respect to any summons or citation issued to the registered owner for stopping, standing, or parking in violation of traffic ordinances within the county, or the registered owner of a motor carrier vehicle, as defined in section 286-201, has not resolved any outstanding federal operations out-of-service orders issued by the United States Secretary of Transportation, may require, as a condition precedent to the renewal, that the registered owner deposit or pay bail with respect to all such summonses or citations[-], or resolve all federal operations out-of-service orders. The certificates of registration issued hereunder shall show, in addition to all information required under section 286-47, the serial number of the tag or emblem and shall be valid during the registration year only for which they are issued. Any certificate of registration belonging to a motor carrier shall be suspended or revoked when that motor carrier has been issued any federal operations out-of-service orders by the United States Secretary of Transportation and that certificate of registration shall remain suspended or revoked until all the federal operations out-of-service orders are resolved. The certificates of ownership need not be renewed annually but shall remain valid as to any interest shown therein until canceled by the director of finance as provided by law or replaced by new certificates of ownership as hereinafter provided.”

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, 2021.

(Approved June 28, 2021.)

ACT 123

H.B. NO. 1062

A Bill for an Act Relating to Commercial Driver’s Licenses.

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

SECTION 1. The legislature finds that, effective February 7, 2022, the Federal Motor Carrier Safety Administration is requiring states to comply with

federal regulations mandating entry level driver training for certain first-time commercial driver's license applicants. Failure to comply will result in a penalty. The first year the State fails to comply will result in the withholding of four per cent of funds required to be apportioned to Hawaii under the Highway Trust Fund, title 23 United States Code section 104(b)(1) and (2). The second and subsequent years the State is out of compliance will result in an eight per cent penalty. The dollar amounts that will be withheld respectively are \$6,185,220 and \$12,370,440 if the State does not comply.

Accordingly, the purpose of this Act is to:

- (1) Clarify the validity period of a commercial learner's permit; and
- (2) Bring the State into compliance with federal regulations by requiring certain commercial driver's license applicants to complete an entry-level driver training course before taking other certain required tests for licensure.

SECTION 2. Section 286-236, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (e) to read:

“(e) The commercial learner's permit shall not be valid for a period in excess of one hundred eighty days[-] from the date that the applicant passes the general and all required endorsement knowledge tests; provided that, if the applicant is not required to take a knowledge test, the period shall start when the permit is issued. When driving a commercial motor vehicle, the holder of a commercial learner's permit shall be accompanied by a person with a valid commercial driver's license to operate that category of commercial motor vehicle with the proper endorsements. The licensed person shall occupy the seat beside the individual for the purpose of giving instruction in driving the commercial motor vehicle. The commercial learner's permit may be renewed no more than an additional one hundred eighty days without requiring the commercial learner's permit holder to retake the general or endorsement knowledge tests, and the applicant requalifies meeting the requirements of subsection (d). The commercial learner's permit holder is eligible to take the commercial driver's license skills test no earlier than fourteen days after obtaining the permit.”

2. By amending subsection (g) to read:

“(g) Every applicant shall successfully complete the commercial driver's license general knowledge test before being issued a commercial learner's permit. A driver holding a valid commercial driver's license who seeks an upgrade for which a skills test is required shall also pass the appropriate knowledge test [~~prior to~~] before obtaining a commercial learner's permit. Beginning February 7, 2022, except for a driver holding a valid commercial learner's permit or commercial driver's license that was obtained before February 7, 2022, every applicant shall complete the entry-level driver training requirements as specified in title 49 Code of Federal Regulations part 380, subpart F, and be verified with the Federal Motor Carrier Safety Administration Training Provider Registry before taking the skills test for a class A or class B commercial driver's license, passenger endorsement, or school bus endorsement, and before taking the knowledge test for a hazardous materials endorsement.”

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 28, 2021.)

A Bill for an Act Relating to the Statewide Traffic Code.

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

SECTION 1. Chapter 291C, part II, Hawaii Revised Statutes, is amended by amending its title to read as follows:

“PART II. [ACCIDENTS] COLLISIONS AND [ACCIDENT] COLLISION REPORTS”

SECTION 2. Section 291C-12, Hawaii Revised Statutes, is amended by amending its title and subsection (a) to read as follows:

“§291C-12 [Accidents] Collisions involving death or serious bodily injury.

(a) The driver of any vehicle involved in ~~[an accident]~~ a collision resulting in serious bodily injury to or death of any person shall immediately stop the vehicle at the scene of the ~~[accident]~~ collision or as close thereto as possible but shall then forthwith return to and in every event shall remain at the scene of the ~~[accident]~~ collision until the driver has fulfilled the requirements of section 291C-14. Every ~~[such]~~ stop shall be made without obstructing traffic more than is necessary.”

SECTION 3. Section 291C-12.5, Hawaii Revised Statutes, is amended by amending its title and subsection (a) to read as follows:

“§291C-12.5 [Accidents] Collisions involving substantial bodily injury.

(a) The driver of any vehicle involved in ~~[an accident]~~ a collision resulting in substantial bodily injury to any person shall immediately stop the vehicle at the scene of the ~~[accident]~~ collision or as close thereto as possible but shall then forthwith return to and in every event shall remain at the scene of the ~~[accident]~~ collision until the driver has fulfilled the requirements of section 291C-14. Every ~~[such]~~ stop shall be made without obstructing traffic more than is necessary.”

SECTION 4. Section 291C-12.6, Hawaii Revised Statutes, is amended by amending its title and subsection (a) to read as follows:

“§291C-12.6 [Accidents] Collisions involving bodily injury.

(a) The driver of any vehicle involved in ~~[an accident]~~ a collision resulting in bodily injury to any person shall immediately stop the vehicle at the scene of the ~~[accident]~~ collision or as close thereto as possible but shall then forthwith return to and in every event shall remain at the scene of the ~~[accident]~~ collision until the driver has fulfilled the requirements of section 291C-14. Every ~~[such]~~ stop shall be made without obstructing traffic more than is necessary.”

SECTION 5. Section 291C-13, Hawaii Revised Statutes, is amended to read as follows:

“§291C-13 [Accidents] Collisions involving damage to vehicle or property.

The driver of any vehicle involved in ~~[an accident]~~ a collision resulting only in damage to a vehicle or other property that is driven or attended by any person shall immediately stop ~~[such]~~ the vehicle at the scene of the ~~[accident]~~ collision or as close thereto as possible, but shall forthwith return to, and in every event shall remain at, the scene of the ~~[accident]~~ collision until the driver has fulfilled the requirements of section 291C-14. Every ~~[such]~~ stop shall be made without obstructing traffic more than is necessary. For any violation under this section, a surcharge of up to \$100 may be imposed, in addition to other penalties, which shall be deposited into the trauma system special fund.”

SECTION 6. Section 291C-14, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) The driver of any vehicle involved in [~~an accident~~] a collision resulting in injury to or death of any person or damage to any vehicle or other property [~~which~~] that is driven or attended by any person shall give the driver’s name, address, and the registration number of the vehicle the driver is driving, and shall upon request and if available exhibit the driver’s license or permit to drive to any person injured in the [~~accident~~] collision or to the driver or occupant of or person attending any vehicle or other property damaged in the [~~accident~~] collision and shall give [~~such~~] the information and upon request exhibit [~~such~~] the license or permit to any police officer at the scene of the [~~accident~~] collision or who is investigating the [~~accident~~] collision and shall render to any person injured in the [~~accident~~] collision reasonable assistance, including the carrying, or the making of arrangements for the carrying, of the person to a physician, surgeon, or hospital for medical or surgical treatment if it is apparent that [~~such~~] treatment is necessary, or if [~~such~~] the carrying is requested by the injured person; provided that if the vehicle involved in the [~~accident~~] collision is a bicycle, the driver of the bicycle need not exhibit a license or permit to drive.

(b) In the event that none of the persons specified is in condition to receive the information to which they otherwise would be entitled under subsection (a), and no police officer is present, the driver of any vehicle involved in the [~~accident~~] collision after fulfilling all other requirements of section 291C-12, 291C-12.5, or 291C-12.6, and subsection (a) [~~of this section~~], insofar as possible on the driver’s part to be performed, shall forthwith report the [~~accident~~] collision to the nearest police officer and submit thereto the information specified in subsection (a).”

SECTION 7. Section 291C-15, Hawaii Revised Statutes, is amended to read as follows:

“**§291C-15 Duty upon striking unattended vehicle or other property.** The driver of any vehicle which collides with or is involved in [~~an accident~~] a collision with any vehicle or other property [~~which~~] that is unattended resulting in any damage to the other vehicle or property shall immediately stop and shall then and there either locate and notify the operator or owner of [~~such~~] the vehicle or other property of the driver’s name, address, and the registration number of the vehicle the driver is driving or shall attach securely in a conspicuous place in or on [~~such~~] the vehicle or other property a written notice giving the driver’s name, address, and the registration number of the vehicle the driver is driving and shall without unnecessary delay notify the nearest police [~~office.~~] officer. Every [~~such~~] stop shall be made without obstructing traffic more than is necessary. For any violation under this section, a surcharge of up to \$100 may be imposed, in addition to other penalties, which shall be deposited into the trauma system special fund.”

SECTION 8. Section 291C-16, Hawaii Revised Statutes, is amended by amending its title and subsections (a) and (b) to read as follows:

“**§291C-16 Immediate notice of [~~accident.~~] collision.** (a) The driver of a vehicle involved in [~~an accident~~] a collision resulting in injury or death of any person or total damage to all property to an apparent extent of \$3,000 or more shall immediately by the quickest means of communication give notice of the [~~accident~~] collision to the nearest police [~~office.~~] officer. If sent to the site of the [~~accident.~~] collision, a responding police officer shall file a written report if it appears at the time that the [~~accident~~] collision has resulted in the injury or death

of any person, or total damage to all property to an apparent extent of \$3,000 or more.

(b) Whenever the driver of a vehicle is physically incapable of giving an immediate notice of ~~[an accident]~~ a collision as required in subsection (a) and there was another occupant in the vehicle at the time of the ~~[accident]~~ collision capable of doing so, ~~[such]~~ the occupant shall make or cause to be given the notice not given by the driver.”

SECTION 9. Section 291C-19, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§291C-19]]~~ **Garages to report.** The person in charge of any garage or repair shop to which is brought any motor vehicle ~~[which]~~ that shows evidence of having been involved in ~~[an accident]~~ a collision of which written report must be made by the driver as provided in chapter 287, or struck by any bullet, shall report to the police department, within twenty-four hours after the motor vehicle is received by the garage or repair shop, giving the vehicle identification number, registration number, and the name and address of the owner or driver of the vehicle.”

SECTION 10. Section 291C-20, Hawaii Revised Statutes, is amended by amending its title and subsections (a) and (b) to read as follows:

“~~[[§291C-20]]~~ **Disclosure of traffic ~~[accident]~~ collision reports.** (a) Any traffic ~~[accident]~~ collision report required under this chapter shall be made without prejudice to the person required to report information concerning the ~~[accident]~~ collision and shall be for the confidential use of the police department, except that the department shall, upon request, disclose ~~[such]~~ the record, to any person directly concerned in the traffic ~~[accident]~~ collision or having a proper interest therein, including:

- (1) The driver or drivers involved, or the employer, parent, or legal guardian thereof;
- (2) The authorized representative of any person involved in the ~~[accident;]~~ collision;
- (3) Any person injured in the ~~[accident;]~~ collision;
- (4) The owners of vehicles or property damaged in the ~~[accident;]~~ collision;
- (5) Any law enforcement agency; and
- (6) Any court of competent jurisdiction.

(b) Any person who may sue because of death resulting from ~~[any such accident]~~ a collision shall be deemed a party directly concerned.”

SECTION 11. Section 291C-163, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) This chapter shall not be deemed to prevent counties with respect to streets and highways under their jurisdiction from:

- (1) Regulating or prohibiting stopping, standing, or parking except as provided in section 291C-111;
- (2) Regulating traffic by means of police officers or official traffic-control devices;
- (3) Regulating or prohibiting processions or assemblages on the highways;
- (4) Designating particular highways or roadways for use by traffic moving in one direction;
- (5) Establishing speed limits for vehicles in public parks;

- (6) Designating any highway as a through highway or designating any intersection as a stop or yield intersection;
- (7) Restricting the use of highways;
- (8) Regulating the operation and equipment of and requiring the registration and inspection of bicycles, including the requirement of a registration fee;
- (9) Regulating or prohibiting the turning of vehicles or specified types of vehicles;
- (10) Altering or establishing speed limits;
- (11) Requiring written [~~accident~~] collision reports;
- (12) Designating no-passing zones;
- (13) Prohibiting or regulating the use of controlled-access roadways by any class or kind of traffic;
- (14) Prohibiting or regulating the use of heavily traveled streets by any class or kind of traffic found to be incompatible with the normal and safe movement of traffic;
- (15) Establishing minimum speed limits;
- (16) Designating hazardous railroad grade crossing;
- (17) Designating and regulating traffic on play streets;
- (18) Prohibiting pedestrians from crossing a roadway in a business district or any designated highway except in a crosswalk;
- (19) Restricting pedestrian crossing at unmarked crosswalks;
- (20) Regulating persons propelling push carts;
- (21) Regulating persons upon skates, coasters, sleds, and other toy vehicles;
- (22) Adopting and enforcing [~~sueh~~] temporary or experimental regulations as may be necessary to cover emergencies or special conditions;
- (23) Adopting maximum and minimum speed limits on streets and highways within their respective jurisdictions;
- (24) Adopting requirements on stopping, standing, and parking on streets and highways within their respective jurisdictions except as provided in section 291C-111;
- (25) Prohibiting or regulating electric personal assistive mobility devices on sidewalks and bicycle paths;
- (26) Implementing a photo red light imaging detector system pursuant to chapter 291J; and
- (27) Adopting [~~sueh~~] other traffic regulations as are specifically authorized by this chapter.”

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 June 28, 2021.)

ACT 125

H.B. NO. 1081

A Bill for an Act Relating to Sidewalks.

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

SECTION 1. The legislature finds that sidewalk networks are integral components of streets and roadways in Hawaii’s communities, where pedestrians

need safety, comfort, accessibility, and efficient mobility. Sidewalk networks increase pedestrian safety by separating pedestrians from vehicle traffic. Sidewalks produce positive public-health outcomes by encouraging walking, making communities more accessible, and contributing to more sustainable communities by decreasing dependence on motor vehicles. The department of health’s 2020-2030 Draft Healthy Hawaii Strategic Plan sets a goal to increase the total miles of safe pedestrian infrastructure by fifty miles.

The legislature further finds that there is significant disparity in the installation, maintenance, and improvement of sidewalk networks, even within the same county. There is also little to no transparent information about the installation, repair, and maintenance of sidewalk networks available to ordinary citizens.

The purpose of this Act is to improve equitable access to safe sidewalk networks by requiring:

- (1) The department of transportation to maintain a list of statewide sidewalk installation and pedestrian improvement projects;
- (2) Each county’s transportation department to create and maintain a list of sidewalk installation and pedestrian improvement projects; and
- (3) The department of transportation and the counties to post the priority list on their respective websites to promote transparency and public accountability.

SECTION 2. Chapter 264, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

“PART . SIDEWALK PROJECT PRIORITY LISTS

§264- Sidewalk project priority lists. (a) The department of transportation shall maintain a priority list of statewide sidewalk installation and pedestrian improvement projects, including potential alternatives to sidewalks that may be better suited for individual communities. The priority list shall be updated no less than once per year.

(b) Each county’s transportation department shall create and maintain a priority list of county sidewalk installation and pedestrian improvement projects, including potential alternatives to sidewalks that may be better suited for individual communities. The priority lists shall be updated no less than once per year.

(c) Each priority list required by subsections (a) and (b) shall include information about the type, cost, and location of the projects on the priority list.

(d) In establishing a priority list required by subsections (a) and (b), the department of transportation and each county’s transportation department shall incorporate considerations for each project’s:

- (1) Cost;
- (2) Impact on pedestrian safety;
- (3) Importance to a larger pedestrian network; and
- (4) Importance for providing first- and last-mile connectivity to transit.

(e) Each priority list required by subsections (a) and (b) shall be published on the respective websites of the department of transportation and each county transportation department.”

SECTION 3. This Act shall take effect on July 1, 2021.

(Approved June 28, 2021.)

ACT 126

S.B. NO. 159

A Bill for an Act Relating to Voting.

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 II to be appropriately designated and to read as follows:

“§11- Automatic registration. (a) An application for voter registration shall be a part of the application for issuance of an identification card under section 286-303 and the application for issuance of a driver’s license under section 286-111. Applications for an identification card or driver’s license shall not be processed until the applicant completes the portion of the application related to voter registration and indicates the applicant’s choice of whether to register to vote. If already registered to vote, the applicant shall be offered the opportunity to decline any changes being made to their name and address for voter registration purposes.

The submission of the application for the issuance of an identification card under section 286-303 or the application for a driver’s license under section 286-111 shall be deemed to authorize the examiner of drivers to collect and transmit the information necessary to register the applicant as a voter if the applicant made such a choice or to make changes to the applicant’s voter registration information unless the applicant declined such changes. The examiner of drivers shall electronically transmit the necessary information to the clerk of the county in which the applicant resides, election officials, and the online voter registration system pursuant to subsection (c).

The examiner of drivers shall not transmit any information necessary to register an applicant as a voter if the applicant made a choice not to be registered to vote nor transmit any information necessary to make changes to the applicant’s voter registration information if the applicant declined such changes. The examiner of drivers shall not transmit any information related to a voter application or changes to the applicant’s voter registration information if the applicant presents a document demonstrating a lack of United States citizenship.

(b) Upon receipt of the completed voter registration application or changes to the applicant’s voter registration information transmitted from the examiner of drivers, the clerk shall review and either approve or reject the voter registration application in accordance with this part; provided that approved voter registration applications received from the examiner of drivers pursuant to this section shall be treated as having a valid signature for purposes of section 11-15(c), whether transmitted electronically or by facsimile transmission. Upon the clerk’s approval of the voter registration application or any changes to the voter registration information, the clerk shall proceed to number the application and register the name of the voter in the general county register as provided in section 11-14 or make approved changes to the voter’s existing voter registration information as applicable.

(c) Databases maintained or operated by the counties or the department of transportation containing driver’s license or identification card information, including any documents or images, shall be accessible and provided electronically to election officials and the online voter registration system to allow for the timely processing of voter applications, ensure the integrity of the voter registration polls, and for any other voter registration or election purposes, as determined by the director of transportation.”

SECTION 2. Chapter 286, Hawaii Revised Statutes, is amended by adding a new section to part VI to be appropriately designated and to read as follows:

“§286-A Voter registration. (a) A qualified applicant for a new or renewed motor vehicle driver’s license shall automatically be registered to vote with the clerk of the appropriate county upon completion of the driver’s license application and application for voter registration as required in section 11- if the qualified applicant makes a choice to register to vote on the application form. If already registered to vote, the qualified applicant shall be offered the opportunity to decline any changes being made to their name and address for voter registration purposes.

(b) The submission of the application for voter registration together with the license or permit application shall be deemed to authorize the examiner of drivers to collect and transmit the information necessary to register the qualified applicant as a voter if the applicant made such a choice or to make changes to the qualified applicant’s voter registration information unless the applicant declined such changes. The examiner of drivers shall electronically transmit the necessary information to the clerk of the county in which the qualified applicant resides, election officials, and the online voter registration system pursuant to section 11- (c).

The examiner of drivers shall not transmit any information necessary to register a qualified applicant as a voter if the applicant made a choice not to be registered to vote nor transmit any information necessary to make changes to the qualified applicant’s voter registration information if the applicant declined such changes. The examiner of drivers shall not transmit any information related to a voter application or changes to the applicant’s voter registration information if the applicant presents a document demonstrating a lack of United States citizenship.

(c) For the purposes of this section, “qualified applicant” means a person who qualifies to register as a voter by law.”

SECTION 3. Chapter 286, Hawaii Revised Statutes, is amended by adding a new section to part XVI to be appropriately designated and to read as follows:

“§286-B Voter registration. (a) A qualified applicant for a new, renewal, or duplicate identification card shall automatically be registered to vote with the clerk of the appropriate county upon completion of an application for identification card and the application for voter registration as required by section 11- if the qualified applicant makes a choice to be registered to vote. If already registered to vote, the qualified applicant shall be offered the opportunity to decline any changes being made to their name and address for voter registration purposes.

(b) The submission of the application for voter registration together with the application for the identification card shall be deemed to authorize the examiner of drivers to collect and transmit the information necessary to register the qualified applicant as a voter if the applicant made such a choice or to make changes to the qualified applicant’s voter registration information unless the applicant declined such changes. The examiner of drivers shall electronically transmit the necessary information to the clerk of the county in which the qualified applicant resides, election officials, and the online voter registration system pursuant to section 11- (c).

The examiner of drivers shall not transmit any information necessary to register a qualified applicant as a voter if the applicant made a choice not to be registered to vote nor transmit any information necessary to make changes to

the qualified applicant's voter registration information if the applicant declined such changes. The examiner of drivers shall not transmit any information related to a voter application or changes to the applicant's voter registration information if the applicant presents a document demonstrating a lack of United States citizenship.

(c) For the purposes of this section, "qualified applicant" means a person who qualifies to register as a voter by law."

SECTION 4. Section 286-108, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Except as provided in section 286-107.5(a), the examiner of drivers shall examine every applicant for a driver's license, except as otherwise provided in this part. The examination shall include a test of:

- (1) The applicant's eyesight and any further physical examination that the examiner of drivers finds necessary to determine the applicant's fitness to operate a motor vehicle safely upon the highways;
- (2) The applicant's ability to understand highway signs regulating, warning, and directing traffic;
- (3) The applicant's knowledge of the rules of the road based on the traffic laws of the State and the traffic ordinances of the county where the applicant resides or intends to operate a motor vehicle; provided that the examination shall specifically test the applicant's knowledge of the provisions of section 291C-121.5 and section 291C-137; and
- (4) The actual demonstration of ability to exercise ordinary and reasonable control in the operation of a motor vehicle.

The examinations shall be appropriate to the operation of the category of motor vehicle for which the applicant seeks to be licensed and shall be conducted as required by the director.

The examiner of drivers shall require every applicant to comply with section 286-102.5.

The examiner of drivers may waive the actual demonstration of ability to operate a motorcycle or motor scooter for any person who furnishes evidence, to the satisfaction of the examiner of drivers, that the person has completed the motorcycle education course approved by the director in accordance with section 431:10G-104.

~~[At the time of examination, an application for voter registration by mail shall be made available to every applicant for a driver's license.]~~

For the purposes of this section, the term "applicant" does not include any person reactivating a license under section 286-107.5(a)."

SECTION 5. Section 286-111, Hawaii Revised Statutes, is amended to read as follows:

"§286-111 Application for license, provisional license, instruction permit, limited purpose driver's license, limited purpose provisional driver's license, or limited purpose instruction permit; fees. (a) Every application for an instruction permit, provisional license, driver's license, limited purpose driver's license, limited purpose provisional driver's license, or limited purpose instruction permit shall be made upon a form furnished by the examiner of drivers and shall be verified by the applicant before a person authorized to administer oaths. The examiner of drivers and officers serving under the examiner may administer the oaths without charge. Each application for an instruction permit for a category (1), (2), (3), or (4) license shall be accompanied by a fee to be determined by the council of each county, and each application for a provisional license or driver's license shall be accompanied by the fee, unless the applicant has already paid

the fee upon application for an instruction permit in the same county, in which event no fee shall be charged. An additional fee to be determined by the council of each county shall be charged and collected upon the issuance of a provisional license or driver's license. All of the foregoing fees shall become county realizations.

(b) The director shall establish by rule a standard fee for all driver's license applicants who require verification through the federal system that their presence in the United States is authorized by federal law. The fees collected shall become state realizations and be deposited into the state highway fund. The State shall reimburse the counties all costs of verification through the federal system. The amount of reimbursement shall be determined by the director of transportation.

(c) The director of transportation shall establish a fee schedule for all commercial driver's licensing examinations. The fees collected for a commercial driver's license shall become state realizations and shall be deposited in the state highway fund. The State shall reimburse the counties all costs for administering the commercial driver's licensing program. The amount of reimbursement shall be determined by the director of transportation.

(d) Every application shall state the full name, date of birth, gender designation, occupation, veteran status if applicable (including veterans of the Korean conflict and persons who served in the armed forces of the Republic of Korea, who fought under the command of the United Nations led by the United States, during the Korean conflict and are currently United States citizens) and desired by the applicant, social security number if the applicant is eligible for a social security number, the residence address, and business address, if any, of the applicant, shall briefly describe the applicant, and shall state whether the applicant has theretofore been licensed as a driver, and, if so, when and in what state or country, and whether any such license has ever been suspended or revoked, or whether an application has ever been refused, and if so, the date of and reason for the suspension, revocation, or refusal.

The examiner of drivers shall not require documentation for an applicant's selection of gender designation or an applicant's request for an amendment to a gender designation other than the applicant's self-certification of their chosen gender designation; provided that the examiner of drivers shall not be prohibited from requiring documentation that may incidentally show an applicant's birth sex category if ~~such~~ the documentation is necessary to establish that the applicant is legally entitled to a license.

For ~~the~~ purposes of this subsection, "gender designation" shall have the same meaning as in section 286-109(a).

(e) Except as provided in section 286-104.5, if the applicant is not eligible to receive a social security number, the applicant shall submit, in lieu of providing proof of social security number pursuant to subsection (d):

- (1) A United States Social Security Administration letter stating that the applicant is ineligible to obtain a social security number; and
- (2) Either:
 - (A) A government-issued photo identification document; or
 - (B) Other identification documents as deemed acceptable by the director.

(f) An application for a driver's license shall include the voter registration application required under section 11- ."

SECTION 6. Section 286-303, Hawaii Revised Statutes, is amended to read as follows:

“§286-303 Application for identification card. (a) Application for the identification card shall be made in person by any adult or minor. In the case of a minor under the age of fourteen years, the application shall be made on the minor’s behalf by the parent, or by another individual in loco parentis of the minor who can provide proof of guardianship. In the case of an incompetent individual, the application shall be made by the individual having the custody or control of or maintaining the incompetent individual. A non-compliant identification card shall be issued in accordance with section 286-301.5 for applications not made in person.

(b) Application for renewal of an identification card issued after November 1, 1998, for an individual eighty years of age or older may be done by mailing in or electronically submitting a completed application and fee, if there is no change in name and citizenship status. The director shall adopt rules to allow for renewal by mail or electronic methods for individuals with physical or intellectual disabilities for whom application in person presents a serious burden. For an individual who has a letter from a licensed primary care provider certifying that a severe disability causes the individual to be homebound, the director shall adopt rules allowing for application for renewal of an identification card under this section by means other than in-person appearance. A non-compliant identification card shall be issued in accordance with section 286-301.5 for renewal applications not made in person.

(c) Every application for an identification card or duplicate of an identification card shall be made on a form developed by the director and furnished by the examiner of drivers, signed by the applicant, and signed by the applicant’s parent or guardian if the applicant is under eighteen years of age. The application shall contain the following information:

- (1) Name and complete address, including the number and street name, of the applicant’s permanent residence;
- (2) The applicant’s occupation and any pertinent data relating thereto;
- (3) The applicant’s citizenship status;
- (4) The applicant’s veteran status if applicable and desired by the applicant;
- (5) The applicant’s date and place of birth;
- (6) General description of the applicant, including the applicant’s gender designation, height, weight, hair color, and eye color;
- (7) The applicant’s left and right index fingerprints or, if clear impressions cannot be obtained, other identifying imprints as specified by rules of the director;
- (8) The social security number of the applicant; and
- (9) A digitized frontal photograph of the applicant’s full face.

Each applicant shall present documentary evidence as required by the examiner of drivers of the applicant’s age and identity, and the applicant shall swear or affirm that all information given is true and correct; provided that an applicant shall not be required to provide documentation to prove the applicant’s gender designation other than the applicant’s self-certification of their chosen gender designation; provided further that documentation that may incidentally show an applicant’s birth gender may be required if necessary to establish that the applicant is legally entitled to an identification card.

For purposes of this subsection, “gender designation” shall have the same meaning as in section 286-109(a).

(d) The application also shall state whether the applicant has an advance health-care directive. If the applicant has an advance health-care directive, the identification card shall bear the designation “AHCD”.

(e) ~~[The examiner of drivers, in accordance with section 11-15, at the time of application, shall make available an application for voter registration to every applicant for an identification card who is eligible to register to vote.] An application for an identification card from the examiner of drivers shall include the voter registration application required under section 11-~~

(f) The examiner of drivers shall maintain a suitable, indexed record of all applications.

(g) For the purpose of this section, “AHCD”, which stands for “advance health-care directive”, means an individual instruction in writing, a living will, or a durable power of attorney for health care decisions.”

SECTION 7. Section 286-311, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) All information and records acquired by the examiner of drivers under this part shall be confidential~~[-];~~ provided that the examiner may transmit voter registration information as required under sections 11- , 286-A, 286-B, 286-111, and 286-303. All information and records shall be maintained in an appropriate form and in an appropriate office in the custody and under the control of the examiner. The information shall be available only to authorized individuals under ~~[such]~~ restrictions as the director shall prescribe. The examiner may dispose of any application or identification card, or information or record relating to the application or identification card, ~~[which] that~~ does not include a social security number, without regard to chapter 94, whenever, in the examiner’s discretion, retention of the information or record is no longer required or practicable.”

SECTION 8. The examiner of drivers in each county shall cooperate with the office of elections to develop the forms and applications necessary to effectuate the purposes of this Act.

SECTION 9. In codifying the new sections added by sections 2 and 3 and referenced in section 7 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.¹

SECTION 11. This Act shall take effect on July 1, 2021.

(Approved June 28, 2021.)

Note

1. Edited pursuant to HRS §23G-16.5.

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 2021.

SECTION 2. Unless otherwise clear from the context, as used in this Act:

“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 Federal funds
- V American Rescue Plan funds
- W Revolving funds

“Position ceiling” means the maximum number of permanent or temporary positions authorized for a particular program during a specified period or periods, as noted by an asterisk or pound sign, respectively.

“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.

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, 2021, and ending June 30, 2023. The total expenditures and the number of permanent and temporary 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 2021-2022	FISCAL YEAR 2022-2023
The Judicial System					
1.	JUD101	COURTS OF APPEAL		78.00 *	78.00 *
				1.48 #	1.48 #
	OPERATING		JUD	7,679,908 A	7,679,908 A
2.	JUD310	FIRST JUDICIAL CIRCUIT		1,102.50 *	1,102.50 *
				58.58 #	58.58 #
	OPERATING		JUD	84,083,696 A	84,083,696 A
				41.00 *	41.00 *
			JUD	4,555,232 B	4,555,232 B
3.	JUD320	SECOND JUDICIAL CIRCUIT		210.50 *	210.50 *
				1.68 #	1.68 #
	OPERATING		JUD	17,334,494 A	17,334,494 A
4.	JUD330	THIRD JUDICIAL CIRCUIT		240.00 *	240.00 *
				5.20 #	5.20 #
	OPERATING		JUD	20,759,344 A	20,759,344 A

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL M YEAR O 2021-2022 F	FISCAL M YEAR O 2022-2023 F
5.	JUD350	FIFTH JUDICIAL CIRCUIT		103.00*	103.00*
				2.60#	2.60#
	OPERATING		JUD	8,103,054A	8,103,054A
6.	JUD501	JUDICIAL SELECTION COMMISSION		1.00*	1.00*
	OPERATING		JUD	101,194A	101,194A
7.	JUD601	ADMINISTRATION		226.00*	226.00*
				9.48#	9.48#
	OPERATING		JUD	26,829,796A	26,829,796A
				1.00*	1.00*
			JUD	9.00#	9.00#
			JUD	8,110,454B	8,110,454B
			JUD	343,261W	343,261W
	INVESTMENT CAPITAL		JUD	5,886,000C	2,200,000C
				5,220,000V	V

PART III. PROGRAM PROVISIONS

SECTION 4. Provided that whenever the need arises, the chief justice, in administering an equitable and expeditious judicial process, may 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, may enter into the undertaking with the federal government, private organization, or individual.

SECTION 6. Provided that the judiciary may transfer savings from its general fund appropriation to the driver education and training fund to accommodate any temporary cash flow deficits.

PART IV. CAPITAL IMPROVEMENT PROJECTS

SECTION 7. The sum of \$13,306,000 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; 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 are in thousands of dollars.

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL YEAR 2021-2022	FISCAL YEAR 2022-2023

A. ECONOMIC DEVELOPMENT

JUD601 - ADMINISTRATION

1.		ALIOLANI HALE, AIR CONDITIONING UPGRADES, OAHU DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A/C SYSTEMS UPGRADE AT ALIOLANI HALE; VENTILATION IMPROVEMENTS.	JUD	3,700	V
2.		HOAPILI HALE SECURITY IMPROVEMENTS, MAUI DESIGN AND CONSTRUCTION FOR SECURITY IMPROVEMENTS AT HOAPILI HALE.	JUD	C	2,200
3.		HOAPILI HALE, PARKING STRUCTURE PIPING RENOVATIONS, MAUI DESIGN AND CONSTRUCTION FOR PARKING STRUCTURE PIPING RENOVATIONS AT HOAPILI HALE FOR THE STORM DRAIN, FIRE SUPPRESSION, SEWER, AND AIR CONDITIONING (CHILLED WATER) PIPING SYSTEMS.	JUD	2,886	C
4.		LUMP SUM CIP FOR JUDICIARY FACILITIES, STATEWIDE PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE GENERAL ALTERATIONS, UPGRADES, AND IMPROVEMENTS TO JUDICIARY FACILITIES, STATEWIDE.	JUD	3,000	C
5.		RONALD T.Y. MOON JUDICIARY COMPLEX, NEW CHILLER, OAHU DESIGN AND CONSTRUCTION FOR NEW CHILLER AT RONALD T.Y. MOON JUDICIARY COMPLEX; VENTILATION IMPROVEMENTS.	JUD	1,520	V

PART V. ISSUANCE OF BONDS

SECTION 8. 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 of the general obligation bonds so issued shall not exceed \$8,086,000.

PART VI. SPECIAL PROVISIONS

SECTION 9. 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 2021-2022 and fiscal year 2022-2023 that are unencumbered as of June 30, 2024, shall lapse as of that date.

SECTION 10. The judiciary may 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 11. 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 of this Act have been met, shall be transferred to the judiciary project adjustment fund.

SECTION 12. 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 13. 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 project listed in part IV of this Act, the chief justice may authorize this reduction of project scope.

SECTION 14. 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 15. Any law or any provision of this Act 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 any 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 16. 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 17. If any manifest clerical, typographical, or other mechanical error is found in this Act, the chief justice may correct the error. All changes made pursuant to this section shall be reported to the legislature at its next regular session.

SECTION 18. This Act shall take effect on July 1, 2021.

(Approved June 30, 2021.)

ACT 128

H.B. NO. 601

A Bill for an Act Relating to the Traffic Code.

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

SECTION 1. The legislature finds that due to the shortage of police officers in every county, enforcement of special no stopping, standing, or parking zones throughout the State is very limited. Unlike the department of transportation airport and harbor divisions, the highway division does not have an enforcement branch and relies on county police departments to enforce traffic and safety violations.

The purpose of this Act is to improve public safety and efficiency by authorizing county police chiefs to designate other county employees, such as trained county staff or park rangers, to cite for certain traffic violations.

SECTION 2. Section 291C-165, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There shall be provided for use by authorized police officers, or county employees designated by the county chiefs of police, a form of summons or citation for use in citing violators of those traffic laws ~~[which]~~ that do not mandate the physical arrest of ~~[such]~~ the violators. The form and content of ~~[such]~~ the summons or citation shall be as adopted or prescribed by the administrative judge of the district courts and shall be printed on a form commensurate with the form of other summonses or citations used in modern methods of arrest, so designed to include all necessary information to make the same valid within the laws and regulations of the State.”

SECTION 3. Section 291C-167, Hawaii Revised Statutes, is amended to read as follows:

“**§291C-167 Summons or citation on illegally parked vehicle.** Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions contained in the state traffic laws, the officer or designated county employee finding the vehicle shall take its registration number and may take any other information displayed on the vehicle that may identify its registered owner and conspicuously shall affix to the vehicle a citation, as described in section 291C-165, for the registered owner of record to answer as provided in chapter 291D.”

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 30, 2021.)

A Bill for an Act Relating to Vehicle Inspections.

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 part II to be appropriately designated and to read as follows:

“§286- Vehicle inspector; certification; renewal. (a) The director shall supervise and certify all inspectors authorized to conduct vehicle safety inspections at official inspection stations. The director shall:

- (1) Determine minimum standards and application criteria for inspectors;
- (2) Administer written and performance examinations for all applicants;
- (3) Issue official inspector certificates;
- (4) Monitor inspection activities of inspectors; and
- (5) Conduct investigations of reported or suspected improper inspection activities.

(b) Inspector certificates shall expire four years from the date of issuance, unless revoked or suspended by the director.

(c) Recertification of inspectors shall follow the application process for initial certification.”

SECTION 2. Section 286-42, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) The county finance director, upon being notified by the designated county department that a vehicle is a special interest vehicle [~~or that a vehicle has been inspected and approved as a reconstructed vehicle~~], shall cause that fact to be shown upon the registration and title certificates for that vehicle.”

SECTION 3. Section 286-85, Hawaii Revised Statutes, is amended to read as follows:

“§286-85 Reconstructed vehicles, approval required. (a) No person shall operate a reconstructed vehicle upon a public highway unless it has been inspected and certified by the designated county agency as meeting the specifications and requirements established in rules and regulations adopted by the state director of transportation.

(b) This section shall not apply to any vehicle which is subject to the rules and regulations of the public utilities commission governing safety of operation and equipment.

(c) Each county through its chief executive officer, shall designate a county department, whose responsibilities shall include the inspection of reconstructed vehicles and the issuance of permits to operate reconstructed vehicles pursuant to standards established by the state director of transportation.

(d) The state director of transportation shall adopt rules pursuant to chapter 91, establishing the fees an inspector may charge for the inspection of a reconstructed vehicle.

(e) The department designated pursuant to subsection (c) shall identify to the county director of finance every vehicle that has been inspected and approved as a reconstructed vehicle.

(f) This section shall not apply to any privately owned reconstructed vehicle in a county with a population of less than 500,000.

(g) This section shall be inoperative from January 1, 2022, to July 31, 2025.”

SECTION 4. The department of transportation shall submit a report on the effects of repealing section 286-85, Hawaii Revised Statutes, to determine if this repeal should be made permanent, to the legislature no later than twenty days prior to the convening of the regular session of 2025.

SECTION 5. This Act does not affect 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.¹

SECTION 7. This Act shall take effect on July 1, 2021.

(Approved June 30, 2021.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 130

S.B. NO. 1291

A Bill for an Act Relating to Transportation.

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

SECTION 1. Section 286-2, Hawaii Revised Statutes, is amended by amending the definition of “motorcycle” to read as follows:

““Motorcycle” means:

- (1) Every motor vehicle that has a handlebar and seating that requires the operator to straddle or sit astride on it and is designed to travel on ~~not~~ no more than three wheels in contact with the ground, but excludes a farm tractor and a moped; or
- (2) Every motor vehicle that has a steering wheel or handlebar and seating that does not require the operator to straddle or sit astride on it, ~~and~~ is designed to travel on three wheels in contact with the ground, and is called an autocycle, which is certified by the manufacturer to comply with all applicable Federal Motor Vehicle Safety Standards as of the date of manufacture.”

SECTION 2. Section 286-81, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) A safety helmet shall not be required for any person who operates or rides as a passenger on a motorcycle or motor scooter; provided that the motorcycle or motor scooter:

- (1) Has three wheels;
- (2) Is powered by an electric motor;
- (3) Has a roll bar, roll cage, or full body enclosed cab; and
- (4) Has a seat belt assembly or a child restraint system for the driver and passenger;

and the operator and passenger uses the seat belt or child restraint system pursuant to sections 291-11.5 and 291-11.6.”

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

SECTION 4. This Act shall take effect on July 1, 2021.

(Approved June 30, 2021.)

ACT 131

S.B. NO. 1402

A Bill for an Act Relating to Transportation.

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

SECTION 1. The legislature finds that the United States Department of Transportation intends to modernize its planning and projects throughout the country by achieving two primary goals: equity for all communities and addressing climate change. The State has adopted similar goals including reaching one hundred per cent clean energy and a carbon negative economy by 2045.

The legislature further finds that in addition to modernizing transportation by meeting these new state and national goals in Hawaii’s transportation planning and projects, the way people use transportation in Hawaii has already begun to rapidly change. For example, the number of Hawaii’s licensed drivers between the ages of fifteen and nineteen has plummeted nearly forty per cent in the last twenty-five years. In addition to the generational shift away from cars, today many drivers are switching from traditional gas cars to modern electric vehicles, with sales increasing exponentially between twenty and thirty per cent each year.

These changes are due, in part, to increased cost of living and transportation expenses. For instance, buying or leasing a car also includes other expenses such as auto insurance premiums, fuel costs, and vehicle maintenance, which make owning a car an expensive means of transportation. A recent report by AAA noted that, on average, these additional expenses cost each car owner \$8,849 per year. However, utilizing public transportation, biking, walking, and living close to work instead of owning or leasing a car can significantly reduce the cost of transportation and measurably improve public health. Yet, in those communities in which there is no infrastructure available to travel except by car, residents are forced to pay higher cost of living expenses and have fewer options to improve their quality of life.

In Hawaii and around the country, inequitable investments into infrastructure have exacerbated costs and health disparities among different communities. Low-income areas typically have less access to bike lanes, sidewalks, and safe forms of cheaper transportation. This leaves low-income households in auto-centric communities more likely to fall into poverty, which is exacerbated in rural areas having no access to public transit and longer distances between destinations. One direct outcome of this problem is that drivers are more likely to strike and kill pedestrians in low-income neighborhoods than in high-income neighborhoods due to a lack of safe infrastructure.

The legislature further finds that while Hawaii’s progress to one hundred per cent clean energy by 2045 has reduced emissions and the cost of electricity for local residents by decreasing a reliance on costly imported fossil fuels, vehicles now account for nearly two-thirds of Hawaii’s greenhouse gas emissions

and increasing costs to taxpayers. Today, clean electric vehicles are already less expensive to operate and maintain than traditional gasoline fueled cars, and are similar in price. Modernizing ground transportation to support the switch to electric vehicles will not only reduce long-term costs for local commuters, but will also help meet Hawaii's goals to eliminate fossil fuels in ground transportation and sequester more greenhouse gasses than the State emits by 2045.

Additionally, rethinking the way Hawaii builds ground transportation infrastructure will reduce the cost of living, improve the quality of life for local residents, and stimulate the economy. Greenways, sidewalks, and bike facilities have the largest return on investment, stimulating construction and increasing economic benefits by approximately \$17 for every dollar spent. Streets with additional access to cheap forms of transportation, including bike lanes, have also been reliably shown to increase visitors and revenue at area businesses by as much as forty per cent.

The legislature further finds that over the last century, Hawaii's ground transportation was built as a car-centric system, with little attention to alternatives, which has raised the cost of living in the islands, negatively impacted the quality of life, and resulted in some of the highest transportation-related fatality rates in the nation. Merely adding lanes to reduce traffic does not address Hawaii's most pressing traffic, safety, health, and other issues. In fact, it can often make them worse. Studies show that the traffic benefits of spending tens of millions of dollars adding lanes to accommodate more cars are often eliminated in just a few years by additional cars incentivized to fill that space. Those funds could have had a more significant and longer-lasting benefit if they were expended to address other issues, such as expanding options for people to commute by public transportation, biking, or walking, especially for those in low-income communities.

Accordingly, the purpose of this Act is to modernize Hawaii's ground transportation infrastructure by providing additional metrics, considerations, and assistance to the department of transportation in order to move Hawaii forward into the twenty-first century by:

- (1) Reducing transportation costs to local residents;
- (2) Minimizing injuries and fatalities;
- (3) Improving public health and quality of life; and
- (4) Addressing greenhouse gas emissions.

SECTION 2. Chapter 264, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

“PART . GROUND TRANSPORTATION INFRASTRUCTURE

§264- Definitions. As used in this part, “department” means the department of transportation.

§264- Ground transportation facilities. (a) The department shall develop and implement a plan for the establishment of the following:

- (1) A contiguous network of motor vehicle highways connecting communities throughout each island, in which intersections with other modes of transportation shall be minimized and a priority and preference for access shall be given to public mass transportation;
- (2) A contiguous network of bicycle and electric bicycle highways or pathways connecting communities throughout each island, in which intersections with other modes of transportation shall be minimized; provided that the bicycle and electric bicycle highways and pathways shall be separated and protected from vehicular traffic by

physical or natural barriers or by meaningful distance or elevation; and

- (3) A contiguous network of pedestrian highways or pathways connecting communities throughout each island, in which intersections with other modes of transportation shall be minimized; provided that the pedestrian highways and pathways shall be separated and protected from vehicular and bicycle traffic by physical or natural barriers, or by meaningful distance or elevation.

(b) Within each community the department shall coordinate with the applicable county to develop a comprehensive plan for the establishment of any portion of the following within the department or county’s jurisdiction, as applicable:

- (1) A contiguous network of bicycle and pedestrian pathways connecting all public schools and libraries in each school complex area to one another, and to its respective state and county transportation infrastructure, in which intersections with other modes of transportation shall be minimized; provided that the pathway network shall be separated and protected from vehicular traffic by physical or natural barriers, or by meaningful distance or elevation;
- (2) A contiguous network of bicycle and pedestrian pathways connecting commercial business and shopping hubs to residential areas, and to its respective state and county transportation infrastructure, in which intersections with other modes of transportation shall be minimized; provided that the pathway network shall be separated and protected from vehicular traffic by physical or natural barriers, or by meaningful distance or elevation; and
- (3) Pedestrian exercise and active health pathways of meaningful length in which intersections with other modes of transportation shall be minimized; provided that these pathways shall be separated and protected from vehicular traffic by physical or natural barriers, or by meaningful distance or elevation, and easily accessible to residential and high density communities where appropriate.

§264- Ground transportation; project goals; reporting. (a) When planning, designing, and implementing ground transportation infrastructure for each project pursuant to this part, the department shall endeavor to:

- (1) Assess and maximize total throughput of people across all modes of transportation;
- (2) Achieve any goals described in the complete streets policy adopted pursuant to section 264-20.5;
- (3) Reduce vehicle miles traveled;
- (4) Decrease the percentage of single occupancy vehicles in the State’s mode share;
- (5) Provide equity for all communities and users;
- (6) Improve safety and achieve any goals described in the vision zero policy adopted pursuant to section 286-7.5;
- (7) Reduce user cost of transportation;
- (8) Improve public health;
- (9) Reduce carbon emissions and greenhouse gasses to meet state renewable portfolio standards established in section 269-92 and zero emissions clean economy by 2045 pursuant to section 225P-5;
- (10) Reduce urban temperatures by incorporating tree canopy and foliage over hardened surfaces; and
- (11) Beautify public infrastructure.

(b) For each project planned by the department, the department shall create a report detailing:

- (1) How each goal in subsection (a) was implemented;
- (2) How each goal meets the overall goals of transportation infrastructure as outlined in subsection (a); and
- (3) Any necessary deviations from the goals outlined in subsection (a) and the reasons for those deviations.

(c) No later than twenty days prior to the convening of each regular session, the department shall submit to the legislature a stand-alone report of, or include in any of the department's relevant annual reports to the legislature, the following:

- (1) A list of all projects initiated, underway, or completed during the preceding calendar year;
- (2) The status of each project initiated or underway during the preceding calendar year;
- (3) The report for each project as required by subsection (b); and
- (4) A progress update outlining the department's success in meeting the goals described in subsection (a).

§264- Highways; ground transportation; generally. The department shall provide for a safe, accessible, equitable, fully multimodal, and sustainable system of ground connections that ensures the accessibility of people and goods and improves economic vitality, public health, livability, and quality of life."

SECTION 3. This Act shall take effect on July 1, 2021.

(Approved June 30, 2021.)

ACT 132

H.B. NO. 264

A Bill for an Act Relating to Transportation Network Companies.

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

SECTION 1. The legislature finds that Act 236, Session Laws of Hawaii 2016 (Act 236), was enacted to close the insurance gaps associated with transportation network companies by establishing motor vehicle insurance requirements for transportation network companies and transportation network company drivers. Act 236 is scheduled to repeal on September 1, 2021.

Accordingly, the purpose of this Act is to extend to September 1, 2023, the motor vehicle insurance requirements for transportation network companies and transportation network company drivers established pursuant to Act 236.

SECTION 2. Act 236, Session Laws of Hawaii 2016, is amended by amending section 6 to read as follows:

"SECTION 6. This Act shall take effect upon its approval; provided that section 2 of this Act shall take effect on September 1, 2016; provided further that this Act shall be repealed on September 1, ~~2021~~ 2023."

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 30, 2021.)

ACT 133

H.B. NO. 766

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

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

SECTION 1. Act 30, Session Laws of Hawaii 2020, is amended by amending sections 9 and 10 to read as follows:

“SECTION 9. There is appropriated out of the state highway fund the sum of [~~\$800,000~~] \$2,000,000 or so much thereof as may be necessary for fiscal year 2020-2021; \$400,000 or so much as may be necessary for fiscal year 2021-2022; and \$400,000 or so much as may be necessary for fiscal year 2022-2023 to be deposited into the photo red light imaging detector systems special fund.

SECTION 10. There is appropriated out of the photo red light imaging detector systems special fund the sum of [~~\$800,000~~] \$2,000,000 or so much thereof as may be necessary for fiscal year 2020-2021; \$400,000 or so much as may be necessary for fiscal year 2021-2022; and \$400,000 or so much as may be necessary for fiscal year 2022-2023 for purposes of establishing the photo red light imaging detector systems pilot program[-]; provided that the moneys appropriated for fiscal year 2020-2021 shall not lapse at the end of that fiscal year; provided further that all moneys appropriated for fiscal year 2020-2021 that are unexpended or unencumbered as of June 30, 2022, shall lapse to the credit of the photo red light imaging detector systems special fund.

The sum appropriated shall be expended by the department of transportation for the purposes of this Act; provided that the department of transportation shall expend \$112,602 in fiscal year [~~2020-2021 and fiscal year~~] 2021-2022, fiscal year 2022-2023, and fiscal year 2023-2024 for the funding of one permanent full-time (1.0 FTE) deputy prosecuting attorney position within the department of the prosecuting attorney of the city and county of Honolulu.”

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

SECTION 3. This Act, upon its approval, shall take effect retroactively on June 30, 2021.

(Approved June 30, 2021.)

ACT 134

S.B. NO. 651

A Bill for an Act Relating to Renaming Kahului Airport Access Road.

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

SECTION 1. The legislature finds that Maui has no major roadways commemorating local political leaders and their roles in Maui history. Born in Paia, Maui, Elmer Franklin Cravalho served as the first mayor of Maui from 1969 to 1979 and was the first speaker of the state house of representatives following statehood.

Elmer F. Cravalho was first elected as a member of the territorial house of representatives in 1954. He became vice speaker of the territorial house of representatives in 1956, and then speaker of the territorial house of representatives in 1959. He maintained his position as speaker of the state house of repre-

sentatives through 1967, and then served as Maui county's first mayor until July 24, 1979.

The legislature recognizes that Mayor Cravalho first relayed Congress' approval of Hawaii's statehood to a cramped house of representatives in Iolani Palace. A photo of him taking that famed phone call from John Burns in Washington, D.C. is part of the Hawaiian Airlines mural at the Kahului Airport.

Elmer F. Cravalho was known as a successful businessman and maintained several leadership roles in civic and other community organizations within the county of Maui. He is credited for much of Maui's development, especially the waterline from Wailuku to Wailea, which enabled the development of Kihei. Mayor Cravalho died on June 27, 2016.

The legislature further finds that the Kahului Airport Access Road officially opened less than one month after Mayor Cravalho's death. At the time, Dairy Road was the only roadway that led to the airport from south Maui. Kahului Airport Access Road connects Hana Highway to Lanui Loop and was built to relieve traffic congestion caused by two distinct types of automobile traffic on Dairy Road: airport users and the local community.

The legislature finds that Mayor Elmer F. Cravalho has a clear connection to Maui's history and that he should be remembered for his civil service by naming a highway in his honor.

Accordingly, the purpose of this Act is to rename the Kahului Airport Access Road to the Mayor Elmer F. Cravalho Way.

SECTION 2. Route 3800, known as the Kahului Airport Access Road, on the island of Maui shall be renamed the "Mayor Elmer F. Cravalho Way".

SECTION 3. The renaming of Kahului Airport Access Road under this Act shall not be deemed to affect any federal or state funding for Kahului Airport Access Road.

SECTION 4. This Act shall take effect on July 1, 2021.

(Approved June 30, 2021.)

ACT 135

S.B. NO. 934

A Bill for an Act Relating to Measurement Standards.

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

SECTION 1. Section 486-52, Hawaii Revised Statutes, is amended to read as follows:

“§486-52 Measurement standard[;] exemptions. (a) Any petroleum product [which] that is in a liquid state under conditions of seven hundred sixty millimeters of Hg at sixty degrees Fahrenheit shall be measured in terms of the U.S. petroleum gallon[;], its multiple or decimal submultiples, or compatible units of the SI as established by rule of the board.

(b) Any petroleum product [which] that is in a vapor state under conditions of 258.575 millimeters or less of Hg at sixty degrees Fahrenheit shall be measured in terms of cubic feet or in terms of a U.S. petroleum gallon, their multiples or decimal submultiples, or compatible units of the SI as established by rule of the board.

(c) Any device required to automatically compensate for temperature shall only apply to metered sales of liquid petroleum products that have a rated

capacity of two hundred gallons per minute or more; provided that whenever a partial compartment or partial tank truck load is delivered, it shall be delivered through a meter that meets the requirements specified in rules adopted by the department.

(d) Any hydrogen fuel product shall be exempt from this section.

(e) For the purposes of this section, "hydrogen fuel" means hydrogen with a fuel index of ninety-nine per cent or higher in vapor or liquid state to be used as fuel."

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, 2021.

(Approved June 30, 2021.)

ACT 136

S.B. NO. 336

A Bill for an Act Relating to Agricultural Loans.

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

SECTION 1. Section 155-4, Hawaii Revised Statutes, is amended to read as follows:

"§155-4 Powers and duties of the department. The department of agriculture shall have the following powers:

- (1) Employ a secretary, who may be exempt from chapter 76, and other full-time and part-time employees, subject to chapter 76, as are necessary to effectuate the purposes of this chapter, subject further to the limitation of funds in the agricultural loan reserve fund;
- (2) Designate agents throughout the State as may be necessary for property appraisal, the consideration of loan applications, and the supervision of farming operations of borrowers. The agents may be compensated for their services at rates the department in its discretion may fix;
- (3) Initiate and carry on a continuing research and education program, utilizing and coordinating the services and facilities of other government agencies and private lenders to the maximum, to inform qualified farmers concerning procedures for obtaining loans and to inform private lenders concerning the advantages of making loans to qualified farmers;
- (4) Cooperate with private and federal government farm loan sources to increase the amount of loan funds available to qualified farmers in the State;
- (5) Assist individual qualified farmers in obtaining loans from other sources. Insofar as available funds and staff permit, counsel and assist individual farmers in establishing and maintaining proper records to prove their farming ability for loan purposes;
- (6) Insure loans made to qualified farmers and food manufacturers by private lenders under section 155-5;
- (7) Participate in loans made to qualified farmers and food manufacturers by private lenders under section 155-6;
- (8) Make direct loans to qualified farmers and food manufacturers under section 155-8;

- (9) Borrow money for loan purposes;
- (10) Assign and sell mortgages;
- (11) Hold title to, maintain, use, manage, operate, sell, lease, or otherwise dispose of personal and real property acquired by way of foreclosure, voluntary surrender, or otherwise, to recover moneys loaned;
- (12) Sue and be sued in the name of the “State of Hawaii”;
- (13) Exercise incidental powers as are deemed necessary or requisite to fulfill its duty in carrying out the purposes of this chapter;
- (14) Delegate authority to its chairperson to approve loans, where the requested amount plus any principal balance on existing loans to the applicant, does not exceed [~~\$25,000~~] \$50,000 of state funds; and
- (15) Adopt rules pursuant to chapter 91 necessary for the purpose of this chapter.”

SECTION 2. Section 219-5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The chairperson may approve loans, where the requested amount, plus any principal balance on existing loans to the applicant, does not exceed [~~\$25,000~~] \$50,000 of state funds.”

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 30, 2021.)

ACT 137

H.B. NO. 237

A Bill for an Act Relating to Invasive Species.

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

SECTION 1. The legislature finds that the two-lined spittlebug, *Prosopeia bincincta*, is an invasive insect that attacks key forage grasses used by the livestock ranching industry. In 2016, the State’s first two-lined spittlebug infestation was discovered in Kailua-Kona, on the island of Hawaii, where the pest had damaged nearly two thousand acres of pasture land. Many high-quality pasture grasses, including Bracharia, Kikuyu, Pangola, St. Augustine, and Bermuda, are susceptible to *P.bincincta* attacks. During heavy infestations, dying plant tissue cascades from the leaves to the roots, ultimately causing the death of the whole plant. The resulting damage does not allow for any regrowth, requiring ranchers to totally replant affected pastures.

The legislature further finds that two-lined spittlebug infestations have reduced the quality of some forage pastures in Hawaii by decreasing their nutritional value, palatability, and productivity. Infestations of the pest also promote the establishment of weeds and lower-quality foraging grasses. Monthly surveys carried out on the island of Hawaii since 2017 show that the pest is rapidly expanding its range and now covers more than two hundred seventy-five square miles.

The legislature recognizes that livestock ranching is a highly productive and extremely valuable industry on all of Hawaii’s major islands. The State’s livestock industry has an estimated annual value of more than \$68,000,000, with over one hundred forty-two thousand beef cattle on more than one thousand

three hundred ranches. Collectively, these ranches cover nearly twenty-five per cent of the State's land area.

The legislature also recognizes that the expanding livestock industry serves as an economic engine for the State and a major employer for local communities. This is particularly true on the island of Hawaii, where nearly sixty per cent of the State's cattle are raised. Additionally, seventy per cent of the beef cattle in Hawaii are raised on sod-forming grasses such as Kikuyu and Pangola. Consequently, two-lined spittlebugs threaten both job and food security in the State, making it crucial to address infestations and to restrict further spread.

Accordingly, the purpose of this Act is to appropriate funds to mitigate and control the two-lined spittlebug and to fund recovery efforts.

SECTION 2. There is appropriated out of the funds received by the State of Hawaii from the American Rescue Plan Act of 2021, Public Law 117-2 (Section 9901), the sum of \$350,000, or so much thereof as may be necessary for fiscal year 2021-2022, to be used to mitigate and control the two-lined spittlebug, including reducing the two-lined spittlebug population by using insecticides, integrating weed management measures in affected rangelands, and reseeding pastures damaged by infestations.

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

SECTION 3. The department of agriculture shall submit a report of its findings and recommendations regarding efforts to mitigate and control the two-lined spittlebug and the recovery of pasture lands, including any proposed legislation, to the legislature no later than twenty days prior to the convening of the regular session of 2022. The report shall document the expenditure of funds and the progress of activities funded by this Act.

SECTION 4. This Act shall take effect on July 1, 2021.

(Approved June 30, 2021.)

ACT 138

S.B. NO. 855

A Bill for an Act Relating to Coffee Pest Control.

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

SECTION 1. The legislature finds that coffee is one of the largest agricultural crops in the State and is a highly valued commodity in Hawaii's economy. In recent years, the coffee berry borer, a small beetle, has infested coffee crops in the Kona and Kau regions of Hawaii island, and more recently has been detected on Oahu, Maui, Kauai, and Lanai. In 2020, coffee leaf rust was discovered for the first time in the State on Maui and Hawaii island. These two pests threaten the viability of the State's entire coffee industry. Efforts to control the coffee berry borer and coffee leaf rust are critical to the coffee industry, and the State must continue to support these efforts.

The legislature also finds that application of the organic biological pesticide containing the fungus *Beauveria bassiana* is known to cause high rates of mortality in the coffee berry borer and is a primary method of pest control for the coffee berry borer in other coffee-growing regions of the world. The legislature further finds that the combination of a topical contact fungicide with a systemic fungicide is the most effective control method for coffee leaf rust. Research shows that subsidizing the cost of pesticides is an effective and necessary incentive to encourage farmers to adopt recommended pest management strategies.

Act 105, Session Laws of Hawaii 2014 (Act 105), appropriated funds for the development and implementation of a pesticide subsidy program to assist coffee growers with offsetting the cost of purchasing pesticides containing *Beauveria bassiana*. However, implementing Act 105 took longer than anticipated, and this assistance only became available from the State at the end of 2016, more than two years later.

Act 152, Session Laws of Hawaii 2015, established a pesticide subsidy program manager position as a full-time, temporary position exempt from chapters 76 and 89, Hawaii Revised Statutes.

Act 65, Session Laws of Hawaii 2017, extended the sunset date of the pesticide subsidy program for two years, to June 30, 2021, so that the program can remain in effect for the number of years intended when Act 105 was passed.

Act 32, Session Laws of Hawaii 2018, extended the pesticide subsidy program manager position, including the exemption from chapters 76 and 89, Hawaii Revised Statutes, for two years to June 30, 2022, in order to process applications for subsidies for costs incurred in the final year of the program.

The purpose of this Act is to extend the sunset dates of both the pesticide subsidy program and the program manager position, including the position's civil service and collective bargaining laws exemption, for two more years so that the program can remain in effect to assist in responding to the newly discovered coffee leaf rust, continue helping growers manage coffee berry borer, and add control methods for coffee leaf rust as an eligible reimbursable item.

SECTION 2. Act 105, Session Laws of Hawaii 2014, as amended by section 1 of Act 152, Session Laws of Hawaii 2015, as amended by section 2 of Act 65, Session Laws of Hawaii 2017, as amended by section 2 of Act 32, Session Laws of Hawaii 2018, as amended by section 43 of Act 111, Session Laws of Hawaii 2019, is amended as follows:

1. By amending section 3 to read:

“SECTION 3. (a) There is established in the department of agriculture a pesticide subsidy program to be administered by the department beginning on July 1, 2014, and ending on June 30, ~~2021~~ 2023. The department shall grant subsidies to coffee growers to assist ~~them~~ the coffee growers in offsetting the costs of purchasing any pesticide that is listed by the department pursuant to subsection (f).

(b) Applications for subsidies by coffee growers shall be submitted on a form furnished by the department and shall be filed with accompanying documentation of the costs of purchasing the pesticide; provided that:

- (1) 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 pesticide purchased; and
- (2) The department may request that an applicant ~~to~~ provide necessary information for the purposes of verifying the size or sale weight, as applicable, and amount of the pesticide purchased.

(c) Documentation of pesticide costs, as requested by the department, shall be filed for pesticides purchased within the ~~immediate~~ immediately preceding fiscal year of filing and shall be effective for pesticide costs incurred after June 30, 2014, and before July 1, ~~2021~~ 2023.

(d) Funds shall be disbursed upon approval on an annual basis by the department to the coffee grower for up to seventy-five per cent of the costs incurred for the purchase of the pesticide before July 1, 2016, and for up to fifty per cent of the costs incurred after June 30, 2016, and before July 1, ~~2021~~ 2023.

(e) The department shall aggregate the total subsidy applications pursuant to this section and divide and distribute the available subsidy funds on a pro rata basis; provided that no single coffee grower shall receive subsidies that

are more than \$600 per year for coffee berry borer control and more than \$600 per year for coffee leaf rust control per acre of land in coffee production; provided further that no single coffee grower shall receive subsidies that are more than \$9,000 per year; provided further that no single coffee grower shall receive subsidies that total more than \$6,000 per year for the period after June 30, 2018, and before July 1, 2021[-]; provided further that no single coffee grower shall receive subsidies that total more than \$12,000 per year for the period after June 30, 2021, and before July 1, 2023.

(f) The department shall establish a list of pesticides that are registered with the United States Environmental Protection Agency and are licensed with the State that contain *Beauveria bassiana*, a fungus known to eradicate the coffee berry borer, as an active ingredient. The department shall also establish a list of pesticides that are registered with the United States Environmental Protection Agency; are licensed with the State; and are contact and systemic fungicides that, when combined, are effective against coffee leaf rust.

(g) There is established within the department a pesticide subsidy program manager position, which shall be a full-time, temporary position exempt from chapters 76 and 89, Hawaii Revised Statutes. The pesticide subsidy program manager shall possess a requisite level of knowledge and expertise in the area of program management necessary to carry out the duties of the position. The pesticide subsidy program manager shall:

- (1) Facilitate the efficient division and distribution of available subsidy funds; and
- (2) Manage the day-to-day coordination for the pesticide subsidy program.

The pesticide subsidy program manager shall receive a salary of not more than \$50,000 per year. The pesticide subsidy program manager position, including the position's exemption from chapters 76 and 89, Hawaii Revised Statutes, shall expire on June 30, ~~[2022.]~~ 2024.

(h) Not later than twenty days prior to the convening of the regular session of ~~[2021.]~~ 2023, the department shall submit a report of its findings and recommendations, including any proposed legislation, to the legislature on the results of the subsidy program and whether the program should be allowed to expire or be extended, and if extended, with or without modification.

(i) Actions taken by the department pursuant to this section shall be exempt from the rulemaking requirements of section 91-3, Hawaii Revised Statutes.

(j) As used in this Act, "department" means the department of agriculture."

2. By amending section 6 to read:

"SECTION 6. This Act shall take effect on July 1, 2014; provided that:

- (1) Section 3 shall be repealed on June 30, ~~[2021.]~~ 2023, except that section 3(g) shall be repealed on June 30, ~~[2022.]~~ 2024; and
- (2) The amendment made to section 149A-13.5(b), Hawaii Revised Statutes, under section 2 of this Act shall not be repealed when section 149A-13.5(b), Hawaii Revised Statutes, is repealed and reenacted on June 30, 2015, by section 4 of Act 168, Session Laws of Hawaii 2010."

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, 2021.

(Approved June 30, 2021.)

ACT 139

H.B. NO. 469

A Bill for an Act Relating to the Transfer of Non-Agricultural Park Lands.

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

SECTION 1. The legislature finds that Act 90, Session Laws of Hawaii 2003 (Act 90), was enacted to transfer certain non-agricultural park lands from the department of land and natural resources to the department of agriculture. While three hundred parcels consisting of approximately nineteen thousand acres have been transferred over the past seventeen years, many parcels have not been transferred.

The legislature further finds that many state pasture lessees have requested the department of land and natural resources to transfer their leases to the department of agriculture for management because the department of agriculture has greater flexibility under chapter 166E, Hawaii Revised Statutes, to amend, extend, and issue new leases by negotiation. The department of land and natural resources has not acted on the requests of its pasture lessees because of the high natural resource value of certain pasture lands, their proximity to forest reserves, or their importance in providing access to other public lands for hunting or public recreation purposes.

The legislature believes that positive advancement in sustainable agriculture, carbon sequestration challenges, wildlife management, wildfire protection, and forest health concerns can be cooperatively managed through mutually beneficial practices with ranching, wildlife protection, and native forest restoration.

The purpose of this Act is to establish a working group of legislators and administration officials to:

- (1) Ascertain the process and status of the transfer of non-agricultural park lands from the department of land and natural resources to the department of agriculture pursuant to Act 90 and chapter 166E, Hawaii Revised Statutes, regarding non-agricultural park lands; and
- (2) Determine the challenges and potential remedies necessary to facilitate the process of fulfilling the purposes of Act 90.

SECTION 2. (a) There is established a working group to:

- (1) Ascertain the process and status of the transfer of non-agricultural park lands from the department of land and natural resources to the department of agriculture pursuant to Act 90, Session Laws of Hawaii 2003, and chapter 166E, Hawaii Revised Statutes, regarding non-agricultural park lands; and
 - (2) Determine the challenges and potential remedies necessary to facilitate the process of fulfilling the purposes of Act 90, Session Laws of Hawaii 2003.
- (b) The working group shall consist of the following individuals:
- (1) The chair and vice chair of the Senate standing committee with primary jurisdiction over water and land;
 - (2) The chair and vice chair of the House of Representatives standing committee with primary jurisdiction over water and land;
 - (3) The chairperson of the board of land and natural resources, or the chairperson's designee;
 - (4) The administrator of the division of forestry and wildlife of the department of land and natural resources, or the administrator's designee;
 - (5) The administrator of the land division of the department of land and natural resources, or the administrator's designee;

- (6) The chairperson of the board of agriculture, or the chairperson’s designee; and
- (7) The administrator of the agricultural resource management division of the department of agriculture, or the administrator’s designee.
- (c) The working group shall conduct its work through meetings, informational briefings, and consultation with state pasture lessees, agriculture lessees, and others.
- (d) The working group shall prepare and submit a report of its findings, including any proposed legislation, to the legislature by December 31, 2021.
- (e) The department of land and natural resources and department of agriculture shall provide any necessary administrative support, including preparation of the report required by subsection (d), to the working group.

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

(Approved June 30, 2021.)

ACT 140

H.B. NO. 1311

A Bill for an Act Relating to Affordable Housing.

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

SECTION 1. The legislature finds that there is a severe shortage of affordable rental housing in the county of Maui, particularly in the western part of the island. To address this issue, the legislature passed Act 150, Session Laws of Hawaii 2018 (Act 150), to appropriate funds in support of the Keawe street apartments affordable housing project in Lahaina, Maui. Act 98, Session Laws of Hawaii 2019 (Act 98), amended Act 150 by increasing the appropriation to the rental housing revolving fund from \$30,000,000 to \$37,000,000 to expedite and complete the Leialii affordable housing project by 2022; provided that if the project did not obtain necessary land use entitlements by April 30, 2020, the earmarked funds would be returned to the rental housing revolving fund.

On February 7, 2020, the Maui county council granted an exemption to chapter 201H, Hawaii Revised Statutes, relating to the Hawaii housing finance and development corporation, for the project, which satisfied Act 98’s land use entitlements requirement. On April 2, 2020, the county of Maui granted final subdivision approval of the project site.

The legislature further finds that on September 21, 2020, the state historic preservation division notified the Hawaii housing finance and development corporation that the state historic preservation division would require a new archaeological inventory survey (AIS) for the entire Villages of Leialii master planned community, of which the Keawe street apartments affordable housing project is a part. On September 30, 2020, representatives from the state historic preservation division, department of land and natural resources, and governor’s office held a teleconference to discuss whether a resolution could be reached to enable the project to proceed. The result was that the Hawaii housing finance and development corporation must still prepare a new AIS with adequate testing of the Keawe street apartments affordable housing project site and a strategy for addressing prior commitments for the balance of the Villages of Leialii.

The legislature finds that because a new AIS must be conducted, the 2022 completion deadline imposed by Act 98 cannot be met.

The purpose of this Act is to maintain the viability of the Keawe street apartments affordable housing project by:

- (1) Amending Act 98, Session Laws of Hawaii 2019, to remove the 2022 deadline for the completion of the Leialii affordable housing project; and
- (2) Clarifying that the developer of the Keawe street apartments affordable housing project shall only be responsible for all associated costs of the archaeological inventory survey for the footprint of the Keawe street apartments affordable housing project and shall not be responsible for the cost of the archaeological inventory survey for the entire Villages of the Leialii master planned community.

SECTION 2. Act 98, Session Laws of Hawaii 2019, is amended by amending section 6 to read as follows:

“SECTION 6. There is appropriated out of the rental housing revolving fund the sum of \$37,000,000 or so much thereof as may be necessary for fiscal year 2019-2020 to expedite and complete the construction of the [Lealii] Leialii affordable housing project in Lahaina, Maui, ~~by 2022; provided that if the project does not obtain necessary land use entitlements by April 30, 2020, the appropriated funds shall be returned to the rental housing revolving fund.~~”

The sum appropriated shall be expended by the Hawaii housing finance and development corporation for the purposes of this Act.”

SECTION 3. The Villages of Leialii affordable housing project in Lahaina, Maui, shall comply with the requirements of chapter 6E, Hawaii Revised Statutes, as funding is appropriated for each portion of the Villages of Leialii affordable housing project.

SECTION 4. The developer of the Keawe street apartments affordable housing project shall only be responsible for all associated costs of the archaeological inventory survey for the footprint of the Keawe street apartments affordable housing project and shall not be responsible for the cost of the archaeological inventory survey for the entire Villages of Leialii master planned community.

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, 2021.

(Approved June 30, 2021.)

ACT 141

H.B. NO. 1102

A Bill for an Act Relating to Litter Control.

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

SECTION 1. The legislature finds that the release of balloons inflated with lighter-than-air gases poses a danger and nuisance to the environment, particularly to wildlife and marine animals. Many animals are attracted to the bright colors of balloons and mistake them for food, which can cause an animal severe injury or death. Animals are often found entangled in balloon strings and, as a result, are injured or strangled to death. The legislature further finds that several states, including California, Connecticut, Florida, New Jersey, Tennes-

see, and Virginia, as well as numerous counties in other states, have prohibited the release of balloons inflated with lighter-than-air gases.

The purpose of this Act is to prohibit the intentional release of balloons inflated with gas that is lighter than air.

SECTION 2. Chapter 339, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§339- **Intentional release of balloons; prohibition.** (a) No person or entity shall intentionally release, organize the release of, or otherwise cause the release of a balloon inflated with a gas that is lighter than air, except for:

- (1) A balloon released for scientific or meteorological purposes, on behalf of a governmental agency or pursuant to a governmental contract;
- (2) A hot air balloon that is recovered after launching; or
- (3) A balloon that is released and remains indoors.

(b) Any person or entity who violates this section shall be subject to a civil penalty of no more than \$500 for each offense. For the purposes of this section, the release of multiple balloons at one time shall be considered a single offense.”

SECTION 3. New statutory material is underscored.¹

SECTION 4. This Act shall take effect on January 1, 2023.

(Approved June 30, 2021.)

Note

1. Edited pursuant to HRS §23G-16.5

ACT 142

H.B. NO. 1021

A Bill for an Act Relating to the Interstate Wildlife Violator Compact.

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

SECTION 1. The legislature finds that the interstate wildlife violator compact is a multistate agreement that promotes the enforcement of hunting, fishing, trapping, and other wildlife-related regulations across jurisdictions. For example, the interstate wildlife violator compact could prevent wildlife violators who have lost their hunting, fishing, trapping, or other wildlife related privileges in other member states from obtaining a hunting license in Hawaii. Similarly, persons who have been punished with license revocation in Hawaii would be unable to avoid this punishment by engaging in those activities in another state. The interstate wildlife violator compact also establishes a process by which non-resident wildlife law violators can be treated as state residents for purposes of law enforcement, thereby easing the administrative burden on the enforcement agency and reducing enforcement gaps that may allow the violator to fail to comply with the terms of the citation. Reciprocity agreements such as the interstate wildlife violator compact are an important part of any law enforcement effort.

Furthermore, existing member states to the interstate wildlife violator compact have reported little to no added costs or administrative burdens associated with participating in the compact. The information system that facilitates participation is available for free to member states.

The legislature further finds that the interstate wildlife violator compact is modeled after the successful multistate driver license compact and nonresident violator compact. Hawaii is party to both compacts. Forty-eight states have passed legislation necessary to join the interstate wildlife violator compact.

The purpose of this Act is to authorize the department of land and natural resources to become a member of the interstate wildlife violator compact or similar agreement.

SECTION 2. Chapter 183D, Hawaii Revised Statutes, is amended by adding a new section to part I to be appropriately designated and to read as follows:

“§183D- Interstate wildlife violator compact. (a) The department may enter into the interstate wildlife violator compact or similar agreement, whether in the form of a memorandum of understanding, written agreement, or mutual aid compact, with an appropriate state, federal, or foreign entity for mutual assistance in the enforcement of hunting, fishing, and other wildlife laws, rules, or regulations in their respective jurisdictions.

(b) The department may adopt rules pursuant to chapter 91 necessary to implement this section.”

SECTION 3. New statutory material is underscored.¹

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

(Approved June 30, 2021.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 143

H.B. NO. 1028

A Bill for an Act Relating to the Koke'e State Park Advisory Council.

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

SECTION 1. The legislature finds that the coronavirus disease 2019 has had a catastrophic impact on the world economy. The complexities of dealing with a worldwide health crisis have added additional layers of uncertainty that may increase the time needed for recovery. Because of this, the State has implemented the fiscal biennium 2021-2023 program review to identify ways to:

- (1) Reduce expenditures;
- (2) Identify programs, functions, and activities for possible elimination that, although well-intentioned, are of marginal benefit, low performing, or of lesser priority; and
- (3) Identify cost-saving opportunities in core and primary programs and services through tightening program eligibility, reducing program benefits, improving efficiency, or shifting costs.

The department of land and natural resources, after thorough review and much scrutiny, has determined that the Koke'e state park advisory council, established under section 171-8.5, Hawaii Revised Statutes, to review and assist in updating and revising the Koke'e state park master plan, has fulfilled its purpose as the Koke'e state park master plan was completed in 2014. The department of

ACT 144

land and natural resources reported that the Koke'e state park advisory council has not met for over five years.

The purpose of this Act is to repeal section 171-8.5, Hawaii Revised Statutes, establishing the Koke'e state park advisory council.

SECTION 2. Section 171-8.5, Hawaii Revised Statutes, is repealed.

SECTION 3. Statutory material to be repealed is bracketed and stricken.¹

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

(Approved June 30, 2021.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 144

H.B. NO. 1029

A Bill for an Act Relating to Living Park Planning Councils.

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

SECTION 1. The legislature finds that the coronavirus disease 2019 has had a catastrophic impact on the world economy. The complexities of dealing with a worldwide health crisis have added additional layers of uncertainty that may increase the time needed for recovery. Because of this, the State has implemented the fiscal biennium 2021-2023 program review to identify ways to:

- (1) Reduce expenditures;
- (2) Identify programs, functions, and activities for possible elimination that, although well-intentioned, are of marginal benefit, low performing, or of lesser priority; and
- (3) Identify cost-saving opportunities in core and primary programs and services through tightening program eligibility, reducing program benefits, improving efficiency, or shifting costs.

The department of land and natural resources, after thorough review and much scrutiny, has determined that the living park planning council for Kahana valley is no longer effective and functional.

Act 15, Special Session Laws of Hawaii 2009, authorized the establishment of living park planning councils among other effects to develop a state living park master plan to ensure a living park achieves its purpose and goals. After ten years and over eighty meetings, however, due to the complexity and lack of consensus, the community-based planning council could not reach consensus or develop the framework for a master plan for Kahana valley state park. Hence, the department of land and natural resources engaged the services of a contractor to initiate the master planning process. However, it was determined that there were many issues to be addressed prior to the development of a community master plan. In 2019, the contractor finalized their report that identified three main issues that needed to be resolved prior to moving forward on a master plan:

- (1) Determination if a cultural living park is still a realistic and valid concept;
- (2) Assessment of the provisions and options relating to residential leases; and

- (3) Identifying appropriate alternative management entities for oversight and management of the residential portions of the park or the park in general.

The outcome and outlook have diminished with the lack of participation, consensus, and motivation to move forward towards a master plan for the Kahana community. To date, there has been no further discussion on a master plan or future date to reconvene the planning council.

The purpose of this Act is to:

- (1) Repeal sections of Act 15, Special Session Laws of Hawaii 2009, that authorized the establishment of living park planning councils; and
- (2) Authorize the department of land and natural resources to oversee development and implementation of a master plan for the Kahana community.

SECTION 2. Act 15, Special Session Laws of Hawaii 2009, is amended as follows:

1. By amending section 1 to read:

“SECTION 1. The legislature finds that state living parks possess unique historical and cultural value. In state living parks, individuals reside on lands located within the living park and are an essential part of the purpose of the park for the benefit of the public. As set forth in Senate Resolution No. 264, S.D. 1, Regular Session of 1977, the purpose of a living park is to nurture and foster native Hawaiian culture and spread knowledge of its values and ways.

Kahana valley state park is an example of a living park. Between 1965 and 1969, the State condemned the ahupuaa o Kahana for use as a state park, making it the only landowner in the State of Hawaii, other than the owners of Niihau, to own an intact ahupuaa. An ahupuaa, a triangular slice of land running from the mountains to the ocean, was the major land division used by pre-contact Hawaiians.

Families living in Kahana at the time of condemnation were of varied ethnic backgrounds, and the people of Kahana generally lived a simple, subsistence lifestyle in harmony with native Hawaiian values and traditions. In 1970, a governor’s task force proposed the concept of a living park as a way in which the residents could continue to live in the park and participate in the park for the benefit of the public.

To effectuate the living park concept, Act 5, Session Laws of Hawaii 1987, authorized the department of land and natural resources to issue long-term residential leases to individuals who had been living on the land. In 1993, the department of land and natural resources entered into sixty-five-year leases with thirty-one qualifying families and required that all lessees be an essential part of the interpretive programs by contributing at least twenty-five hours of service each month to benefit the park. To provide lessees with money to construct new houses, Act 238, Session Laws of Hawaii 1988, appropriated funds to provide low-interest home construction and mortgage loans for Kahana valley state park lessees. The appropriation was sufficient for twenty-six lessees to receive loans in the amount of \$50,000 each.

Since 1993, three leases have been terminated by the department of land and natural resources for noncompliance with lease conditions. Other families living in Kahana valley have sought to obtain long-term leases, but the department of land and natural resources refuses to issue any further leases, relying on the attorney general’s opinion issued on March 24, 2008, asserting that Act 5, Session Laws of Hawaii 1987, expired.

Since 1970, Kahana residents and the greater community proposed numerous plans to the board of land and natural resources. However, the board of land and natural resources never adopted a master plan for Kahana valley state park. As a result, there has been a lack of clarity, vision, goals, and policies directing the residents and the department of land and natural resources in the development and management of Kahana valley state park.

The management of a living park requires that the department of land and natural resources have the authority to negotiate and enter into long-term residential leases, a clear master plan, and the resources to support the living park, including the establishment of a land manager position akin to a konohiki.

The purpose of this Act is to:

- (1) Establish a two-year moratorium on evictions of persons who at the time of the enactment of this Act, reside in Kahana valley state park, have participated in interpretive programs for Kahana valley state park, and have continuously lived there since before 1987 or hold or have held a long-term lease or permit to reside there; and
 - (2) Authorize the department of land and natural resources to issue long-term residential leases to qualified persons; and
 - (3) ~~Establish a living park planning council to develop a master plan for each state living park that will provide the framework, proposed rules, measurements for success, and planning process to ensure that the living park achieves its purpose and goals].”~~
2. By amending sections 5 and 6 to read:

“SECTION 5. The development of a master plan for a state living park shall rest with the ~~[living park planning council.]~~ department of land and natural resources. The master plan shall be reviewed and updated as needed. In developing the master plan, the ~~[council.]~~ department of land and natural resources, among other things, shall:

- (1) Establish goals and objectives to ensure the living park reaches its full potential;
- (2) Set forth standards, timelines, and other measurements to ensure the living park achieves its goals and objectives;
- (3) Identify programs that enhance educational opportunities and cultural awareness in the living park;
- (4) Develop plans to secure funding for a land manager, a housing fund, and any other financial needs identified in the living park master plan;
- (5) Seek out and consult with all residents of the living park, kupuna, community groups adjacent to the living park, and organizations that have knowledge that may benefit the living park;
- ~~[(6) Advise the department of land and natural resources on any matter relating to the living park;~~
- ~~[(7)]~~ (6) Propose agreements that will establish the full authority of the ~~[planning council]~~ department of land and natural resources to implement the master plan, including whether the ~~[planning council]~~ department of land and natural resources can hire a land manager, establish a nonprofit organization, or enter into contracts;
- ~~[(8)]~~ (7) Establish criteria, policies, and controls governing the management of the living park leases, including:
 - (A) Selection of persons for leases; provided that preference is given to persons residing in the park who contribute twenty-five hours of service each month to benefit the living park and are actively seeking a lease in the living park;
 - (B) Designation of lands to be leased;

- (C) Terms and conditions of leases;
 - (D) Monitoring and enforcement of lease terms and conditions;
 - (E) Treatment of persons residing in a living park without a lease; and
 - (F) Assignment and renewal of leases;
- [(9)] (8) Maintain, promote, and perpetuate the aloha spirit as defined in section 5-7.5, Hawaii Revised Statutes; and
- [(40)] (9) Develop protocols and proposals to encourage the caring for kupuna and the sharing and perpetuation of kupuna knowledge.

SECTION 6. ~~[The living park planning council shall submit a proposed master plan to the board of land and natural resources no later than one year following the first meeting of the planning council. Within ninety days after submission of the proposed master plan, the board of land and natural resources shall either adopt the proposed master plan or deny the proposed master plan. If it denies the proposed master plan, the board of land and natural resources shall submit to the living park planning council, in writing, its reasons for denying the proposed master plan. The living park planning council shall revise the proposed master plan and resubmit the revised proposed master plan to the board of land and natural resources until a final master plan is adopted.~~

~~The] The department of land and natural resources shall develop a living park master plan, which shall become effective upon its adoption by the board of land and natural resources. Pending adoption of the living park master plan, the department of land and natural resources and the residents of the living park shall be guided by existing plans developed by the residents of the living park. For example, in Kahana valley, the Kahana state park development plan, dated December 1985, and the living park plan of Kahana's people, dated 1979, shall be guiding documents for Kahana valley state park."~~

3. By repealing section 4:

~~["SECTION 4.—(a) For each state living park there shall be established a living park planning council to be placed within the department of land and natural resources for administrative purposes. The planning council shall consist of five voting members, appointed in the manner and to serve for the terms provided in section 26-34, Hawaii Revised Statutes, and two ex officio nonvoting members.~~

~~(b) The voting members of the living park planning council shall be as follows:~~

- ~~(1) One member shall be a representative of the department of land and natural resources;~~
- ~~(2) Three members shall be representatives of families who reside in the state living park, selected from a list of resident nominees provided by the president of the park's community association; and~~
- ~~(3) One member shall be a representative of the general public.~~

~~(c) The ex officio nonvoting members of the planning council shall be appointed in equal numbers by the state senator and the state representative representing the district in which the state living park is located. Each nonvoting member of the planning council shall possess general knowledge of at least one of the four strategic areas listed below:~~

- ~~(1) Land use laws or land use planning;~~
- ~~(2) Community-based planning;~~
- ~~(3) The environment; or~~
- ~~(4) Native Hawaiian culture.~~

~~(d) The council shall select a chairperson by a majority vote of its voting members; provided that no member may serve as chairperson for more than three consecutive years.~~

~~(e) Council members shall serve without compensation but shall be reimbursed for actual expenses, including travel expenses, incurred in the performance of their official duties.~~

~~(f) Any action taken by the planning council shall be approved by a majority of its voting members. Three voting members shall constitute a quorum to conduct business.~~

~~(g) The first meeting shall be held on the third Tuesday in July, beginning in 2009.”]~~

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 30, 2021.)

ACT 145

H.B. NO. 1030

A Bill for an Act Relating to the Aquatic Life and Wildlife Advisory Committees.
Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that the coronavirus disease 2019 pandemic has had a catastrophic impact on the world economy. The complexities of dealing with a worldwide health crisis have added additional layers of uncertainty that may increase the time needed for recovery. As a result of this, the State has initiated a fiscal biennium 2021-2023 program review to identify ways to:

- (1) Reduce expenditures;
- (2) Identify programs, functions, and activities for possible elimination that, although well-intentioned, are of marginal benefit, low performing, or of lesser priority; and
- (3) Identify cost-saving opportunities in core and primary programs and services through tightening program eligibility, reducing program benefits, improving efficiency, or cost shifting.

The legislature further finds that the department of land and natural resources (DLNR), after thorough review and much scrutiny, has determined that the aquatic life and wildlife advisory committees have rarely convened or been needed, and as such, are outdated. While this Act would reduce the size of the animal species advisory commission by removing the chairs of the aquatic life and wildlife advisory committees from the animal species advisory commission, DLNR believes that there is still sufficient representation on the animal species advisory commission to carry out its duties. DLNR is also able to administratively convene a similar advisory committee if it deems necessary.

The purpose of this Act is to repeal the aquatic life and wildlife advisory committees and make conforming amendments.

SECTION 2. Section 197-1, Hawaii Revised Statutes, is amended by repealing the definition of “committee”.

~~[““Committee” means the aquatic life and wildlife advisory committee established in each of the counties of the State.”]~~

SECTION 3. Section 197-2, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There is established within the department an animal species advisory commission which may serve in an advisory capacity to the board. The commission shall consist of ~~[thirteen]~~ nine members to be appointed by the governor in the manner provided in section 26-34. ~~[The chairperson of each aquatic life and wildlife advisory committee established pursuant to this chapter and three]~~ Three members of the department designated by the chairperson of the ~~[department,]~~ board, and no less than one each from the professional fields of aquatic life, wildlife, and conservation and resources enforcement, shall serve as members of the commission. Six of the members shall be scientists in the fields of botany, mammalogy, ichthyology, entomology, ornithology, and invertebrate zoology. The commission shall select its own chairperson.”

SECTION 4. Section 197-4, Hawaii Revised Statutes, is repealed.

SECTION 5. Statutory material to be repealed is bracketed and stricken.¹ New statutory material is underscored.

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

(Approved June 30, 2021.)

Note

1. Edited pursuant to HRS §23G-16.5

ACT 146

H.B. NO. 1348

A Bill for an Act Relating to the Stadium Development District.

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

PART I

SECTION 1. Section 109-1, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) There shall be within the department of accounting and general services for administrative purposes only, a stadium authority whose responsibility shall be to maintain, operate, and manage the stadium ~~[and facilities attached thereto:]~~ development district. The authority shall consist of ~~[nine]~~ eleven members who shall be appointed by the governor in the manner prescribed by section 26-34.

Of the eleven members:

(1) One member shall be a resident of one of the following areas:

(A) Excluding Ford Island, the area beginning at the intersection of the shoreline and Admiral Clarey (Ford Island) Bridge and running:

- (i) Easterly along said bridge to Salt Lake boulevard;
- (ii) Southeasterly along said boulevard to Luapele drive;
- (iii) Westerly along said drive to Fleet place;
- (iv) Westerly along said place to Ulithi street;
- (v) Southwesterly along said street to Luapele road;
- (vi) Westerly along said road to Ulihi road;

- (vii) Westerly along said road to Makalapa drive;
- (viii) Southwesterly along said drive to Halawa drive;
- (ix) Northwesterly along said drive to Kamehameha highway;
- (x) Northerly along said highway to Halawa stream;
- (xi) Westerly along said stream to the shoreline; and
- (xii) Northerly along said shoreline to its intersection with Admiral Clarey (Ford Island) Bridge;
- (B) The area beginning at the intersection of Kaonohi street and H-1 freeway and running:
 - (i) Southeasterly along said freeway to the Moanalua freeway - Kamehameha highway connector;
 - (ii) Northwesterly along said highway connector to Kamehameha highway;
 - (iii) Northwesterly along said highway to Aiea stream;
 - (iv) Southerly along said stream to the shoreline;
 - (v) Northwesterly along said shoreline to Kalauao stream;
 - (vi) Northeasterly along said stream to Kamehameha highway;
 - (vii) Northwesterly along said highway to Kaonohi street; and
 - (viii) Northeasterly along said street to its intersection with H-1 freeway; or
- (C) The area beginning at the intersection of Waimalu stream and Koolau ridge and running:
 - (i) Southeasterly along said ridge to Ewa-Honolulu district boundary;
 - (ii) Southwesterly along said boundary to Red Hill Naval Reservation boundary;
 - (iii) Southwesterly along said boundary to Tampa drive;
 - (iv) Westerly along said drive to the unnamed road;
 - (v) Northerly along said road to Icarus way;
 - (vi) Westerly along said way to the unnamed road;
 - (vii) Southwesterly along said road to Moanalua freeway (H-201);
 - (viii) Westerly along said freeway to H-1 freeway;
 - (ix) Northwesterly along said freeway to Kaonohi street;
 - (x) Southwesterly along said street to Moanalua road;
 - (xi) Westerly along said road to Kaahumanu street;
 - (xii) Northerly along said street to Komo Mai drive;
 - (xiii) Easterly along said drive to Punanani gulch;
 - (xiv) Northeasterly along said gulch to the powerline;
 - (xv) Southeasterly along said powerline to Waimalu stream;
 - (xvi) Northeasterly along said stream to Aiea stream;
 - (xvii) Easterly along said stream to Waimalu stream; and
 - (xviii) Southeasterly along said stream to its intersection with Koolau ridge; and
- (2) One member shall be from the area beginning at the intersection of H-1 freeway and Moanalua freeway (H-201) and running:
 - (A) Southeasterly along said freeway to Aliamanu Military Reservation southern boundary;
 - (B) Westerly along said boundary to Wanaka street;
 - (C) Southwesterly along said street to Likini street;
 - (D) Northwesterly along said street to Ukana street;
 - (E) Southwesterly along said street to Keaka drive;
 - (F) Northwesterly along said drive to Manuwa drive;

- (G) Southeasterly along said drive to Pakini street;
- (H) Southwesterly along said street to Keaka drive;
- (I) Southerly along said drive to Puolo drive;
- (J) Westerly along said drive to Likini street;
- (K) Southerly along said street to Maluna street;
- (L) Westerly along said street to Salt Lake boulevard;
- (M) Southeasterly along said boulevard to the former street entrance to U.S. Naval Reservation;
- (N) Southwesterly along said feature to Reeves loop;
- (O) Southwesterly along said loop to Radford drive;
- (P) Westerly along said drive to H-1 freeway; and
- (Q) Northerly along said freeway to its intersection with Moanalua freeway (H-201).

Each member of the authority shall have been a citizen of the United States and a resident of the State for at least five years next preceding the member's appointment. The eleven members shall include the president of the University of Hawaii and the superintendent of education, who shall be ex officio members of the authority but shall not vote.

(b) The chairperson of the authority shall be elected by the majority of the members of the authority. The term of each member shall be four years[;]; provided that [ef]:

- (1) Of the members initially appointed, three members shall serve for four years, three members shall serve for three years, and the remaining three members shall serve for two years[;]; and
- (2) The terms of the members added by Act , Session Laws of Hawaii 2021, shall commence on July 1, 2021.

No person shall be appointed consecutively to more than two terms as a member of the authority. Vacancies shall be filled for the remainder of any unexpired term in the same manner as original appointments.”

SECTION 2. Section 109-2, Hawaii Revised Statutes, is amended to read as follows:

“§109-2 Stadium authority; powers and duties. The powers and duties of the stadium authority shall be as follows:

- (1) To repair, maintain, and operate[; and manage the stadium and related facilities;] stadium facilities and the stadium development district, including:
 - (A) Repairs, maintenance, operations, and demolition of existing stadium facilities;
 - (B) Operations and maintenance of a new stadium; and
 - (C) Contractual payments to developers, contractors, or management contractors engaged by the stadium authority;
- (2) To coordinate in planning, design, and construction activities, including on-site repairs, within the stadium development district;
- (3) To acquire and hold title to real property;
- (2) (4) To prescribe and collect rents, fees, and charges for the use or enjoyment of the stadium [or any of its], facilities[;] related to the stadium, and real property held by the stadium authority, including entering into leases, contracts, sponsorship and advertising agreements, food and beverage agreements, concession agreements, parking agreements, or other development and use agreements that may apply; provided that leases shall not exceed a term of ninety-nine years;

- [(3)] (5) To make and execute contracts and other instruments necessary or convenient to exercise its powers under this chapter and subject to any limitations in this chapter, to exercise all powers necessary, incidental, or convenient to carry out and effectuate the purposes and provisions of this chapter;
- [(4)] (6) To adopt, amend, and repeal, in accordance with chapter 91, rules it may deem necessary to effectuate this chapter and in connection with its projects, operations, and facilities;
- [(5)] (7) To appoint [a manager and a deputy manager who shall have qualifications as the authority deems necessary and who shall hold their respective offices at the pleasure of the authority. The manager and deputy manager shall be exempt from the requirements of chapters 76 and 89. Effective July 1, 2005, the manager shall be paid a salary not to exceed eighty-seven per cent of the salary of the director of human resources development. Effective July 1, 2005, the deputy manager shall be paid a salary not to exceed eighty-five per cent of the manager's salary. The manager shall have full power to administer the affairs of the stadium and related facilities, subject to the direction and approval of the authority. The manager shall, subject to the approval of the authority, have power to appoint, suspend, and discharge a secretary who shall be exempt from the requirements of chapters 76 and 89, and other employees, subordinates, and assistants as may be necessary for the proper conduct of the business of the authority. Except for persons hired on contract or otherwise as provided in section 109-3 and except for the manager, deputy manager, and secretary, all appointments, suspensions, or discharges shall be made in conformity with the applicable provisions of chapter 76;] officers, agents, and employees, prescribe their duties and qualifications, and fix their salaries, without regard to chapters 76 and 89, to manage the stadium, the stadium development district, and its contractors; and
- [(6)] (8) To plan, promote, and market the stadium and related facilities.”

SECTION 3. Section 109-7, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Any law enforcement officer who has police powers to arrest offenders and issue citations, including any police officer of the counties, shall have the authority to enforce any rule [~~promulgated~~] adopted pursuant to section [409-2(4)-] 109-2(6).”

SECTION 4. Section 171-2, Hawaii Revised Statutes, is amended to read as follows:

“**§171-2 Definition of public lands.** “Public lands” means all lands or interest therein in the State classed as government or crown lands previous to August 15, 1895, or acquired or reserved by the government upon or subsequent to that date by purchase, exchange, escheat, or the exercise of the right of eminent domain, or in any other manner; including lands accreted after May 20, 2003, and not otherwise awarded, submerged lands, and lands beneath tidal waters that are suitable for reclamation, together with reclaimed lands that have been given the status of public lands under this chapter, except:

- (1) Lands designated in section 203 of the Hawaiian Homes Commission Act, 1920, as amended;
- (2) Lands set aside pursuant to law for the use of the United States;

- (3) Lands being used for roads and streets;
- (4) Lands to which the United States relinquished the absolute fee and ownership under section 91 of the Hawaiian Organic Act prior to the admission of Hawaii as a state of the United States unless subsequently placed under the control of the board of land and natural resources and given the status of public lands in accordance with the state constitution, the Hawaiian Homes Commission Act, 1920, as amended, or other laws;
- (5) Lands to which the University of Hawaii holds title;
- (6) Lands to which the Hawaii housing finance and development corporation in its corporate capacity holds title;
- (7) Lands to which the Hawaii community development authority in its corporate capacity holds title;
- (8) Lands set aside by the governor to the Hawaii public housing authority or lands to which the Hawaii public housing authority in its corporate capacity holds title;
- (9) Lands to which the department of agriculture holds title by way of foreclosure, voluntary surrender, or otherwise, to recover moneys loaned or to recover debts otherwise owed the department under chapter 167;
- (10) Lands that are set aside by the governor to the Aloha Tower development corporation[;], lands leased to the Aloha Tower development corporation by any department or agency of the State[;], or lands to which the Aloha Tower development corporation holds title in its corporate capacity;
- (11) Lands that are set aside by the governor to the agribusiness development corporation[;], lands leased to the agribusiness development corporation by any department or agency of the State[;], or lands to which the agribusiness development corporation in its corporate capacity holds title;
- (12) Lands to which the Hawaii technology development corporation in its corporate capacity holds title; ~~and~~
- (13) Lands to which the department of education holds title; and
- (14) Lands to which the stadium authority holds title;

provided that, except as otherwise limited under federal law and except for state land used as an airport as defined in section 262-1, public lands shall include the air rights over any portion of state land upon which a county mass transit project is developed after July 11, 2005[-]; provided further that if the lands pursuant to paragraph (14) are no longer needed for the stadium development district or related purposes, the lands shall be returned to the public land trust administered by the department.”

SECTION 5. Section 171-64.7, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) This section applies to all lands or interest therein owned or under the control of state departments and agencies classed as government or crown lands previous to August 15, 1895, or acquired or reserved by the government upon or subsequent to that date by purchase, exchange, escheat, or the exercise of the right of eminent domain, or any other manner, including accreted lands not otherwise awarded, submerged lands, and lands beneath tidal waters that are suitable for reclamation, together with reclaimed lands that have been given the status of public lands under this chapter, including:

- (1) Land set aside pursuant to law for the use of the United States;

- (2) Land to which the United States relinquished the absolute fee and ownership under section 91 of the Organic Act prior to the admission of Hawaii as a state of the United States;
- (3) Land to which the University of Hawaii holds title;
- (4) Land to which the Hawaii housing finance and development corporation in its corporate capacity holds title;
- (5) Land to which the department of agriculture holds title by way of foreclosure, voluntary surrender, or otherwise, to recover moneys loaned or to recover debts otherwise owed the department under chapter 167;
- (6) Land that is set aside by the governor to the Aloha Tower development corporation[;] or land to which the Aloha Tower development corporation holds title in its corporate capacity;
- (7) Land that is set aside by the governor to the agribusiness development corporation[;] or land to which the agribusiness development corporation in its corporate capacity holds title;
- (8) Land to which the Hawaii technology development corporation in its corporate capacity holds title;
- (9) Land to which the department of education holds title; ~~and~~
- (10) Land to which the Hawaii public housing authority in its corporate capacity holds title[-]; and
- (11) Land to which the stadium authority holds title."

PART II

SECTION 6. Chapter 109, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§109- Stadium development special fund; established. (a) There is established in the state treasury the stadium development special fund, into which funds collected by the stadium authority shall be deposited, including:

- (1) All revenues from the stadium development district, including but not limited to agreements or actions generating revenue related to stadium operations, lease or rental of facilities or land, concessions, food and beverage, parking, sponsorship and advertising, utilities and infrastructure, and development;
- (2) All gifts or grants awarded in any form from any public agency or any other source for purposes of the stadium development district;
- (3) All proceeds from revenue bonds issued for the purpose of the stadium development district; and
- (4) Appropriations made by the legislature to the fund.

(b) Moneys in the stadium development special fund shall be used by the stadium authority for the payment of expenses arising from any and all use, operation, repair, maintenance, alteration, improvement, development, or any unforeseen or unplanned repairs of the stadium development district, including without limitation:

- (1) The development, operation, and maintenance of a new stadium;
- (2) Food and beverage service and parking service provided at the stadium facility; the sale of souvenirs, logo items, or other items; any future major repair, maintenance, and improvement of the stadium facility as a commercial enterprise or as a world-class facility for athletic events, entertainment, or public events; and marketing the facility pursuant to section 109-2(4) and (8); and
- (3) Contractual payments to developers or contractors engaged by the stadium authority for the purpose of redeveloping the site and re-

lated on- and off-site infrastructure that benefits the stadium district and its development guidance policies.”

SECTION 7. Section 206E-222, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““Authority” or “stadium authority” means the stadium authority established pursuant to section 109-1.”

SECTION 8. Section 109-3, Hawaii Revised Statutes, is amended to read as follows:

“§109-3 Stadium special fund. (a) There is created a special fund to be known as the stadium special fund into which funds collected by the authority shall be deposited. The stadium special fund shall be applied, used, and disposed of for the payment of:

- (1) The expenses of the operation, maintenance, promotion, and management of; and
- (2) All or a portion of the cost of financing any capital improvement project for;

the stadium and related facilities; provided that all services required for the stadium and related facilities shall be performed by persons hired on contract or otherwise, without regard for chapter 76; provided further that the authority shall report to the legislature all receipts and expenditures of the stadium special fund account twenty days prior to the convening of each regular session[-] until the stadium special fund is closed pursuant to subsection (c).

(b) Notwithstanding subsection (a), all moneys collected by the stadium authority after the effective date of Act _____, Session Laws of Hawaii 2021, shall be deposited into the stadium development special fund pursuant to section 109-_____.

(c) Upon the effective date of Act _____, Session Laws of Hawaii 2021, the stadium special fund established herein shall be abolished, and all appropriations, encumbrances, and the remaining unencumbered balance shall be transferred to the stadium development special fund.”

SECTION 9. Section 109-8, Hawaii Revised Statutes, is amended to read as follows:

“§109-8 Lost and found money or property at the stadium. All money or property found at the stadium shall be reported or delivered by the finder to the stadium lost and found, and when so delivered shall be held by the stadium for forty-five days or until claimed by some person who establishes title or right of custody thereto to the satisfaction of the stadium manager, whichever is shorter. In the event of establishment of title or right of custody, the money or property shall be delivered to the claimant by the manager or the manager’s agent. If after forty-five days no claimant establishes a right to the money or property, the money or property may be claimed by the person who delivered it to the stadium lost and found; provided that if the person who delivered it to the stadium lost and found fails to claim the money or property within thirty days after being notified by the manager, the manager shall deposit the money into the state treasury to the credit of the stadium development special fund or shall dispose of the property by public auction. The manager shall give public notice, giving details as to time and place of the auction and giving notice to all persons interested in claiming the property that unless claims are made by persons who can provide satisfactory proof of ownership before a specified date, the property will be sold at public auction to the highest bidder; provided that if the manager considers the highest bid to be insufficient, the manager shall have

the right to decline the sale to the highest bidder and may reoffer the property at a subsequent public auction. On the day and at the place specified in the notice, all property for which no satisfactory proof of ownership is made shall be sold by auction by or under the direction of the manager.

If any property which is of a perishable nature or which is unreasonably expensive to keep or safeguard remains unclaimed at the stadium, the manager may sell that property at public auction, at a time and after notice that is reasonable under the circumstances. If the manager determines that any property delivered to the manager pursuant to this section has no apparent commercial value, the manager at any time thereafter may destroy or otherwise dispose of the property.

The manager shall deposit into the stadium development special fund all moneys received from the sale, destruction, or disposition of any property. No action or proceeding shall be brought or maintained against the State or any officer thereof on account of such sale, destruction, or disposition. The purchaser of property at any sale conducted by the manager pursuant to this section shall receive good title to the property purchased and shall take possession of the property free from any and all claims of the owner, prior owners, and any person claiming title.

For purposes of this section, notice by regular mail to the last known address of the person who delivered the money or property to the stadium lost and found shall be deemed sufficient.”

SECTION 10. Section 206E-223, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The stadium development district is established and shall be composed of all ~~land~~ real property under the jurisdiction of the stadium authority established pursuant to section 109-1. The stadium authority shall have sole jurisdiction over the development of the stadium development district.”

SECTION 11. Section 206E-224, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§206E-224]]~~ **Development guidance policies.** The following shall be the development guidance policies generally governing the authority’s actions in the district:

- (1) Development shall be in accordance with ~~[any county]~~ stadium development district development plans or transit-oriented development [plan, unless modified by the authority pursuant to paragraph (2);] plans adopted by the stadium authority for the development of the district; provided that the plan or plans shall consider any county transit-oriented development plan and allow for public input in the plan’s preparation and updates;
- (2) ~~[With the approval of the governor, the]~~ The authority, upon the concurrence of a majority of its voting members, may modify and make changes to a transit-oriented development plan with respect to the district to respond to changing conditions; provided that before amending a transit-oriented development plan, the authority shall conduct a public hearing to inform the public of the proposed changes and receive public input;
- (3) The authority shall seek to promote economic development and employment opportunities by fostering diverse land uses and encouraging private sector investments that use the opportunities presented by the high-capacity transit corridor project consistent with

- the needs of the public, including ~~[mixed-use]~~ mixed-use housing and housing in transit-oriented developments;
- (4) The authority may engage in planning, design, and construction activities within and outside the district; provided that activities outside the district shall relate to infrastructure development, area-wide drainage improvements, roadway realignments and improvements, business and industrial relocation, and other activities the authority deems necessary to carry out development of the district and implement this part. The authority may undertake studies or ~~[coordinating]~~ coordinate activities in conjunction with the county and appropriate state agencies and may address facility systems, industrial relocation, and other activities;
 - (5) ~~[Hawaiian archaeological,]~~ Archaeological, historic, and cultural sites shall be preserved and protected~~[:]~~ in accordance with chapter 6E;
 - (6) Endangered species of flora and fauna shall be preserved to the extent ~~[feasible;]~~ required by law;
 - (7) Land use and development activities within the district shall be coordinated with and, to the extent possible, complement existing county and state policies, plans, and programs affecting the district; and
 - (8) Public facilities within the district shall be planned, located, and developed to support the development policies established by this chapter for the district and rules adopted pursuant to this chapter.”

SECTION 12. Section 206E-225, Hawaii Revised Statutes, is amended to read as follows:

~~“[§206E-225]~~ **Stadium development district governance; memorandum of agreement.** Notwithstanding ~~[section]~~ sections 206E-3[, for] and 206E-4.1, the stadium authority established pursuant to section 109-1 shall have sole jurisdiction regarding matters affecting the stadium development district[, the executive director of the authority, state comptroller, and the stadium authority shall execute a memorandum of agreement with the appropriate state agencies.]; provided that the Hawaii community development authority, department of accounting and general services, and stadium authority shall enter into a memorandum of agreement regarding the implementation of responsibilities of the respective agencies.”

PART III

SECTION 13. Section 36-27, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) 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) Aloha Tower fund created by section 206J-17;

- (8) Funds of the employees' retirement system created by section 88-109;
- (9) Hawaii hurricane relief fund established under chapter 431P;
- (10) Hawaii health systems corporation special funds and the subaccounts of its regional system boards;
- (11) Tourism special fund established under section 201B-11;
- (12) Universal service fund established under section 269-42;
- (13) Emergency and budget reserve fund under section 328L-3;
- (14) Public schools special fees and charges fund under section 302A-1130;
- (15) Sport fish special fund under section 187A-9.5;
- [(16)] Neurotrauma special fund under section 321H-4;
- [(17)] Glass advance disposal fee established by section 342G-82;
- [(18)] Center for nursing special fund under section 304A-2163;
- [(19)] Passenger facility charge special fund established by section 261-5.5;
- [(20)] Solicitation of funds for charitable purposes special fund established by section 467B-15;
- [(21)] Land conservation fund established by section 173A-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;
- [(26)] Emergency medical services special fund;
- [(27)] Rental motor vehicle customer facility charge special fund established under section 261-5.6;
- [(28)] Shared services technology special fund under section 27-43;
- [(29)] Automated victim information and notification system special fund established under section 353-136;
- [(30)] Deposit beverage container deposit special fund under section 342G-104;
- [(31)] Hospital sustainability program special fund under [(section 346G-4)];
- [(32)] Nursing facility sustainability program special fund under [(section 346F-4)];
- [(33)] Hawaii 3R's school improvement fund under section 302A-1502.4;
- [(34)] After-school plus program revolving fund under section 302A-1149.5; ~~and~~
- [(35)] Civil monetary penalty special fund under section 321-30.2[-]; and
- (36) ~~Stadium development special fund under section 109-~~

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

- “(a) Each special fund, 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) Special funds established by section 206E-6;
- (6) Aloha Tower fund created by section 206J-17;
- (7) Funds of the employees' retirement system created by section 88-109;
- (8) Hawaii hurricane relief fund established under chapter 431P;
- (9) Convention center enterprise special fund established under section 201B-8;
- (10) Hawaii health systems corporation special funds and the subaccounts of its regional system boards;
- (11) Tourism special fund established under section 201B-11;
- (12) Universal service fund established under section 269-42;
- (13) Emergency and budget reserve fund under section 328L-3;
- (14) Public schools special fees and charges fund under section 302A-1130;
- (15) Sport fish special fund under section 187A-9.5;
- [(16)] Neurotrauma special fund under section 321H-4;
- [(17)] Center for nursing special fund under section 304A-2163;
- [(18)] Passenger facility charge special fund established by section 261-5.5;
- [(19)] Court interpreting services revolving fund under section 607-1.5;
- [(20)] Trauma system special fund under section 321-22.5;
- [(21)] Hawaii cancer research special fund;
- [(22)] Community health centers special fund;
- [(23)] Emergency medical services special fund;
- [(24)] Rental motor vehicle customer facility charge special fund established under section 261-5.6;
- [(25)] Shared services technology special fund under section 27-43;
- [(26)] Nursing facility sustainability program special fund established pursuant to [(section 346F-4)];
- [(27)] Automated victim information and notification system special fund established under section 353-136;
- [(28)] Hospital sustainability program special fund under [(section 346G-4)]; ~~and~~
- [(29)] Civil monetary penalty special fund under section 321-30.2[-]; and
- (30) Stadium development special fund under section 109-

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."

PART IV

SECTION 15. Section 84-17, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) The financial disclosure statements of the following persons shall be public records and available for inspection and duplication:

- (1) The governor, the lieutenant governor, the members of the legislature, candidates for and delegates to the constitutional convention, the trustees of the office of Hawaiian affairs, and candidates for state elective offices;
- (2) The directors of the state departments and their deputies, regardless of the titles by which the foregoing persons are designated; provided that with respect to the department of the attorney general, the fore-

- going shall apply only to the attorney general and the first deputy attorney general;
- (3) The administrative director of the State;
 - (4) The president, the vice presidents, the assistant vice presidents, the chancellors, members of the board of regents, and the provosts of the University of Hawaii;
 - (5) The members of the board of education and the superintendent, the deputy superintendent, the state librarian, and the deputy state librarian of the department of education;
 - (6) The administrative director and the deputy director of the courts;
 - (7) The administrator and the assistant administrator of the office of Hawaiian affairs; and
 - (8) The members of the following state boards, commissions, and agencies:
 - (A) The board of directors of the agribusiness development corporation established under section 163D-3;
 - (B) The board of agriculture established under section 26-16;
 - (C) The state ethics commission established under section 84-21;
 - (D) The Hawaii community development authority established under section 206E-3;
 - (E) The Hawaiian homes commission established under the Hawaiian Homes Commission Act of 1920, as amended, and section 26-17;
 - (F) The board of directors of the Hawaii housing finance and development corporation established under section 201H-3;
 - (G) The board of land and natural resources established under section 171-4;
 - (H) The state land use commission established under section 205-1;
 - (I) The legacy land conservation commission established under section 173A-2.4;
 - (J) The natural area reserves system commission established under section 195-6;
 - (K) The board of directors of the natural energy laboratory of Hawaii authority established under section 227D-2;
 - (L) The board of directors of the Hawaii public housing authority established under section 356D-3;
 - (M) The public utilities commission established under section 269-2; ~~and~~
 - (N) The commission on water resource management established under section 174C-7[-]; and
 - (O) The stadium authority established under section 109-1.

PART V

SECTION 16. Act 268, Session Laws of Hawaii 2019, is amended by adding a new section to read as follows:

“SECTION 7A. The stadium authority, as the designated expending agency for capital improvement projects authorized in this Act, with the approval of the governor, may delegate to other state agencies the implementation of projects, including the transfer of funds to implement those projects, when it is determined to be advantageous to do so by the stadium authority as the original expending agency and the agency to which expending authority is to be delegated.”

SECTION 17. Act 268, Session Laws of Hawaii 2019, section 5, is amended to read as follows:

~~“SECTION 5. [The legislature finds and declares that the issuance of revenue bonds under this Act is in the public interest and for the public health, safety, and general welfare. Pursuant to part III, chapter 39, Hawaii Revised Statutes. Accordingly, the Hawaii community development authority, with the approval of the governor, may issue in one or more series revenue bonds in a total amount not to exceed \$180,000,000 for the Hawaii community development authority to implement the stadium development district as provided for in part —, chapter 206E, Hawaii Revised Statutes.~~

~~The proceeds of the revenue bonds shall be deposited into the Hawaii community development revolving fund created in section 206E-16, Hawaii Revised Statutes.~~

~~The revenue bonds authorized under this Act shall be issued pursuant to part III, chapter 39, Hawaii Revised Statutes. The authorization to issue revenue bonds under this Act shall lapse on June 30, 2024.] REPEALED.”~~

SECTION 18. Act 268, Session Laws of Hawaii 2019, section 6, as amended by section 5 of Act 4, Session Laws of Hawaii 2020, is amended to read as follows:

“SECTION 6. The director of finance is authorized to issue general obligation bonds in the sum of \$170,000,000 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 2019-2020 to the [~~Hawaii community development~~] stadium authority for the stadium development district; provided that the appropriation made for the capital improvement project authorized by this section shall not lapse at the end of the fiscal year for which the appropriation is made; provided further that all moneys from the appropriation unencumbered as of June 30, [~~2022,]~~ 2024, shall lapse as of that date.

The sum appropriated shall be expended by the [~~Hawaii community development~~] stadium authority for the purposes of this Act.”

SECTION 19. Act 268, Session Laws of Hawaii 2019, as amended by Act 4, Session Laws of Hawaii 2020, is amended by amending section 7 to read as follows:

“SECTION 7. The appropriation made for the capital improvement project authorized by section 6 of this Act shall not lapse at the end of the fiscal biennium for which the appropriation is made; provided that all moneys from the appropriation unencumbered as of June 30, [~~2022,]~~ 2024, shall lapse as of that date.”

PART VI

SECTION 20. General obligation bonds appropriated by Act 268, Session Laws of Hawaii 2019, as amended by Act 4, Session Laws of Hawaii 2020, that have been allotted and encumbered prior to approval of this Act shall continue to be expended in accordance with the memorandum of agreement executed by and between the Hawaii community development authority, stadium authority, and department of accounting and general services.

PART VII

SECTION 21. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 22. This Act shall take effect upon its approval.

(Approved June 30, 2021.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 147

H.B. NO. 490

A Bill for an Act Relating to Crimes Against Seniors.

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

SECTION 1. Section 707-710, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) A person commits the offense of assault in the first degree if the person intentionally or knowingly causes ~~[serious]~~:

- (a) Serious bodily injury to another person~~[-]; or~~
- (b) Substantial bodily injury to a person who is sixty years of age or older and the age of the injured person is known or reasonably should be known to the person causing the injury.”

SECTION 2. 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~~[-]~~ the person:

- (a) ~~[The person intentionally;]~~ Intentionally, knowingly, or recklessly causes substantial bodily injury to another;
- (b) ~~[The person recklessly]~~ Recklessly causes serious bodily injury to another;
- (c) ~~[The person intentionally]~~ 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]~~ Intentionally or knowingly causes bodily injury to another with a dangerous instrument;
- (e) ~~[The person intentionally]~~ 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;

- (f) [~~The person intentionally~~] Intentionally or knowingly causes bodily injury to any emergency medical services provider who is engaged in the performance of duty. For the purposes of this paragraph, “emergency medical services provider” means emergency medical services personnel, as defined in section 321-222, and physicians, physician’s assistants, nurses, nurse practitioners, certified registered nurse anesthetists, respiratory therapists, laboratory technicians, radiology technicians, and social workers, providing services in the emergency room of a hospital;
- (g) [~~The person intentionally~~] Intentionally or knowingly causes bodily injury to a person employed at a state-operated or -contracted mental health facility. For the purposes of this paragraph, “a person employed at a state-operated or -contracted mental health facility” includes health care professionals as defined in section 451D-2, administrators, orderlies, security personnel, volunteers, and any other person who is engaged in the performance of a duty at a state-operated or -contracted mental health facility;
- (h) [~~The person intentionally~~] Intentionally or knowingly causes bodily injury to a person who:
 - (i) The defendant has been restrained from, by order of any court, including an ex parte order, contacting, threatening, or physically abusing pursuant to chapter 586; or
 - (ii) Is being protected by a police officer ordering the defendant to leave the premises of that protected person pursuant to section 709-906(4), during the effective period of that order;
- (i) [~~The person intentionally~~] Intentionally or knowingly causes bodily injury to any firefighter or water safety officer who is engaged in the performance of duty. For the purposes of this paragraph, “firefighter” has the same meaning as in section 710-1012 and “water safety officer” means any public servant employed by the United States, the State, or any county as a lifeguard or person authorized to conduct water rescue or ocean safety functions;
- (j) [~~The person intentionally~~] Intentionally or knowingly causes bodily injury to a person who is engaged in the performance of duty at a health care facility as defined in section 323D-2. For purposes of this paragraph, “a person who is engaged in the performance of duty at a health care facility” [~~shall include~~] includes health care professionals as defined in section 451D-2, physician assistants, surgical assistants, advanced practice registered nurses, nurse aides, respiratory therapists, laboratory technicians, and radiology technicians;
- (k) [~~The person intentionally~~] Intentionally or knowingly causes bodily injury to a person who is engaged in providing home health care services, as defined in section 431:10H-201; [~~or~~]
- (l) [~~The person intentionally~~] Intentionally or knowingly causes bodily injury to a person, employed or contracted to work by a mutual benefit society, as defined in section 432:1-104, to provide case management services to an individual in a hospital, health care provider’s

office, or home, while that person is engaged in the performance of those services[-]; or

- (m) Intentionally or knowingly causes bodily injury to a person who is sixty years of age or older and the age of the injured person is known or reasonably should be known to the person causing the injury.”

SECTION 3. Section 708-812.55, Hawaii Revised Statutes, is amended by amending its title and subsection (1) to read as follows:

“[§708-812.55] Unauthorized entry in a dwelling in the first degree.

(1) A person commits the offense of unauthorized entry in a dwelling in the first degree if the person intentionally or knowingly enters unlawfully into a dwelling and another person was, at the time of the entry, lawfully present in the dwelling who:

- (a) Was ~~[sixty-two]~~ sixty years of age or older[;] and the age of the person lawfully present in the dwelling was known or reasonably should have been known to the person who unlawfully entered;
- (b) Was an incapacitated person; or
- (c) Had a developmental disability.”

SECTION 4. Section 708-830.5, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) A person commits the offense of theft in the first degree if the person commits theft[;] of:

- (a) ~~[Of property]~~ Property or services, the value of which exceeds \$20,000;
- (b) ~~[Of a]~~ A firearm;
- (c) ~~[Of dynamite]~~ Dynamite or other explosive; ~~[or]~~
- (d) ~~[Of property]~~ Property or services during an emergency period proclaimed by the governor or mayor pursuant to chapter 127A, within the area covered by the emergency or disaster under chapter 127A, the value of which exceeds \$300[-];
- (e) Property from the person of another who is sixty years of age or older and the age of the property owner is known or reasonably should be known to the person who commits theft; or
- (f) Property or services, the value of which exceeds \$750, from a person who is sixty years of age or older and the age of the property owner is known or reasonably should be known to the person who commits theft.”

SECTION 5. Section 708-831, Hawaii Revised Statutes, is amended to read as follows:

“§708-831 Theft in the second degree. (1) A person commits the offense of theft in the second degree if the person commits theft[;] of:

- (a) ~~[Of property]~~ Property from the person of another;
- (b) ~~[Of property]~~ Property or services the value of which exceeds \$750;
- (c) ~~[Of an]~~ An aquacultural product or part thereof from premises that are fenced or enclosed in a manner designed to exclude intruders or there is prominently displayed on the premises a sign or signs sufficient to give notice and reading as follows: “Private Property”, “No Trespassing”, or a substantially similar message;

- (d) ~~[Of agricultural]~~ Agricultural equipment, supplies, or products, or part thereof, the value of which exceeds \$100 but does not exceed \$20,000, or of agricultural products that exceed twenty-five pounds, from premises that are fenced, enclosed, or secured in a manner designed to exclude intruders or where there is prominently displayed on the premises a sign or signs sufficient to give notice and reading as follows: “Private Property”, “No Trespassing”, or a substantially similar message; or if at the point of entry of the premise, a crop is visible. The sign or signs, containing letters ~~[æɪ]~~ no less than two inches in height, shall be placed along the boundary line of the land in a manner and in such a position as to be clearly noticeable from outside the boundary line. Possession of agricultural products without ownership and movement certificates, when a certificate is required pursuant to chapter 145, is prima facie evidence that the products are or have been stolen; ~~[œ]~~
- (e) ~~[Of agricultural]~~ Agricultural commodities that are generally known to be marketed for commercial purposes. Possession of agricultural commodities without ownership and movement certificates, when a certificate is required pursuant to section 145-22, is prima facie evidence that the products are or have been stolen; provided that ~~[“agriculture”]~~ “agricultural commodities” has the same meaning as in section 145-21~~[-];~~ or
- (f) Property or services, the value of which exceeds \$250, from a person who is sixty years of age or older and the age of the property owner is known or reasonably should be known to the person who commits theft.

(2) Theft in the second degree is a class C felony. A person convicted of committing the offense of theft in the second degree under ~~[(1)](c)~~ and (d) shall be sentenced in accordance with chapter 706, except that for the first offense, the court may impose a minimum sentence of a fine of at least \$1,000 or two-fold damages sustained by the victim, whichever is greater.”

SECTION 6. Section 708-851, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) A person commits the offense of forgery in the first degree if, with intent to defraud, the person falsely makes, completes, endorses, or alters a written instrument, or utters a forged instrument, or fraudulently encodes the magnetic ink character recognition numbers, which is or purports to be, or which is calculated to become or to represent if completed:

- (a) Part of an issue of stamps, securities, or other valuable instruments issued by a government or governmental agency; ~~[œ]~~
- (b) Part of an issue of stock, bonds, or other instruments representing interests in or claims against a corporate or other organization or its property~~[-];~~ or
- (c) All or part of a deed, will, codicil, contract, assignment, commercial instrument, or other instrument which does or may evidence, create, transfer, terminate, or otherwise affect a legal right, interest, obligation, or status and:
- (i) The purported maker or drawer of the written instrument or forged instrument is a person who is sixty years of age or older; and

- (ii) The age of the purported maker or drawer of the written instrument or forged instrument is known or reasonably should be known to the person who falsely makes, completes, endorses, or alters the instrument; utters the forged instrument; or fraudulently encodes the magnetic ink character recognition numbers of the instrument.”

SECTION 7. Section 708-852, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) A person commits the offense of forgery in the second degree if, with intent to defraud, the person [~~falsely~~]:

- (a) Falsely makes, completes, endorses, or alters a written instrument, or utters a forged instrument, or fraudulently encodes the magnetic ink character recognition numbers, which is or purports to be, or which is calculated to become or to represent if completed, a deed, will, codicil, contract, assignment, commercial instrument, or other instrument which does or may evidence, create, transfer, terminate, or otherwise affect a legal right, interest, obligation, or status[-]; or
- (b) Falsely makes, completes, endorses, or alters a written instrument, or utters a forged instrument; and:
 - (i) The purported maker or drawer of the written instrument or forged instrument is a person who is sixty years of age or older; and
 - (ii) The age of purported maker or drawer of the written instrument or forged instrument is known or reasonably should be known to the person who falsely makes, completes, endorses, or alters a written instrument; or utters a forged instrument.”

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

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

(Approved July 1, 2021.)

ACT 148

H.B. NO. 31

A Bill for an Act Relating to Firearms.

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

SECTION 1. The legislature finds that an estimated 4,600,000 children and adolescents in the United States live in homes with at least one unsecured firearm and that the presence of unsecured firearms in the home increases the risk of unintentional and intentional shootings. Furthermore, the United States Secret Service and the United States Department of Education report that in sixty-eight per cent of deadly school shootings, the attacker obtained the firearm from the attacker’s home or that of a relative. In addition, over seventy-five per cent of firearms used in suicide attempts and unintentional firearm injuries

among children and adolescents were stored in the residence of the victim, a relative, or a friend. The legislature further finds that teenagers between the ages of sixteen and eighteen have the highest rates of suicide attempts among all children and adolescents, while more than half of all school shootings have been perpetrated by sixteen and seventeen-year-olds. The legislature therefore finds that it is necessary to raise the maximum age of minors for which safe storage of firearms is required from sixteen to eighteen years.

SECTION 2. Section 134-10.5, Hawaii Revised Statutes, is amended to read as follows:

“[§134-10.5] Storage of firearm; responsibility with respect to minors.

No person shall store or keep any firearm on any premises under the person’s control if the person knows or reasonably should know that a minor is likely to gain access to the firearm without the permission of the parent or guardian of the minor, unless the person:

- (1) Keeps the firearm in a securely locked box or other container or in a location that a reasonable person would believe to be secure; or
- (2) Carries the firearm on the person or within such close proximity thereto that the person [~~readily~~] can readily retrieve and use it as if it were carried on the person.

For purposes of this section, “minor” means any person under the age of [~~sixteen~~] eighteen years.”

SECTION 3. Section 707-714.5, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) A person commits the offense of criminally negligent storage of a firearm if the person violates section 134-10.5 and a minor obtains the firearm. For purposes of this section, “minor” means any person under the age of [~~sixteen~~] eighteen years.”

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 1, 2021.)

ACT 149

H.B. NO. 1366

A Bill for an Act Relating to Firearms.

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

SECTION 1. The legislature notes that Act 74, Session Laws of Hawaii 2020, established, among other things, the class C felony offense of manufacturing, purchasing, or obtaining firearm parts to assemble a firearm having no serial number. This offense is now codified in section 134-10.2, Hawaii Revised Statutes. However, according to law enforcement agencies, persons found to be in possession of firearms having no serial number, which are also known as “ghost guns” because they are untraceable, claim that their actions do not violate the law because the parts used to assemble the firearm were acquired before the September 15, 2020, effective date of section 134-10.2, Hawaii Revised Statutes.

Accordingly, the purpose of this Act is to:

- (1) Amend the offense of manufacturing, purchasing, or obtaining firearm parts to assemble a firearm having no serial number to also prohibit possession of those firearm parts; and
- (2) Amend Act 74, Session Laws of Hawaii 2020, to repeal language that specified the prospective application of that Act.

SECTION 2. Section 134-10.2, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) A person who is not licensed to manufacture a firearm under section 134-31, or who is not a dealer licensed by the United States Department of Justice, shall not, for the purpose of assembling a firearm, possess, purchase, produce with a three-dimensional printer, or otherwise obtain separately, or as part of a kit:

- (1) A firearm receiver that is not imprinted with a serial number registered with a federally licensed manufacturer;
- (2) A firearm receiver that has not been provided a serial number that may be registered in accordance with section 134-3(c); or
- (3) Any combination of parts from which a firearm having no serial number may be readily assembled; provided that the parts do not have the capacity to function as a firearm unless assembled.”

SECTION 3. Act 74, Session Laws of Hawaii 2020, is amended by repealing section 6.

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

SECTION 5. This Act shall take effect on January 1, 2022.

(Approved July 1, 2021.)

ACT 150

S.B. NO. 936

A Bill for an Act Relating to Public Health.

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

SECTION 1. The purpose of this Act is to authorize:

- (1) The department of health to disseminate information on seizure first aid; and
- (2) Employers to disseminate information on seizure first aid provided by the department of health to educate their employees.

SECTION 2. Chapter 321, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§321- **Seizure first aid; information.** (a) The department of health may provide employers, employees, and the general public with information in relation to rendering seizure first aid.

(b) Employers may disseminate to their employees information on seizure first aid provided by the department of health in various forms, including posting the information in a prominent place at the employers’ workplace.

(c) For the purposes of this section, “seizure first aid” means procedures to respond, attend, and provide comfort and safety to a person suffering from a primary generalized tonic-clonic seizure or complex partial seizure. The term does not include training to medically treat a person suffering a seizure.”

SECTION 3. New statutory material is underscored.¹

SECTION 4. This Act shall take effect on July 1, 2021, and shall be repealed on June 30, 2026.

(Approved July 1, 2021.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 151

H.B. NO. 313

A Bill for an Act Relating to Physician Workforce Assessment.

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

SECTION 1. The legislature finds that there is a critical need for recruitment and retention of physicians to serve rural and medically underserved areas of the State. The shortage of physicians is as high as one thousand eight and is compounded by the fact that Hawaii has the fifth oldest physician workforce of all states, and more than half of the State’s physicians will be over the age of sixty-five within ten years. The physician workforce assessment project has assisted with malpractice reform, provision of thousands of hours of continuing education, loan repayment for physicians working in areas of need, preparation of local students for medical school, and communication with physicians regarding continuing education. The project is currently working to make regional physician supply and demand maps and all available national data accessible on the Internet, as well as to hire a physician recruiter for all regions of Hawaii.

The legislature further finds that future efforts include providing bonuses for providers practicing in underserved areas, the formation of an office of rural training for promoting practice in underserved areas in the State, state-matched loan repayment relief to new providers, and scholarships for medical students who practice in underserved areas. In many cases, the increasingly high cost of education for health care professionals binds graduates to a career path that provides sufficient income to repay costly student loans. These career paths most frequently lead physicians to professional practice in highly specialized fields of care in urban areas rather than in general practice on the neighbor islands or in rural areas of the State where need for their service is greatest. Expanding the use of funding received through the existing physician workforce assessment fees will allow Hawaii to act rapidly to provide tangible solutions for the physician workforce shortage to help address the ongoing need for a strong physician workforce in the State.

The purpose of this Act is to:

- (1) Repeal the requirement that no less than fifty per cent of the assessment fees deposited into the John A. Burns school of medicine special fund be used for purposes identified by the Hawaii medical education council;

- (2) Repeal the monetary cap of expenditures from the John A. Burns school of medicine special fund; and
- (3) Authorize the John A. Burns school of medicine special fund to provide loan repayment to physicians who commit to working in medically underserved areas of the State as part of the Hawaii state loan repayment program and provide scholarships for qualifying medical students.

SECTION 2. Section 304A-2171, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) Moneys in the special fund shall be used to support the John A. Burns school of medicine’s activities related to physician workforce assessment and planning within Hawaii; provided that ~~[oƒ]~~ the physician workforce assessment fees transferred and deposited into the special fund pursuant to section 453-8.8~~[-]~~, ~~no less than fifty per cent of the total amount of assessment fees deposited]~~ shall be used for purposes identified by the Hawaii medical education council to support physician workforce assessment and planning efforts, including the recruitment and retention of physicians, for rural and medically underserved areas of the State~~[-]~~; ~~provided further that expenditures from the special fund shall be limited to no more than \$245,000 annually].~~ This shall include but not be limited to ~~[maintaining]~~:

- (1) Maintaining accurate physician workforce assessment information and providing or updating personal and professional information, that shall be maintained in a secure database~~[-]~~;
- (2) Providing loan repayment to physicians who commit to working in medically underserved areas of the State as part of the Hawaii state loan repayment program administered by the John A. Burns school of medicine; and
- (3) Providing scholarships to qualifying medical students to be determined by the John A. Burns school of medicine.

The John A. Burns school of medicine may disclose information specific to any physician only with the express written consent of that physician.”

SECTION 3. Section 453-8.8, Hawaii Revised Statutes, is amended to read as follows:

“**§453-8.8 Physician workforce assessment fee; license; physician workforce information.** When a license is renewed, each physician or surgeon and each osteopathic physician or surgeon shall be assessed a fee of \$60 that shall be transferred and deposited into the John A. Burns school of medicine special fund established under section 304A-2171 to support ongoing assessment and planning of the physician workforce in Hawaii, including ~~[ongoing]~~:

- (1) Ongoing assessment and planning, as well as the recruitment and retention of physicians, especially for the physician workforce serving rural and medically underserved areas of the State~~[-]~~;
- (2) Providing loan repayment to physicians who commit to working in medically underserved areas of the State as part of the Hawaii state loan repayment program administered by the John A. Burns school of medicine; and
- (3) Providing scholarships to qualifying medical students to be determined by the John A. Burns school of medicine.

Payment of the physician workforce assessment fee shall be required for license renewal.”

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, 2021.

(Approved July 1, 2021.)

ACT 152

H.B. NO. 1318

A Bill for an Act Relating to Sustainability.

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

SECTION 1. The legislature finds that achieving an abundant and sustainable future for Hawaii will require re-envisioning the State's institutional framework to better integrate sustainability principles into the organizational structure of state government, especially in planning, land use, environmental, and economic development programs.

Improved collaboration of state agencies is necessary to achieve the State's sustainability and climate goals and statutory targets. The legislature further finds that improved integration of land use planning and environmental policy decision-making will enhance state government agencies' ability to implement climate change adaptation measures to address sea level rise and more frequent and intense storm events, increase clean energy production, and reduce greenhouse gas emissions.

Therefore, the legislature also finds that it is in the public interest to consolidate various government land use functions of different agencies into a new structure under the office of planning in an effort to place all key decision-making and regulatory responsibility surrounding land use planning and permitting under one structure.

The purpose of this Act is to transfer the purpose, functions, and duties of the office of environmental quality control and environmental council to the office of planning to improve the coordination of these related planning functions so state government can work more efficiently to achieve the State's long-term environmental quality goals for a more abundant future for the people of Hawaii.

SECTION 2. Chapter 341, Hawaii Revised Statutes, is amended as follows:

1. By adding a new section to be appropriately designated and to read: **“§341- Environmental advisory council; established.** (a) There is created an environmental advisory council not to exceed fifteen members. Members of the environmental advisory council shall be appointed by the governor as provided in section 26-34. The environmental advisory council shall be established within the office of planning for administrative purposes. The term of each member shall be four years. Vacancies shall be filled for the remainder of any unexpired term in the same manner as original appointments. The environmental advisory council chairperson shall be elected by the council from among the appointed members of the council.

(b) Members shall be appointed to ensure a broad and balanced representation of educational, business, and environmentally pertinent disciplines and professions, such as the natural and social sciences, the humanities, architecture, engineering, environmental consulting, public health, and planning; educational and research institutions with environmental competence; agriculture, real

estate, visitor industry, construction, and media; and voluntary community and environmental groups. The members of the environmental advisory council shall serve without compensation but shall be reimbursed for actual and necessary expenses, including travel expenses, incurred in the discharge of their duties.”

2. By amending its title to read:

~~“~~**CHAPTER 341**~~”~~
ENVIRONMENTAL [QUALITY CONTROL] ADVISORY COUNCIL”

SECTION 3. Section 10-41, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The training required by this part shall apply to members of the land use commission, board of land and natural resources, commission on water resource management, environmental advisory council, board of directors of the agribusiness development corporation, board of agriculture, legacy land conservation commission, natural area reserves system commission, and Hawaii historic places review board.”

SECTION 4. Section 128E-2, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The commission shall consist of the following members, who shall be appointed by the governor as provided in section 26-34:

- (1) The director of health;
- (2) The chairperson of the board of agriculture;
- (3) The adjutant general;
- (4) The director of labor and industrial relations;
- (5) The chairperson of the board of land and natural resources;
- (6) The director of the office of ~~[environmental quality control;]~~ planning;
- (7) The director of business, economic development, and tourism;
- (8) The director of transportation;
- (9) The dean of the University of Hawaii school of public health or the dean of the University of Hawaii school of medicine, as determined by the governor;
- ~~[(10) The director of the environmental center of the University of Hawaii;~~
- ~~[(11) One representative from each committee designated by the mayor of each respective county; and~~
- ~~[(12) (11) Other persons appointed by the governor to meet the minimum requirements of the Emergency Planning and Community Right-to-Know Act of 1986.”~~

SECTION 5. Section 150A-10, Hawaii Revised Statutes, is amended to read as follows:

“**§150A-10 Advisory committee on plants and animals.** There shall be an advisory committee on plants and animals composed of the chairperson of the board or the chairperson’s representative who shall be chairperson of the committee, the chairperson of the board of land and natural resources, the director of the office of ~~[environmental quality control;]~~ planning, and the director of ~~[department of]~~ health, or their designees, and five other members, with expertise in plants, animals, or microorganisms, and who, by virtue of their vocation or avocation, also are thoroughly conversant with modern ecological principles and the variety of problems involved in the adequate protection of ~~[our]~~ the State’s natural resources. The latter five members shall be chosen by the chairperson. The committee shall advise and assist the department in developing

or revising laws and regulations to carry out and effectuate the purposes of this chapter and in advising the department in problems relating to the introduction, confinement, or release of plants, animals, and microorganisms.

The chairperson may create ad hoc or permanent subcommittees, as needed.”

SECTION 6. Section 195D-21, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The department may enter into a planning process with any landowner for the purpose of preparing and implementing a habitat conservation plan. An agreement may include multiple landowners. Applications to enter into a planning process shall identify:

- (1) The geographic area encompassed by the plan;
- (2) The ecosystems, natural communities, or habitat types within the plan area that are the focus of the plan;
- (3) The endangered, threatened, proposed, and candidate species known or reasonably expected to occur in the ecosystems, natural communities, or habitat types in the plan area;
- (4) The measures or actions to be undertaken to protect, maintain, restore, or enhance those ecosystems, natural communities, or habitat types within the plan area;
- (5) A schedule for implementation of the proposed measures and actions; and
- (6) An adequate funding source to ensure that the proposed measures and actions are undertaken in accordance with the schedule.

After a habitat conservation plan is prepared, the board shall notify the public of the proposed habitat conservation plan through the periodic bulletin of the office of ~~[environmental quality control]~~ planning and make the proposed plan and the application available for public review and comment not less than sixty days prior to approval. The notice shall include~~[-]~~ but not be limited to~~[-]~~ identification of the area encompassed by the plan, the proposed activity, and the ecosystems, natural communities, and habitat types within the plan area. The notice shall solicit public input and relevant data.”

SECTION 7. 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) 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) Collecting, assembling, organizing, evaluating, and classifying existing geospatial and non-geospatial data and performing necessary basic research, conversions, and integration to provide a common database for governmental planning and geospatial analyses by state agencies;
 - (B) Planning, coordinating, and maintaining a comprehensive, shared statewide planning and geographic information system and associated geospatial database. The office shall be the lead agency responsible for coordinating the maintenance of the multi-agency, statewide planning and geographic information system and coordinating, collecting, integrating, and disseminating geospatial data sets that are used to support a variety of state agency applications 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, as specified in chapter 205;
- (6) Coastal and ocean policy management, and sea level rise adaptation coordination. Carrying out the lead agency responsibilities for the Hawaii coastal zone management program, as specified in chapter 205A. Also:
 - (A) Developing and maintaining an ocean and coastal resources information, planning, and management system;
 - (B) Further developing and coordinating implementation of the ocean resources management plan; and
 - (C) 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 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 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;
- (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;
- (9) Climate adaptation and sustainability planning and coordination. Conducting plans and studies and preparing reports as follows:
 - (A) Develop, monitor, and evaluate strategic climate adaptation plans and actionable policy recommendations for the State and counties addressing expected statewide climate change impacts identified under chapter 225P and sections 226-108 and 226-109; and
 - (B) Provide planning and policy guidance and assistance to state and county agencies regarding climate change and sustainability; ~~and~~
- (10) Smart growth and transit-oriented development. Acting as the lead agency to coordinate and advance smart growth and transit-oriented development planning within the State as follows:
 - (A) Identify transit-oriented development opportunities shared between state and county agencies, including relevant initiatives such as the department of health's healthy Hawaii initiative and the Hawaii clean energy initiative;

- (B) Refine the definition of “transit-oriented development” in the context of Hawaii, while recognizing the potential for smart growth development patterns in all locations;
 - (C) Clarify state goals for transit-oriented development and smart growth that support the principles of the Hawaii State Planning Act by preserving non-urbanized land, improving worker access to jobs, and reducing fuel consumption;
 - (D) Target transit-oriented development areas for significant increase in affordable housing and rental units;
 - (E) Conduct outreach to state agencies to help educate state employees about the ways they can support and benefit from transit-oriented development and the State’s smart growth goals;
 - (F) Publicize coordinated state efforts that support smart growth, walkable neighborhoods, and transit-oriented development;
 - (G) Review state land use decision-making processes to identify ways to make transit-oriented development a higher priority and facilitate better and more proactive leadership in creating walkable communities and employment districts, even if transit will only be provided at a later date; and
 - (H) Approve all state agencies’ development plans for parcels along the rail transit corridor. For the purposes of this subparagraph, “development plans” means conceptual land use plans that identify the location and planned uses within a defined area[-]; and
- (11) Environmental review. Performing duties set forth under chapter 343, serving the governor in an advisory capacity on all matters relating to environmental review, and having such powers delegated by the governor as are necessary to coordinate and, when requested by the governor, direct all state governmental agencies in matters concerning environmental quality control, including:
- (A) Advising and assisting private industries, government department and agencies, and other persons on the requirements of chapter 343; and
 - (B) Conducting public education programs on environmental quality control;
- provided that the office shall adopt rules in accordance with chapter 91 to implement this paragraph.”

SECTION 8. Section 225P-4, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The membership of the greenhouse gas sequestration task force shall be as follows:

- (1) The director of the office of planning or the director’s designee, who shall serve as chairperson;
- (2) The chairperson of the board of agriculture or the chairperson’s designee;
- (3) The chairperson of the board of land and natural resources or the chairperson’s designee;
- (4) The director of transportation or the director’s designee;
- (5) The deputy director of the department of health’s environmental health administration or the deputy director’s designee;
- (6) The ~~[director of the office of environmental quality control or the director’s designee;]~~ state sustainability coordinator;

- (7) The director of the environmental law program at the University of Hawaii at Manoa William S. Richardson school of law;
- (8) The administrator of the division of forestry and wildlife within the department of land and natural resources or the administrator's designee;
- (9) One member who is also a member of the climate change mitigation and adaptation commission;
- (10) One researcher from the college of tropical agriculture and human resources at the University of Hawaii at Manoa;
- (11) One extension agent from the college of tropical agriculture and human resources at the University of Hawaii at Manoa;
- (12) Four members, one each to be appointed by the respective mayors of the city and county of Honolulu, and the counties of Hawaii, Kauai, and Maui; and
- (13) Four members to be jointly selected and invited to participate by the president of the senate and the speaker of the house of representatives, of which two members shall be selected from an environmental nonprofit organization, and two members shall be selected from an agricultural or ranching association.

Task force members may recommend to the task force additional members with appropriate specialized expertise, subject to approval by the chairperson.”

SECTION 9. Section 279A-4, Hawaii Revised Statutes, is amended to read as follows:

“**§279A-4 Statewide transportation council; establishment.** To assist and advise the [state] department of transportation in the development of the statewide transportation plan there is hereby established a statewide transportation council consisting of [~~fourteen~~] thirteen members. The members of the council shall be the [~~directors of the state department~~] director of transportation[~~, the state department~~]; director of business, economic development, and tourism[~~, the state department~~]; director of health[~~, the state office of environmental quality control, and the~~]; director of the office of planning[~~, the~~]; chairperson of the board of agriculture[~~, the~~]; planning directors of each of the four counties[~~;~~]; and [~~the~~] transportation directors of each of the four counties. The members may be represented at council meetings by their designated alternates. The director of the state department of transportation shall submit recommendations to the council for additional ex officio[~~[], []~~] nonvoting members who, upon the majority vote of the council, shall be invited to serve.

The department of transportation shall furnish staff support to the council; such staff may be exempt from chapter 76. The director of transportation shall be the chairperson of the council. All decisions of the council shall be by majority vote unless otherwise provided.”

SECTION 10. Section 341-2, Hawaii Revised Statutes, is amended as follows:

1. By amending the definitions of “council”, “director”, and “office” to read:

““Council” means the environmental advisory council established in [~~section 341-3(e)~~] this chapter.

“Director” means the director of [~~environmental quality control~~] the office of planning.

“Office” means the office of [~~environmental quality control established in section 341-3(a)~~] planning.”

2. By repealing the definition of “center”.

[“Center” means the University of Hawaii environmental center established in section [304A-1551].”]

3. By repealing the definition of “university”.
[“University” means the University of Hawaii.”]

SECTION 11. Section 341-6, Hawaii Revised Statutes, is amended to read as follows:

“**§341-6 Functions of the environmental advisory council.** The environmental advisory council shall serve as a liaison between the [director] office of planning and the general public by soliciting information, opinions, complaints, recommendations, and advice concerning ecology and environmental quality through public hearings or any other means and by publicizing such matters as requested by the director pursuant to section 341-4(b)(3). The environmental advisory council may make recommendations concerning ecology and environmental quality to the [director] office of planning and shall meet at the call of the council chairperson or the director of the office of planning upon notifying the council chairperson. The environmental advisory council shall monitor the progress of state, county, and federal agencies in achieving the State’s environmental goals and policies and [with the assistance of the director shall make an annual report with recommendations for improvement to the governor, the legislature, and the public no later than January 31 of each year.] shall submit its report and recommendations for improvements concerning ecology and environmental quality to the office of planning, which shall include the report and recommendations in its annual report to the legislature. All state and county agencies shall cooperate with the council [and assist in the preparation of such a report] by responding¹ to its requests for information [made by the council. The council may delegate to any person such power or authority vested in the council as it deems reasonable and proper for the effective administration of this section and chapter 343, except the power to make, amend, or repeal rules].””

SECTION 12. Section 343-2, Hawaii Revised Statutes, is amended as follows:

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

““Director” means the director of the office of planning.”

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

““Council” means the environmental advisory council.”

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

““Office” means the office of [~~environmental quality control.~~] planning.”

SECTION 13. Section 343-5, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) Whenever an applicant proposes an action specified by subsection (a) that requires approval of an agency and that is not a specific type of action declared exempt under section 343-6, the agency initially receiving and agreeing to process the request for approval shall require the applicant to prepare an environmental assessment of the proposed action at the earliest practicable time to determine whether an environmental impact statement shall be required; provided that if the agency determines, through its judgment and experience, that an environmental impact statement is likely to be required, the agency may authorize the applicant to choose not to prepare an environmental assessment and instead prepare an environmental impact statement that begins with the preparation of an environmental impact statement preparation notice as provided by

rules. The final approving agency for the request for approval is not required to be the accepting authority.

For environmental assessments for which a finding of no significant impact is anticipated:

- (1) A draft environmental assessment shall be made available for public review and comment for a period of thirty days;
- (2) The office shall inform the public of the availability of the draft environmental assessment for public review and comment pursuant to section 343-3; and
- (3) The applicant shall respond in writing to comments received during the review and the applicant shall prepare a final environmental assessment to determine whether an environmental impact statement shall be required. A statement shall be required if the agency finds that the proposed action may have a significant effect on the environment. The agency shall file notice of the agency's determination with the office, which, in turn, shall publish the agency's determination for the public's information pursuant to section 343-3.

The draft and final statements, if required, shall be prepared by the applicant, who shall file these statements with the office.

The draft statement shall be made available for public review and comment through the office for a period of forty-five days. The office shall inform the public of the availability of the draft statement for public review and comment pursuant to section 343-3.

The applicant shall respond in writing to comments received during the review and prepare a final statement. The office, when requested by the applicant or agency, may make a recommendation as to the acceptability of the final statement.

The authority to accept a final statement shall rest with the agency initially receiving and agreeing to process the request for approval. The final decision-making body or approving agency for the request for approval is not required to be the accepting authority. The planning department for the county in which the proposed action will occur shall be a permissible accepting authority for the final statement.

Acceptance of a required final statement shall be a condition precedent to approval of the request and commencement of the proposed action. Upon acceptance or nonacceptance of the final statement, the agency shall file notice of the determination with the office. The office, in turn, shall publish the determination of acceptance or nonacceptance of the final statement pursuant to section 343-3.

The agency receiving the request, within thirty days of receipt of the final statement, shall notify the applicant and the office of the acceptance or nonacceptance of the final statement. The final statement shall be deemed to be accepted if the agency fails to accept or not accept the final statement within thirty days after receipt of the final statement; provided that the thirty-day period may be extended at the request of the applicant for a period not to exceed fifteen days.

In any acceptance or nonacceptance, the agency shall provide the applicant with the specific findings and reasons for its determination. ~~[An applicant, within sixty days after nonacceptance of a final statement by an agency, may appeal the nonacceptance to the environmental council, which, within thirty days of receipt of the appeal, shall notify the applicant of the council's determination. In any affirmation or reversal of an appealed nonacceptance, the council shall provide the applicant and agency with specific findings and reasons for its determination. The agency shall abide by the council's decision.]~~

SECTION 14. Section 343-6, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) After consultation with the affected agencies~~[-]~~ and the environmental advisory council, the ~~[council]~~ office of planning shall adopt, amend, or repeal necessary rules for the purposes of this chapter in accordance with chapter 91 including~~[-]~~ but not limited to~~[-]~~ rules that shall:

- (1) Prescribe the procedures whereby a group of proposed actions may be treated by a single environmental assessment or statement;
- (2) Establish procedures whereby specific types of actions, because they will probably have minimal or no significant effects on the environment, are declared exempt from the preparation of an environmental assessment;
- (3) Prescribe procedures for the preparation of an environmental assessment;
- (4) Prescribe the contents of an environmental assessment;
- (5) Prescribe procedures for informing the public of determinations that a statement is either required or not required, for informing the public of the availability of draft environmental impact statements for review and comments, and for informing the public of the acceptance or nonacceptance of the final environmental statement;
- (6) Prescribe the contents of an environmental impact statement;
- (7) Prescribe procedures for the submission, distribution, review, acceptance or nonacceptance, and withdrawal of an environmental impact statement; and
- (8) Establish criteria to determine whether an environmental impact statement is acceptable or not~~[-]; and~~
- (9) ~~Prescribe procedures to appeal the nonacceptance of an environmental impact statement to the environmental council].”~~

SECTION 15. Section 343-7, Hawaii Revised Statutes, is amended to read as follows:

“**§343-7 Limitation of actions.** (a) Any judicial proceeding, the subject of which is the lack of assessment required under section 343-5, shall be initiated within one hundred twenty days of the agency’s decision to carry out or approve the action, or, if a proposed action is undertaken without a formal determination by the agency that a statement is or is not required, a judicial proceeding shall be instituted within one hundred twenty days after the proposed action is started. The ~~[council or]~~ office, any agency responsible for approval of the action, or the applicant shall be adjudged an aggrieved party for the purposes of bringing judicial action under this subsection. Others, by environmental court action, may be adjudged aggrieved.

(b) Any judicial proceeding, the subject of which is the determination that a statement is required for a proposed action, shall be initiated within sixty days after the public has been informed of such determination pursuant to section 343-3. Any judicial proceeding, the subject of which is the determination that a statement is not required for a proposed action, shall be initiated within thirty days after the public has been informed of such determination pursuant to section 343-3. The ~~[council or the]~~ applicant shall be adjudged an aggrieved party for the purposes of bringing judicial action under this subsection. Others, by environmental court action, may be adjudged aggrieved.

(c) Any judicial proceeding, the subject of which is the acceptance or nonacceptance of an environmental impact statement required under section 343-5, shall be initiated within sixty days after the public has been informed pursuant to section 343-3 of the acceptance or nonacceptance of such statement.

~~[The council shall be adjudged an aggrieved party for the purpose of bringing judicial action under this subsection.]~~ Affected agencies and persons who provided written comment to ~~[such]~~ an accepted statement during the designated review period shall be adjudged aggrieved parties for the purpose of bringing judicial action under this subsection; provided that for aggrieved parties, the contestable issues shall be limited to issues identified and discussed in the written comment~~[-]~~, and for applicants bringing judicial action under this section on the nonacceptance of a statement, the contestable issues shall be limited to those issues identified by the accepting authority as the basis for nonacceptance of the statement.”

SECTION 16. Sections 128D-31, 186-3, 195D-4, 195D-22, 195D-24, 205A-30, 205A-42, 501-33, and 669-1 are amended by substituting the word “planning” wherever the term “environmental quality control” appears, as the context requires.

SECTION 17. Subpart G of part IV of chapter 304A, Hawaii Revised Statutes, is repealed.

SECTION 18. Section 341-3, Hawaii Revised Statutes, is repealed.

SECTION 19. Section 341-4, Hawaii Revised Statutes, is repealed.

SECTION 20. All rights, powers, functions, and duties of the office of environmental quality control are transferred to the office of planning.

SECTION 21. All rules, policies, procedures, guidelines, and other material adopted or developed by the department of health, environmental council, or office of environmental quality control to implement provisions of the Hawaii Revised Statutes that are reenacted or made applicable to the office of planning by this Act shall remain in full force and effect until amended or repealed by the office of planning pursuant to chapter 91, Hawaii Revised Statutes.

In the interim, every reference to the department of health, environmental council, office of environmental quality control, director of health, or director of the office of environmental quality control in those rules, policies, procedures, guidelines, and other material shall refer to the office of planning, director of the office of planning, environmental advisory council, or chairperson of the environmental advisory council, as appropriate.

SECTION 22. All individuals currently employed at the office of environmental quality control are transferred to the office of planning.

Each employee impacted by this Act who occupies a civil service position shall retain their civil service status, whether permanent or temporary. Each employee shall be transferred without loss of salary, seniority (except as prescribed by applicable collective bargaining agreements), retention points, prior service credit, any vacation and sick leave credits previously earned, and other rights, benefits, and privileges, in accordance with state personnel laws and this Act; provided that the employees possess the minimum qualifications and public employment requirements for the class 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.

Any employee who, prior to this Act, is exempt from civil service may retain the employee’s exempt status after the transfer in this Act, but shall not be appointed to a civil service position as a consequence of this Act. Any exempt

employee that is transferred by this Act shall not suffer any loss of prior service credit, vacation or sick leave credits previously earned, or other employee benefits or privileges as a consequence of this Act; provided that the employees possess legal and public employment requirements for the position to which transferred or appointed, as applicable; provided further that subsequent changes in status may be made pursuant to applicable employment and compensation laws. The director of the office of planning may prescribe the duties and qualifications of these employees and fix their salaries without regard to chapter 76, Hawaii Revised Statutes.

SECTION 23. All appropriations, records, equipment, machines, files, supplies, contracts, books, papers, documents, maps, and other personal property heretofore made, used, acquired, or held by the office of environmental quality control relating to the functions transferred to the office of planning shall be transferred with the functions to which they relate.

SECTION 24. The members serving on the environmental council as of the effective date of this Act shall continue to serve for the remainder of their respective terms as initial members of the environmental advisory council established by section 341- , Hawaii Revised Statutes, in section 2 of this Act. As vacancies occur on the environmental advisory council, the vacancies shall be filled in accordance with section 341- , Hawaii Revised Statutes, established by section 2 of this Act.

SECTION 25. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.²

SECTION 26. This Act shall take effect on July 1, 2021.

(Approved July 1, 2021.)

Notes

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

ACT 153

H.B. NO. 1149

A Bill for an Act Relating to Land Use.

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

SECTION 1. The legislature finds that achieving an abundant and sustainable future for Hawaii will require re-envisioning the State's institutional framework to better integrate sustainability principles into the organizational structure of state government, especially in planning, land use, environmental, and economic development programs.

Improved collaboration of state agencies is necessary to achieve the State's sustainability goals and clean energy benchmarks. The legislature further finds that improved integration of land use planning and environmental policy decision-making will enhance state government agencies' ability to implement climate change adaptation measures to address sea level rise and more frequent and intense storm events, and climate change mitigation measures such as increasing clean energy production and reducing greenhouse gas emissions.

Therefore, the legislature finds that it is in the public interest to consolidate various government land use functions of different agencies into a new structure under an office of planning and sustainable development in an effort to place all key decision-making and regulatory responsibility surrounding land use planning and permitting under one structure.

The purpose of this Act is to integrate the land use commission within a modified office of planning, to be renamed the office of planning and sustainable development. The legislature notes that a separate Act will integrate the office of environmental quality control within the office of planning and sustainable development. These two Acts will improve the coordination of these related functions so state government can work more efficiently to achieve the State's long-term sustainability and climate change goals for a more abundant future for the people of Hawaii.

SECTION 2. 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: Hawaii community development authority, Hawaii housing finance and development corporation, Hawaii technology development corporation, [~~land use commission,~~] natural energy laboratory of Hawaii authority, and any other boards and commissions as shall be provided by law.”

SECTION 3. Section 201-2, Hawaii Revised Statutes, is amended to read as follows:

“§201-2 **General objective, functions, and duties of department.** [(a)] It shall be the objective of the department of business, economic development, and tourism to make broad policy determinations with respect to economic development in the State and to stimulate through research and demonstration projects those industrial and economic development efforts that offer the most immediate promise of expanding the economy of the State. The department shall endeavor to gain an understanding of those functions and activities of other governmental agencies and of private agencies that relate to the field of economic development. It shall, at all times, encourage initiative and creative thinking in harmony with the objectives of the department.

[(b)] The department of business, economic development, and tourism shall have [~~sole~~] jurisdiction over [~~the land use commission under chapter 205,~~] state planning under chapter 225M[~~;~~] and the Hawaii State Planning Act under chapter 226. Due to the inherently interdependent functions of development, planning, and land use, these functions shall not be transferred by executive order, directive, or memorandum, to any other department, nor shall these functions be subject to review or approval by any other department.”

SECTION 4. Section 205-1, Hawaii Revised Statutes, is amended to read as follows:

“§205-1 **Establishment of the commission.** [(a)] There shall be a state land use commission, hereinafter called the commission. The commission shall consist of nine members who shall hold no other public office and shall be appointed in the manner and serve for the term set forth in section 26-34. One member shall be appointed from each of the counties and the remainder shall be appointed at large; provided that one member shall have substantial experience or expertise in traditional Hawaiian land usage and knowledge of cultural land practices. The commission shall elect its chairperson from one of its members. The members shall receive no compensation for their services on the commission,

but shall be reimbursed for actual expenses incurred in the performance of their duties. Six affirmative votes shall be necessary for any boundary amendment.

~~[(b)]~~ The commission shall be a part of the ~~[department of business, economic development, and tourism]~~ office of planning and sustainable development for ~~[administration]~~ administrative purposes~~[-as provided for in section 26-35].~~

~~[(c)]~~ The commission may engage employees necessary to perform its duties, including administrative personnel and an executive officer. The executive officer shall be appointed by the commission and the executive officer's position shall be exempt from civil service. Departments of the state government shall make available to the commission such data, facilities, and personnel as are necessary for it to perform its duties. The commission may receive and utilize gifts and any funds from the federal or other governmental agencies. It shall adopt rules guiding its conduct, maintain a record of its activities and accomplishments, and make recommendations to the governor and to the legislature through the governor.

(d) Notwithstanding any law to the contrary, the commission shall be exempt from section 26-35 with the exception of section 26-35(a)(2), (3), (7), (8), and section 26-35(b) shall apply.

(e) The land use commission shall maintain its independence on matters coming before it to which the office of planning and sustainable development is a party by establishing and adhering to the process required by section 225M-2(d)."

SECTION 5. Section 205-18, Hawaii Revised Statutes, is amended to read as follows:

"§205-18 [Periodic review] Review of districts. The office of planning ~~[shall]~~ and sustainable development may undertake a review of the classification and districting of all lands in the State~~[-, within five years from December 31, 1985, and every fifth year thereafter].~~ The office, in its ~~[five-year]~~ boundary review, shall focus its efforts on reviewing the Hawaii state plan, county general plans, and county development and community plans. Upon completion of the ~~[five-year]~~ boundary review, the office shall submit a report of the findings to the commission~~[-, governor, legislature, and appropriate state and county agencies.~~ The office may initiate state land use boundary amendments which it deems appropriate to conform to these plans. The office may seek the assistance of appropriate state and county agencies and may employ consultants and undertake studies in making this review."

SECTION 6. Section 225M-1, Hawaii Revised Statutes, is amended to read as follows:

"§225M-1 Purpose. The purpose of this chapter is to establish an office of planning and sustainable development to assist the governor ~~[and]~~ the director of business, economic development, and tourism; the legislature; and state and county agencies in maintaining an overall framework to guide the development of the State through a continuous process of comprehensive, long-range, and strategic planning to meet the physical, economic, and social needs of Hawaii's people, and provide for the wise use of Hawaii's resources in a coordinated, efficient, and economical manner, including the conservation of those natural, environmental, recreational, scenic, historic, and other limited and irreplaceable resources which are required for future generations.

The establishment of an office of planning and sustainable development in the department of business, economic development, and tourism, for administrative purposes, is intended to:

- (1) Fix responsibility and accountability to successfully carry out statewide planning programs, policies, and priorities;
- (2) Improve the efficiency and effectiveness of the operations of the executive branch; and
- (3) Ensure comprehensive planning and coordination to enhance the quality of life of the people of Hawaii.”

SECTION 7. Section 225M-2, Hawaii Revised Statutes, is amended to read as follows:

“§225M-2 Office of planning[,] and sustainable development; establishment; responsibilities. (a) There is established the office of planning and sustainable development within the department of business, economic development, and tourism [~~an office of planning.~~] for administrative purposes only. The head of the office shall be known as the director of the office of planning[,] and sustainable development and referred to in this chapter as director. The director shall have: [~~training~~]

- (1) Training in the field of urban or regional planning, public administration, or other related fields; [~~experience~~]
- (2) Experience in programs or services related to governmental planning; and [~~experience~~]
- (3) Experience in a supervisory, consultative, or administrative capacity.

The director shall be nominated by the governor and, by and with the advice and consent of the senate, appointed by the governor without regard to chapter 76, and shall be compensated at a salary level set by the governor. The director shall be included in any benefit program generally applicable to the officers and employees of the State. The director [~~shall~~] may retain [~~such~~] staff as may be necessary for the purposes of this chapter, in conformity with chapter 76. The director shall report to the director of business, economic development, and tourism and shall not be required to report directly to any other principal executive department. The director may also employ staff without regard to chapter 76, as authorized in this chapter and as may be necessary.

(b) The office of planning and sustainable development shall gather, analyze, and provide information to the governor, the legislature, and state and county agencies 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~~] current social, economic, and

physical conditions and trends[;] through surveys, environmental scanning, and other techniques; 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) 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) Collecting, assembling, organizing, evaluating, and classifying existing geospatial and non-geospatial data and performing necessary basic research, conversions, and integration to provide a common database for governmental planning and geospatial analyses by state agencies;
 - (B) Planning, coordinating, and maintaining a comprehensive, shared statewide planning and geographic information system and associated geospatial database. The office shall be the lead agency responsible for coordinating the maintenance of the multi-agency, statewide planning and geographic information system and coordinating, collecting, integrating, and disseminating geospatial data sets that are used to support a variety of state agency applications 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 and sustainable development 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, and 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, as specified in chapter 205;
- (6) Coastal and ocean policy management, and sea level rise adaptation coordination. Carrying out the lead agency responsibilities for the Hawaii coastal zone management program, as specified in chapter 205A. Also:
 - (A) Developing and maintaining an ocean and coastal resources information, planning, and management system;
 - (B) Further developing and coordinating implementation of the ocean resources management plan; and
 - (C) 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 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 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;
 - (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;
 - (9) Climate adaptation and sustainability planning and coordination. Conducting plans and studies and preparing reports as follows:
 - (A) Develop, monitor, and evaluate strategic climate adaptation plans and actionable policy recommendations for the State and counties addressing expected statewide climate change impacts identified under chapter 225P and sections 226-108 and 226-109; and
 - (B) Provide planning and policy guidance and assistance to state and county agencies regarding climate change and sustainability; and
 - (10) Smart growth and transit-oriented development. Acting as the lead agency to coordinate and advance smart growth and transit-oriented development planning within the State as follows:
 - (A) Identify transit-oriented development opportunities shared between state and county agencies, including relevant initiatives such as the department of health's healthy Hawaii initiative and the Hawaii clean energy initiative;
 - (B) Refine the definition of "transit-oriented development" in the context of Hawaii, while recognizing the potential for smart growth development patterns in all locations;
 - (C) Clarify state goals for transit-oriented development and smart growth that support the principles of the Hawaii State Plan-

ning Act by preserving non-urbanized land, improving worker access to jobs, and reducing fuel consumption;

- (D) Target transit-oriented development areas for significant increase in affordable housing and rental units;
- (E) Conduct outreach to state agencies to help educate state employees about the ways they can support and benefit from transit-oriented development and the State’s smart growth goals;
- (F) Publicize coordinated state efforts that support smart growth, walkable neighborhoods, and transit-oriented development;
- (G) Review state land use decision-making processes to identify ways to make transit-oriented development a higher priority and facilitate better and more proactive leadership in creating walkable communities and employment districts, even if transit will only be provided at a later date; and
- (H) Approve all state agencies’ development plans for parcels along the rail transit corridor. For the purposes of this subparagraph, “development plans” means conceptual land use plans that identify the location and planned uses within a defined area.

(c) The land use commission’s executive officer, chief clerk, and employees shall be administratively attached to the office, and section 205-1(c) shall apply.

(d) The office of planning and sustainable development and the land use commission shall establish procedures and safeguards to avoid actual or perceived conflicts of interest that may otherwise arise as a result of any proceedings before the land use commission to which the office of planning and sustainable development is a party, including but not limited to petitions for amendments to district boundaries involving land areas greater than fifteen acres pursuant to section 205-4, and contested case proceedings pursuant to section 205-19. These procedures and safeguards shall include a reporting structure for the land use commission and its executive director and employees that is separate from the reporting structure for the land use division of the office.”

SECTION 8. Sections 4E-1, 6K-6, 195-6, 200D-2, 201-102, 205-4, 205-6, 205-47, 205-48, 205-49, 205-50, 205A-1, 214-4, 223-2, 223-3, 225M-3, 225M-4, 225M-8, 225P-3, 225P-4, 225P-6, 226-2, 226-53, 226-56, 226-59, 226-64, 226-65, and 279A-4, Hawaii Revised Statutes, are amended by substituting the phrase “office of planning and sustainable development”, or similar term, wherever the phrase “office of planning”, or similar term, appears, as the context requires.

SECTION 9. The revisor of statutes shall substitute the phrase “office of planning and sustainable development”, or similar term, wherever the phrase “office of planning”, or similar term, appears, as the context requires, in any Acts of the Session Laws of Hawaii 2021.

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 on July 1, 2021.

(Approved July 1, 2021.)

ACT 154

H.B. NO. 541

A Bill for an Act Relating to Health.

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

SECTION 1. Act 263, Session Laws of Hawaii 2019, is amended by amending section 1 to read as follows:

“SECTION 1. (a) There is established within the department of health a working group to evaluate current behavioral health care and related systems and identify ~~[steps that may be taken to promote effective integration to more effectively respond to and coordinate care for persons experiencing]~~ gaps in services, coordinate funding sources, and establish and identify outcome measures for persons experiencing behavioral health or substance abuse[~~], mental health~~] conditions, and resultant consequences, including homelessness.

(b) The working group shall consist of the following members:

- (1) The director of health, or the director’s designee, who shall serve as chair;
 - (2) One representative from the behavioral health services administration of the department of health;
 - (3) One representative of the department of public safety;
 - (4) One representative from the med-QUEST division of the department of human services;
 - (5) One representative of the judiciary;
 - (6) One representative from the insurance division of the department of commerce and consumer affairs;
 - (7) ~~[One or more representatives of the Hawaii Opioid Initiative executive steering committee;]~~ The governor’s coordinator on homelessness, or the coordinator’s designee;
 - (8) The administrator of the office of Hawaiian affairs, or the administrator’s designee;
 - (9) One representative from the University of Hawaii John A. Burns school of medicine department of psychiatry who is affiliated with the American Society of Addiction Medicine;
 - ~~[(8)]~~ (10) One representative from each entity operating a health plan in the State, who the director of health shall invite to participate on the working group;
 - ~~[(9)]~~ (11) One or more members of the Hawaii Substance Abuse Coalition, who the director of health shall invite to participate on the working group;
 - ~~[(10)]~~ (12) One representative of the Hawaii interagency council on homelessness;
 - ~~[(11)]~~ (13) One clinical social worker licensed under chapter 467E, Hawaii Revised Statutes; and
 - ~~[(12)]~~ (14) Others as recommended by the working group.
- (c) The working group shall evaluate:
- (1) Inventory of funding streams and their metrics;
 - (2) Currently existing barriers to treatment access;

- (3) Policies and practices that perpetuate or substantially contribute to access barriers;
- (4) Practices that would improve care coordination and increase access to care;
- (5) Policies or legislative actions that are recommended to effectuate coordinated entry and coordinated systems of behavioral health care; and
- (6) Defined roles and responsibilities recommended of state, county, and community entities.

(d) Members of the working group shall serve without compensation, but shall be reimbursed for reasonable expenses necessary for the performance of their duties, including travel expenses. No member of the working group shall be subject to chapter 84, Hawaii Revised Statutes, solely because of the member’s participation in the working group.

(e) Two or more members of the working group, but less than the number of members [~~which~~] that would constitute a quorum for the working group, may discuss between themselves matters relating to official business of the working group to enable them to faithfully perform their duties to the working group and the organizations they represent, as long as no commitment to vote is made or sought. Such discussions shall be a permitted interaction under section 92-2.5, Hawaii Revised Statutes.

(f) The working group 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 [~~2020.~~] 2022.

(g) The working group shall be dissolved on June 30, [~~2021.~~] 2023.”

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, 2021.

(Approved July 1, 2021.)

ACT 155

H.B. NO. 1283

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 a 2015 nationwide survey by Justice in Aging concluded that ten states have laws requiring dementia training for law enforcement personnel, and one state requires dementia training for emergency medical technicians.

The legislature notes that six in ten people with dementia will wander and a person diagnosed with Alzheimer’s disease may not remember his or her name or address and can become disoriented, even in familiar places. When individuals with dementia are lost, they may show signs of anxiety, fear, or hostility, all of which can escalate to more aggressive behaviors. As the disease progresses and individuals with dementia forget family members and societal norms, there may be incidents of false police reports and victimization, indecent exposure, and shoplifting. People with Alzheimer’s disease may appear uncooperative, disruptive, and combative when they have difficulty communicating and understanding what is happening. Furthermore, first responder personnel may not know how to assist people in these situations, leading to more confusion.

The legislature believes that providing education related to dementia and training in de-escalation tactics for firefighters, emergency medical technicians, and other first responder personnel can often effectively address these types of situations and ensure the safety of the first responder personnel and the individuals with dementia.

The purpose of this Act is to authorize the development and provision of dementia training to first responder personnel.

SECTION 2. Chapter 321, Hawaii Revised Statutes, is amended by adding a new section to part XVIII to be appropriately designated and to read as follows:

“§321- **First responder personnel; dementia training.** (a) The employers of first responder personnel may obtain dementia training for first responder personnel, which may include:

- (1) Recognizing the key signs of Alzheimer’s disease and related types of dementia;
- (2) Strategies for assessing cognition;
- (3) Best practices for interacting with persons with Alzheimer’s disease and related types of dementia; and
- (4) Strategies to best identify and intervene in situations where persons with Alzheimer’s disease and related types of dementia may be at particular risk of abuse or neglect.

(b) The training shall be offered at no cost to the applicable first responder personnel and shall be funded by private contributions from relevant non-profit organizations.

(c) The executive office on aging may coordinate the training schedules and standards, as necessary, with all public and private entities and agencies responsible for services provided by first responder personnel, including entering into agreements or memoranda of agreement with nonprofit organizations to provide funding pursuant to subsection (b).

(d) The employers of first responder personnel may utilize existing educational and training resources available in the public and private sectors when developing the training required under this section.”

SECTION 3. New statutory material is underscored.¹

SECTION 4. This Act shall take effect on July 1, 2021.

(Approved July 1, 2021.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 156

H.B. NO. 1291

A Bill for an Act Relating to Scholarships.

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

SECTION 1. Section 304A-504, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Appropriations for the state scholars program shall be deposited into the []University of Hawaii scholarship and assistance special fund[] estab-

lished pursuant to section [§]304A-2159[§]. The number of scholarships awarded and amount of each scholarship shall be determined by the university subject to the availability of funds.

The University of Hawaii shall offer scholarships to pay for educational costs, such as tuition, fees, books, housing, and other educational costs; provided that the scholarship applicant:

- (1) Is a bona fide resident of the State, for tuition purposes, at the time of admission to the university;
- (2) Presents evidence of academic excellence by meeting one or more of the following:
 - (A) Graduation from a public or private high school in the State as a valedictorian of the applicant’s class;
 - (B) Has a cumulative high school grade point average of 4.0 as determined for admission to the university; [or]
 - (C) Has achieved a test score on a standardized college admission test recognized and accepted by the university for admission consideration, such as SAT or ACT, that places the student among the top ten percentile of students taking the test nationwide; or
 - (D) Earned a high school diploma from a public high school in the State with a cumulative grade point average of 3.0 as determined for admission to the university, if the student provides evidence that the student qualified for and received special education services for two or more years during enrollment in grades seven through twelve;
- (3) Enrolls at a University of Hawaii system campus within eighteen months of graduating from high school; and
- (4) Maintains satisfactory progress toward degree completion and a cumulative 3.0 grade point average.”

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 1, 2021.)

ACT 157

S.B. NO. 224

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 a gap exists between the skills that students in the State have upon graduation from high school and the skills that employers in the State are seeking. Business leaders in Hawaii’s expanding industries report that it is often difficult to recruit local applicants who have necessary skills and experiences.

The legislature further finds that educational programs specializing in career readiness and technical skills can be effective in preparing students in Hawaii to enter the State’s job market. Educational initiatives at schools within the State have been established to develop students’ technical skills and prepare them to enter the workforce.

The purpose of this Act is to establish a statewide policy that supports those students who want to receive career and technical skills education. To ef-

effectuate this statewide policy, this Act supports the expansion of the numbers of students receiving career and technical skills education by giving students an exception to attend these programs in schools outside of the service area in which those students reside.

SECTION 2. Chapter 302A, Hawaii Revised Statutes, is amended by adding a new section to part IV, subpart C, to be appropriately designated and to read as follows:

“§302A- Career and technical education programs; enrollment. (a) Any school having a career and technical education program shall enroll all students who submit a timely application for participation in the program and who:

- (1) Reside within the school’s service area;
- (2) Were enrolled in the school during the previous school year; or
- (3) Reside outside the school’s service area;

provided that if enrolling all students pursuant to paragraphs (1), (2), and (3) will cause the enrollment of the school to exceed the capacity of a program, class, grade level, or building, the school shall enroll all students described in paragraphs (1) and (2) and fill any remaining capacity of the program, class, grade level, or building by selecting eligible students described in paragraph (3) through a lottery system.

(b) The department shall adopt rules pursuant to chapter 91 to effectuate the purposes of this section.”

SECTION 3. Section 302A-101, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““Career and technical education program” means a program operated by a school that primarily focuses on learning and skill development in students through the practical application of academic and technical skills and knowledge.”

SECTION 4. Section 302A-1143, Hawaii Revised Statutes, is amended to read as follows:

“§302A-1143 Attending school in what service area. A person of school age shall be required to attend the school of the service area, as determined by the department, in which the person resides, unless:

- (1) The person is enrolled in a Hawaiian language medium education program or charter school;
- (2) A geographic exception to attend a school in another service area is requested and granted at the discretion of the department; [Ø]
- (3) Out-of-service-area attendance is mandated by the department or by federal law[-]; or
- (4) The person is enrolled in a career and technical education program under section 302A- .”

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

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

(Approved July 1, 2021.)

Note

1. Edited pursuant to HRS §23G-16.5.

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 the economic disruption caused by the global coronavirus disease 2019 pandemic has illustrated a need to diversify Hawaii's economy beyond tourism. The pandemic has also shown the importance of digital literacy, particularly as applied to distance learning, telehealth, and working from home.

The legislature further finds that the economic disruption caused by the pandemic has increased the focus on computer science education as a key driver of economic growth and digital literacy. A computer science pipeline can help to diversify Hawaii's economy beyond tourism to include cybersecurity, green energy, robotics, and other technology-based fields. Previously, the legislature passed Act 51, Session Laws of Hawaii 2018 (Act 51), which prioritized statewide computer science education by:

- (1) Requiring the department of education to develop and implement a statewide computer science curriculum plan for public school students in kindergarten through twelfth grade that may include design thinking as part of the curriculum; and
- (2) Beginning with the 2021-2022 school year, ensuring that each public high school offers at least one computer science course during each school year.

According to a June 2020 report from the University of Hawaii at Manoa, Act 51 was one of several initiatives that led to a rapid increase in computer science activities in education between 2017 and 2020. These activities have resulted in thirty-three public high schools and eleven combination schools now offering computer science courses. The number of students who took the Advanced Placement Computer Science Principles test and the Advanced Placement Computer Science A test increased 89.6 per cent and 28.7 per cent, from the 2017-2018 school year to the 2018-2019 school year, respectively. Further, the percentage of schools offering Advanced Placement Computer Science courses has increased from 6.8 per cent during the 2017-2018 school year to 22.7 per cent during the 2019-2020 school year.

The purpose of this Act is to improve digital literacy throughout the State by further increasing computer science education offerings at public schools.

PART II

SECTION 2. Section 302A-101, Hawaii Revised Statutes, is amended by adding three new definitions to be appropriately inserted and to read as follows:

“Computer science” means the study of computers and algorithmic processes. “Computer science” includes principles, hardware and software designs, implementation, and impacts on society.

“Computer science content” means courses of instruction that provide:

- (1) Computer science instruction that is integrated with another subject; and
- (2) A final grade to each student.

“Computer science courses” means courses of instruction that provide:

- (1) Computer science instruction in stand-alone implementations; and

- (2) A final grade to each student.”

SECTION 3. Section 302A-323, Hawaii Revised Statutes, is amended to read as follows:

“~~§§302A-323~~ **Computer science; curricula plan; public schools.** (a)

The department shall:

- (1) Develop and implement a statewide computer science curricula plan for public school students in kindergarten through twelfth grade that may include design thinking as part of the curricula; and
- (2) Beginning with the 2021-2022 school year, ensure that each public high school offers at least one computer science course during each school year.
 - (b) Beginning with the 2022-2023 school year, at least one public elementary school and one public middle or intermediate school in each complex area shall offer computer science courses or computer science content.
 - (c) Beginning with the 2023-2024 school year, no less than fifty per cent of the public elementary schools and no less than fifty per cent of the public middle and intermediate schools in each complex area shall offer computer science courses or computer science content.
 - (d) Beginning with the 2024-2025 school year, all public elementary, middle, and intermediate schools shall offer computer science courses or computer science content.
 - (e) By June 30, 2022, and by each June 30 thereafter, the superintendent shall submit to the board and legislature a report of the computer science courses and computer science content offered during the previous school year at the schools in each complex area. The report shall include:
 - (1) The names and course codes of the computer science courses offered at each school;
 - (2) The number and percentage of students enrolled in each computer science course and computer science content, disaggregated by:
 - (A) Gender;
 - (B) Race and ethnicity;
 - (C) Special education status, including students eligible for special education under the federal Individuals with Disabilities Education Act, as amended, or section 504 of the federal Rehabilitation Act of 1973, as amended;
 - (D) English language learner status;
 - (E) Eligibility for the free and reduced price lunch program; and
 - (F) Grade level;provided that if a category contains one to five students, or contains an amount that would allow the amount of another category that contains one to five students to be determined, the number of students shall be replaced with a symbol indicating that one to five students fulfilled that particular category;
 - (3) The names and course codes of the courses containing computer science content and a description of the computer science standards and content that are covered by those courses; and
 - (4) The number of computer science instructors at each school, disaggregated by:
 - (A) Any applicable certification;
 - (B) Gender;
 - (C) Race and ethnicity; and
 - (D) Highest academic degree earned.

(f) For the purposes of this section, “offer” means to provide a computer science course or computer science content taught in the English or Hawaiian language by a teacher:

- (1) Who is physically located at the school; or
- (2) Who is not physically located at the school but provides instruction through virtual means with the assistance of a proctor who is physically located at the school.”

PART III

SECTION 4. Chapter 302D, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§302D- Computer science. (a) Beginning with the 2024-2025 school year, each public charter school that serves elementary, middle, intermediate, or high school students shall offer computer science courses or computer science content at a frequency that allows a student to enroll in a computer science course or receive computer science content at least once while the student is at each of the elementary school, middle or intermediate school, and high school levels.

(b) For the purpose of this section, “offer” shall have the same meaning as in section 302A-323.”

SECTION 5. Section 302D-1, Hawaii Revised Statutes, is amended by adding three new definitions to be appropriately inserted and to read as follows:

““Computer science” shall have the same meaning as in section 302A-101.
“Computer science content” shall have the same meaning as in section 302A-101.

“Computer science courses” shall have the same meaning as in section 302A-101.”

PART IV

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 7. This Act shall take effect on July 1, 2021.

(Approved July 1, 2021.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 159

S.B. NO. 244

A Bill for an Act Relating to Food Donation.

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

SECTION 1. The legislature finds that more than ten per cent of Hawaii residents, including tens of thousands of children and seniors, are food insecure and receive food assistance through nonprofit organizations and government programs. Despite high levels of food insecurity, Hawaii businesses and residents discard more than 237,000 tons of food waste per year.

The legislature further finds that approximately twenty-six per cent of food grown in or imported to Hawaii is thrown away, amounting to approximately \$1,000,000,000 in annual food waste. Worldwide, an estimated one-third of the food raised or prepared goes to waste, despite more than eight hundred million people experiencing hunger.

The legislature recognizes that food production is a direct contributor to local and global climate change. Food production requires energy, fertilizer, irrigation, livestock feed, and other resources that contribute to greenhouse gas emissions and add pollutants to the environment. Food waste entering landfills creates methane gas, a greenhouse gas that is eighty-four times more potent than carbon dioxide. Worldwide, wasted food accounts for approximately eight per cent of all human-based greenhouse gas emissions.

The Bill Emerson Good Samaritan Food Donation Act was passed by the United States Congress in 1996 to protect good-faith food donors from civil and criminal liability and to encourage the donation of food that would otherwise go to waste. Despite these protections, much of the wholesome surplus food in Hawaii and in other states is discarded instead of donated. A California survey found that forty-four per cent of manufacturers, forty-one per cent of restaurants, and twenty-five per cent of retailers identified fear of liability as their primary barrier to donating surplus food, in spite of existing liability protections.

The purpose of this Act is to discourage food waste and encourage food donation to needy persons by:

- (1) Clarifying and expanding liability protections for good-faith food donors; and
- (2) Allowing the donation of expired food when the donor makes a good-faith judgment that the food is unspoiled.

SECTION 2. Section 145D-2, Hawaii Revised Statutes, is amended to read as follows:

“~~§§145D-2~~ Exceptions to liability. (a) Any donor of food products, who in good faith donates the food for the use or distribution by a charitable, religious, or nonprofit organization to needy persons shall not be liable for any civil damages or criminal penalties for any injuries or illnesses, including~~[-]~~ but not limited to injuries or illnesses resulting from the nature, age, condition, packaging, or handling of the donated food products, except for ~~[such]~~ damages ~~[as may]~~ that result from the donor’s gross negligence or wanton acts or omissions.

(b) A charitable, religious, or nonprofit organization ~~[which in good faith receives]~~ that:

- (1) Receives food~~[-]~~ pursuant to subsection (a) that is apparently fit for human consumption~~[-]~~; and ~~[distributes it]~~
- (2) Distributes the food in good faith to needy persons at no charge, shall not be liable for any civil damages or criminal penalties resulting from the condition of the food unless an injury or illness results from its gross negligence, or wanton acts or omissions.

(c) This section shall not relieve any organization from any other duty imposed ~~[upon them]~~ by law for the inspection of donated food products or for any provisions regarding the handling of ~~[such]~~ those products.

(d) The exceptions to liability specified in subsection (a) shall include:

- (1) The donation of perishable or nonperishable food that has exceeded the labeled shelf life date recommended by the manufacturer; and
- (2) The donation of farm produce; provided that the good-faith donor or distributor reasonably believes that the food is fit for human consumption.

(e) For the purposes of this section:

“Donor” means any individual, food vendor, food manufacturer, food distributor, grocery or convenience store, charitable or nonprofit organization, or government agency that donates food to needy persons where the food in question has been prepared and packaged in a facility meeting all relevant food safety guidelines, certifications, and requirements and has passed all food safety inspections.

“Farm produce” means all agricultural, horticultural, and vegetable produce of the soil, but does not include poultry, poultry products, livestock and livestock products, aquaculture and aquaculture products, and timber or timber products.”

SECTION 3. Section 663-10.6, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) Any charitable or nonprofit organization that in good faith provides shelter or proper means of subsistence to needy persons as part of its bona fide and customary charitable activities, rendered without remuneration or expectation of remuneration, shall be exempt from civil liability for injuries and damages resulting from the organization’s acts or omissions in providing ~~[such]~~ the shelter or subsistence, except for gross negligence or wanton acts or omissions of the organization.

(b) Any ~~[person]~~ donor who donates goods, ~~[food,]~~ materials, or services to a charitable or nonprofit organization described in subsection (a) shall be exempt from civil liability for injuries and damages resulting from the donation, except for gross negligence or wanton acts or omissions.”

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 July 1, 2021.)

ACT 160

S.B. NO. 345

A Bill for an Act Relating to Cosmetics.

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

SECTION 1. The legislature finds that for more than fifty years, cosmetic manufacturers have used animals in painful tests to assess the safety of chemicals used in cosmetic products. Today, modern approaches that are cheaper, faster, and more reliable at predicting adverse human reactions are widely available and are becoming more accessible each year. In addition, companies now have thousands of existing cosmetic ingredients with histories of safe use that have long been sold and utilized.

California was the first state to prohibit the sale of cosmetics tested on animals, which was supported by dozens of cosmetic companies and industry associations, including the Personal Care Products Council, California Retailers Association, and California Manufacturers and Technology Association. The

California ban took effect on January 1, 2020, and was joined by Nevada and Illinois. In 2013, the United States' largest trading partner, the European Union, ended the importation and sale of cosmetics that have been tested on animals. Today, more than thirty countries have banned cosmetic animal testing, and several others have legislation pending.

The purpose of this Act is to prohibit manufacturers from selling cosmetic products in the State that are tested on animals on or after January 1, 2022, in a cruel manner. It is not the intent of this Act to penalize retailers or consumers who rely on manufacturers to meet state laws or rules, nor is it the intent to prohibit the continued import or export of cosmetic products in the State from or to other countries if the safety of the product sold in the State does not rely on data from animal testing that was performed after 2021. This approach is consistent with the implementation of the European Union regulations and the recently adopted laws in California, Nevada, and Illinois.

SECTION 2. Chapter 321, Hawaii Revised Statutes, is amended by adding a new section to part I to be appropriately designated and to read as follows:

“§321- Cosmetics; animal testing; prohibition. (a) Notwithstanding any other law to the contrary, and except as otherwise provided in this section, it shall be unlawful for a manufacturer to import for profit, sell, or offer for sale in the State any cosmetic for which the manufacturer knew or reasonably should have known that an animal test was conducted or contracted, by or on behalf of the manufacturer or any supplier of the manufacturer, on or after January 1, 2022, in a cruel manner, as identified in section 711-1108.5(1)(a).

(b) A violation of this section shall be punishable by a fine of \$5,000 and an additional \$1,000 for each day the violation continues.

(c) A violation of this section may be enforced by the prosecuting attorney of the county in which the violation occurred. The fine shall be paid to the county in which the violation occurred.

(d) A prosecuting attorney may, upon a determination that there is a reasonable likelihood that a violation has occurred under this section, require a cosmetic manufacturer to disclose for the prosecuting attorney's review the testing data upon which the cosmetic manufacturer has relied in the development or manufacturing of the relevant cosmetic product sold in the State.

(e) To the extent testing data disclosed under this section may be withheld from public disclosure as confidential business information or otherwise under section 92F-13, it shall be treated as confidential and shall not be disclosed except to the extent necessary for enforcement of this section. A prosecuting attorney shall take other appropriate measures necessary to preserve the confidentiality of the information produced pursuant to this section.

(f) Counties or other political subdivisions of the State shall not establish any prohibition on or relating to animal tests as defined in this section that are not identical to the prohibitions set forth in this section and that do not include the exemptions contained in this section.

(g) This section shall not apply to:

(1) An animal test of a cosmetic that is required by a federal or state regulatory authority if all of the following apply:

(A) The cosmetic or an ingredient in the cosmetic that is being tested is in wide use and cannot be replaced by another cosmetic or ingredient capable of performing a similar function;

(B) A specific human health problem relating to the cosmetic or ingredient is substantiated and the need to conduct animal tests is justified and is supported by a detailed research proto-

col proposed as the basis for the evaluation of the cosmetic or ingredient; and

- (C) There is no non-animal testing method accepted for the relevant purpose by the applicable federal or state regulatory authority;
- (2) An animal test that was conducted to comply with a requirement of a foreign regulatory authority, if no evidence derived from that test was relied upon to substantiate the safety of a cosmetic sold within the State by the manufacturer;
- (3) An animal test that was conducted on any product or ingredient subject to the requirements of subchapter V of the Federal Food, Drug, and Cosmetic Act (21 United States Code 351 et seq.), as amended;
- (4) Except as otherwise provided in this subsection, an animal test that was conducted for purposes unrelated to cosmetics pursuant to a requirement of a federal, state, or foreign regulatory agency; provided that no evidence derived from the testing was relied upon to substantiate the safety of a cosmetic sold within this State by the manufacturer; provided further that if evidence from such testing was relied upon for that purpose, the prohibition in paragraph (1) does not apply if:
 - (A) Documentary evidence exists of the intent of the test that was unrelated to cosmetics; and
 - (B) The ingredient that was the subject of the testing has been used for purposes unrelated to cosmetics for not less than twelve months prior to the reliance;
- (5) A cosmetic if the cosmetic in its final form was tested on animals before January 1, 2022, even if the cosmetic is manufactured on or after that date;
- (6) An ingredient in a cosmetic if the ingredient was sold in this State and tested on animals before January 1, 2022, even if the ingredient is manufactured on or after that date; or
- (7) A manufacturer reviewing, assessing, or retaining evidence from animal testing as defined in this section.
- (h) As used in this section:

“Animal test” means the internal or external application of a cosmetic, either in its final form or any ingredient thereof, to the skin, eyes, or other body part of a live, nonhuman vertebrate.

“Cosmetic” means any article intended to be rubbed, poured, sprinkled, or sprayed on; introduced into; or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance, including personal hygiene products such as deodorant, shampoo, or conditioner.

“Ingredient” means any component of a cosmetic as defined by title 21 Code of Federal Regulations section 700.3, as amended.

“Manufacturer” means any person whose name appears on the label of a cosmetic product pursuant to the requirements of title 21 Code of Federal Regulations section 701.12, as amended.

“Supplier” means any entity that supplies, directly or through a third party, any ingredient used in the formulation of a manufacturer’s cosmetic.”

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.¹

SECTION 5. This Act shall take effect on January 1, 2022.

(Approved July 1, 2021.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 161

S.B. NO. 348

A Bill for an Act Relating to Bottled Water.

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

SECTION 1. The legislature finds that Americans send more than thirty-eight billion water bottles to landfills every year, while only thirty per cent of water bottles are placed in a recycling bin. Aluminum cans, however, are recycled twice as often as plastic, glass, and cartons. Unlike single-use plastic bottles, one hundred per cent of the aluminum can is recyclable, meaning the material from one aluminum can or bottle can be used to make another aluminum can without any new material. This closed loop cycle can take as little as sixty days.

The legislature further finds that many carbonated soft drink companies in other states also produce canned noncarbonated water with the same equipment used to make their other products. However, existing state law expressly prohibits carbonated soft drink, juice, and beer operations from using the same equipment to can noncarbonated bottled water. This restriction unfairly and unnecessarily limits local beverage filling companies that manufacture other products from providing noncarbonated water in aluminum cans to consumers as an alternative to single-use plastic water bottles.

The legislature notes that the soft drink companies in other states use antimicrobial agents such as ozone during the canned water production process. The ozonated water passing throughout the entire filling operation at these companies effectively eliminates microbiological contamination of the finished product.

The purpose of this Act is to:

- (1) Update a reference to federal bottled water standards; and
- (2) Repeal the requirement that noncarbonated bottled water be bottled in or through lines or equipment through which only water is passed.

SECTION 2. Section 328D-2, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) All bottled water shall be from an approved source and shall not contain any constituent in quantities that may be injurious to health, as established by rules adopted by the department or other government agency or agencies having jurisdiction. All bottled water shall meet standards prescribed by the FDA in title 21 C.F.R. section [403.35, except that the total dissolved solids limitation of section 403.35(d) shall not apply to mineral water.] 165.110.”

SECTION 3. Section 328D-3, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Bottled water production, including transporting, processing, packaging, and storage, shall be conducted under [such] conditions and controls [as are] necessary to minimize the potential for microbiological contamination of the finished product. These conditions and controls shall include the following:

- (1) Bottled water shall be subject to effective germicidal treatment by ozonation or carbonation at a minimum of three volumes of carbon dioxide or other equivalent disinfection approved by the department or government agency or agencies having jurisdiction; and
- (2) Bottled water shall not be transported or stored in bulk tanks or processed or bottled through equipment or lines used for any non-food product[; and
- (3) ~~For optimum consumer protection, in order to minimize the potential for microbiological contamination of the finished product, noncarbonated bottled water shall not be transported, stored, processed, or bottled in or through lines or equipment through which any food product other than water is passed].”~~

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 1, 2021.)

ACT 162

S.B. NO. 367

A Bill for an Act Relating to Water Quality.

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

SECTION 1. The legislature finds that Hawaii is losing its beaches at an alarming rate due to chronic beach erosion, sediment deficiencies, sea-level rise, and shoreline armoring. According to a 2012 study by the University of Hawaii and United States Geological Survey, seventy per cent of beaches in Hawaii are eroding, with more than thirteen miles of beach already lost to erosion and coastal armoring over the past century.

The legislature further finds that the department of land and natural resources is responsible for the conservation and management of coastal resources, including beaches and dunes. The department of land and natural resources also promotes adaptive ecosystem-based management approaches to mitigate erosion and beach loss in certain areas. Examples of these approaches include beach restoration and maintenance projects that use clean carbonate sand sourced from nearshore deposits and sediment management projects that use existing native sand within the beach environment as an alternative to shoreline armoring. However, to be effective, these restoration and maintenance activities must be authorized in a streamlined manner and on a recurring basis.

The legislature notes that section 401 of the federal Clean Water Act requires a water quality certification for certain licenses and permits. This section 401 certification adds to the cost of beach restoration and maintenance by requiring that native marine sand collected from nearshore deposits be dewatered before being placed on a beach and that strict beach management practices and conditions be met before transferring existing beach sand from one section of a beach to another.

The legislature believes that continued climate warming and accelerating sea level rise will cause the rates of coastal erosion and beach loss to increase in

the coming decades. The legislature also believes that prior legislative endeavors exemplify the willingness and ability of the various governmental, private, and community stakeholders to work together to make the beach restoration permitting process more efficient. For example, Act 230, Session Laws of Hawaii 2015, revised the permitting process for repairing and restoring Hawaiian loko ia, or fishponds, by waiving the section 401 water quality certification requirement.

The legislature further finds that the department of land and natural resources, in conjunction with various state, county, and federal agencies, is currently in the final stages of re-authorizing and extending a small-scale beach restoration program. This program offers beach nourishment and sediment management projects as viable ecosystem-based “soft” management options to address coastal erosion and restore critical beach resources. The department of land and natural resources will accomplish this re-authorization using statewide programmatic conservation district use permits. Additionally, the department will enforce new permit conditions that are consistent with those provisions of section 401 of the federal Clean Water Act pertaining to beach restoration and water quality protection measures.

The legislature finds that waiving the section 401 water quality certification requirement for small-scale beach restoration permit applicants that have met the conditions of the small-scale beach restoration regulations and qualifying criteria, and have received notice of authorization to proceed from the department of land and natural resources, will ensure that the program functions in an efficient and environmentally responsible manner. Waiving the requirement of a section 401 water quality certification in these situations will result in the State more efficiently administering water pollution control during beach conservation and restoration projects. The legislature notes that it is not the intent of this Act to limit or impede state environmental controls on water pollution.

Accordingly, the purpose of this Act is to waive the requirement to obtain a section 401 water quality certification for beach restoration and management projects that have received notice of authorization to proceed from the department of land and natural resources’ small-scale beach restoration program.

SECTION 2. Section 342D-6, Hawaii Revised Statutes, is amended to read as follows:

“§342D-6 Permits; procedures for. (a) An application for any permit required under this chapter shall be in a form prescribed by the director.

(b) The department may require that applications for permits shall be accompanied by plans, specifications, and any other information that it deems necessary [~~in order~~] to determine whether the proposed installation, alteration, or use will be in accord with applicable rules and standards.

(c) The director shall issue a permit for any term, not exceeding five years, if the director determines that it will be in the public interest; provided that the permit may be subject to any reasonable conditions that the director may prescribe. The director may include conditions in permits or may issue separate permits for management practices for domestic sewage, sewage sludge, and recycled water, regardless of whether [~~or not~~] the practices cause water pollution. The director, on application, shall renew a permit from time to time, for a term not exceeding five years, if the director determines that it will be in the public interest. The director shall not grant or deny an application for the issuance or renewal of a permit without affording the applicant and any person who commented on the proposed permit during the public comment period an opportunity for a hearing in accordance with chapter 91. A request for a hearing and any judicial review of the hearing shall not stay the effect of the issuance or renewal

of a permit unless specifically ordered by the director or [an] environmental court.

(d) The director, on the director’s own motion or the application of any person, may modify, suspend, revoke, or revoke and reissue any water pollution permit if, after affording the permittee an opportunity for a hearing in accordance with chapter 91, the director determines that:

- (1) There is a violation of any condition of the permit;
- (2) The permit was obtained by misrepresentation[;] or there was failure to disclose fully all relevant facts;
- (3) There is a change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge; or
- (4) It is in the public interest.

The public interest excludes any reason less stringent than the causes for permit modification, revocation, and termination, or revocation and reissuance identified in title 40 Code of Federal Regulations section 122.62 or 122.64.

(e) The director, on the director’s own motion or the application of any person, may modify, suspend, revoke, or revoke and reissue any sludge permit after affording the permittee an opportunity for a hearing in accordance with chapter 91, and consistent with title 40 Code of Federal Regulations section 501.15(c)(2) and (3) and (d)(2).

(f) The director shall ensure that the public receives notice of each application for a permit to control water pollution. The director may hold a public hearing before ruling on an application for a permit to control water pollution if the director determines the public hearing to be in the public interest. In determining whether a public hearing would be in the public interest, the director shall be guided by title 40 Code of Federal Regulations section 124.12(a).

(g) In determining the public interest regarding permit issuance or renewal, the director shall consider the environmental impact of the proposed action, any adverse environmental effects [~~which~~] that cannot be avoided should the action be implemented, the alternatives to the proposed action, the relationship between local short-term uses of the environment and the maintenance and enhancement of long-term productivity, any irreversible and irremediable commitments of resources [~~which~~] that would be involved in the proposed action should it be implemented, and any other factors [~~which~~] that the director, by rule, may prescribe; provided that any determination of public interest shall promote the optimum balance between economic development and environmental quality.

(h) No applicant for a modification or renewal of a permit shall be held in violation of this chapter during the pendency of the applicant’s application so long as the applicant acts consistently with the permit previously granted, the application and all plans, specifications, and other information submitted as part thereof.

(i) The department shall not require a water quality certification pursuant to section 401 of the federal Clean Water Act under this chapter for any applicant of the small-scale beach restoration program that has received notice of authorization to proceed from the department of land and natural resources’ office of conservation and coastal lands.”

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 1, 2021.)

ACT 163

S.B. NO. 516

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, in the current job market, nearly sixty-five per cent of available positions require postsecondary credentials. Industry-recognized credentials are important because they teach the specific knowledge and skills that are required for an occupation or industry. Full-time employees with industry credentials earn more than their uncredentialed counterparts, and, in some cases, the salaries of credential holders who do not hold college degrees are similar to the salaries of college graduates.

The legislature also finds that the State has critical shortages of qualified and credentialed workers in sectors including health, education, air travel, and technology. Given the recent downturn in the State's economy and the rise in unemployment, it is especially important for Hawaii to equip its students for the existing job market. To this end, the Promising Credentials project, a collaborative effort aimed at using Hawaii labor market data and local employer insights to identify high-value industry credentials in the State, was launched. This information will enable local career readiness programs to better tailor their offerings to Hawaii's job market and to deliver more effective services to both students and employers. However, there is a need for the data to be disaggregated by credential and to be consistently collected and reported by state agencies.

Accordingly, the purpose of this Act is to:

- (1) Require the state board for career and technical education to oversee and review annually the statewide data collection processes, reporting requirements, and business rules related to the student attainment of industry-recognized credentials;
- (2) Require the state board for career and technical education to provide an annual report to the governor and the legislature on students' attainment of industry-recognized credentials; and
- (3) Include career and technical education and credential data in the statewide longitudinal data system to help assess the longitudinal education and workforce outcomes of students who attempted an educational course, training program, career program, postsecondary program, or other workforce training program.

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

“§304A- Industry-recognized credentials; data collection. (a) The board shall review annually the statewide data collection processes, reporting requirements, and business rules related to the student attainment of industry-recognized credentials. The board shall ensure consistent data collection and transparent reporting across relevant state educational systems and agencies. The board shall provide an annual report to the governor and the legislature on students' attainment of industry-recognized credentials.

(b) All state data collection processes, reporting requirements, and business rules shall support the collection of student-level data to include data that is disaggregated specifically for Hawaii's population, including but not limited to disaggregated data for Native Hawaiians and Pacific Islanders, of industry-recognized credential attainment.

(c) The board’s annual report shall be published digitally and shall be made available to all relevant stakeholders, including students and families, educational institutions, educators, employers, and community members.

(d) As used in this section:

“Board” means the state board for career and technical education.

“Industry-recognized credential” means a credential recognized as having value to the holder of the credential in the labor market in Hawaii.”

SECTION 3. Act 46, Session Laws of Hawaii 2020, is amended by amending section 13 to read as follows:

“SECTION 13. Section 27-7, Hawaii Revised Statutes, is amended to read as follows:

“~~§27-7~~ **Departmental data sharing.** (a) The department of education, the University of Hawaii, the department of labor and industrial relations, and other state agencies, as appropriate, shall share data through the statewide longitudinal data system to support research that will improve educational and workforce outcomes ~~[and meet the longitudinal data requirements of the federal American Recovery and Reinvestment Act of 2009, as amended]~~. The data to be shared shall be determined jointly by the department of education, the University of Hawaii, the department of labor and industrial relations, and other state agencies, as appropriate, and shall be shared no less than annually.

(b) The department of education, the University of Hawaii, the department of labor and industrial relations, and other state agencies, as appropriate, shall share data in a manner that safeguards the confidentiality of student education records, as defined by the federal Family Educational Rights and Privacy Act, and workforce data, as provided by applicable federal and state laws, rules, and regulations.

(c) The statewide longitudinal data system shall store and analyze career and technical education data it receives from all state educational systems and workforce training agencies pursuant to section 304A- to analyze the cross-agency longitudinal education and workforce outcomes of students who attempted an educational course, training program, career program, postsecondary program, or other state-supported workforce training program. Data to be shared shall be determined jointly by the relevant agencies and shall be shared no less than annually.

~~[(e)]~~ (d) All data shared by or with the department of human services, department of education, public charter school authorizers, public charter schools, executive office on early learning, and other entities as required by statute shall be subject to any administrative rule regarding privacy adopted by the department or agency that collected the data.

~~[(d)]~~ (e) The department of education, the University of Hawaii, the department of labor and industrial relations, and other state agencies, as appropriate, shall ~~[establish a data governance and access committee that meets on a quarterly basis to]~~ partner to collectively govern the statewide longitudinal data system and determine protocols to:

- (1) Prioritize analyses and research questions that will provide information to improve educational and workforce outcomes and policies; and
- (2) Approve requests for access to data provided by the department of education, the University of Hawaii, the department of labor and industrial ~~[[relations]]~~, and other state agencies, as appropriate.

~~[(e)]~~ (f) All state agency directors shall consider sharing data for the statewide longitudinal data system.””

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.²

SECTION 5. This Act shall take effect upon its approval; provided that section 2 shall take effect on July 1, 2022.

(Approved July 1, 2021.)

Notes

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

ACT 164

S.B. NO. 538

A Bill for an Act Relating to the Hawaii Civil Rights Commission.

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

SECTION 1. The legislature finds that when Act 387, Session Laws of Hawaii 1989, was enacted and codified as section 368-1.5, Hawaii Revised Statutes, it was meant to be the state counterpart to section 504 of the federal Rehabilitation Act of 1973, as amended, to provide a state remedy for disability discrimination and an alternative in situations where federal remedies are also available. Additionally, section 368-1.5, Hawaii Revised Statutes, provides those with disabilities non-discriminatory access to state financially assisted activities and programs regardless of whether that program or activity also receives federal financial assistance.

The legislature further finds that the intent of section 368-1.5, Hawaii Revised Statutes, was originally, and is now, to give the Hawaii civil rights commission jurisdiction over disability discrimination claims, even if protections under section 504 of the Rehabilitation Act, as amended, are available.

Therefore, the purpose of this Act is to clarify the intent of the legislature in enacting section 368-1.5, Hawaii Revised Statutes, in light of the Hawaii Supreme Court's decision in *Hawaii Tech. Acad., et al. v. L.E., et al.*, 141 Haw. 147, 407 P.3d 103 (2017), which held that the legislature did not intend the Hawaii civil rights commission to have jurisdiction over disability discrimination claims under section 368-1.5, Hawaii Revised Statutes, if protections under section 504 of the Rehabilitation Act, as amended, are applicable. To address concerns regarding potential duplication of services under the Individuals with Disabilities Education Act, P.L. 101-476, as amended, the Rehabilitation Act of 1973, and their respective appeals processes, this Act excludes cases within the scope of the Individuals with Disabilities Education Act from the Hawaii civil rights commission's jurisdiction under section 368-1.5, Hawaii Revised Statutes.

SECTION 2. Section 368-1.5, Hawaii Revised Statutes, is amended to read as follows:

“§368-1.5 Programs and activities receiving state financial assistance.

(a) No otherwise qualified individual in the State shall, [~~solely~~] by reason of [~~his or her~~] the individual's disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination by state agencies, or under any program or activity receiving state financial assistance.

(b) As used in this section[, ~~the term “disability”~~]:

“Disability” means the state of having a physical or mental impairment [which] that substantially limits one or more major life activities, having a record of such an impairment, or being regarded as having such an impairment.

“Program or activity receiving state financial assistance” includes a program or activity that receives federal and state financial assistance.

~~[(e) As used in this section, “state]~~ “State financial assistance” means grants, purchase-of-service contracts, or any other arrangement by which the State provides or otherwise makes available assistance in the form of funds to an entity for the purpose of rendering services on behalf of the State. It does not include procurement contracts, state insurance or guaranty contracts, licenses, tax credits, or loan guarantees to private businesses of general concern that do not render services on behalf of the State.”

SECTION 3. Section 368-11, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The commission shall have jurisdiction over the subject of discriminatory practices made unlawful by part I of chapter 489, chapter 515, part I of chapter 378, and this chapter[-]; provided that the commission shall not have jurisdiction over claims within the scope of the Individuals with Disabilities Education Act, P.L. 101-476, as amended. Any individual claiming to be aggrieved by an alleged unlawful discriminatory practice may file with the commission’s executive director a complaint in writing that shall state the name and address of the person or party alleged to have committed the unlawful discriminatory practice complained of, set forth the particulars thereof, and contain other information as may be required by the commission. The attorney general, or the commission upon its own initiative,¹ may, in like manner, make and file a complaint.”

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, 2022.

(Approved July 1, 2021.)

Note

- 1. Comma should be underscored.

ACT 165

S.B. NO. 806

A Bill for an Act Relating to Public School Lands.

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

SECTION 1. The attorney general of the State, on behalf of the department of education, shall institute proceedings to acquire by voluntary action or by condemnation with existing improvements thereon pursuant to chapter 101, Hawaii Revised Statutes:

- (1) The portion of the parcel of land owned by the Mililani Town Association identified as lot 2755-C on land court map 325, which constitutes a portion of tax map key 9-5-001:83; and
- (2) The portion of the parcel of land owned by the Mililani Town Association that fronts Mililani high school and is identified as lot 5392-B on the city and county of Honolulu department of planning and

permitting subdivision approval dated November 22, 2019, which constitutes a portion of tax map key 9-5-001:017.

SECTION 2. The attorney general, on behalf of the department of education, shall acquire or take the property described in section 1 of this Act in its existing condition, and shall provide for the indemnification of the Mililani Town Association for all claims and liabilities against the Mililani Town Association that may arise concerning the physical, environmental, soil, economic, and legal conditions of the property, from the effective date of this Act until the voluntary action or the condemnation process is complete.

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

(Approved July 1, 2021.)

ACT 166

S.B. NO. 813

A Bill for an Act Relating to Charter Schools.

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

SECTION 1. Section 302D-32, Hawaii Revised Statutes, is amended to read as follows:

“**§302D-32 Annual audit.** Each charter school shall annually complete an independent financial audit that complies with the requirements of its authorizer and the department. The authorizer shall ~~select three independent auditors,~~ provide to each charter school it oversees a list of approved independent auditors, from which the charter school shall select one independent auditor to comply with this section.”

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 1, 2021.)

ACT 167

S.B. NO. 814

A Bill for an Act Relating to Charter Schools.

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

SECTION 1. Section 302D-3, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The commission shall consist of nine members to be appointed by the board. The board shall appoint members who will be tasked with authorizing public charter schools that serve the unique and diverse needs of public school students. The chair of the commission shall be designated by the members of the commission for each school year beginning July 1, and whenever there is a vacancy. The board shall consider the combination of abilities, breadth of experiences, and characteristics of the commission, including but not limited to reflecting the diversity of the student population, geographical representa-

tion, and a broad representation of education-related stakeholders. Members of the commission shall collectively possess experience and expertise in public or nonprofit governance; management and finance; assessment; and public education. The commission shall be exempt from sections 26-34 and 26-36.”

SECTION 2. Section 302D-13, Hawaii Revised Statutes, is amended as follows:

1. By amending subsections (b) through (d) to read:

“(b) Any community, department school, school community council, group of teachers, group of teachers and administrators, or nonprofit organization may ~~submit a letter of intent to an authorizer to form a charter school and~~ establish an applicant governing board~~[- An applicant governing board may]~~ and develop a charter application pursuant to this section; provided that:

- (1) An applicant governing board established by a community may develop a charter application for a start-up charter school;
- (2) An applicant governing board established by a department school or a school community council may develop a charter application for a conversion charter school;
- (3) An applicant governing board established by a group of teachers or a group of administrators may develop a charter application for a start-up or conversion charter school; and
- (4) A nonprofit organization may:

(A) Establish an applicant governing board that is separate from the nonprofit organization and develop a charter application for a start-up or conversion charter school; or

(B) Establish an applicant governing board that shall be the board of directors of the nonprofit organization and may develop a charter application for a conversion charter school; provided that any nonprofit organization that seeks to manage and operate a conversion charter school shall:

- (i) Submit to the authorizer at the time of the charter application bylaws or policies that describe the manner in which business is conducted and policies that relate to the management of potential conflict of interest situations;
- (ii) Have experience in the management and operation of public or private schools or, to the extent necessary, agree to obtain appropriate services from another entity or entities possessing such experience;
- (iii) Not interfere in the operations of the department school to be converted until otherwise authorized by the authorizer in consultation with the department; and
- (iv) Have the same protections that are afforded to all other governing boards in its role as the conversion charter school governing board.

(c) The charter school application process and schedule shall be determined by the authorizer, and shall provide for and include, at a minimum, the following elements:

(1) The issuance and publication of ~~[a request for proposals]~~ an application process by the authorizer on the authorizer’s internet website that, at a minimum:

(A) Solicits charter applications and presents the authorizer’s strategic vision for chartering;

- (B) Includes or directs applicant governing boards to the performance framework developed by the authorizer in accordance with section 302D-16;
 - (C) Includes criteria that will guide the authorizer's decision to approve or deny a charter application;
 - (D) States clear, appropriately detailed questions and provides guidelines concerning the format and content essential for applicant governing boards to demonstrate the capacities necessary to establish and operate a successful charter school; and
 - (E) Requires charter applications to provide or describe all essential elements, as determined by the authorizer, of proposed school plans;
- [(2) ~~The submission of a letter of intent to open and operate a start-up charter school or to convert a department school to a conversion charter school;~~
- (3) (2) The timely submission of a completed charter application to the authorizer; provided that a charter application for a conversion charter school shall include certification and documentation that the charter application was approved by a majority of the votes cast by existing administrative, support, and teacher personnel, and parents of students at the existing department school; provided that:
- (A) This vote shall be considered by the authorizer to be the primary indication of the existing administrative, support, and teaching personnel, and parents' approval to convert to a charter school;
 - (B) The balance of stakeholders represented in the vote and the extent of support received in support of the conversion shall be key factors, along with the applicant's proposed plans, to be considered by the authorizer when deciding whether to award a charter; and
 - (C) A breakdown of the number of administrative, support, and teaching personnel, and parents of students who constitute the existing department school and the number who actually participated in the vote shall be provided to the authorizer;
- [(4) (3) The timely review of the charter application by the authorizer for completeness, and notification by the authorizer to the applicant governing board that the charter application is complete[;] or, if the authorizer determines that the application is incomplete, notification by the authorizer to the applicant governing board that the application is incomplete, providing a detailed listing of any missing elements of the application, and providing a reasonable opportunity for the applicant governing board to cure any deficiency within the application period;
- [(5) (4) Upon receipt of a completed charter application, the review and evaluation of the charter application by qualified persons including but not limited to:
- (A) An in-person interview with representatives from the applicant governing board; and
 - (B) An opportunity in a public forum for the public to provide input on each charter application;
- [(6) (5) Following the review and evaluation of a charter application, approval or denial of the charter application by the authorizer in a meeting open to the public[;] and subsequent written notice to the applicant; provided that in the event of a denial, the notice shall

provide specific information to the applicant on the applicant’s right to appeal the decision to the board, including but not limited to the number of days by which the applicant shall file an appeal with the board and where to file an appeal:

- [(7)] (6) A provision for a final date by which a written decision to approve or deny a charter application [~~must~~] shall be made by the authorizer[;] to the applicant, upon receipt of a complete charter application; and
- [(8)] (7) A provision that no charter school may begin operation before obtaining authorizer approval of its charter application and charter contract and fulfilling pre-opening requirements that may be imposed by the authorizer, pursuant to section 302D-14.5.

(d) A charter application to become a start-up or conversion charter school shall meet the requirements of this subsection, section 302D-25, and any other requirements set by the authorizer. The charter application shall, at a minimum:

- (1) Include plans for a charter school that are likely to satisfactorily meet the academic, financial, organizational, and operational performance indicators, measures, and metrics set forth in the authorizer’s performance framework, pursuant to section 302D-16;
- (2) Include plans for a charter school that is in compliance with applicable laws; and
- (3) ~~[[]Recognize[]~~ the interests of the general public.”

2. By amending subsection (f) to read:

“(f) In reviewing charter applications under this section, an authorizer shall develop a schedule to approve or deny a charter application by the end of the calendar year ~~[prior to]~~ before the opening year of the proposed charter school for purposes of meeting any deadlines to request funding from the legislature; provided that nothing in this section shall be construed as requiring an authorizer to accept and review charter applications annually.”

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, 2021.

(Approved July 1, 2021.)

ACT 168

S.B. NO. 873

A Bill for an Act Relating to Contested Cases.

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

SECTION 1. The legislature finds that more efficient, yet still effective, contested case hearings can be conducted by interactive conference technology, which is already being utilized for public meetings in accordance with section 92-3.5, Hawaii Revised Statutes.

The purpose of this Act is to authorize contested case hearings to be conducted through the use of interactive conference technology.

SECTION 2. Section 91-9, Hawaii Revised Statutes, is amended to read as follows:

“§91-9 Contested cases; notice; hearing; interactive conference technology; records. (a) Subject to section 91-8.5, in any contested case, all parties shall be afforded an opportunity for hearing after reasonable notice.

- (b) The notice shall include a statement of:
 - (1) The date, time, place, and nature of hearing;
 - (2) The legal authority under which the hearing is to be held;
 - (3) The particular sections of the statutes and rules involved;
 - (4) An explicit statement in plain language of the issues involved and the facts alleged by the agency in support thereof; provided that if the agency is unable to state ~~such~~ the issues and facts in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved, and thereafter upon application a bill of particulars shall be furnished; and
 - (5) The fact that any party may retain counsel if the party so desires and the fact that an individual may appear on the individual's own behalf, or a member of a partnership may represent the partnership, or an officer or authorized employee of a corporation or trust or association may represent the corporation, trust, or association.

(c) The hearing may be held by interactive conference technology that allows interaction by the agency, any party, and counsel if retained by the party, and the notice identifies electronic contact information for each agency, party, and counsel if retained by the party. A contested case hearing held by interactive conference technology shall be recessed for up to one hour when audio communication cannot be maintained; provided that the hearing may reconvene when only audio communication is reestablished. If audio-only communication is reestablished, then each speaker shall state the speaker's name prior to making remarks.

~~(e)~~ (d) Opportunities shall be afforded all parties to present evidence and argument on all issues involved[-]; provided that, if the hearing is held by interactive conference technology evidence may be submitted and exchanged by electronic means.

~~(d)~~ (e) Any procedure in a contested case may be modified or waived by stipulation of the parties and informal disposition may be made of any contested case by stipulation, agreed settlement, consent order, or default.

~~(e)~~ (f) For the purpose of agency decisions, the record shall include:

- (1) All pleadings, motions, intermediate rulings;
- (2) Evidence received or considered, including oral testimony, exhibits, and a statement of matters officially noticed;
- (3) Offers of proof and rulings thereon;
- (4) Proposed findings and exceptions;
- (5) Report of the officer who presided at the hearing; and
- (6) Staff memoranda submitted to members of the agency in connection with their consideration of the case.

~~(f)~~ (g) It shall not be necessary to transcribe the record unless requested for purposes of rehearing or court review.

~~(g)~~ (h) No matters outside the record shall be considered by the agency in making its decision except as provided herein.”

(i) For the purposes of this subsection, “interactive conference technology” means any form of audio or audio and visual conference technology, including teleconference, videoconference, and voice over internet protocol, that facilitates interaction between the agency, any party, and counsel if retained by the party.”

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

SECTION 4. This Act shall take effect on October 1, 2021.

(Approved July 1, 2021.)

ACT 169

S.B. NO. 1139

A Bill for an Act Relating to the Office of Medical Cannabis Control and Regulation.

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

SECTION 1. The legislature finds that Act 159, Session Laws of Hawaii 2018, established the office of medical cannabis control and regulation under the health resources administration of the department of health to administer medical cannabis dispensary licensure and regulation pursuant to chapter 329D, Hawaii Revised Statutes, and the registration of qualifying patients and primary caregivers pursuant to chapter 329, part IX, Hawaii Revised Statutes.

The purpose of this Act is to:

- (1) Authorize the department of health to adopt administrative rules to establish patient registration fees beginning in fiscal year 2022; and
- (2) Establish a task force to explore the issues and development of a dual system program of legalization for cannabis and the impacts of legalization on qualifying patients, including access to medical marijuana by qualifying patients.

SECTION 2. Section 329-123, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Qualifying patients shall register with the department of health. The registration shall be effective until the expiration of the certificate issued by the department of health and signed by the physician or advanced practice registered nurse. Every qualifying patient shall provide sufficient identifying information to establish the personal identities of the qualifying patient and the primary caregiver. Qualifying patients shall report changes in information within ten working days. Every qualifying patient shall have only one primary caregiver at any given time. The department of health shall issue to the qualifying patient a registration certificate[,] and [shall] may charge [\$35 per year.] a fee for the certificate in an amount adopted by rules pursuant to chapter 91.”

SECTION 3. Section 329-123.5, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) Each qualifying out-of-state patient shall pay a fee [~~of \$45~~] in an amount established by rules adopted by the department pursuant to chapter 91 for each registration and renewal.”

SECTION 4. (a) The office of medical cannabis control and regulation shall convene a task force to explore the development of a dual system program of the legalization for cannabis and the impacts of legalization of cannabis on qualifying patients, including access to medical cannabis by qualifying patients.

(b) The office of medical cannabis control and regulation 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 2023.

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 July 1, 2021.)

ACT 170

S.B. NO. 1220

A Bill for an Act Relating to Criminal History Record Checks.

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

SECTION 1. Section 846-2.7, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

- “(b) Criminal history record checks may be conducted by:
- (1) The department of health or its designee on operators of adult foster homes for individuals with developmental disabilities or developmental disabilities domiciliary homes and their employees, as provided by section 321-15.2;
 - (2) The department of health or its designee on prospective employees, persons seeking to serve as providers, or subcontractors in positions that place them in direct contact with clients when providing non-witnessed direct mental health or health care services as provided by section 321-171.5;
 - (3) The department of health or its designee on all applicants for licensure or certification for, operators for, prospective employees, adult volunteers, and all adults, except adults in care, at healthcare facilities as defined in section 321-15.2;
 - (4) The department of education on employees, prospective employees, and teacher trainees in any public school in positions that necessitate close proximity to children as provided by section 302A-601.5;
 - (5) The counties on employees and prospective employees who may be in positions that place them in close proximity to children in recreation or child care programs and services;
 - (6) The county liquor commissions on applicants for liquor licenses as provided by section 281-53.5;
 - (7) The county liquor commissions on employees and prospective employees involved in liquor administration, law enforcement, and liquor control investigations;
 - (8) The department of human services on operators and employees of child caring institutions, child placing organizations, and foster boarding homes as provided by section 346-17;
 - (9) The department of human services on prospective adoptive parents as established under section 346-19.7;
 - (10) The department of human services or its designee on applicants to operate child care facilities, household members of the applicant, prospective employees of the applicant, and new employees and household members of the provider after registration or licensure as provided by section 346-154, and persons subject to section 346-152.5;

- (11) The department of human services on persons exempt pursuant to section 346-152 to be eligible to provide child care and receive child care subsidies as provided by section 346-152.5;
- (12) The department of health on operators and employees of home and community-based case management agencies and operators and other adults, except for adults in care, residing in community care foster family homes as provided by section 321-15.2;
- (13) The department of human services on staff members of the Hawaii youth correctional facility as provided by section 352-5.5;
- (14) The department of human services on employees, prospective employees, and volunteers of contracted providers and subcontractors in positions that place them in close proximity to youth when providing services on behalf of the office or the Hawaii youth correctional facility as provided by section 352D-4.3;
- (15) The judiciary on employees and applicants at detention and shelter facilities as provided by section 571-34;
- (16) The department of public safety on employees and prospective employees who are directly involved with the treatment and care of persons committed to a correctional facility or who possess police powers including the power of arrest as provided by section 353C-5;
- (17) The board of private detectives and guards on applicants for private detective or private guard licensure as provided by section 463-9;
- (18) Private schools and designated organizations on employees and prospective employees who may be in positions that necessitate close proximity to children; provided that private schools and designated organizations receive only indications of the states from which the national criminal history record information was provided pursuant to section 302C-1;
- (19) The public library system on employees and prospective employees whose positions place them in close proximity to children as provided by section 302A-601.5;
- (20) The State of any of its branches, political subdivisions, or agencies on applicants and employees holding a position that has the same type of contact with children, vulnerable adults, or persons committed to a correctional facility as other public employees who hold positions that are authorized by law to require criminal history record checks as a condition of employment as provided by section 78-2.7;
- (21) The department of health on licensed adult day care center operators, employees, new employees, subcontracted service providers and their employees, and adult volunteers as provided by section 321-15.2;
- (22) The department of human services on purchase of service contracted and subcontracted service providers and their employees serving clients of the adult protective and community services branch, as provided by section 346-97;
- (23) The department of human services on foster grandparent program, senior companion program, and respite companion program participants as provided by section 346-97;
- (24) The department of human services on contracted and subcontracted service providers and their current and prospective employees that provide home and community-based services under section 1915(c) of the Social Security Act, title 42 United States Code section 1396n(c), or under any other applicable section or sections of

- the Social Security Act for the purposes of providing home and community-based services, as provided by section 346-97;
- (25) The department of commerce and consumer affairs on proposed directors and executive officers of a bank, savings bank, savings and loan association, trust company, and depository financial services loan company as provided by section 412:3-201;
 - (26) The department of commerce and consumer affairs on proposed directors and executive officers of a nondepository financial services loan company as provided by section 412:3-301;
 - (27) The department of commerce and consumer affairs on the original chartering applicants and proposed executive officers of a credit union as provided by section 412:10-103;
 - (28) The department of commerce and consumer affairs on:
 - (A) Each principal of every non-corporate applicant for a money transmitter license;
 - (B) Each person who upon approval of an application by a corporate applicant for a money transmitter license will be a principal of the licensee; and
 - (C) Each person who upon approval of an application requesting approval of a proposed change in control of licensee will be a principal of the licensee,
 as provided by sections 489D-9 and 489D-15;
 - (29) The department of commerce and consumer affairs on applicants for licensure and persons licensed under title 24;
 - (30) The Hawaii health systems corporation on:
 - (A) Employees;
 - (B) Applicants seeking employment;
 - (C) Current or prospective members of the corporation board or regional system board; or
 - (D) Current or prospective volunteers, providers, or contractors, in any of the corporation's health facilities as provided by section 323F-5.5;
 - (31) The department of commerce and consumer affairs on:
 - (A) An applicant for a mortgage loan originator license, or license renewal; and
 - (B) Each control person, executive officer, director, general partner, and managing member of an applicant for a mortgage loan originator company license or license renewal,
 as provided by chapter 454F;
 - (32) The state public charter school commission or public charter schools on employees, teacher trainees, prospective employees, and prospective teacher trainees in any public charter school for any position that places them in close proximity to children, as provided in section 302D-33;
 - (33) The counties on prospective employees who work with children, vulnerable adults, or senior citizens in community-based programs;
 - (34) The counties on prospective employees for fire department positions which involve contact with children or vulnerable adults;
 - (35) The counties on prospective employees for emergency medical services positions which involve contact with children or vulnerable adults;
 - (36) The counties on prospective employees for emergency management positions and community volunteers whose responsibilities involve planning and executing homeland security measures including view-

- ing, handling, and engaging in law enforcement or classified meetings and assisting vulnerable citizens during emergencies or crises;
- (37) The State and counties on employees, prospective employees, volunteers, and contractors whose position responsibilities require unescorted access to secured areas and equipment related to a traffic management center;
 - (38) The State and counties on employees and prospective employees whose positions involve the handling or use of firearms for other than law enforcement purposes;
 - (39) The State and counties on current and prospective systems analysts and others involved in an agency's information technology operation whose position responsibilities provide them with access to proprietary, confidential, or sensitive information;
 - (40) The department of commerce and consumer affairs on:
 - (A) Applicants for real estate appraiser licensure or certification as provided by chapter 466K;
 - (B) Each person who owns more than ten per cent of an appraisal management company who is applying for registration as an appraisal management company, as provided by section 466L-7; and
 - (C) Each of the controlling persons of an applicant for registration as an appraisal management company, as provided by section 466L-7;
 - (41) The department of health or its designee on all license applicants, licensees, employees, contractors, and prospective employees of medical cannabis dispensaries, and individuals permitted to enter and remain in medical cannabis dispensary facilities as provided under sections 329D-15(a)(4) and 329D-16(a)(3);
 - (42) The department of commerce and consumer affairs on applicants for nurse licensure or license renewal, reactivation, or restoration as provided by sections 457-7, 457-8, 457-8.5, and 457-9;
 - (43) The county police departments on applicants for permits to acquire firearms pursuant to section 134-2 and on individuals registering their firearms pursuant to section 134-3;
 - (44) The department of commerce and consumer affairs on:
 - (A) Each of the controlling persons of the applicant for licensure as an escrow depository, and each of the officers, directors, and principals who will be in charge of the escrow depository's activities upon licensure; and
 - (B) Each of the controlling persons of an applicant for proposed change in control of an escrow depository licensee, and each of the officers, directors, and principals who will be in charge of the licensee's activities upon approval of such application, as provided by chapter 449;
 - (45) The department of taxation on current or prospective employees or contractors who have access to federal tax information in order to comply with requirements of federal law, regulation, or procedure, as provided by section 231-1.6;
 - (46) The department of labor and industrial relations on current or prospective employees or contractors who have access to federal tax information in order to comply with requirements of federal law, regulation, or procedure, as provided by section 383-110;
 - (47) The department of human services on current or prospective employees or contractors who have access to federal tax information

- in order to comply with requirements of federal law, regulation, or procedure, as provided by section 346-2.5;
- (48) The child support enforcement agency on current or prospective employees, or contractors who have access to federal tax information in order to comply with federal law, regulation, or procedure, as provided by section 576D-11.5; ~~and~~
- (49) The University of Hawaii on current and prospective employees and contractors whose duties include ensuring the security of campus facilities and persons; and
- [(49)] (50) Any other organization, entity, or the State, its branches, political subdivisions, or agencies as may be authorized by state law.”

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 1, 2021.)

ACT 171

S.B. NO. 1222

A Bill for an Act Relating to the Conference Center Revolving Fund.

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

SECTION 1. Section 304A-2272, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§304A-2272]]~~ **Conference center revolving fund; University of Hawaii at Hilo.** (a) There is established the conference center revolving fund for ~~[the] conference center [program in the college of continuing education and community service of]~~ programs conducted by the University of Hawaii at Hilo. All fees, charges, and other moneys collected in conjunction with ~~[the] conference center [program]~~ programs shall be deposited in the revolving fund. The ~~dean of the college of continuing education and community service]~~ chancellor of the University of Hawaii at Hilo or the chancellor’s designee is authorized to expend funds from the revolving fund for all costs associated with ~~[conducting] conferences, seminars, and courses provided by [the] conference center [program,]~~ programs, including but not limited to expenses for honoraria, hotel and room rentals, food and refreshment, printing and mailing, airfare and per diem, ~~[leis,] lei,~~ rental of audiovisual equipment, and conference supplies and materials~~[-]~~, without regard to any competitive bidding requirements pursuant to chapter 103D.

(b) The chancellor of the University of Hawaii at Hilo shall submit a report to the legislature no later than twenty days prior to the convening of each regular session that includes an accounting for all income and expenditures of the revolving fund under this section.”

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 1, 2021.)

A Bill for an Act Relating to the University of Hawaii Board of Regents Independent Audit Committee.

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

PART I

SECTION 1. Section 304A-321, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (b) to read:

“(b) The independent audit committee shall consist of at least three members but ~~[not]~~ no more than five members who shall be appointed by the chairperson of the board of regents, from among the members of the board of regents, except as provided in this subsection. The chair of the independent audit committee shall be selected ~~[by and from among its members.]~~ in a manner consistent with the bylaws of the board of regents.

The independent audit committee shall include one or more individuals with financial expertise. ~~[If no member of the board of regents has the requisite skills, the board of regents shall execute other arrangements, which may include the appointment of members of the general public who possess the requisite financial expertise to the independent audit committee to ensure that the independent audit committee has the capacity to carry out its duties.]”~~

2. By amending subsection (d) to read:

“(d) The independent audit committee shall be exempt from chapter 91 and part I of chapter 92 to the extent that the independent audit committee is engaging in discussions with internal or external auditors on matters that should remain confidential in accordance with nationally recognized best practices for independent audit committees, or in proceedings arising from an investigation by the independent audit committee relating to potentially actionable civil or criminal conduct, regardless of whether ~~[or not]~~ the investigation is pending or outstanding. At the discretion of the chair of the independent audit committee, discussions under this subsection may be held in the absence of the president of the University of Hawaii or the chief financial officer of the university.”

3. By amending subsection (f) to read:

“(f) The independent audit committee shall engage in ~~[operations]~~ oversight relating to enterprise risk management including:

- (1) Providing oversight of risk management, which shall include determining overall strategy and influencing the university’s risk philosophy;
- (2) Inquiring of the president of the University of Hawaii, the chief financial officer of the university, and external auditors about significant risks or exposures faced by the university;
- (3) Assessing steps that the president of the University of Hawaii has taken or proposes to take to minimize those risks to the university and periodically reviewing compliance with those steps; and
- (4) Reviewing with the general counsel of the University of Hawaii, external auditors, external counsel, and the chief financial officer of the university legal and regulatory matters that, in the opinion of the president of the University of Hawaii, may have a material impact upon the financial statements, related organization compliance policies, and programs and reports received from regulators.”

PART II

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

“§304A- Findings of significant issues; Implementation of corrective and remedial action. (a) In the event an investigation or audit performed by the independent audit committee, internal auditor, or external auditor, or any audit report reviewed by the independent audit committee finds significant issues with an operation or program of the University of Hawaii, including non-compliance or possible non-compliance with any applicable law, ordinance, rule, or regulation, or any applicable board of regent policy or executive policy of the university, and the findings recommend or warrant corrective or remedial action to be taken by the university, the independent audit committee shall immediately notify the board of regents in writing of the significant issue and the corrective and remedial action warranted or recommended to be taken.

(b) The board of regents, upon receipt of notice from the independent audit committee under subsection (a), shall:

- (1) Take up the matter as board business at the meeting of the board of regents held immediately following the receipt of notice from the independent audit committee under subsection (a); provided that the meeting and notice thereof shall comply with the requirements of chapter 92;
- (2) Set the deadline by which the university shall correct or remedy the significant issue; and
- (3) Require the university to submit to the board of regents a progress report in a frequency the board of regents deems reasonable.

(c) The board of regents shall review the progress reports submitted by the university pursuant to paragraph (b)(3) and take appropriate action to ensure timely implementation of the corrective or remedial action.

(d) Upon completion of the university’s implementation of the corrective or remedial action, the board of regents shall take action to ensure that the underlying significant issue has been appropriately corrected and remedied.”

PART III

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

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

(Approved July 1, 2021.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 173

S.B. NO. 1384

A Bill for an Act Relating to Education.

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

SECTION 1. Section 302L-1.6, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) Except for the superintendent of education, directors of state departments, president of the University of Hawaii, chief executive officer of Kamehameha Schools, and the executive director of the Hawaii Association of Independent Schools, or their designees, the members of the board shall serve staggered terms as follows:

- (1) The representative of center-based program providers shall serve a two-year term;
- (2) The representative of family child care program providers shall serve a three-year term;
- (3) The representative of family-child interaction learning program providers shall serve a three-year term;
- (4) The representative of philanthropic organizations that support early learning shall serve a two-year term;
- (5) The representative from a head start provider agency shall serve a three-year term;
- (6) The representative from the Hawaii Early Intervention Coordinating Council shall serve a three-year term;
- (7) The parent representative shall serve a two-year term;
- (8) The representative from the Hawaii chapter of the American Academy of Pediatrics shall serve a two-year term;
- (9) The representative of home-visiting program providers shall serve a three-year term;
- (10) The representative of Hawaiian medium early learning providers shall serve a two-year term; provided that the prohibition against serving more than two consecutive terms not to exceed eight consecutive years pursuant to section 26-34(a) shall not apply to the representative of Hawaiian medium early learning providers’ term limit; and
- (11) The representative of the Hawaii Council of Mayors shall serve a three-year term.”

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval and shall be repealed on June 30, 2025.

(Approved July 1, 2021.)

ACT 174

H.B. NO. 72

A Bill for an Act Relating to Electric Foot Scooters.

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

SECTION 1. Chapter 249, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“**§249- Electric foot scooters; registration.** An electric foot scooter shall be required to be registered, and shall be subject to a permanent registration fee of \$30, to be paid by the owners thereof to the director of finance to be deposited into the bikeway fund under section 249-17.5, Hawaii Revised Statutes.”

SECTION 2. Chapter 291C, Hawaii Revised Statutes, is amended by adding a new section to part XII to be appropriately designated and to read as follows:

“§291C- Electric foot scooters. (a) This section shall apply whenever an electric foot scooter is operated upon any highway, street, roadway, or other designated public area set aside for the use of electric foot scooters.

(b) Every person operating an electric foot scooter upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to a driver of a vehicle under this chapter, except as to provisions of this:

- (1) Section to the contrary; and
- (2) Chapter that, by their nature, can have no application.
- (c) The counties by ordinance shall regulate operations of electric foot scooters with regard to, but not limited to, the following:
 - (1) Operations in or upon roadways, bikeways, bicycle paths, and sidewalks;
 - (2) Storage and docking locations;
 - (3) Restrictions on maximum speed;
 - (4) Safety considerations; and
 - (5) Insurance requirements;

provided that no authority adopted in accordance with this subsection shall be less restrictive than the requirements set forth in this section.

(d) No person under fifteen years of age shall operate an electric foot scooter on a highway, street, roadway, or any other public property in the State. No person under sixteen years of age shall operate an electric foot scooter unless the person wears a safety helmet securely fastened with a chin strap. The safety helmet shall meet the specifications of and requirements for a bicycle helmet as set out in section 291C-150.

(e) No person shall operate an electric foot scooter that is carrying any other person, nor shall any person other than the operator ride upon an electric foot scooter.

(f) No person operating an electric foot scooter shall carry any package, bundle, or article that prevents the use of both hands in the control and operation of the electric foot scooter.

(g) Any electric foot scooter used from thirty minutes after sunset until thirty minutes before sunrise shall meet the specifications of and requirements for lamps and other equipment on bicycles as set out in section 291C-147; provided that in lieu of the requirement of section 291C-147(b), every electric foot scooter shall be equipped with a lighted lamp that is visible from the rear.

(h) No person shall operate an electric foot scooter at a speed other than is reasonable and prudent and having regard to the actual and potential hazards and conditions then existing; provided that no person shall operate an electric foot scooter at a speed greater than fifteen miles per hour.

(i) Any person who operates an electric foot scooter recklessly in disregard of the safety of persons or property shall be assessed penalties as set forth in section 291C-161(b).

(j) A person or entity that provides electric foot scooters for hire shall not rent or lease an electric foot scooter to any person unless:

- (1) Each renter or lessee that is under the age of sixteen wears a safety helmet, as required by subsection (d), while operating the electric foot scooter; and
- (2) Each renter or lessee is provided with a copy of the electric foot scooter ordinances or rules that have been adopted by the applicable county.

(k) Electric foot scooters shall only be stored or docked at specific locations that shall be authorized by the counties.”

SECTION 3. Section 249-1, Hawaii Revised Statutes, is amended as follows:

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

“Electric foot scooter” means a device:

- (1) Weighing less than seventy-five pounds;
- (2) With two or three wheels;
- (3) With handlebars;
- (4) With either:
 - (A) A floorboard that can be stood upon while riding; or
 - (B) A seat or saddle for the use of the rider and stationary footrests;
- (5) That is powered by an electric motor or human power; and
- (6) Whose maximum speed, with or without human propulsion on a paved level surface, does not exceed fifteen miles per hour.

“Electric foot scooter” does not include foot-powered scooters that do not have a motor.”

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

“Moped” means a device upon which a person may ride [~~which~~] that has two or three wheels in contact with the ground, a motor having a maximum power output capability measured at the motor output shaft, in accordance with the Society of Automotive Engineers standards, of two horsepower (one thousand four hundred ninety-two watts) or less and, if it is a combustion engine, a maximum piston or rotor displacement of 3.05 cubic inches (fifty cubic centimeters) and [~~which~~] that will propel the device, unassisted, on a level surface at a maximum speed no greater than thirty miles per hour; and a direct or automatic power drive system, which requires no clutch or gear shift operation by the moped driver after the drive system is engaged with the power unit. “Moped” does not include an electric foot scooter.”

SECTION 4. Section 286-2, Hawaii Revised Statutes, is amended as follows:

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

“Electric foot scooter” means a device:

- (1) Weighing less than seventy-five pounds;
- (2) With two or three wheels;
- (3) With handlebars;
- (4) With either:
 - (A) A floorboard that can be stood upon while riding; or
 - (B) A seat or saddle for the use of the rider and stationary footrests;
- (5) That is powered by an electric motor or human power; and
- (6) Whose maximum speed, with or without human propulsion on a paved level surface, does not exceed fifteen miles per hour.

“Electric foot scooter” does not include foot-powered scooters that do not have a motor.”

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

“Moped” means a device upon which a person may ride [~~which~~] that has two or three wheels in contact with the ground, a motor having a maximum power output capability measured at the motor output shaft, in accordance with the Society of Automotive Engineers standards, of two horsepower (one thousand four hundred ninety-two watts) or less and, if it is a combustion engine, a maximum piston or rotor displacement of 3.05 cubic inches (fifty cubic centimeters) and [~~which~~] that will propel the moped, unassisted, on a level surface at a

maximum speed no greater than thirty miles per hour; and a direct or automatic power drive system, which requires no clutch or gear shift operation by the moped driver after the drive system is engaged with the power unit. “Moped” does not include an electric foot scooter.”

SECTION 5. Section 291-31.5, Hawaii Revised Statutes, is amended by amending its title and subsection (a) to read as follows:

“§291-31.5 Blue lights prohibited for motor vehicles, motorcycles, motor scooters, bicycles, electric foot scooters, and mopeds. (a) No person shall knowingly operate, affix or cause to be affixed, display, or possess any lamp, reflector, or illumination device that appears to be the color blue, or colors blue and red, upon any motor vehicle, motorcycle, motor scooter, bicycle, electric foot scooter, or moped, except for:

- (1) County law enforcement vehicles authorized and approved by the chief of police of the county in which the vehicle is operated;
- (2) 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;
- (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; or
- (4) Department of transportation division of harbors law enforcement vehicles with blue and red lamps, reflectors, or illumination devices authorized and approved by the director of transportation.

This prohibition shall not apply to factory-installed instrument illumination.”

SECTION 6. Section 291C-1, Hawaii Revised Statutes, is amended as follows:

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

““Electric foot scooter” means a device:

- (1) Weighing less than seventy-five pounds;
- (2) With two or three wheels;
- (3) With handlebars;
- (4) With either:
 - (A) A floorboard that can be stood upon while riding; or
 - (B) A seat or saddle for the use of the rider and stationary footrests;
- (5) That is powered by an electric motor or human power; and
- (6) Whose maximum speed, with or without human propulsion on a paved level surface, does not exceed fifteen miles per hour.

“Electric foot scooter” does not include foot-powered scooters that do not have a motor.”

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

““Moped” means a device upon which a person may ride [which] that has two or three wheels in contact with the ground, a motor having a maximum power output capability measured at the motor output shaft, in accordance with the Society of Automotive Engineers standards, of two horsepower (one thousand four hundred ninety-two watts) or less and, if it is a combustion engine, a maximum piston or rotor displacement of 3.05 cubic inches (fifty cubic centimeters) and [which] that will propel the device unassisted, on a level surface at a maximum speed no greater than thirty miles per hour; and a direct or automatic power drive system, which requires no clutch or gear shift operation by the mo-

ped driver after the drive system is engaged with the power unit. “Moped” does not include an electric foot scooter.”

SECTION 7. Section 291C-123, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) No person shall drive any vehicle other than a bicycle, electric foot scooter, or moped upon a bicycle lane or bicycle path, except upon a permanent or authorized temporary driveway, or park any vehicle upon a bicycle lane or bicycle path; provided that any vehicle may be driven or parked in a bicycle lane or bicycle path as applicable if:

- (1) It is in the process of executing a legal turn, lane change, or parking maneuver;
- (2) It is an authorized emergency vehicle performing the functions under section 291C-26;
- (3) It is an official federal, state, or county vehicle in the performance of its actual duty;
- (4) It is a stalled or broken vehicle;
- (5) It is necessary to assist a stalled or broken vehicle;
- (6) It is necessary to yield to an authorized emergency vehicle pursuant to section 291C-65; or
- (7) It is otherwise provided by law.”

SECTION 8. Section 431:10C-304, Hawaii Revised Statutes, is amended to read as follows:

“§431:10C-304 Obligation to pay personal injury protection benefits. For purposes of this section, the term “personal injury protection insurer” includes personal injury protection self-insurers. Every personal injury protection insurer shall provide personal injury protection benefits for accidental harm as follows:

- (1) Except as otherwise provided in section 431:10C-305(d), in the case of injury arising out of a motor vehicle accident, the insurer shall pay, without regard to fault, to the provider of services on behalf of the following persons who sustain accidental harm as a result of the operation, maintenance, or use of the vehicle, an amount equal to the personal injury protection benefits as defined in section 431:10C-103.5(a) payable for expenses to that person as a result of the injury:
 - (A) Any person, including the owner, operator, occupant, or user of the insured motor vehicle;
 - (B) Any pedestrian [including a bicyclist]; [Ø]
 - (C) Any user or operator of a moped as defined in section 249-1; or
 - (D) Any user or operator of an electric foot scooter as defined in section 249-1;provided that this paragraph shall not apply in the case of injury to or death of any operator or passenger of a motorcycle or motor scooter as defined in section 286-2 arising out of a motor vehicle accident, unless expressly provided for in the motor vehicle policy;
- (2) Payment of personal injury protection benefits shall be made as the benefits accrue, except that in the case of death, payment of benefits under section 431:10C-302(a)(5) may be made immediately in a lump sum payment, at the option of the beneficiary;
- (3) (A) Payment of personal injury protection benefits shall be made within thirty days after the insurer has received reasonable

- proof of the fact and amount of benefits accrued, and demand for payment thereof. All providers ~~[must]~~ shall produce descriptions of the service provided in conformity with applicable fee schedule codes;
- (B) If the insurer elects to deny a claim for benefits in whole or in part, the insurer shall, within thirty days, notify the claimant in writing of the denial and the reasons for the denial. The denial notice shall be prepared and mailed by the insurer in triplicate copies and be in a format approved by the commissioner. In the case of benefits for services specified in section 431:10C-103.5(a) the insurer shall also mail a copy of the denial to the provider; and
 - (C) If the insurer cannot pay or deny the claim for benefits because additional information or loss documentation is needed, the insurer shall, within the thirty days, forward to the claimant an itemized list of all the required documents. In the case of benefits for services specified in section 431:10C-103.5(a) the insurer shall also forward the list to the service provider;
- (4) Amounts of benefits ~~[which]~~ that are unpaid thirty days after the insurer has received reasonable proof of the fact and the amount of benefits accrued, and demand for payment thereof, after the expiration of the thirty days, shall bear interest at the rate of one and one-half per cent per month;
 - (5) No part of personal injury protection benefits paid shall be applied in any manner as attorney's fees in the case of injury or death for which the benefits are paid. The insurer shall pay, subject to section 431:10C-211, in addition to the personal injury protection benefits due, all attorney's fees and costs of settlement or suit necessary to effect the payment of any or all personal injury protection benefits found due under the contract. Any contract in violation of this provision shall be illegal and unenforceable. It shall constitute an unlawful and unethical act for any attorney to solicit, enter into, or knowingly accept benefits under any contract;
 - (6) Disputes between the provider and the insurer over the amount of a charge or the correct fee or procedure code to be used under the workers' compensation supplemental medical fee schedule shall be governed by section 431:10C-308.5; and
 - (7) Any insurer who violates this section shall be subject to section 431:10C-117(b) and (c)."

SECTION 9. Section 707-700, Hawaii Revised Statutes, is amended by amending the definition of "vulnerable user" to read as follows:

""Vulnerable user" means:

- (1) A pedestrian legally within a street or public highway;
- (2) A roadway worker actually engaged in work upon a street or public highway or in work upon utility facilities along a street or public highway, or engaged in the provision of emergency services within a street or public highway, including but not limited to:
 - (a) Construction and maintenance workers; and
 - (b) Police, fire, and other emergency responders; or
- (3) A person legally operating any of the following within the street or public highway:
 - (a) A bicycle;
 - (b) A moped;

- (c) An electric foot scooter;
- ~~[(e)]~~ (d) An electric personal assistive mobility device; or
- ~~[(d)]~~ (e) A wheelchair conveyance or other personal mobility device.”

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.¹

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

(Approved July 1, 2021.)

Note

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

ACT 175

H.B. NO. 767

A Bill for an Act Relating to the Farm to School Program.

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

SECTION 1. The legislature finds that a key reason for the creation of the Hawaii farm to school program in 2015 was to improve the health of the State’s keiki by encouraging consumption of fresh, locally grown foods, both for their nutritional content and to promote healthy behaviors at an early age.

The legislature further finds that setting a target goal of providing a fixed minimum percentage of locally sourced food in public schools can bring the farm to school program closer to achieving tangible results for the health of Hawaii’s students, including an increased consumption of fresh fruits and vegetables and the potential to minimize diet-related diseases in childhood, such as obesity and diabetes.

The purpose of this Act is to move the Hawaii farm to school program from the department of agriculture to the department of education and establish a programmatic goal that at least thirty per cent of food served in public schools be locally sourced by 2030.

SECTION 2. Chapter 302A, Hawaii Revised Statutes, is amended by adding two new sections to subpart C of part II to be appropriately designated and to read as follows:

“§302A- Hawaii farm to school program; farm to school coordinator.

(a) There is established within the department a Hawaii farm to school program. The purpose of the farm to school program shall be to:

- (1) Improve student health;
- (2) Develop an educated agricultural workforce;
- (3) Enrich the local food system through the support and increase of local food procurement for the State’s public schools;
- (4) Accelerate garden and farm-based education for the State’s public school students; and
- (5) Expand the relationships between public schools and agricultural communities.

(b) The Hawaii farm to school program shall be headed by a farm to school coordinator who shall work in collaboration with the appropriate stake-

holders to address the issues of supply, demand, procurement, and consumption of Hawaii-grown foods in state facilities, primarily education facilities, and take reasonable steps to incorporate more agriculture and nutrition education in schools.

§302A- Farm to school meals. (a) By 2030, the department shall meet the local farm to school meal goal that thirty per cent of food served in public schools shall consist of locally sourced products, as measured by the percentage of the total cost of food.

(b) The department shall submit an annual report to the legislature no later than twenty days prior to the convening of each regular session, beginning with the regular session of 2022, containing the following information:

- (1) The status of the department's progress in meeting the local farm to school meal goal;
- (2) The percentage of food served in public schools that consists of locally sourced products, by county, as measured by the percentage of the total cost of food;
- (3) The costs associated with the farm to school meals program and any savings realized;
- (4) A list of all large purchases of locally sourced products and the identity of the seller;
- (5) A list of meals on a school menu consisting of the largest percentage of locally sourced products, as measured by the percentage of the total cost of food;
- (6) The percentage of fresh food served, by county, as measured by the percentage of the total cost of food;
- (7) The percentage of processed food served, by county, as measured by the percentage of the total cost of food;
- (8) A description of the training conducted to prepare cafeteria staff for cooking meals from scratch; and
- (9) The percentage of locally sourced products purchased from the department's largest distributors, as measured by the percentage of the total cost of food.

(c) For the purposes of this section:

“Fresh local agricultural products” means fruits, vegetables, nuts, coffee, eggs, poultry and poultry products, livestock and livestock products, milk and milk products, aquacultural and maricultural products, and horticultural products that are one hundred per cent grown, raised, and harvested in Hawaii.

“Local value-added processed, agricultural, or food products” means at least fifty-one per cent of the product's primary agricultural product shall be grown, raised, and harvested in Hawaii.

“Locally sourced products” means fresh local agricultural products or local value-added processed, agricultural, or food products.

“Primary agricultural product” means the major agricultural product in a processed or value-added agricultural or food product.”

SECTION 3. Section 141-11, Hawaii Revised Statutes, is repealed.

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

SECTION 5. This Act shall take effect on July 1, 2021.

(Approved July 2, 2021.)

Note

1. Edited pursuant to HRS §23G-16.5.

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 supporting local businesses and encouraging the production and use of local agricultural products is a matter of statewide concern. The purpose of this Act is to require state departments to ensure that a certain percentage of produce that is purchased is locally-grown to ensure the continued growth of local produce, support local farmers and ranchers, and guarantee that revenue derived from the produce of contracts for locally-grown produce remains in the State.

SECTION 2. Chapter 27, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§27- Contracts for produce; percentage to be grown within the State.

(a) Each principal department of the State, as established in section 26-4, that purchases produce shall ensure that a certain percentage of the produce purchased by that department is fresh local agricultural products and local value-added, processed, agricultural, or food products as follows:

- (1) By January 1, 2025, fresh local agricultural products and local value-added, processed, agricultural, or food products shall constitute a minimum of ten per cent of the total produce purchased by the department during each calendar year, as measured by the per cent of total food cost;
- (2) By January 1, 2030, fresh local agricultural products and local value-added, processed, agricultural, or food products shall constitute a minimum of eighteen per cent of the total produce purchased by the department during each calendar year, as measured by the per cent of total food cost;
- (3) By January 1, 2035, fresh local agricultural products and local value-added, processed, agricultural, or food products shall constitute a minimum of twenty-six per cent of the total produce purchased by the department during each calendar year, as measured by the per cent of total food cost;
- (4) By January 1, 2040, fresh local agricultural products and local value-added, processed, agricultural, or food products shall constitute a minimum of thirty-four per cent of the total produce purchased by the department during each calendar year, as measured by the per cent of total food cost;
- (5) By January 1, 2045, fresh local agricultural products and local value-added, processed, agricultural, or food products shall constitute a minimum of forty-two per cent of the total produce purchased by the department during each calendar year, as measured by the per cent of total food cost; and
- (6) By January 1, 2050, fresh local agricultural products and local value-added, processed, agricultural, or food products shall constitute a minimum of fifty per cent of the total produce purchased by the department during each calendar year, as measured by the per cent of total food cost.

(b) Each principal department of the State shall submit a report to the legislature no later than twenty days prior to the convening of each regular session on that department's progress toward meeting the benchmarks described in subsection (a), including:

- (1) The amount of total produce purchased by the department during the calendar year preceding that regular session, as measured by the per cent of the total food cost;
- (2) The amount of fresh local agricultural products and local value-added, processed, agricultural, or food products purchased by the department during the calendar year preceding that regular session, as measured by the per cent of the total food cost;
- (3) The percentage of fresh local agricultural products and local value-added, processed, agricultural, or food products purchased by the department during the year preceding that regular session; and
- (4) If the department did not meet the relevant benchmark described in subsection (a), an explanation of why the department did not meet that benchmark.

(c) For the purposes of this section:

“Fresh local agricultural products” means fruits, vegetables, nuts, coffee, eggs, poultry, and poultry products, livestock, and livestock products, milk and milk products, aquacultural, and maricultural products, and horticultural products, one hundred per cent grown, raised, and harvested in Hawaii.

“Local value-added, processed, agricultural, or food products” means at least fifty-one per cent of the product’s primary agricultural product is grown, raised, and harvested in Hawaii.

“Primary agricultural product” means the major agricultural product in a processed or value-added agricultural or food product.

“Produce” means fruits, vegetables, staple starches, nuts, coffee, eggs, poultry and poultry products, livestock and livestock products, milk and milk products, aquacultural and maricultural products, and horticultural products.”

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.¹

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

(Approved July 2, 2021.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 177

S.B. NO. 512

A Bill for an Act Relating to Supplemental Nutrition Assistance Program Incentives.

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

SECTION 1. The legislature finds that consumption of fresh fruits and vegetables is an integral part of a healthy diet and central to the prevention of obesity and chronic disease. The legislature also finds that every community should have access to fresh and healthy dietary options, but the high cost of fresh produce often makes that difficult. This challenge is felt acutely by participants

in the federal supplemental nutrition assistance program, a low-income population that struggles to afford healthy food.

The legislature also finds that the coronavirus disease 2019 (COVID-19) pandemic has placed a financial strain on many local families, including farmers, ranchers, and many involved in Hawaii’s agricultural industry. Multiple COVID-19 restrictions and the drop in customer sales among retailers and other businesses across the State have led to decreased purchases from local farmers and ranchers, with some having to consider scaling back operations or downsizing their workforce.

The legislature further finds that through the national double up food bucks program, Hawaii has the opportunity to expand access to healthy foods for low-income residents who are eligible for supplemental nutrition assistance program benefits. Currently implemented in more than twenty-eight states, the double up food bucks program provides matching federal grant moneys to state programs that incentivize the use of supplemental nutrition assistance program benefits for the purchase of fresh produce. The double up food bucks program is a viable model that supports local farmers; helps low-income families who receive double the purchasing power for healthy, Hawaii-grown produce; and benefits Hawaii by keeping dollars in the local economy.

The enactment of Act 153, Session Laws of Hawaii 2019, created the Hawaii healthy food incentive program, also known as the double up food bucks program. The program provides a dollar-for-dollar match to supplemental nutrition assistance program beneficiaries who purchase locally-grown fruits and vegetables at participating farmers’ markets, grocery stores, and community-supported agriculture projects. Funding from the legislature has allowed community groups, led by the Food Basket on Hawaii island, to obtain matching federal funds. Additionally, local funders have also stepped up to amplify the impact of this program to ensure that it can reach communities around the State.

The purpose of this Act is to expand the double up food bucks program administered by the Hawaii department of agriculture to make fresh fruits and vegetables and healthy proteins sold at farmers’ markets, grocery stores, and other direct food retailers accessible to families or individuals who reside in this State and who receive assistance through the federal supplemental nutrition assistance program.

SECTION 2. Section 141-13, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Participants in the Hawaii healthy food incentive program who are beneficiaries of the supplemental nutrition assistance program shall receive a dollar-for-dollar match [~~of up to \$10 per visit, per day,~~] to be used exclusively for the purchase of Hawaii-grown fresh fruits and vegetables, or healthy proteins that are eligible for supplemental nutrition assistance as determined by the program, at a farmers’ market, farm stand, mobile market, community-supported agriculture site, grocery store, or other direct food retailer that participates in the supplemental nutrition assistance program.”

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, 2021.)

ACT 178

H.B. NO. 243

A Bill for an Act Relating to Sea Level Rise Adaptation.

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

SECTION 1. The legislature finds that climate change and sea level rise pose significant, dangerous, and imminent threats to the State's social and economic well-being, public safety, nature and environments, cultural resources, property, infrastructure, and government functions and will likely have a disproportionate impact on low-income and otherwise vulnerable communities. Chronic impacts of sea level rise, including coastal erosion, high tide flooding, and annual high wave flooding, are already impacting many low-lying coastal areas and are predicted to increase in extent and severity in the coming decades. Climate change and sea level rise will exacerbate the impacts of disaster events, such as hurricanes, extreme rainfall, high-wave events, and tsunamis.

The legislature further finds that a 2017 report by the National Oceanic and Atmospheric Administration projects that 3.2 feet of global mean sea level rise will occur by 2100 in an intermediate scenario and could occur as early as the 2060s in an extreme scenario.

The legislature notes that the Hawaii sea level rise vulnerability and adaptation report completed by the department of land and natural resources and accepted by the Hawaii climate change mitigation and adaptation commission, along with map data available via the Hawaii sea level rise viewer online mapping tool and the Hawaii statewide GIS program, provide a relevant assessment, based on the best available science, of the State's coastal areas' exposure to the chronic impacts of sea level rise. The state hazard mitigation plan provides expanded assessment of natural hazards and potential impacts of disaster events in recognition of climate change and sea level rise. Both documents provide current references; are consistent with sea level rise projections reported in the latest and best available science, including National Oceanic and Atmospheric Administration reporting; and serve as key references for the State in assessing vulnerabilities and developing actions to improve resilience to impacts of sea level rise and extreme climate events, and therefore can serve as useful tools for state agencies with operational responsibilities over state facilities in preparing for sea level rise.

To successfully adapt to climate change and sea level rise, state agencies having operational responsibilities over state facilities must plan, coordinate, and act to assure Hawaii's sustainable and resilient future. In 2017, the legislature passed Act 32, Session Laws of Hawaii 2017, which formally established the Hawaii climate change mitigation and adaptation commission, for which the office of planning serves as a co-chair. To support the implementation of statewide climate change adaptation planning and coordination, the legislature enacted Act 45, Session Laws of Hawaii 2020, which requires the office of planning to serve as the lead agency for the State to coordinate sea level rise adaptation and climate change planning and coordination.

The legislature further finds that the climate change adaptation priority guidelines of the Hawaii State Planning Act, codified in section 226-109, Hawaii Revised Statutes, expresses that the State should prepare to address the impacts of climate change. More specifically, section 226-109(7), Hawaii Revised Statutes, directs the State to "[p]romote sector resilience in areas such as water, roads, airports, and public health, by encouraging the identification of climate change threats, assessment of potential consequences, and evaluation of adaptation options[.]"

The legislature recognizes that the practice of statewide sea level rise adaptation will require comprehensive and long-term planning and that collectively, state agencies having operational responsibilities over state facilities must work collaboratively over time through a centralized coordinating agency to identify existing and planned facilities that are vulnerable to sea level rise, flooding impacts, and natural hazards. The legislature also finds that the American Jobs Plan, proposed by the President of the United States in March 2021, could provide potential federal moneys to fund the planning, coordination, and revitalization of state facilities and infrastructure that are threatened by the impacts of climate change and that are vulnerable to sea level rise, flooding impacts, and natural hazards.

The purpose of this Act is to:

- (1) Require the office of planning, in coordination with state agencies with operational responsibilities over state facilities, to:
 - (A) Identify existing and planned facilities that are vulnerable to sea level rise, flooding impacts, and natural hazards;
 - (B) Assess options to mitigate the impacts of sea level rise to those facilities; and
 - (C) Submit annual reports to the governor, legislature, and Hawaii climate change mitigation and adaptation commission regarding vulnerability and mitigation assessments for state facilities and progress in implementing sea level rise and disaster resiliency considerations;
- (2) Update and reaffirm the role of the office of planning to coordinate climate change adaptation and sea level rise adaptation among all state agencies to improve the interagency coordination of these activities; and
- (3) Amend the Hawaii State Planning Act to include sustainable development, climate change adaptation, and sea level rise adaptation as objectives for facility systems.

SECTION 2. Chapter 225M, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§225M- Coordination of sea level rise adaptation activities. The office of planning, in cooperation with each state agency having operational responsibilities over state facilities, shall:

- (1) Begin statewide sea level rise adaptation coordination by working with state agencies to identify existing and planned facilities, including critical infrastructure, that are vulnerable to sea level rise, flooding impacts, and natural hazards, utilizing projections and map data from the most recent update of the Hawaii sea level rise vulnerability and adaptation report, the State of Hawaii hazard mitigation plan, and any other pertinent data and scientific reports to aid in this planning;
- (2) Assess a range of options for mitigating impacts of sea level rise to those existing and planned state facilities; and
- (3) Submit an annual report to the governor, legislature, and the Hawaii climate change mitigation and adaptation commission no later than twenty days prior to the convening of each regular session regarding the vulnerability and mitigation assessments for state facilities and progress made toward implementing sea level rise adaptation in future plans, programs, and capital improvement needs and decisions.”

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) 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) Collecting, assembling, organizing, evaluating, and classifying existing geospatial and non-geospatial data and performing necessary basic research, conversions, and integration to provide a common database for governmental planning and geospatial analyses by state agencies;
 - (B) Planning, coordinating, and maintaining a comprehensive, shared statewide planning and geographic information system and associated geospatial database. The office shall be the lead agency responsible for coordinating the maintenance of the multi-agency, statewide planning and geographic information

system and coordinating, collecting, integrating, and disseminating geospatial data sets that are used to support a variety of state agency applications 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, as specified in chapter 205;
- (6) Coastal and ocean policy management, and sea level rise adaptation coordination. Carrying out the lead agency responsibilities for the Hawaii coastal zone management program, as specified in chapter 205A. Also:
 - (A) Developing and maintaining an ocean and coastal resources information, planning, and management system;
 - (B) Further developing and coordinating implementation of the ocean resources management plan; ~~and~~
 - (C) Formulating ocean policies with respect to the exclusive economic zone, coral reefs, and national marine sanctuaries; and
 - (D) Coordinating sea level rise adaptation with state agencies having operational responsibilities over state facilities to identify existing and planned facilities, including critical infrastructure, that are vulnerable to sea level rise, flooding impacts, and natural hazards;
- (7) Regional planning and studies. Conducting plans and studies to determine:
 - (A) The capability of various regions within the 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 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;

- (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;
- (9) Climate adaptation and sustainability planning and coordination. Conducting plans and studies and preparing reports as follows:
 - (A) Develop, monitor, and evaluate strategic climate adaptation plans and actionable policy recommendations for the State and counties addressing expected statewide climate change impacts identified under chapter 225P and sections 226-108 and 226-109; and
 - (B) Provide planning and policy guidance and assistance to state and county agencies regarding climate change and sustainability; and
- (10) Smart growth and transit-oriented development. Acting as the lead agency to coordinate and advance smart growth and transit-oriented development planning within the State as follows:
 - (A) Identify transit-oriented development opportunities shared between state and county agencies, including relevant initiatives such as the department of health's healthy Hawaii initiative and the Hawaii clean energy initiative;
 - (B) Refine the definition of "transit-oriented development" in the context of Hawaii, while recognizing the potential for smart growth development patterns in all locations;
 - (C) Clarify state goals for transit-oriented development and smart growth that support the principles of the Hawaii State Planning Act by preserving non-urbanized land, improving worker access to jobs, and reducing fuel consumption;
 - (D) Target transit-oriented development areas for significant increase in affordable housing and rental units;
 - (E) Conduct outreach to state agencies to help educate state employees about the ways they can support and benefit from transit-oriented development and the State's smart growth goals;
 - (F) Publicize coordinated state efforts that support smart growth, walkable neighborhoods, and transit-oriented development;
 - (G) Review state land use decision-making processes to identify ways to make transit-oriented development a higher priority and facilitate better and more proactive leadership in creating walkable communities and employment districts, even if transit will only be provided at a later date; and
 - (H) Approve all state agencies' development plans for parcels along the rail transit corridor. For the purposes of this subparagraph, "development plans" means conceptual land use plans that identify the location and planned uses within a defined area."

SECTION 4. Section 226-14, Hawaii Revised Statutes, is amended to read as follows:

“§226-14 Objective and policies for facility systems—in general. (a) Planning for the State's facility systems in general shall be directed towards achievement of the objective of water, transportation, sustainable development, climate change adaptation, sea level rise adaptation, waste disposal, and energy and telecommunication systems that support statewide social, economic, and physical objectives.

(b) To achieve the general facility systems objective, it shall be the policy of this State to:

- (1) Accommodate the needs of Hawaii’s people through coordination of facility systems and capital improvement priorities in consonance with state and county plans.
- (2) Encourage flexibility in the design and development of facility systems to promote prudent use of resources and accommodate changing public demands and priorities.
- (3) Ensure that required facility systems can be supported within resource capacities and at reasonable cost to the user.
- (4) Pursue alternative methods of financing programs and projects and cost-saving techniques in the planning, construction, and maintenance of facility systems.
- (5) Identify existing and planned state facilities that are vulnerable to sea level rise, flooding impacts, and natural hazards.
- (6) Assess a range of options to mitigate the impacts of sea level rise to existing and planned state facilities.”

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 6. This Act shall take effect on July 1, 2021.

(Approved July 2, 2021.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 179

S.B. NO. 474

A Bill for an Act Relating to Real Property Transactions.

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

SECTION 1. As reflected in Act 32, Session Laws of Hawaii 2017 (Act 32), the legislature recognizes that not only is climate change real, but it is also the overriding challenge of the twenty-first century and one of the priority issues of the legislature. Climate change poses immediate and long-term threats to the State’s economy, sustainability, security, and its residents’ way of life.

Act 32 established the Hawaii climate change mitigation and adaptation commission (commission) and directed the commission to, as a first step, focus on and develop sea level rise vulnerability and adaptation reports that are required to include:

- (1) Identification of the major areas of sea level rise impacts affecting the State and counties through 2050;
- (2) Identification of expected impacts of sea level rise based on the latest scientific research for each area through 2050;
- (3) Identification of the economic ramifications of sea level rise;
- (4) Identification of applicable federal laws, policies, or programs that impact affected areas; and
- (5) Recommendations for planning, management, and adaptation for hazards associated with increasing sea level rise.

The sea level rise vulnerability and adaptation report approved by the commission identifies, with maps at tax map key detail, areas that are susceptible to sea level rise impacts based on a 3.2-foot increase in sea level projected to occur by mid-century or earlier. These areas are designated as the sea level rise exposure area projection, which the commission recommends be adopted as a sea level rise exposure area overlay to guide state and county adaptation strategies and standards for development. Furthermore, the commission's statement (September 4, 2018) includes a recommendation to require disclosure for private properties and public offerings located in areas with potential exposure to sea level rise. At a minimum, the seller shall be required to disclose if the property is located in the sea level rise exposure area as identified in the State's report.

The legislature further finds that chapter 508D, Hawaii Revised Statutes, requires a written disclosure statement prepared by the seller, or at the seller's direction, that purports to fully and accurately disclose all material facts relating to residential real property being offered for sale. A "material fact" is defined under section 508D-1, Hawaii Revised Statutes, in pertinent part, to mean "any fact, defect, or condition, past or present, that would be expected to measurably affect the value to a reasonable person of the residential real property being offered for sale." The value of property lying within the boundaries of a sea level rise exposure area will likely be affected over time, which the legislature determines to be a material fact that should be disclosed by the seller in a real property transaction.

The purpose of this Act is to require that mandatory seller disclosures in real property transactions include indication that a residential real property lies within the sea level rise exposure area.

SECTION 2. Section 508D-15, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

- “(a) When residential real property lies:
- (1) Within the boundaries of a special flood hazard area as officially designated on ~~[Flood Insurance Administration maps promulgated by the United States Department of Housing and Urban Development]~~ flood maps promulgated by the National Flood Insurance Program of the Federal Emergency Management Agency for the purposes of determining eligibility for emergency flood insurance programs;
 - (2) Within the boundaries of the noise exposure area shown on maps prepared by the department of transportation in accordance with Federal Aviation Regulation part 150, Airport Noise Compatibility Planning (14 C.F.R. part 150), for any public airport;
 - (3) Within the boundaries of the Air Installation Compatible Use Zone of any Air Force, Army, Navy, or Marine Corps airport as officially designated by military authorities; ~~[or]~~
 - (4) Within the anticipated inundation areas designated on the department of defense's emergency management tsunami inundation maps~~;~~ or
 - (5) Within the sea level rise exposure area as designated by the Hawaii climate change mitigation and adaptation commission or its successor.

subject to the availability of maps that designate the ~~[four]~~ five areas by tax map key (zone, section, parcel), the seller shall include the material fact information in the disclosure statement provided to the buyer subject to this chapter. Each county shall provide, where available, maps of its jurisdiction detailing the ~~[four]~~ five designated areas specified in this subsection. The maps shall identify the

properties situated within the [~~four~~ five] designated areas by tax map key number (zone, section, parcel) and shall be of a size sufficient to provide information necessary to serve the purposes of this section. Each county shall provide legible copies of the maps and may charge a reasonable copying fee.”

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

SECTION 4. This Act shall take effect on May 1, 2022.

(Approved July 2, 2021.)

ACT 180

H.B. NO. 683

A Bill for an Act Relating to Sustainable Aviation Fuel.

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

SECTION 1. The legislature finds that at the inaugural Hawaii Aviation and Climate Action Summit on December 3, 2019, participants found that:

- (1) Tourism is the number one driver of Hawaii’s economy;
- (2) Over ninety-five per cent of visitor arrivals are by plane;
- (3) Nearly one-third of the energy consumed in the State is for jet fuel, which is a higher proportion of petroleum consumption than any other individual state;
- (4) Over one-third of Hawaii flights are to and from international destinations;
- (5) In 2021, numerous international flights will become subject to the offsetting requirements established by the International Civil Aviation Organization’s Carbon Offsetting and Reduction Scheme for International Aviation, with virtually all international flights becoming subject to the International Civil Aviation Organization’s Carbon Offsetting and Reduction Scheme for International Aviation offsetting in 2027;
- (6) Commercial airlines have committed to reducing their greenhouse gas emissions by fifty per cent below 2005 levels by 2050;
- (7) Mechanisms for airlines to meet the International Civil Aviation Organization’s Carbon Offsetting and Reduction Scheme for International Aviation requirements include fuel efficiency improvements, switching to sustainable aviation fuel with a greenhouse gas carbon intensity below a petroleum benchmark, and purchasing and retiring carbon offsets; and
- (8) The State can support small and local business innovation and technology development for this important sector by expanding the authority of the Hawaii technology development corporation to match federal and private funding in this area.

The purpose of this Act is to support the greenhouse gas lifecycle reduction of commercial aviation in the State by establishing a sustainable aviation fuel program within the Hawaii technology development corporation.

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

“§206M- Sustainable aviation fuel program; established. (a) There is established the sustainable aviation fuel program, through which the develop-

ment corporation may provide matching grants to any small business in the State that is developing products related to sustainable aviation fuel or greenhouse gas reduction from commercial aviation operations and requires assistance for any of the following items:

- (1) Business planning;
- (2) Technology development;
- (3) Engineering; or
- (4) Research.

(b) In reviewing grant applications pursuant to this section, the development corporation shall analyze each application to determine whether the item to be undertaken will be economically viable and beneficial to the State.

(c) For the purposes of the program, product development activities eligible for matching funds grants shall reduce commercial aviation greenhouse gas emissions through:

- (1) Sustainable aviation fuel production;
- (2) Airborne operations fuel efficiency;
- (3) Ground support equipment fuel replacement;
- (4) Ground support equipment fuel efficiency; or
- (5) Airport operations support to reduce overall jet fuel consumption.

(d) Hawaii jet fuel baseline carbon intensity shall be set at eighty-nine grams of carbon dioxide equivalent per megajoule, in line with the benchmark established by the International Civil Aviation Organization. This carbon intensity may be revised upon recommendation from the Hawaii state energy office based upon future revisions to the United States Department of Energy's Greenhouse Gases, Regulated Emissions, and Energy Use in Transportation full life-cycle model; provided that carbon intensity shall be measured in the units of grams of carbon dioxide equivalent per megajoule.

(e) For the purposes of this section:

“Grant” means financial assistance provided to Hawaii small business innovation research, small business technology transfer, and other agency and private sector awardees and applicants under the terms and conditions provided in this chapter.

“Hawaii small business innovation research”, “small business technology transfer”, and “sustainable aviation fuel program” means the programs administered by the development corporation to encourage participation by enterprises in federal research and development programs.

“Other agency” means an entity that receives an award or contract granted by the United States Departments of Agriculture, Transportation, Energy, Defense, or Commerce, or other federal agencies for activities consistent with those defined in this section.

“Small business” shall have the same meaning as in section 201M-1.

“Sustainable aviation fuel” means American Society for Testing and Materials D7566-compliant renewable aviation turbine fuel derived from biofuels, as defined in section 269-91, and with a greenhouse gas lifecycle carbon intensity lower than the baseline for jet fuel defined by the International Civil Aviation Organization.”

SECTION 3. New statutory material is underscored.¹

SECTION 4. This Act shall take effect on July 1, 2021.

(Approved July 2, 2021.)

Note

1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to a Job Corps Program.

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

SECTION 1. The legislature finds that, prior to the coronavirus disease 2019 (COVID-19) pandemic, Hawaii had one of the lowest unemployment rates in the nation. The COVID-19 pandemic has placed tens of thousands of Hawaii residents out of work, and the current state unemployment rate is among the nation's highest. The department of labor and industrial relations reported that the State's seasonally adjusted unemployment rate, which was 2.7 per cent in September 2019, compared to the national rate of 3.5 per cent, surged to 15.1 per cent in September 2020, compared to the national rate of 7.9 per cent. In addition, tourism, the State's largest industry, has dropped considerably because of the COVID-19 pandemic, providing a unique opportunity for the State to build a more resilient, equitable, and diversified economy. The effects of the COVID-19 pandemic have also highlighted the need for increased and diverse workforce development initiatives in the State.

The legislature further finds that models exist for the creation of such initiatives to support the State's ailing workforce. The Civilian Conservation Corps program that was implemented as a major part of President Franklin D. Roosevelt's New Deal after the Great Depression was a federal work relief program that helped employ Americans on conservation projects, alleviated economic distress, and supported the protection and responsible development of natural resources and agricultural land use. The federal Job Corps program is a no-cost education and career technical training program administered by the United States Department of Labor that helps young people ages sixteen to twenty-four improve the quality of their lives through career technical and academic training. The Hawaii job corps center supports the federal Job Corps program's mission to teach eligible young people the skills they need to become employable and independent, place them in meaningful jobs, or further their education.

The legislature recognizes that the State has committed to meeting the energy needs of its people in a safe, reliable, economical, and environmentally sound manner, as evidenced by Act 97, Session Laws of Hawaii 2015, which established a renewable portfolio standards target of one hundred per cent renewable electric energy by 2045; Act 125, Session Laws of Hawaii 2017, which requires replacement of all cesspools by 2050; and Act 15, Session Laws of Hawaii 2018, which established a statewide zero emissions clean economy target to sequester more atmospheric carbon and greenhouse gases than emitted by 2045. The legislature finds that, to support a comprehensive economic recovery, the State must invest in its community and emerging economic sectors and provide its residents with the educational and training opportunities to succeed. The creation of a state-administered green job corps program would provide Hawaii residents who were economically impacted by the COVID-19 pandemic with opportunities to learn new skills and increase their prospects of employment within the resiliency and green sectors, including local agriculture, conservation, climate adaptation, renewable energy, cesspool conversion, and technology industries.

The legislature also finds that the Aloha Connects Innovation program of the Economic Development Alliance of Hawaii and Kupu 'Aina Corps, two workforce development initiatives launched by the State with federal Coronavirus Aid, Relief, and Economic Security Act funds are potential programs that could be integrated and built upon in establishing a state-administered green job corps program. The State can also capitalize on the report titled "From Today to

Tomorrow: A Talent Roadmap to Support Economic Recovery in Hawai'i” produced by the Hawaii Executive Collaborative, which provides a framework to establish a state-administered green job corps program by outlining a talent development strategy through expansion of work-based learning, retraining, credentialing programs, industry-driven solutions, and partnerships.

Accordingly, the purpose of this Act is to:

- (1) Allow the governor to designate the department of land and natural resources to administer or enter into agreements to administer a green job youth corps program to help address the unemployment impacts of the COVID-19 pandemic and support work and training opportunities for young adults and economic diversification; and
- (2) Appropriate American Rescue Plan Act funds for this purpose.

SECTION 2. Section 193-32, Hawaii Revised Statutes, is amended to read as follows:

~~“§193-32~~ **Administration.** To carry out the program authorized by this part, the governor may:

- (1) Enter into an agreement or agreements, or designate the department of land and natural resources, or any other state department or departments as the state agency or agencies to enter into an agreement or agreements, with the proper authorities of the United States;
- (2) Designate the department of land and natural resources, or any state department or departments to design programs to provide healthful outdoor training and employment for young persons and to advance the conservation, development, and management of natural resources and recreational areas, in accordance with the applicable federal law; provided that the designated department or departments may also adopt appropriate rules under chapter 91 to carry out the programs so designed; ~~and~~
- (3) Designate the department of land and natural resources to administer or enter into an agreement or agreements for the administration of a green job youth corps program that provides temporary work and training opportunities in one or more of the following fields: natural resource management, agriculture, conservation, renewable energy, or other sustainability professions. The program shall prioritize work and training opportunities for young adults who are between twenty years of age and forty years of age and economic diversification; provided that the department of land and natural resources shall partner with organizations that have experience providing similar programming in the state; and
- ~~(3)~~ (4) Defray one-half of all costs incurred with respect to the programs or any other proportion of the costs of the programs, which may be required by the applicable laws of the United States, out of any moneys appropriated to the department or departments designated to participate in the programs, without regard to the original purpose of the appropriations.”

SECTION 3. The department of land and natural resources shall submit a report to the legislature on its progress in implementing this Act no later than twenty days prior to the convening of the regular session of 2022.

SECTION 4. There is appropriated out of the funds received by the State from the American Rescue Plan Act, Public Law 117-2, section 9901, the sum of \$5,000,000 or so much thereof as may be necessary for fiscal year 2021-

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2022 for salaries only for up to one thousand program participant positions; provided that all unexpended and unencumbered balances of the appropriation made by this section as of the close of business on November 1, 2021, shall lapse.

The sum appropriated shall be expended by the department of land and natural resources for the purposes of this Act.

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, 2021.

(Approved July 2, 2021.)

ACT 182

H.B. NO. 416

A Bill for an Act Relating to Section 711-1109, Hawaii Revised Statutes.

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

SECTION 1. Section 711-1109, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (1) to read:

“(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, beats, causes substantial bodily injury to, or starves any animal, or causes the overdriving, overloading, torture, torment, beating, or starving of any animal;
- (b) Deprives a pet animal of necessary sustenance or causes ~~[such]~~ that deprivation;
- (c) Mutilates, poisons, or kills without need any animal other than insects, vermin, or other pests; provided that the handling or extermination of any insect, vermin, or other pest is conducted in accordance with standard and acceptable pest control practices and all applicable laws and regulations;
- (d) 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, cock, or other animal, and includes every person who encourages, aids, or assists therein, or who permits or suffers any place to be so kept or used;
- (e) Carries or causes to be carried, in or upon any vehicle or other conveyance, any animal in a cruel or inhumane manner;
- (f) Confines or causes to be confined, in a kennel or cage, any pet animal in a cruel or inhumane manner;
- (g) Tethers, fastens, ties, or restrains a dog to a doghouse, tree, fence, or any other stationary object ~~[by]~~, or uses a trolley, trolley with swivels, pulley, cable, running line, or trolley lacking swivels at each end that is designed to attach a dog to two stationary objects in a configuration that endangers the dog, including preventing the dog from obtaining necessary sustenance;
- (h) Tethers or restrains a dog under the age of six months unless the dog is engaged in an activity supervised by its owner or an agent of its owner;
- (i) Tethers or restrains a dog by a tow or log chain;

- (j) Tethers or restrains by means of choke collar, pinch collar, or prong collar; ~~provided that a person is not prohibited from using such restraints when walking a dog with a hand-held leash or while a~~ unless the dog is engaged in [a supervised] an activity; ~~supervised by its owner or an agent of its owner; or~~
- [(h)] (k) Assists another in the commission of any act specified in [subsections (1)(a)] paragraphs (a) through [(1)(g)] (j).”
2. By amending subsection (4) to read:
 “(4) Cruelty to animals in the second degree is a misdemeanor, except ~~where~~ that if the offense involves ten or more pet animals in any one instance ~~which~~, then cruelty to animals in the second degree is a class C felony.”

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 its approval.

(Approved July 6, 2021.)

ACT 183

H.B. NO. 891

A Bill for an Act Relating to Electric Guns.

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

SECTION 1. The legislature finds that the United States Supreme Court decision in *Caetano v. Massachusetts*, 136 S. Ct. 1027 (2016), which overruled a decision of the Massachusetts Supreme Judicial Court, has raised questions regarding the constitutionality of bans on electric guns, and may make amendments to Hawaii’s law on electric guns advisable.

The purpose of this Act is to protect the health and safety of the public by regulating the sale and use of electric guns and repeal the existing prohibition on electric guns.

SECTION 2. Chapter 134, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

“PART . ELECTRIC GUNS

§134-A Definitions. As used in this part:

“Cartridge” means any device or object that is designed to be used with an electric gun to project a missile. “Cartridge” includes but is not limited to a Taser cartridge.

“Electric gun” means any portable device that is designed to discharge electric energy, charge, voltage, or current into the body through direct contact or utilizing a projectile. “Electric gun” includes but is not limited to devices commonly referred to as stun guns and Tasers. “Electric gun” does not include any automatic external defibrillator used in emergency medical situations.

“Law enforcement agency” means any county police department, the department of public safety, the department of the attorney general, the division of conservation and resources enforcement of the department of land and

natural resources, and any other state or county public body that employs law enforcement officers.

“Law enforcement officer” means a sheriff or deputy sheriff, a police officer, an enforcement officer within the division of conservation and resources enforcement of the department of land and natural resources, a special agent of the department of the attorney general, and any other public servant vested by law with a duty to maintain public order, make arrests for offenses, or enforce criminal laws, whether that duty extends to all offenses or is limited to a specific class of offenses.

“Licensee” means a person licensed to sell, offer to sell, distribute, or otherwise transfer electric guns and cartridges pursuant to section 134-C.

“Person” means an individual, firm, corporation, partnership, association, or any form of business or legal entity.

“Transfer” means the granting of possession or ownership to another. “Transfer” includes but is not limited to the granting of temporary possession to another.

§134-B Restrictions on use, sale, offer for sale, distribution, and transfer of electric guns and cartridges. (a) It shall be unlawful for any person to knowingly or recklessly use an electric gun for any purpose except:

- (1) Self-defense;
- (2) Defense of another person; or
- (3) Protection of property of the person or of another person.

(b) Except as provided in section 134-E, it shall be unlawful for any person to knowingly sell, offer to sell, distribute, or otherwise transfer an electric gun or cartridge without a license obtained pursuant to section 134-C. It is an affirmative defense to prosecution pursuant to this subsection that the person is more than twenty-one years of age and is an employee of a licensee acting within the scope of the person’s employment.

(c) It shall be unlawful for a licensee or employee of a licensee to knowingly sell, offer to sell, distribute, or otherwise transfer an electric gun or cartridge at a place other than the licensee’s designated place of business.

(d) It shall be unlawful for any person to knowingly sell, offer to sell, distribute, or otherwise transfer an electric gun or cartridge to a person less than twenty-one years of age.

(e) It shall be unlawful for any person, other than a licensee, a law enforcement agency, or the Army or Air National Guard, to knowingly or recklessly purchase, obtain, or otherwise receive an electric gun or cartridge from a person who does not have a license issued pursuant to section 134-C.

(f) Any person violating this section shall be guilty of a misdemeanor.

§134-C License to sell, offer to sell, distribute, or otherwise transfer electric guns or cartridges; fee. (a) Any person desiring to sell, offer to sell, distribute, or otherwise transfer electric guns or cartridges to a person in the State, either at wholesale or retail, shall annually file an application for a license to do so with the county in which the person desires to conduct business or within the county to which the person intends the electric guns or cartridges to be sold, offered for sale, distributed, or otherwise transferred using forms prescribed by the county.

(b) If the applicant is an individual, the application and supporting documentation shall establish at least the following:

- (1) The legal name, date of birth, and the last four digits of the social security number of the individual;

- (2) The street address, telephone number, fax number, and electronic mail address of the individual;
 - (3) The name and location of the principal place of business of the individual and, if applicable, each additional designated place of business from which the individual desires to sell, offer to sell, distribute, or otherwise transfer electric guns or cartridges;
 - (4) The individual's Hawaii tax identification number;
 - (5) That the individual has had no convictions for any felony offense;
 - (6) Within the last three years, that the individual has completed an electric gun safety or training course offered or approved by the county that focuses on:
 - (A) The safe use and handling of electric guns;
 - (B) Current information about the effects, dangers, risks, and limitations of electric guns; and
 - (C) Education on the existing state laws on electric guns; and
 - (7) Any other information the county may require.
- (c) If the applicant is not an individual, the application and supporting documentation shall establish at least the following:
- (1) The name of the applying entity and any other name under which the applying entity does business, if applicable;
 - (2) The street address, telephone number, fax number, and electronic mail address of the applying entity;
 - (3) The legal name, date of birth, and the last four digits of the social security number of each of the principal owners or members of the applying entity;
 - (4) The street address, telephone number, fax number, and electronic mail address of each of the principal owners or members of the applying entity;
 - (5) The name and location of the principal place of business of the applying entity and, if applicable, each additional designated place of business from which the applying entity desires to sell, offer to sell, distribute, or otherwise transfer electric guns or cartridges;
 - (6) That the applying entity is registered to do business in the State;
 - (7) That the applying entity is composed of principal owners or members who have had no convictions for any felony offense;
 - (8) The applying entity's Hawaii tax identification number;
 - (9) The applying entity's federal employer identification number;
 - (10) Within the last three years, that at least one principal owner or member of the applying entity has completed an electric gun safety or training course, as described in subsection (b)(6); and
 - (11) Any other information the county may require.
- (d) The applicant shall certify that the applicant will comply at all times with, and is responsible for compliance by its employees with, all provisions of law relative to the acquisition, possession, storage, sale, offer for sale, distribution, and transfer of electric guns and cartridges.
- (e) Upon receipt of the completed application form and the annual licensing fee of \$50 payable to the county, the county shall review the application and may issue a license to the applicant if it determines that the applicant meets all the requirements of this section. If requested by the licensee, the county shall provide certified copies of the license to the licensee.
- (f) A license issued pursuant to this section shall expire on June 30 next following the date of issuance of the license unless sooner terminated. Application for renewal of license shall be filed on or before July 1 of each year.

§134-D Sale, offer for sale, distribution, or transfer of electric guns or cartridges. (a) A licensee shall post the license to sell, offer to sell, distribute, or otherwise transfer electric guns or cartridges, or a certified copy thereof, in a location readily visible to customers at each designated place of business. For internet sales by a licensee, the license number shall be prominently displayed and an electronic copy of the license shall be readily accessible to the customer.

(b) An individual licensee shall complete at least once every three years an electric gun safety or training course offered or approved by the county that focuses on:

- (1) The safe use and handling of electric guns;
- (2) Current information about the effects, dangers, risks, and limitations of electric guns; and
- (3) Education on the existing state laws on electric guns.

A licensee shall keep copies of the certificates of completion of these training courses in the licensee's business records.

(c) A licensee shall not allow any employee to participate in the sale or transfer of electric guns or cartridges unless the employee completes at least once every three years the training courses described in subsection (b). The licensee shall keep copies of the certificates of completion of the training courses for each employee in the licensee's business records.

(d) If there is no manufacturer serial number on an electric gun or cartridge received into inventory by a licensee, then the licensee shall engrave on the electric gun or cartridge a legible unique serial number that begins with the licensee's license number, followed by a hyphen and a unique identifying number.

(e) A licensee shall keep records for all electric guns and cartridges received into inventory within the State, including:

- (1) Information identifying the seller, distributor, or transferor of the electric gun or cartridge; and
- (2) The transaction record for the electric gun or cartridge, including the date of receipt, a description of the electric gun or cartridge, the manufacturer's serial number or the unique identifying serial number engraved by the licensee, and, if available, the manufacturer and the model number.

(f) Before completing a sale, distribution, or other transfer of an electric gun, the licensee or an employee of the licensee shall conduct a criminal history background check of the recipient. At minimum, the criminal history background check shall be a name-based search of the adult criminal conviction records maintained by the Hawaii criminal justice data center. The licensee or employee of the licensee shall require the recipient to review a printed copy of the results of the background check. After the review, the recipient shall sign and date a declaration. The declaration shall be in the following form: "I, (name of recipient), declare under penalty of law that the attached document accurately reflects my adult criminal conviction history in Hawaii. I further declare that I do not have any convictions or charges pending against me that disqualify me from owning an electric gun. I further declare under penalty of law that I am not disqualified from owning an electric gun." The licensee or employee of the licensee shall witness the recipient sign the declaration and sign the declaration as a witness. If the recipient is disqualified from owning an electric gun, or refuses or is unable to sign or make the declaration, the licensee shall immediately terminate the sale, distribution, or transfer.

(g) Before completing a sale, distribution, or other transfer of an electric gun, the licensee or an employee of the licensee shall provide an informational briefing to the recipient that includes but is not limited to the following:

- (1) The safe use and handling of electric guns;

- (2) Current information about the effects, dangers, risks, and limitations of electric guns;
 - (3) Education on the existing state laws on electric guns; and
 - (4) The proper disposal of electric guns.
- (h) Upon completion of the informational briefing, the licensee shall provide a certification of informational briefing that is signed and dated by the recipient and the person who provided the informational briefing acknowledging that the briefing was completed and that the recipient understood the briefing. The certification shall include the names of the recipient and the person who provided the informational briefing and the date of the briefing. The form of the certification shall be as provided by the county office that issued the license to the licensee.
- (i) A licensee shall keep a record of the information provided to recipients during the informational briefing.
- (j) A licensee shall keep records of all sales, distributions, and other transactions of electric guns and cartridges sold in the State or to a recipient in the State, including:
- (1) The recipient's name, date of birth, address, and telephone number;
 - (2) A copy of the recipient's government-issued identification card or document;
 - (3) The transaction record for the electric gun or cartridge, including the date of the transaction; a description of the electric gun or cartridge; if available, the name of the manufacturer and serial and model numbers; and, if necessary, the unique serial number engraved by the licensee;
 - (4) The criminal history background check and declaration signed by the recipient and the licensee or licensee's employee as a witness; and
 - (5) A copy of the certification of informational briefing signed and dated by the recipient and the person who provided the briefing.
- (k) A licensee shall keep a record of the licensee's current inventory of electric guns and cartridges.
- (l) During normal business hours, a licensee shall allow the chief of police of the appropriate county or designee to inspect the licensee's books and records for all records required to be kept by the licensee for electric guns and cartridges. At the discretion of the chief of police of the appropriate county or designee, the inspection of the records may be conducted via facsimile transmittal of the records.
- (m) A licensee shall keep records required by this section for a minimum of ten years. If a licensee, as a result of death or dissolution, cannot maintain the records, the records shall be turned over to the chief of police of the appropriate county or designee.
- (n) When displaying or storing electric guns or cartridges at a designated place of business, a licensee shall display or store the electric guns and cartridges in a locked cabinet or area not accessible to the general public.
- (o) During normal business hours, a licensee shall allow the chief of police of the appropriate county or designee to physically inspect all electric guns and cartridges in the possession and control of the licensee wherever they may be located within the State.
- (p) Any person, including any licensee, violating this section shall be guilty of a misdemeanor.
- (q) A license may be suspended or revoked for a violation of any of the requirements of this section.

§134-E Disposal of electric gun or cartridge. A person who is not a licensee may sell or otherwise transfer an electric gun or cartridge to a licensee or the chief of police of the appropriate county or designee. The chief of police may either destroy the electric gun or cartridge or utilize the electric gun or cartridge for educational purposes. The chief of police shall maintain records of all surrendered electric guns and cartridges, including their disposition.

§134-F Ownership or possession prohibited. (a) No person who is a fugitive from justice shall own, possess, or control an electric gun.

(b) No person who is under indictment for, has waived indictment for, has been bound over to the circuit court for, or has been convicted in this State or elsewhere of having committed a felony, any crime of violence, or any illegal sale of any drug shall own, possess, or control an electric gun.

(c) No person who:

- (1) Is or has been under treatment or counseling for addiction to, abuse of, or dependence upon any dangerous, harmful, or detrimental drug; intoxicating compound as defined in section 712-1240; or intoxicating liquor;
- (2) Has been acquitted of a crime on the grounds of mental disease, disorder, or defect pursuant to section 704-411;
- (3) Is or has been diagnosed as having a significant behavioral, emotional, or mental disorder as defined by the most current diagnostic manual of the American Psychiatric Association; or
- (4) Is under treatment for an organic brain syndrome;

shall own, possess, or control an electric gun, unless the person has been medically documented to be no longer adversely affected by the addiction, abuse, dependence, syndrome, or mental disease, disorder, or defect.

(d) No person who is less than twenty-five years of age and has been adjudicated by the family court to have committed a felony, two or more crimes of violence, or an illegal sale of any drug shall own, possess, or control an electric gun.

(e) No person who is less than twenty-one years of age shall own, possess, or control an electric gun.

(f) No person shall possess an electric gun that is owned by another, regardless of whether the owner has consented to possession of the electric gun.

(g) No person who has been restrained pursuant to an order of any court, including an ex parte order as provided in this subsection, from contacting, threatening, or physically abusing any person or from possessing or owning a firearm, shall possess, control, or transfer ownership of an electric gun, so long as the protective order, restraining order, or any extension is in effect, unless the order, for good cause shown, specifically permits the possession of an electric gun. The restraining order or order of protection shall specifically include a statement that possession, control, or transfer of an electric gun by the person named in the order is prohibited. Such person shall relinquish possession and control of any electric gun owned by that person to the police department of the appropriate county for safekeeping for the duration of the order or extension thereof.

In the case of an ex parte order that includes a restriction on the possession, control, or transfer of an electric gun, the affidavit or statement under oath that forms the basis for the order shall contain a statement of the facts that support a finding that the person to be restrained owns, intends to obtain or transfer, or possesses an electric gun, and that the electric gun may be used to threaten, injure, or abuse any person. The ex parte order shall be effective upon service pursuant to section 586-6.

At the time of service of a restraining order involving electric guns issued by any court, the police officer may take custody of any and all electric guns in plain sight, those discovered pursuant to a consensual search, and those electric guns surrendered by the person restrained.

For the purposes of this subsection, “good cause” shall not be based solely upon the consideration that the person subject to restraint pursuant to an order of any court, including an ex parte order as provided for in this subsection, is required to possess or carry an electric gun during the course of the person’s employment. “Good cause” includes but is not limited to the protection and safety of the person to whom a restraining order is granted.

(h) Any person disqualified from ownership, possession, control, or the right to transfer ownership of an electric gun under this section shall surrender or dispose of all electric guns in compliance with section 134-E.

(i) For the purposes of enforcing this section, and notwithstanding section 571-84 or any other law to the contrary, any agency within the State shall make its records relating to family court adjudications available to law enforcement officials.

(j) Any person violating subsection (a) or (b) shall be guilty of a class C felony. Any person violating subsection (c), (d), (e), (f), (g), or (h) shall be guilty of a misdemeanor.

§134-G Exemptions. (a) Sections 134-B and 134-F(f) shall not apply to:

- (1) Law enforcement agencies and law enforcement officers acting within the course of their employment; and
- (2) The Army or Air National Guard and its members when they are assisting civil authorities in disaster relief, emergency management, or law enforcement functions, subject to the requirements of section 121-34.5;

provided that the electric guns shall be acquired by the law enforcement agencies or the Army or Air National Guard and not individual law enforcement officers or members of the Army or Air National Guard, and shall remain in the custody and control of law enforcement agencies or the Army or Air National Guard.

(b) Law enforcement agencies that authorize use of electric guns by its law enforcement officers and the Army or Air National Guard shall:

- (1) Provide training from the manufacturer or from a manufacturer-approved training program conducted by manufacturer-certified or manufacturer-approved instructors in the use of electric guns before deployment of the electric guns and related equipment in public;
- (2) Maintain records regarding every electric gun in its custody and control, including every instance of usage of the electric guns, in a similar manner as records are maintained for the discharge of firearms; and
- (3) Report to the legislature on the information in, and maintenance of, these records no later than twenty days prior to the convening of each regular session.

(c) The licensing requirement of sections 134-B(b) and 134-C shall not apply to the sale of electric guns and cartridges by the electric gun manufacturers distributing directly to law enforcement agencies or the Army or Air National Guard.

§134-H Storage of electric gun; responsibility with respect to minors. (a) No person shall store or keep any electric gun on any premises under the person’s

control if the person knows or reasonably should know that a minor is likely to gain access to the electric gun, unless the person:

- (1) Keeps the electric gun in a securely locked box or other container or in a location that a reasonable person would believe to be secure; or
 - (2) Carries the electric gun on the person or within such close proximity thereto that the minor cannot gain access or control of the electric gun.
- (b) Any person violating this section shall be guilty of a misdemeanor.

§134-I Carrying or use of electric gun in the commission of a separate misdemeanor. (a) It shall be unlawful for a person to knowingly carry on the person or have within the person’s immediate control or intentionally use or threaten to use an electric gun, whether operable or not, while engaged in the commission of a separate misdemeanor; provided that a person shall not be prosecuted under this subsection when the separate misdemeanor is a misdemeanor defined by this chapter.

(b) A conviction and sentence under this section shall be in addition to and not in lieu of any conviction and sentence for the separate misdemeanor; provided that the sentence imposed under this section may run concurrently or consecutively with the sentence for the separate misdemeanor.

(c) Any person violating this section shall be guilty of a class C felony.

§134-J Carrying or use of electric gun in the commission of a separate felony. (a) It shall be unlawful for a person to knowingly carry on the person or have within the person’s immediate control or intentionally use or threaten to use an electric gun, whether operable or not, while engaged in the commission of a separate felony; provided that a person shall not be prosecuted under this subsection when the separate felony is a felony defined by this chapter.

(b) A conviction and sentence under this section shall be in addition to and not in lieu of any conviction and sentence for the separate felony; provided that the sentence imposed under this section may run concurrently or consecutively with the sentence for the separate felony.

(c) Any person violating this section shall be guilty of a class B felony.”

SECTION 3. Section 121-34.5, Hawaii Revised Statutes, is amended to read as follows:

~~“[§121-34.5]~~ **Use of electric guns.** Members of the ~~[army or air national guard]~~ Army or Air National Guard who have been qualified by training and are authorized by their commanders may use electric guns, as specifically provided in section ~~[134-16(e) and (d),]~~ 134-G, when assisting civil authorities in disaster relief, emergency management, or law enforcement functions; provided that “training” for the purposes of this section means a course of instruction or training in the use of any electric gun authorized pursuant to this section, that is provided or authorized by the manufacturer or is manufacturer-approved or is an electric gun training program approved by the ~~[army or air national guard, prior to]~~ Army or Air National Guard, before deployment or issuance of electric guns and related equipment.”

SECTION 4. Section 134-1, Hawaii Revised Statutes, is amended by deleting the definition of “electric gun”.

~~[[“Electric gun” means any portable device that is electrically operated to project a missile or electromotive force. It does not include any electric livestock prod used in animal husbandry and any automatic external defibrillator used in emergency medical situations.”]]~~

SECTION 5. Section 134-17, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) Any person who violates section 134-2, 134-4, 134-10, or 134-15[~~or 134-16(a)~~] shall be guilty of a misdemeanor. Any person who violates section 134-3(b) shall be guilty of a petty misdemeanor and the firearm shall be confiscated as contraband and disposed of, if the firearm is not registered within five days of the person receiving notice of the violation.”

SECTION 6. Section 266-24, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The director of transportation shall enforce this chapter and all rules thereunder, except for the rules relative to the control and management of the beaches encumbered with easements in favor of the public and ocean waters, which shall be enforced by the department of land and natural resources. For the purpose of the enforcement of this chapter and of all rules adopted pursuant to this chapter, the powers of police officers are conferred upon the director of transportation and any officer, employee, or representative of the department of transportation. Without limiting the generality of the foregoing, the director and any person appointed by the director hereunder may serve and execute warrants, arrest offenders, and serve notices and orders. The director of transportation and any employee, agent, or representative of the department of transportation appointed as enforcement officers by the director, and every state and county officer charged with the enforcement of any law, statute, rule, regulation, ordinance, or order, shall enforce and assist in the enforcement of this chapter and of all rules and orders issued pursuant thereto, and in carrying out the responsibilities hereunder, each shall be specifically authorized to:

- (1) Conduct any enforcement action hereunder in any commercial harbor area and any area over which the department of transportation and the director of transportation has jurisdiction under this chapter;
- (2) Inspect and examine at reasonable hours any premises, and the buildings and other structures thereon, where harbors or harbor facilities are situated, or where harbor-related activities are operated or conducted; and
- (3) Subject to limitations as may be imposed by the director of transportation, serve and execute warrants, arrest offenders, and serve notices and orders.

Any employee appointed as a law enforcement officer by the director of transportation pursuant to this section who has been qualified by training may use electric guns, as specifically provided in section [134-16,] 134-G, when exercising powers of police officers and carrying out the responsibilities described herein; provided that training for the purposes of this section means a course of instruction or training in the use of any electric gun that is provided, authorized, or approved by the manufacturer of the electric gun [~~prior to~~] before deployment or issuance of electric guns and related equipment.

For purposes of this subsection, [~~the term “agents and representatives”~~] “agent” and “representative” includes but is not limited to persons performing services at harbors or harbor areas under contract with the department of transportation.”

SECTION 7. Section 463-10.5, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) Before beginning employment as a guard or in a guard capacity, in addition to the classroom instruction required by this section, guards and indi-

viduals acting in a guard capacity who carry a firearm or other weapon, including but not limited to an electric gun as defined in section [~~134-1~~] 134-A, while on-duty in a guard capacity shall possess a valid permit to acquire the ownership of a firearm issued by county police pursuant to section 134-2 and shall satisfy the requirements of section 134-2(g).”

SECTION 8. Section 134-16, Hawaii Revised Statutes, is repealed.

SECTION 9. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before the effective date of this Act.

SECTION 10. 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 11. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 12. This Act shall take effect on January 1, 2022.

(Approved July 6, 2021.)

ACT 184

H.B. NO. 1107

A Bill for an Act Relating to Computer Crime.

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

SECTION 1. The legislature finds that bullying, cyberbullying, and harassment are serious issues that hinder student well-being and achievement, especially when the targets are vulnerable youth.

The legislature recognizes that the department of education has recently implemented comprehensive efforts to address bullying, cyberbullying, and harassment in public schools, including the adoption of amended administrative rules that, among other things, provide expanded definitions of and complaint procedures for these forms of student misconduct.

However, the legislature also finds that the transition to online classroom environments as a result of the coronavirus disease 2019 pandemic has exacerbated the problems of bullying, cyberbullying, and harassment of vulnerable youth. Children who use devices such as computers, tablets, and smartphones, including children who engage in bullying conduct, often use devices that were purchased or furnished by parents or other adults in the household. Some parents and guardians do not adequately monitor the online activities of their minor children, and this lack of monitoring serves to enable the minor child’s bullying conduct. To the extent that bullying, cyberbullying, and harassment are prosecuted under existing penal code offenses that address harassing conduct based on electronic communication, the intent of this Act is to incentivize parents and guardians to better ensure that their minor children refrain from using electronic devices to perpetrate these acts.

Accordingly, the purpose of this Act is to:

- (1) Add aggravated harassment by stalking to the list of offenses upon which the offense of use of a computer in the commission of a separate crime may be based; and

- (2) Provide the court with the discretion to require the forfeiture of property used in computer crimes if the perpetrator was a minor, regardless of whether the minor owned the property.

SECTION 2. Section 708-893, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) A person commits the offense of use of a computer in the commission of a separate crime if the person knowingly uses a computer to identify, select, solicit, persuade, coerce, entice, induce, procure, pursue, surveil, contact, harass, annoy, or alarm the victim or intended victim of the following offenses:

- (a) Section 707-726, relating to custodial interference in the first degree;
- (b) Section 707-727, relating to custodial interference in the second degree;
- (c) Section 707-731, relating to sexual assault in the second degree;
- (d) Section 707-732, relating to sexual assault in the third degree;
- (e) Section 707-733, relating to sexual assault in the fourth degree;
- (f) Section 707-751, relating to promoting child abuse in the second degree;
- (g) Section 711-1106, relating to harassment;
- (h) Section 711-1106.4, relating to aggravated harassment by stalking;
- ~~(h)~~ (i) Section 711-1106.5, relating to harassment by stalking; or
- ~~(i)~~ (j) Section 712-1215, relating to promoting pornography for minors.”

SECTION 3. Section 708-894, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§708-894]]~~ **Forfeiture of property used in computer crimes.** Any property used or intended for use in the commission of, attempt to commit, or conspiracy to commit an offense under this part, or which facilitated or assisted such activity, shall be forfeited subject to the requirements of chapter 712A[-]; provided that the court shall have the discretion to require forfeiture of the property pursuant to this section if the perpetrator of the offense was a person under the age of eighteen, regardless of whether the person owned the property.”

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 July 6, 2021.)

ACT 185

S.B. NO. 540

A Bill for an Act Relating to Emergency Rules.

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

SECTION 1. The legislature finds that the coronavirus disease 2019 (COVID-19) pandemic has created great challenges to global health, the economy, and way of life. The governor and county mayors have had to exercise

their emergency powers under chapter 127A, Hawaii Revised Statutes, to impose rules aimed to control the spread of COVID-19. The enforcement of these rules is critical to efforts to limit the spread of COVID-19, protect the health and safety of the community, manage medical resources, and restart the economy. To allow for more meaningful and effective enforcement of emergency orders, the governor and mayors need flexibility to adopt a range of lesser penalties for emergency rules.

Accordingly, the purpose of this Act is to:

- (1) Allow for lesser emergency period penalties to be adopted by the governor or a mayor;
- (2) Amend the State’s existing traffic infraction laws to incorporate emergency period infractions so that they are adjudicated in the same manner;
- (3) Allow electronic copies of notices of infractions, infraction adjudication hearings, and notices of infraction judgments to be sent via electronic mail; and
- (4) Grant the district court concurrent jurisdiction over emergency period rule infractions committed by minors.

SECTION 2. Section 127A-29, Hawaii Revised Statutes, is amended to read as follows:

~~“[§127A-29] ~~—Misdemeanors.~~ Emergency period infractions, violations, petty misdemeanors, and misdemeanors. (a) Any person violating any rule of the governor or mayor prescribed and ~~[promulgated]~~ adopted pursuant to this chapter and having the force and effect of law[;] shall, if it shall be so stated and designated in the rule, be guilty of a violation, petty misdemeanor, or misdemeanor. ~~[Upon]~~ The governor or mayor may state and designate the penalty applicable to the offense; provided that if a penalty is not stated and designated, the person shall be sentenced in accordance with chapter 706. If the offense and penalty are not stated and designated in the rule, the person shall be guilty of a misdemeanor and upon conviction, the person shall be fined ~~[not]~~ no more than ~~[\$5,000, or] \$2,000,~~ imprisoned ~~[not]~~ no more than one year, or both.~~

In lieu of a violation, petty misdemeanor, or misdemeanor, the governor or mayor may state and designate the noncompliance of a rule as an emergency period infraction, as defined in section 291D-2. Any emergency period infraction so stated and designated in the rule shall be adjudicated pursuant to chapter 291D. A person guilty of an emergency period infraction shall be fined \$200 for each occurrence; provided that the governor or mayor may state and designate in the rule a fine of a different amount.

(b) ~~[Any]~~ Notwithstanding subsection (a), any person who intentionally, knowingly, or recklessly destroys, damages, or loses any shelter, protective device, or warning or signal device, shall if the same was installed or constructed by the United States, the State, or a county, or is the property of the United States, the State, or a county, be fined the cost of replacement, ~~[or]~~ imprisoned ~~[not]~~ no more than one year, or both. The governor or mayor[;] may, by rule, make further provisions for the protection from misuse of shelters, protective devices, or warning and signal devices.”

SECTION 3. Chapter 291D, Hawaii Revised Statutes, is amended by amending the title to read as follows:

~~CHAPTER 291D~~
ADJUDICATION OF ~~TRAFFIC~~ INFRACTIONS”

SECTION 4. Section 291D-1, Hawaii Revised Statutes, is amended to read as follows:

~~§291D-1~~ **Purpose.** (a) Act 222, Session Laws of Hawaii 1978, began the process of decriminalizing certain traffic offenses, not of a serious nature, to the status of violations. In response to a request by the legislature, the judiciary prepared a report in 1987 that recommended, among other things, further decriminalization of traffic offenses, elimination of most traffic arraignments, disposition of uncontested violations by mail, and informal hearings where the violation or the proposed penalty is questioned. The legislature finds that further decriminalization of certain traffic offenses and streamlining of the handling of those traffic cases will achieve a more expeditious system for the judicial processing of traffic infractions. The system of processing traffic infractions established by this chapter will:

- (1) Eliminate the long and tedious arraignment proceeding for a majority of traffic matters;
- (2) Facilitate and encourage the resolution of many traffic infractions through the payment of a monetary assessment;
- (3) Speed the disposition of contested cases through a hearing, similar to small claims proceedings, in which the rules of evidence will not apply and the court will consider as evidence the notice of traffic infraction, applicable police reports, or other written statements by the police officer who issued the notice, any other relevant written material, and any evidence or statements by the person contesting the notice of traffic infraction;
- (4) Dispense in most cases with the need for witnesses, including law enforcement officers, to be present and for the participation of the prosecuting attorney;
- (5) Allow judicial, prosecutorial, and law enforcement resources to be used more efficiently and effectively; and
- (6) Save the taxpayers money and reduce their frustration with the judicial system by simplifying the traffic court process.

The legislature further finds that this chapter will not require expansion of the current traffic division of the district courts, but will achieve greater efficiency through more effective use of existing resources of the district courts.

(b) The legislature finds that the pandemic related to the coronavirus disease 2019 necessitated the imposition of emergency period rules in an attempt to control the spread of the disease in the State. The thousands of violations of the emergency period rules caused an examination of the ability to impose infractions for lesser offenses as an alternative to using the Penal Code and to allow for more efficient use of the judicial system. The system of processing traffic infractions under this chapter was enacted in 1993 and has provided a useful mechanism for handling offenses deemed as infractions and is well-suited to certain types of violations of emergency period rules that are designated infractions by the governor or mayor under the state’s emergency management laws.”

SECTION 5. Section 291D-2, Hawaii Revised Statutes, is amended as follows:

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

““Emergency period infraction” means all occurrences of noncompliance with rules adopted by the governor or a mayor pursuant to chapter 127A, which are stated and designated in the rule as being an emergency period infraction.”

2. By amending the definitions of “concurrent trial” and “hearing” 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 or emergency period 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.

“Hearing” means a proceeding conducted by the district court pursuant to section 291D-8 at which the person to whom a notice of traffic infraction or notice of emergency period infraction was issued either admits to the [traffice] infraction, contests the notice of traffic infraction[;] or notice of emergency period infraction, or admits to the traffic infraction or emergency period infraction but offers an explanation to mitigate the monetary assessment imposed.”

3. By amending the definition of “related criminal offense” to read:

““Related criminal offense” means any criminal violation or crime, committed in the same course of conduct as a traffic infraction[;] or emergency period infraction, for which the defendant is arrested or charged.”

SECTION 6. Section 291D-3, Hawaii Revised Statutes, is amended by amending subsections (a) through (e) to read as follows:

“(a) Notwithstanding any other provision of law to the contrary, all traffic infractions[;] and emergency period infractions, including [traffice] 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 or an emergency period infraction under this chapter. No traffic infraction or emergency period infraction shall be classified as a criminal offense.

(b) Where a defendant is charged with a traffic infraction or an emergency period 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 or emergency period infraction shall be adjudicated pursuant to this chapter; provided that the court may schedule any initial appearance, hearing, or trial on the traffic infraction or emergency period 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 or emergency period 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 district court of the circuit in which the traffic infraction or emergency period infraction was committed. 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 or emergency period 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 or emergency period 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 or emergency period 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 or emergency period infraction is held separately from and ~~prior to~~ before 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~~[-]~~ or emergency period 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 or an emergency period infraction committed in the same course of conduct has been adjudicated pursuant to this chapter.
- (e) If the defendant fails to appear at any scheduled court date ~~prior to~~ before the date of trial or concurrent trial and:
 - (1) The defendant's civil liability for the traffic infraction or emergency period 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 or emergency period infraction unless the court determines that good cause or excusable neglect exists for the defendant's failure to appear; or
 - (2) The defendant's civil liability for the traffic infraction or emergency period 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."

SECTION 7. Section 291D-4, Hawaii Revised Statutes, is amended to read as follows:

“[§291D-4] Venue and jurisdiction. (a) All violations of state law, ordinances, or rules designated as traffic infractions or emergency period infractions in this chapter shall be adjudicated in the district and circuit where the alleged infraction occurred, except as otherwise provided by law.

(b) Except as otherwise provided by law, jurisdiction is in the district court of the circuit where the alleged traffic infraction or emergency period infraction occurred. Except as otherwise provided in this chapter, district court judges shall adjudicate traffic infractions~~[-]~~ and emergency period infractions.”

SECTION 8. Section 291D-5, Hawaii Revised Statutes, is amended by amending its title and subsections (a) through (d) to read as follows:

“§291D-5 Notice of [traffic] infraction; form; determination final unless contested. (a) The notice of traffic infraction for moving violations, and the notice of emergency period infraction, shall include the summons for the purposes of this chapter. Whenever a notice of traffic infraction or notice of emer-

agency period infraction is issued [~~to the driver of a motor vehicle, the driver's,~~ the person's signature, driver's license number[;] or state identification number, electronic mail address, and current address shall be noted on the notice. If the [~~driver~~] person refuses to sign the notice of traffic infraction[;] or notice of emergency period infraction, the officer shall record this refusal on the notice and issue the notice to the [~~driver. Individuals~~] person. Anyone to whom a notice of traffic infraction or notice of emergency period infraction is issued under this chapter need not be arraigned before the court, unless required by rule of the supreme court.

(b) The [~~form~~] forms for the notice of traffic infraction and notice of emergency period infraction shall be prescribed by rules of the district court, which shall be uniform throughout the State; provided that each judicial circuit may include differing statutory, rule, or ordinance provisions on its respective notice of traffic infraction[;] or notice of emergency period infraction.

(c) A notice of traffic infraction or notice of emergency period 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 or notice of emergency period infraction shall include the following:

- (1) A statement of the specific [~~traffic~~] infraction for which the notice was issued;
- (2) Except in the case of parking-related traffic infractions, a brief statement of the facts;
- (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;~~] person to whom the notice was issued, which shall be uniform throughout the State;
- (4) A statement of the options provided in section 291D-6(b) for answering the notice and the procedures necessary to exercise the options;
- (5) A statement that the person to whom the notice is issued [~~must~~] shall answer, choosing one of the options specified in section 291D-6(b), within twenty-one days of issuance of the notice;
- (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;
- (7) A statement that, at a hearing requested to contest the notice [~~of traffic infraction conducted~~], pursuant to section 291D-8, no officer shall be present unless the [~~driver~~] person to whom the notice was issued timely requests the court to have the officer present, 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;
- (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;
- (9) A space in which the signature of the person to whom the notice was issued may be affixed; and

- (10) The date, time, and place at which the person to whom the notice was issued ~~[must]~~ shall appear in court, if the person is required by the notice to appear in person at the hearing.”

SECTION 9. Section 291D-6, Hawaii Revised Statutes, is amended to read as follows:

“**§291D-6 Answer required.** (a) A person who receives a notice of traffic infraction or notice of emergency period 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 or notice of emergency period infraction a preaddressed envelope directed to the traffic and emergency period violations bureau of the applicable district court.

(b) Provided that the notice of traffic infraction or notice of emergency period infraction does not require an appearance in person at ~~[[a]]~~ hearing as set forth in section ~~[[291D-5(d)(10)]]~~, in answering a notice of traffic infraction~~[-]~~ or notice of emergency period 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, notice of emergency period 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~~[-]~~ or notice of emergency period 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~~[-]~~ or notice of emergency period 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, notice of emergency period 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~~[-]~~ or notice of emergency period 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, notice of emergency period 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).
- (c) When answering the notice of traffic infraction~~[-]~~ or notice of emergency period infraction, the person shall affix the person’s signature to the an-

swer and shall state the address at which the person will accept future mailings from the court. No other response shall constitute an answer for purposes of this chapter.”

SECTION 10. 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 enter judgment in favor of the State in the total amount specified in the notice of traffic infraction[.] or notice of emergency period infraction.

(b) When a denying answer is received, the court shall proceed as follows:

(1) In the case of a traffic infraction or emergency period infraction 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[.] or notice of emergency period infraction. The notice of hearing shall be mailed to the address stated in the denying answer, or if none is given, to the address stated on the notice of traffic infraction[.] or notice of emergency period infraction. An electronic copy of the notice of hearing may be sent to the electronic mail address stated on the notice of 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~~ shall be paid within thirty days of entry of default judgment; and

(2) When a denying answer is accompanied by a written statement of the grounds on which the person contests the notice of traffic infraction[.] or notice of emergency period 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 the notice of entry of judgment within forty-five days of the post-marked 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 or notice of emergency period infraction was issued or, in the case of parking violations, to the address at which the vehicle is registered. An electronic copy of the notice of entry of judgment may be sent to the electronic mail address stated on the notice of infraction. The 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 entry of judgment shall also notify the person, if an amount is assessed by the court for monetary assessments, fees, surcharges, or costs, 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.

(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 or emergency period infraction where the person requests a hearing at which the person will ap-

pear 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 mailed to the address stated in the answer, or if none is given, to the address stated on the notice of traffic infraction~~[-]~~ or notice of emergency period infraction. An electronic copy of the notice of hearing may be sent to the electronic mail address stated on the notice of 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, and that the total amount stated in the default judgment ~~[must]~~ shall be paid within thirty days of entry of default judgment; and

- (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 monetary assessments, fees, surcharges, or costs 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 judgment. If the court assesses an amount for monetary assessments, fees, surcharges, or costs, the court shall also notify the person that the total amount shall be paid within thirty days of entry of judgment.

(d) If the person fails to answer within twenty-one days of issuance of the notice of traffic infraction~~[-]~~ or notice of emergency period 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 to the address provided by the person when the notice of traffic infraction or notice of emergency period infraction was issued or, in the case of parking infractions, to the address stated in the answer, if any, or the address at which the vehicle is registered. An electronic copy of the notice of entry of default judgment may be sent to the electronic mail address stated on the notice of infraction. 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. Judgment by default for the State entered pursuant to this chapter may be set aside pending final disposition of the traffic infraction or emergency period 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. 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 or notice of emergency period 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 or notice of emergency period infraction shall be finally disposed. In either case, the court shall determine the existence of good cause or excusable neglect and notify the person of its decision on the application in writing.”

SECTION 11. Section 291D-8, Hawaii Revised Statutes, is amended to read as follows:

“**§291D-8 Hearings.** (a) In proceedings to contest a notice of traffic infraction or notice of emergency period 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[;] or notice of emergency period infraction, the court shall consider the notice of traffic infraction or notice of emergency period 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 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 or notice of emergency period 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, the court finds that the traffic infraction or emergency period 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 or emergency period infraction has been established. Where the commission of the traffic infraction or emergency period infraction has not been established, judgment in favor of the defendant, dismissing the notice of traffic infraction or notice of emergency period infraction or any count therein with prejudice, shall be entered in the record. Where it has been established that the traffic infraction or emergency period infraction was committed, the court shall enter judgment in favor of the State and 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 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 as soon as practicable.

(b) In proceedings to explain mitigating circumstances where the person to whom the notice of traffic infraction or notice of emergency period infraction was issued has timely requested a hearing and appears at such hearing:

- (1) The procedure shall be limited to the issue of mitigating circumstances. A person who requests to explain the circumstances shall not be permitted to contest the notice of traffic infraction[;] or notice of emergency period infraction;
- (2) After the court has received the explanation, the court shall enter judgment in favor of the State and may assess a monetary assessment pursuant to section 291D-9, together with any fees, surcharges, or costs;
- (3) The court, after receiving the explanation, may vacate the admission and enter judgment in favor of the defendant, dismissing the notice of traffic infraction, notice of emergency period 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 judgment.

(c) If a person for whom a hearing has been scheduled, to contest the notice of traffic infraction or notice of emergency period infraction, or 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).”

SECTION 12. Section 291D-9, Hawaii Revised Statutes, is amended by amending subsections (a) through (c) to read as follows:

“(a) A person found to have committed a traffic infraction or emergency period infraction shall be assessed a monetary assessment not to exceed the maximum fine specified in the [statute] law or rule defining the traffic infraction[-] or emergency period infraction.

(b) Notwithstanding section 291C-161 or any other law to the contrary, the district court of each circuit shall prescribe a schedule of monetary assessments for all traffic infractions[-] and emergency period infractions, and any additional assessments to be imposed pursuant to subsection (c). The particular assessment to be entered on the notice of traffic infraction or notice of emergency period infraction pursuant to section 291D-5 shall correspond to the schedule prescribed by the district court. Except after proceedings conducted pursuant to section 291D-8 or a trial conducted pursuant to section 291D-13, monetary assessments assessed pursuant to this chapter shall not vary from the schedule prescribed by the district court having jurisdiction over the traffic infraction[-] or emergency period infraction.

(c) In addition to any monetary assessment imposed for a traffic infraction[-] or an emergency period infraction, the court may impose additional assessments for:

- (1) Failure to pay a monetary assessment by the scheduled date of payment; or
- (2) The cost of service of a penal summons issued pursuant to this chapter.”

SECTION 13. Section 291D-12, Hawaii Revised Statutes, is amended to read as follows:

“**§291D-12 Powers of the district court judge sitting in the traffic and emergency period division.** (a) A district court judge sitting in the traffic and emergency period 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 and emergency period 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[-] or notice of emergency period 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 approve the issuance or renewal of a driver’s license or instruction permit pursuant to section 286-109(c);
- (6) To issue penal summonses and bench warrants and initiate contempt of court proceedings in proceedings conducted pursuant to section 291D-13;

- (7) 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) To exercise other powers the court finds necessary and appropriate to carry out the purposes of this chapter.

(b) A district court judge sitting in the traffic and emergency period division and hearing cases pursuant to this chapter shall not order the director of finance to withhold issuing or renewing the driver's license, or registering, renewing the registration of, or issuing the title to a motor vehicle, of any person who has not paid a monetary assessment, has not performed community service in lieu thereof, or has not otherwise satisfied a judgment for the State entered pursuant to this chapter.”

SECTION 14. Section 291D-13, Hawaii Revised Statutes, is amended by amending subsections (a) through (c) to read as follows:

“(a) There shall be no right to trial unless the defendant contests the notice of traffic infraction or notice of emergency period infraction pursuant to section 291D-8. If, after proceedings to contest the notice of traffic infraction[;] or emergency period infraction, a determination is made that the defendant committed the traffic infraction[;] or emergency period infraction, judgment shall enter in favor of the State. The defendant may request a trial pursuant to the Hawaii rules of evidence and the rules of the district court; 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[;] or notice of emergency period infraction, the person requests a trial at the conclusion of the hearing, the court shall provide the person with the trial date as soon as practicable.

(b) 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 or emergency period infraction in court [~~prior to~~] before commencement of the trial. Proof of the defendant's commission of the traffic infraction or emergency period infraction shall be by a preponderance of the evidence.

(c) If trial on the traffic infraction or emergency period infraction is held [~~prior to~~] before 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 or emergency period 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.”

SECTION 15. Section 291D-14, Hawaii Revised Statutes, is amended by amending subsections (c) and (d) to read as follows:

“(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 or emergency period infraction is heard on the same date and time as any related criminal offense.

(d) The prosecuting attorney shall not participate in traffic infraction or emergency period infraction proceedings conducted pursuant to this chap-

ter, except proceedings pursuant to section 291D-13 and proceedings in which a related criminal offense is scheduled for arraignment, hearing, or concurrent trial.”

SECTION 16. Section 571-41, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

“(f) The judge, or the senior judge if there is more than one, may by order confer concurrent jurisdiction on a district court created under chapter 604 to hear and dispose of cases of violation of traffic laws ~~[or]~~, ordinances, or emergency period rules by children, provision to the contrary in section 571-11 or elsewhere notwithstanding. The exercise of jurisdiction over children by district courts shall, nevertheless, be considered noncriminal in procedure and result in the same manner as though the matter had been adjudicated and disposed of by a family court.”

SECTION 17. Sections 286-109, 286-245, 287-3, 291C-225, and 431:10C-117, Hawaii Revised Statutes, are amended by substituting the phrase “traffic and emergency period violations bureau”, or similar phrase, wherever the phrase “traffic violations bureau”, or similar phrase, appears, as the context requires.

SECTION 18. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 19. This Act shall take effect upon its approval.

(Approved July 6, 2021.)

ACT 186

H.B. NO. 33

A Bill for an Act Relating to the Information Technology Steering Committee.

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

SECTION 1. The legislature finds that members of the information technology steering committee have a wealth of institutional knowledge regarding the State’s complex information systems. It is therefore in the best interests of the public to allow the members of the information technology steering committee to serve without term limits so their institutional knowledge can continue to assist the chief information officer in developing the State’s information technology standards and policies. Additionally, the legislature finds that it is in the best interests of the public for the superintendent of education and president of the University of Hawaii to be able to appoint members to the information technology steering committee.

To ensure both accountability and transparency, the legislature believes that the information technology steering committee should publicly receive the annual report of the office of enterprise technology services at a regularly scheduled committee meeting, prior to the report’s submittal to the governor and legislature.

The purpose of this Act is to:

- (1) Amend the terms and composition of members of the information technology steering committee; and

- (2) Require the chief information officer to present an annual report to the information technology steering committee for public comment prior to submitting the report to the governor and legislature.

SECTION 2. Section 27-43, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (b) to read:

“(b) There is established an information technology steering committee to assist the chief information officer in developing the State’s information technology standards and policies, including but not limited to:

- (1) Assisting the chief information officer in developing and implementing the state information technology strategic plans;
- (2) Assessing executive branch departments’ progress in meeting the objectives defined in the state information technology strategic plans and identifying best practices for shared or consolidated services;
- (3) Ensuring technology projects are selected based on their potential impact and risk to the State, as well as their strategic value;
- (4) Ensuring that executive branch departments maintain sufficient tools to assess the value and benefits of technology initiatives;
- (5) Assisting the chief information officer in developing state information technology standards and policies; and
- (6) Clarifying the roles, responsibilities, and authority of the office of enterprise technology services, specifically as it relates to its state-wide duties.

The information technology steering committee shall consist of ~~eleven~~ thirteen members, with four members to be appointed by the senate president, four members to be appointed by the speaker of the house of representatives, one member to be appointed by the chief justice, ~~and~~ one member to be appointed by the governor, one member to be appointed by the superintendent of education, and one member to be appointed by the president of the University of Hawaii, and [shall] may include representatives from executive branch departments~~], including large user agencies such as the department of education and the University of Hawaii; the judiciary;~~, the legislature~~;~~, and private individuals. The chief information officer shall serve as an ex officio member and as the chair of the committee ~~[and shall ensure that the committee is evaluated periodically].~~ The committee shall select a vice chair from among its members. Each member shall be appointed for four-year terms; provided that each member shall hold office until reappointed by the member’s respective appointing authority at the end of the member’s term or until the member’s successor is appointed.”

2. By amending subsection (e) to read:

“(e) The chief information officer shall ~~submit~~ present an annual report ~~[to the governor and the legislature] of the office of enterprise technology services to the information technology steering committee for public comment and shall thereafter, but~~ no later than twenty days prior to the convening of each regular session of the legislature, submit the annual report to the governor and legislature. The annual report shall include updates on the activities and programs under the authority of the chief information officer and the information technology steering committee, and the expenditures of all moneys received from all sources and deposited into the information technology trust account and the shared services technology special fund.”

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 6, 2021.)

ACT 187

H.B. NO. 244

A Bill for an Act Relating to Land Recordation.

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

SECTION 1. The legislature finds that Act 120, Session Laws of Hawaii 2009 (Act 120), deregistered fee simple time share transactions from the land court system and established a procedure to move these transactions to the regular system in the bureau of conveyances. The legislature further finds that Act 119, Session Laws of Hawaii 2013 (Act 119), provided owners of registered fee non-time share interests with the option to voluntarily deregister such interests from the land court system.

The legislature notes that the land court provides a system and logical process for the mapping and indexing of land and the recording of transactions and encumbrances on land titles, including mortgagees, liens, leases, claims, and taxes. However, the land court system was designed to process single, consecutive ownership interest and not multiple, simultaneous interests in a single parcel of land. An unanticipated consequence of Act 120 and Act 119 is that there are no clear requirements or standards for the mapping and describing of designated lands.

The purpose of this Act is to clarify the data requirements for land recordation by the bureau of conveyances, on land other than fee simple time share interests deregistered by the land court, to include a plan of the parcel or parcels sought to be deregistered that includes a map and description prepared by a licensed professional surveyor.

SECTION 2. Section 501-261.5, Hawaii Revised Statutes, is amended to read as follows:

“~~[[~~§501-261.5~~]] Deregistration of registered land other than fee time share interests.~~ [The] (a) To deregister land under this chapter, the registered owner of the fee interest in registered land [may] shall submit [a written request] the following to the assistant registrar [to deregister the land under this chapter]:

- (1) [Any] A written request [for deregistration shall include] to deregister the registered land, proof of title insurance in the amount of the value of the land to be deregistered, and a written waiver of all claims against the State relating to the title to the land arising after the date of deregistration[-]; and
- (2) A plan of the parcel or parcels sought to be deregistered that includes a map and description prepared by a licensed professional surveyor in accordance with sections 502-17, 502-18, and 502-19.

~~[(2)] (b) Upon [presentation to the assistant registrar of a written request for deregistration by the registered owner of the fee interest in registered land,] satisfactory submission of the documents required pursuant to subsection (a), the assistant registrar shall [not register the same, but shall:] refer the map and description of the parcel or parcels sought to be deregistered to the state land surveyor in the department of accounting and general services for approval after being checked as to form and mathematical correctness but not on the ground.~~

(c) Upon notification of approval by the state land surveyor, the assistant registrar shall:

- ~~[(A)]~~ (1) Record in the bureau of conveyances, pursuant to chapter 502, the current certificate of title for the fee interest in the registered land; provided that prior thereto, the assistant registrar shall note on the certificate of title all documents and instruments that have been accepted for registration and that have not yet been noted on the certificate of title for the registered land;
- ~~[(B)]~~ (2) Record in the bureau of conveyances, pursuant to chapter 502, the written request for deregistration presented to the assistant registrar for filing or recording~~[-The request], which~~ shall be recorded immediately after the certificate or certificates of title; ~~[and~~
- ~~[(C)]~~ (3) Cancel the certificate of title~~[-]; and~~
- (4) Record in the bureau of conveyances, pursuant to chapter 502, a plan of the parcel or parcels sought to be deregistered, prepared in accordance with sections 502-17, 502-18, and 502-19.

~~[(3) The registrar or]~~ (d) The assistant registrar shall note the recordation and cancellation of the certificate of title in the registration book and in the records of the application for registration of the land that is the subject of the certificate of title. The notation shall state the [bureau];

- (1) Bureau of conveyances document number for the certificate of title [so] recorded~~[-, the certificate];~~
- (2) Certificate of title number~~[-, and the land]; and~~
- (3) Land court application or consolidation number, map number, and lot number for the land that is the subject of the certificate of title [so] recorded.

(e) The assistant registrar shall transmit the notation of the recordation and cancellation of the certificate of title to the registrar of the land court and state land surveyor.

~~[(4)]~~ (f) No order of court shall be required ~~[prior to]~~ before or in connection with the performance of any of the foregoing actions.

(g) As used in this section, “registered land” shall not include the undivided interest in the land unless the undivided interests represent all of the remaining registered interest in the land.”

SECTION 3. Section 502-11, Hawaii Revised Statutes, is amended to read as follows:

“§502-11 Entry record. The registrar shall make and keep in ~~[such]~~ a form and manner as is prescribed by the board of land and natural resources a permanent record of the receipt of every ~~[deed];~~

- (1) Deed and instrument left for record~~[-, every copy];~~
- (2) Copy left as a caution~~[-, and every plan];~~
- (3) Plan filed~~[-]; and~~
- (4) Plan of the parcel or parcels of land deregistered pursuant to section 501-261.5;

provided that the registrar shall note on the record, in addition to a description sufficient to identify the document and the date and time of its receipt, ~~[such]~~ any other facts as ~~[are]~~ prescribed by the board of land and natural resources. Every ~~[such]~~ document shall be considered as recorded at the time so noted.”

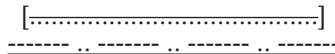
SECTION 4. Section 502-17, Hawaii Revised Statutes, is amended as follows:

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

“(a) The registrar shall accept and file in the registrar’s office, upon the payment of the fee as provided in section 502-25, any plan of land prepared in the manner prescribed by this section. Every [~~such~~] plan shall contain [a]:

- (1) A short name of the tract; [~~the~~]
- (2) The name of the ahupuaa or ili, district, and island; [~~such data~~]
- (3) Data concerning the original title of the land as may be known, together with the name of the last owner of record and the owner’s address; [~~the~~]
- (4) The signature and address of the surveyor [~~and the surveyor’s address~~]; [~~the~~]
- (5) The signature and address of the maker [~~and the maker’s address~~];
- (6) The date of survey, scale, the meridian line, area, and the true azimuths and lengths of principal lines; [~~and the~~]
- (7) The names of all known adjoining owners[-]; and
- (8) If the land is deregistered pursuant to part II of chapter 501:
 - (A) An application or consolidation number;
 - (B) A map number;
 - (C) A lot number; and
 - (D) The document numbers of the canceled certificate of title.

One or more durable monuments shall be placed on the land [~~which~~], shall connect with the government triangulation system, and [~~which monuments~~] shall be placed as indicated on the plan[-], unless the land is being deregistered pursuant to part II of chapter 501. Whenever the land platted is made up of more than one original title, it shall be necessary to show all original title lines in broken lines as follows:



(b) The plan shall first be referred to the department of accounting and general services of the State which shall cause the same to be checked as to form and mathematical correctness but not on the ground. If the plan is drawn in accordance with this section and sections 502-18 and 502-19, the department shall indorse its approval of the plan on the face thereof, after which the plan may be filed of record. The department shall withhold approval of any plan until satisfied that the surveyor and maker of the plan is a [~~registered~~] licensed professional surveyor.”

2. By amending subsection (d) to read:

“(d) On receipt for recordation of a transfer or separate description document concerning a lot in a subdivision, the registrar shall accept and file the document with:

- (1) A metes and bounds description, either solely or as part of the document;
- (2) A county certified plat map[~~;~~ and], unless the land is being deregistered pursuant to part II of chapter 501; and
- (3) A letter from a [~~registered~~] licensed professional surveyor, certifying that the metes and bounds description conforms to the accompanying plat map.

The document shall otherwise comply with the requirements for recordation under this section. Any parcel created or subdivided [~~prior to~~] before the effective date of the subdivision laws of the respective counties [~~are~~] is exempt from the provisions of this subsection.”

SECTION 5. Section 502-18, Hawaii Revised Statutes, is amended to read as follows:

“§502-18 Description; lot subdivisions. A metes and bounds description of the exterior boundaries of the parcel or parcels of land sought to be registered as a file plan shall be written upon the plan, or printed or typewritten on unruled good quality white paper [43] 11 inches long by 8 1/2 inches wide[-] and shall be filed in duplicate with the file plan[- and]. The metes and bounds description shall be dated and signed by the licensed professional surveyor making the field survey, or under whose supervision the field survey was executed. If the land sought to be registered as a file plan is being deregistered pursuant to part II of chapter 501, the metes and bounds description shall be dated and signed by the licensed professional surveyor making the file plan, or under whose supervision the file plan was made. The boundaries of the land platted shall be described as running from left to right (clockwise) and the azimuth system shall be used in designating the courses of the survey with zero or 360 degrees at due South; 90 degrees at due West; 180 degrees at due North; 270 degrees at due East. Any printed or typewritten description filed separately with the file plan shall be recorded in the registry system and the book and page thereof noted on the file plan. Expense of recordation shall be charged to the owner. The initial point in the description shall clearly show the connection with the government triangulation system[- and ah]. All outside corners of the tract shall be substantially marked by monuments in the ground, where practicable[-]; unless the land is being deregistered pursuant to part II of chapter 501. In all cases where tracts of land are subdivided into lots, with the intention of conveying separate lots by lot number and reference to the plat, it is necessary to show the true azimuths and lengths of all principal lines[-] and the lot areas[- and a]. A sufficient number of durable monuments shall be placed in the ground so as to accurately identify each lot[-], unless the land is being deregistered pursuant to part II of chapter 501. Any lands being deregistered pursuant to part II of chapter 501 shall not subdivide or consolidate when registering as a file plan, and only contiguous parcels shall be shown on the same plan.”

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, 2021.

(Approved July 6, 2021.)

ACT 188

H.B. NO. 526

A Bill for an Act Relating to Procurement.

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

SECTION 1. The legislature finds that the State’s procurement process requires clear legislative direction to award contracts to responsible bidders or offerors to increase accountability, enhance performance, and utilize taxpayer dollars more efficiently. Currently, some public contracts may be awarded to the lowest bidder or offeror without regard to that bidder’s or offeror’s poor past performance. Specifically, these bidders or offerors may be considered qualified

despite their poor past performance on public contracts, which may result in repeated inefficiencies and substandard work.

The legislature further finds that considering a contractor's past performance in the procurement process and creating and maintaining a past performance database, which routinely captures contractor performance information in a structured and uniform way and is accessed and utilized when future procurements need to determine a contractor's responsibility, will help to address issues of repeated inefficiencies and substandard work.

Accordingly, the purpose of this Act is to:

- (1) Define past performance of contractors;
- (2) Require the state procurement office to establish and administer a past performance database and adopt rules regarding information and procedures associated with the past performance database; and
- (3) Require procurement officers to consider specific factors, including past performance, when available.

SECTION 2. Chapter 103D, Hawaii Revised Statutes, is amended by adding a new section to part III to be appropriately designated and to read as follows:

“§103D- Past performance database. (a) No later than December 31, 2023, the state procurement office shall implement and administer a past performance database with regard to state contractors.

(b) The state procurement office shall adopt rules no later than December 31, 2023, pursuant to chapter 91 to establish:

- (1) Information required to be included in the past performance database; provided that the information shall include:
 - (A) The name of the state contractor;
 - (B) The date of the project;
 - (C) The size of the project;
 - (D) A brief description of the project;
 - (E) The responsible managing employees for the project;
 - (F) Whether or not the project was timely completed;
 - (G) The project's authorized budget; and
 - (H) The positive or negative difference between the final cost of the project and the project's authorized budget, including the reasons for the difference, if any;
- (2) Procedures to inform a contractor of the information contained in the past performance database about that contractor; and
- (3) Procedures for a contractor to correct or respond to the information contained in the past performance database about that contractor.”

SECTION 3. Section 103D-104, Hawaii Revised Statutes, is amended as follows:

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

““Past performance” means available recent and relevant performance of a contractor, including positive, negative, or lack of previous experience, on contracts that shall be considered in a responsibility determination within the relevance of the current solicitation, including the considerations of section 103D-702(b).”

2. By amending the definition of “responsible bidder or offeror” to read:

““Responsible bidder or offeror” means a person who has the capability in all respects to perform fully the contract requirements, and the integrity and

reliability ~~[which]~~ that will assure good faith performance~~[-]~~, pursuant to the responsibility determination standards adopted by the policy board.”

SECTION 4. Section 103D-302, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

“(f) Bids shall be evaluated based on the requirements set forth in the invitation for bids. These requirements may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. Those criteria that will affect the bid price and be considered in evaluation for award shall be as objectively measurable[-] as possible, such as discounts, transportation costs, ~~[and]~~ total or life cycle costs~~[-]~~, and the bidder’s past performance, if available. The invitation for bids shall set forth the evaluation criteria to be used. No criteria may be used in bid evaluation that are not set forth in the invitation for bids.”

SECTION 5. Section 103D-303, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (e) to read:

“(e) The request for proposals shall include as an evaluation factor, past performance on projects of similar scope for public agencies or private industry, and shall state the relative importance of price, past performance, and other evaluation factors.”

2. By amending subsection (i) to read:

“(i) In addition to any other provisions of this section, construction projects may be solicited through a request for proposals to use the design-build method; provided that:

- (1) A request for proposals is issued to prequalify offerors to select a short list of no more than three responsible offerors, prior to the submittal of proposals; provided that the number of offerors to be selected for the short list shall be stated in the request for proposals and prompt notice is given to all offerors as to which offerors have been short-listed;
- (2) A conceptual design fee may be paid to non-selected offerors that submit a technically responsive proposal; provided that the cost of the entire project is greater than \$1,000,000; ~~[and]~~
- (3) The criteria for pre-qualification of offerors, design requirements, development documents, proposal evaluation criteria, terms of the payment of a conceptual design fee, or any other pertinent information shall be stated in the request for proposals~~[-]~~; and
- (4) Past performance on projects of similar scope for public agencies or private industries shall be an evaluation factor for the prequalification of offerors.”

SECTION 6. Section 103D-306, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) A contract may be awarded for goods, services, or construction without competition when the head of a purchasing agency determines in writing that there is only one source for the required good, service, or construction, the determination is reviewed and approved by the chief procurement officer, the written determination is posted in the manner described in rules adopted by the policy board, a review of past performance, if available, has been conducted, and no objection is outstanding. The written determination, any objection, past performance evaluations relied upon, and a written summary of the disposition of any objection shall be included in the contract file.”

SECTION 7. Section 103D-310, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Whether or not an intention to bid is required, the procurement officer shall determine whether the prospective offeror has the financial ability, resources, skills, capability, and business integrity necessary to perform the work. For [this] the purpose[,–the] of making a responsibility determination, the procurement officer shall possess or obtain available information, including past performance, sufficient to be satisfied that a prospective offeror meets the applicable standards. The officer, in the officer’s discretion, may require any prospective offeror to submit answers, under oath, to questions contained in a standard form of questionnaire to be prepared by the policy board. Whenever it appears from answers to the questionnaire or otherwise, that the prospective offeror is not fully qualified and able to perform the intended work, a written determination of nonresponsibility of an offeror shall be made by the head of the purchasing agency, in accordance with rules adopted by the policy board. The unreasonable failure of an offeror to promptly supply information in connection with an inquiry with respect to responsibility may be grounds for a determination of nonresponsibility with respect to such offeror. The decision of the head of the purchasing agency shall be final unless the offeror applies for administrative review pursuant to section 103D-709.”

SECTION 8. Section 103D-320, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§103D-320]]~~ **Retention of procurement records**~~[-]; evaluations.~~ All procurement records shall be retained and disposed of in accordance with chapter 94 and records retention guidelines and schedules approved by the comptroller. Written past performance evaluations for all procurements over the small purchase threshold shall be maintained in the processing department’s procurement files and in the statewide past performance database.”

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.¹

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

(Approved July 6, 2021.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 189

H.B. NO. 671

A Bill for an Act Relating to the Code of Ethics.

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

SECTION 1. The legislature finds that it is in the public interest to keep a distinct wall of separation between lobbyists and the State’s elected officials and certain other government employees.

Accordingly, the purpose of this Act is to promote good government by:

- (1) Prohibiting elected officials, employees of the legislature, and certain other high-ranking state officials from representing other interests before the State and colleagues with whom they have served for twelve months after termination from their respective government positions; and
- (2) Specifying that the prohibition against disclosing any information not available to the public or using the information for personal gain or benefit applies even to those who were employed by the State for less than one hundred eighty-one days.

SECTION 2. Section 84-18, Hawaii Revised Statutes, is amended to read as follows:

“§84-18 Restrictions on post employment. (a) No former legislator or employee shall disclose any information [~~which~~] that by law or practice is not available to the public and [~~which~~] that the former legislator or employee acquired in the course of the former legislator’s or employee’s official duties or use the information for the former legislator’s or employee’s personal gain or the benefit of anyone.

(b) No former legislator, within twelve months after termination of the former legislator’s employment, shall represent any person or business for a fee or other consideration[~~;~~] on [~~matters~~]:

- (1) Matters in which the former legislator participated as a legislator [~~or on matters~~];
- (2) Matters involving official action by the legislature[~~;~~] or
- (3) Any administrative action, as defined in section 97-1.

(c) No former employee, within twelve months after termination of the former employee’s employment, shall represent any person or business for a fee or other consideration, on matters in which the former employee participated as an employee or on matters involving official action by the particular state agency or subdivision thereof with which the former employee had actually served. This section shall not apply to a former task force member who, but for service as a task force member, would not be considered an employee.

(d) This section shall not prohibit any agency from contracting with a former legislator or employee to act on a matter on behalf of the State within the period of limitations stated herein, and shall not prevent [~~such~~] that legislator or employee from appearing before any agency in relation to [~~such~~] that employment.

(e) Subject to the restrictions imposed in subsections (a) through (d), the following individuals shall not represent any person or business for a fee or other consideration regarding any legislative action or administrative action, as defined in section 97-1, for twelve months after termination from their respective positions:

- (1) The governor;
- (2) The lieutenant governor;
- (3) The administrative director of the State;
- (4) The attorney general;
- (5) The comptroller;
- (6) The chairperson of the board of agriculture;
- (7) The director of finance;
- (8) The director of business, economic development, and tourism;
- (9) The director of commerce and consumer affairs;
- (10) The adjutant general;
- (11) The superintendent of education;

- (12) The chairperson of the Hawaiian homes commission;
- (13) The director of health;
- (14) The director of human resources development;
- (15) The director of human services;
- (16) The director of labor and industrial relations;
- (17) The chairperson of the board of land and natural resources;
- (18) The director of public safety;
- (19) The director of taxation;
- (20) The director of transportation;
- (21) The president of the University of Hawaii;
- (22) The executive administrator of the board of regents of the University of Hawaii;
- (23) The administrator of the office of Hawaiian affairs;
- (24) The chief information officer;
- (25) The executive director of the agribusiness development corporation;
- (26) The executive director of the campaign spending commission;
- (27) The executive director of the Hawaii community development authority;
- (28) The executive director of the Hawaii housing finance and development corporation;
- (29) The president and chief executive officer of the Hawaii tourism authority;
- (30) The executive officer of the public utilities commission;
- (31) The state auditor;
- (32) The director of the legislative reference bureau;
- (33) The ombudsman;
- (34) The permanent employees of the legislature, other than persons employed in clerical, secretarial, or similar positions;
- (35) The administrative director of the courts;
- (36) The executive director of the state ethics commission;
- (37) The executive officer of the state land use commission;
- (38) The executive director of the natural energy laboratory of Hawaii authority;
- (39) The executive director of the Hawaii public housing authority; and
- (40) The first deputy to the chairperson of the commission on water resource management;

provided that this subsection shall not apply to any person who has held one of the positions listed above only on an interim or acting basis and for a period of less than one hundred eighty-one days.

~~[(e)]~~ ~~(f)~~ ~~[This section]~~ Subsections (b) through (e) shall not apply to any person who is employed by the State for a period of less than one hundred and eighty-one days.

~~[(f)]~~ (g) For the purposes of this section, “represent” means to engage in direct communication on behalf of any person or business with a legislator, a legislative employee, a particular state agency or subdivision thereof, or their employees.”

SECTION 3. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

ACT 190

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 January 1, 2022.
(Approved July 6, 2021.)

ACT 190

H.B. NO. 741

A Bill for an Act Relating to Ethics.

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

SECTION 1. Section 97-4, Hawaii Revised Statutes, is amended to read as follows:

“**§97-4 Manner of filing; public records.** All statements required by this chapter to be filed with the state ethics commission:

- (1) Shall be deemed properly filed when delivered or deposited in an established post office within the prescribed time~~[-]~~; duly stamped, registered, or certified~~[-]~~; and directed to the state ethics commission; provided~~[-, however,]~~ that in the event it is not received, a duplicate of the statement shall be promptly filed upon notice by the state ethics commission of its nonreceipt; and
- (2) Shall be ~~[preserved]~~ maintained by the state ethics commission for a period of ~~[four]~~ six years from the date of filing; and shall constitute part of the public records of the state ethics commission.”

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 6, 2021.)

ACT 191

H.B. NO. 834

A Bill for an Act Relating to a Black Cinder Cone Quarry Site Survey.

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

SECTION 1. The legislature finds that increased accessibility to an ample supply of black cinder is a long-term economic benefit for Hawaii. While black cinder is limited in supply, expensive in price, and difficult to access, its use improves agriculture production and stimulates plant growth, for which it is used in plant nurseries and the floral industry. Black cinder is also used in horticulture and landscaping for its beneficial drainage properties. As black cinder gains popularity, new uses will be sought, which will in turn increase and diversify demand.

The legislature recognizes that the use of state resources for research and selection of new black cinder cone quarry sites can assist industries that use large

quantities of black cinder or that assist in its distribution, including plant nurseries, coffee farms, flower farms, ornamental industry, horticultural industry, landscaping industry, residential and commercial construction, and merchants and wholesalers.

The legislature also recognizes that a cinder cone quarry can only be established through mining an existing cosmic deposit created by a volcanic eruption.

The purpose of this Act is to require the department of land and natural resources, in collaboration with the county of Hawaii, to conduct site surveys on the island of Hawaii to identify the most suitable locations for new black cinder cone quarries.

SECTION 2. (a) The department of land and natural resources, in collaboration with the county of Hawaii, shall conduct site surveys on the island of Hawaii to identify the most suitable locations for new black cinder cone quarries.

(b) Any lands on the island of Hawaii owned by the State or county of Hawaii may be considered in determining where to conduct site surveys. Lands owned by private parties may be considered and site surveys may be conducted pursuant to agreements with landowners.

(c) The department of land and natural resources, in collaboration with the county of Hawaii, 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 2022. The report shall include:

- (1) A list of lands determined to be the most suitable locations for new black cinder cone quarries, including information regarding ownership of each parcel of land;
- (2) A discussion of any accessibility issues regarding the lands;
- (3) Ways the State may help facilitate access to interested industries;
- (4) Any proposed legislation; and
- (5) Any other matters that the department and county believe are relevant for consideration.

SECTION 3. There is appropriated out of the funds received by the State of Hawaii from the American Rescue Plan Act of 2021, Public Law 117-2 (Section 9901), the sum of \$150,000, or so much thereof as may be necessary for fiscal year 2021-2022 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 4. This Act shall take effect on July 1, 2021.

(Approved July 6, 2021.)

ACT 192

H.B. NO. 863

A Bill for an Act Relating to Forestry.

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

SECTION 1. The legislature finds that under the Hawaii sustainability initiative, the State has committed to integrated sustainability goals, including increasing the State's climate resiliency, as well as supporting and increasing local food production.

The legislature further finds that numerous sources, both internationally and nationally, have recognized the importance of healthy soil as a critical resource for supplying food security, diverse habitats, water storage, and climate

resiliency. For example, the Food and Agriculture Organization of the United Nations, nations around the world, and other agencies including the United States Department of Agriculture, celebrated 2015 as the International Year of Soils to highlight the necessity of healthy soil for food security and ecosystem resilience against climate change. Similarly, in recognition of the importance of healthy soil to climate resiliency and food security, many states around the country have launched initiatives to incentivize building soil organic matter and improving soil health.

The legislature also finds that trees have an important function in improving soil health and building climate resiliency for Hawaii’s environment, including its agricultural landscapes. The Natural Resources Conservation Service, a division of the United States Department of Agriculture, has identified agroforestry as a unique land management approach that intentionally blends agriculture and forestry to enhance productivity, profitability, and environmental stewardship.

According to the Natural Resources Conservation Service, the strategic planting of trees in agricultural landscapes may increase crop yield, improve soil health, provide habitat for wildlife, and provide a variety of other benefits.

The division of forestry and wildlife of the department of land and natural resources manages four state tree nurseries that aim to provide high-quality native, endangered, and windbreak trees and plants for the public and department of land and natural resources plantings and reforestation projects.

The legislature further finds that there is a need to build and expand facilities at state tree nurseries.

The legislature further finds that various tree nurseries across the State need new or expanded greenhouses, as well as facilities to sanitize seedlings leaving the nurseries to prevent spread of invasive diseases, including the Waimea-Kamuela state tree nursery meant to service large-scale projects statewide, the Maui, Kauai, and Oahu district nurseries, and the Kauai district mid-elevation rare plant nursery.

The purpose of this Act is to appropriate funds for the forest stewardship program to build and expand facilities of the state tree nurseries.

SECTION 2. There is appropriated out of the funds received by the State of Hawaii from the American Rescue Plan Act of 2021, Public Law 117-2 (Section 9901), the sum of \$750,000 or so much thereof as may be necessary for fiscal year 2021-2022 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 3. This Act shall take effect on July 1, 2021.

(Approved July 6, 2021.)

ACT 193

H.B. NO. 1009

A Bill for an Act Relating to Certain Penalties for Violations of Subtitle 4 of Title 12, Hawaii Revised Statutes.

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

SECTION 1. Section 183-5, Hawaii Revised Statutes, is amended to read as follows:

~~“[§]183-5”~~ **General [administrative] penalties.** (a) Except as otherwise provided by law, the board or its authorized representative may:

- (1) Set, charge, and collect administrative fines;
 - (2) Bring legal action to recover administrative fines, fees, and costs, including attorney’s fees and costs and costs associated with land or habitat restoration; and
 - (3) Collect administrative fees and costs pursuant to paragraph (2),
- resulting from a violation of this chapter, any rule adopted, or permit issued thereunder.

(b) The administrative fines for violation of this chapter shall be as follows:

- (1) For a first violation, or any violation not preceded within a five-year period by a violation of this chapter, a fine of ~~no~~ no more than \$2,500 per violation;
- (2) For a second violation within five years of a previous violation of this chapter, a fine of ~~no~~ no more than \$5,000 per violation; and
- (3) For a third or subsequent violation within five years of the last violation of this chapter, a fine of ~~no~~ no more than \$10,000 per violation.

(c) In addition[~~]:~~

- (1) A], a fine of an amount up to \$10,000 or three times the market value at the time and place of the violation, as determined by the board, for each tree or tree product, including koa, whichever is greater, per violation of section 183-17 may be levied for each destroyed, damaged, or harvested [koa] tree, or portion thereof, larger than six inches in diameter at ground level[~~]; and~~
- (2) A fine of up to \$2,000 per violation of section 183-17 may be levied for each destroyed or harvested tree or plant, other than koa, or portion thereof, larger than six inches in diameter at ground level[~~], along with any costs associated with restoration or replacement of habitat and damages to public land or natural resources, or any combination thereof.~~

(d) Any person who violates any rule adopted by the department under this chapter regulating vehicular parking or traffic movement shall have committed a traffic infraction and be adjudicated as set forth in chapter 291D. A person found to have committed a traffic infraction shall be fined no more than:

- (1) \$100 for a first violation;
- (2) \$200 for a second violation; and
- (3) \$500 for a third or subsequent violation.

Except as provided in this subsection, the State shall be precluded from pursuing further civil legal action to recover administrative fines, fees, and costs, including attorney’s fees and costs or monetary assessment against the person fined under this subsection.

[~~(d)~~] (e) Any criminal [prosecution] action against a person for any violation of this chapter or any rule adopted thereunder shall not be deemed to preclude the State from [recovering additional] pursuing civil legal action to recover administrative fines, fees, and costs, including attorney’s fees and costs[~~]~~ or monetary assessments against that person. Any civil legal action against a person to recover administrative fines, fees, and costs, including attorney’s fees and costs or monetary assessments, for any violation of this chapter or any rule adopted thereunder shall not be deemed to preclude the State from pursuing any criminal action against that person.

[~~(e)~~] (f) No person shall be sanctioned pursuant to this section for the exercise of native Hawaiian gathering rights and traditional cultural practices

as authorized by law or as permitted by the department pursuant to article [xiii,] XII, section 7, of the [Hawaii] state constitution.

[(f)] (g) The department shall submit an annual report outlining the revenues generated by the penalties to the legislature [at least] no later than twenty days [before] prior to the convening of each regular session.”

SECTION 2. Section 183-18, Hawaii Revised Statutes, is amended to read as follows:

~~“§183-18 Criminal penalties. [Any person who violates section 183-17, upon conviction thereof, is guilty of a misdemeanor and shall be fined not more than \$2,000 or imprisoned not more than one year, or both. In addition to any other penalty imposed under this section, a fine of up to \$2,000 shall be levied for each tree illegally destroyed or harvested under section 183-17.]~~ (a) Unless otherwise specified, any person who violates a provision of this part or a rule adopted pursuant to this part shall be guilty of a petty misdemeanor. Authorized employees of the department acting within the scope of employment shall not be subject to the penalty provided for in this section. A person convicted of violating a provision of this part or a rule adopted pursuant to this part shall be sentenced, without the possibility of suspension of sentence, as follows:

- (1) A mandatory fine of no less than \$100, or imprisonment of no more than thirty days, or both, for a first offense, or any offense not preceded within a five-year period by a conviction for a prior offense;
- (2) A mandatory fine of no less than \$500, or by imprisonment of no more than thirty days, or both, for an offense that occurs within five years of a conviction for a prior offense; and
- (3) A mandatory fine of \$1,000, or imprisonment of no more than thirty days, or both, for an offense that occurs within five years of two or more convictions for prior offenses.

For purposes of this subsection, “offense” means a violation of any provision of this part or any rules adopted pursuant thereto.

(b) A person who is convicted of violating section 183-17 is guilty of a misdemeanor and shall be fined no more than \$2,000, or imprisoned no more than one year, or both.”

SECTION 3. Section 183-4, Hawaii Revised Statutes, is repealed.

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.¹ New statutory material is underscored.

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

(Approved July 6, 2021.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 194

H.B. NO. 1276

A Bill for an Act Relating to State Parks.

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

SECTION 1. The legislature finds that the division of state parks of the department of land and natural resources needs new tools to effectively manage the State as a visitor destination. In 2018, 11,300,000 residents and tourists visited a state park. In 2019, about sixty per cent of mainland visitors reported going to the beach and thirty-seven per cent reported visiting a park during their stay in Hawaii. Due to budget cuts and reduced funding resulting from the coronavirus disease 2019 (COVID-19) pandemic, new self-funding tools are needed to maintain, improve, and enhance the visitor experience at state parks.

The legislature further finds that the division needs flexible methods to establish user fees to manage entrances, parking lots, camping sites, and lodging. The private sector, through industries such as hotels and airlines, utilizes dynamic pricing strategies to manage patronage during fluctuating periods of use and demand.

The legislature also finds that the administrative rulemaking process under chapter 91, Hawaii Revised Statutes, serves the important function of providing the opportunity for public review and input. However, it is not designed to quickly respond to rapidly changing resource conditions. An alternative process with fewer procedural steps would enable the board of land and natural resources to quickly update fee structures to respond to rapidly changing conditions, while also providing opportunity for public review and comment.

The purpose of this Act is to authorize the board of land and natural resources to adopt, amend, and repeal administrative fee schedules for the division of state parks within the department of land and natural resources by formal board action at a publicly noticed meeting rather than through administrative rulemaking.

SECTION 2. Chapter 184, Hawaii Revised Statutes, is amended by adding a new section to part I to be appropriately designated and to read as follows:

“§184- Fee schedules. (a) Notwithstanding any law to the contrary, the board of land and natural resources may adopt, amend, or repeal administrative fee schedules, exempt from chapter 91, for all user fees, including but not limited to camping, lodging, parking, group use, and special use activities for which the department charges fees. Fee schedules may be adopted at regular or special meetings of the board of land and natural resources pursuant to section 171-5.

(b) The division of state parks shall post notice on the division’s and department’s websites of any proposed amendments to administrative fee schedules at least forty-five days prior to the meeting of the board of land and natural resources at which the amended fee schedule is to be considered. The notice shall include:

- (1) The full text of the proposed amended fee schedule in Ramseyer format; and
- (2) The date, time, and place where the board of land and natural resources meeting is to be held and where interested persons may provide written testimony or be heard on the proposed fee schedule adoption, amendment, or repeal.

(c) The board of land and natural resources shall afford all interested persons an opportunity to submit data, views, or arguments, orally or in writing. The board of land and natural resources shall fully consider all written and oral submissions respecting the proposed administrative fee schedule and shall make its decision at the meeting pursuant to section 171-5.

(d) Any administrative fee schedule adopted, amended, or repealed pursuant to this section shall become effective ten days after adoption by the board of land and natural resources, unless otherwise specified by the board. If the board of land and natural resources specifies a later effective date, the later date shall be the effective date; provided that no administrative fee schedule shall have an effective date more than thirty days after adoption of the administrative fee schedule by the board.

(e) The division of state parks shall maintain a file of administrative fee schedules in Ramseyer format on the division’s and department’s websites.

(f) For the purposes of this section “administrative fee schedules” includes a fee range with a minimum and maximum amount to be charged.”

SECTION 3. New statutory material is underscored.¹

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

(Approved July 6, 2021.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 195

S.B. NO. 200

A Bill for an Act Relating to Elections.

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

SECTION 1. Section 11-338, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The candidate, authorized person in the case of a noncandidate committee that is a party, or treasurer in the case of a candidate committee or other noncandidate committee, that, within the period of fourteen calendar days through four calendar days ~~[prior to]~~ before any election[;] for which the candidate is on the ballot, makes contributions aggregating more than \$500, or receives contributions from any person aggregating more than \$500, shall file a late contribution report by means of the commission’s electronic filing system on or before the third calendar day ~~[prior to]~~ before the election for which the candidate is on the ballot.”

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 6, 2021.)

ACT 196

H.B. NO. 334

A Bill for an Act Relating to Operating a Vehicle Under the Influence of an Intoxicant.

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

SECTION 1. The legislature finds that highway safety in Hawaii is compromised by drunk and drugged drivers who continue to jeopardize the safety of all road users. The police continue their efforts to make our roads safer by arresting those individuals suspected of driving while impaired. However, prosecuting these cases can be hampered by test results frequently not being available in time for the respective hearings, as well as by expensive court costs.

The legislature notes that presently, testing of blood and urine samples obtained for the purpose of prosecuting cases involving the operation of a motor vehicle under the influence of an intoxicant is performed by private laboratories, with the exception of alcohol blood testing within the city and county of Honolulu. The drug and alcohol testing performed by private laboratories is costly.

The legislature also finds that testing performed by out-of-state private laboratories takes time to complete. Instances have occurred in which test results were not timely provided for trial, and cases were dismissed as a result. Court cases involving drunk or drugged driving can become extremely costly when the prosecution subpoenas experts and lab personnel to testify, especially if these witnesses are from private laboratories located out-of-state.

The legislature recognizes that other states have found that costs for drunk and drugged driving cases are greatly reduced when state-run laboratories perform the testing and confirmations that will be used in court. Some of these state-run laboratories perform other testing functions such as workplace drug testing, post-mortem drug testing, and testing of inmates and parolees. These types of testing functions can further reduce costs for those states.

The legislature further finds that having an in-state drug and alcohol toxicology testing laboratory would be part of a multi-pronged approach to addressing impaired driving on our roadways. This dangerous and one hundred per cent preventable driving behavior can be further curbed with strict enforcement by our law enforcement officers, public education, and training.

The purpose of this Act is to:

- (1) Establish the state drug and alcohol toxicology testing laboratory special fund to support a state drug and alcohol toxicology testing laboratory;
- (2) Specify that moneys in the state highway fund may be expended for the cost of establishing a state drug and alcohol toxicology testing laboratory;
- (3) Require that fines imposed on offenders convicted of repeat or habitual offenses involving operating a vehicle under the influence of an intoxicant or convicted of operating a vehicle after a license and privilege have been suspended or revoked for operating a vehicle under the influence of an intoxicant be deposited into the state drug and alcohol toxicology testing laboratory special fund; and
- (4) Require the department of health to submit reports to the legislature on expenditures from the state drug and alcohol toxicology testing laboratory special fund.

SECTION 2. Chapter 291E, Hawaii Revised Statutes, is amended by adding a new section to part I to be appropriately designated and to read as follows:

“§291E- State drug and alcohol toxicology testing laboratory special fund; established. (a) There is established in the state treasury a state drug and alcohol toxicology testing laboratory special fund, into which shall be deposited:

- (1) All fines collected pursuant to sections 291E-61(b)(2)(C), 291E-61.5(c)(2)(C), and 291E-62(c);
- (2) Moneys appropriated by the legislature to the fund;
- (3) Other grants and gifts made to the fund; and
- (4) Any income and interest earned on the balance of the fund.

(b) Moneys in the state drug and alcohol toxicology testing laboratory special fund shall be administered and expended by the department of health to support a state drug and alcohol toxicology testing laboratory.”

SECTION 3. 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~~], 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;
- (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~~];~~ and
- (5) To pay the cost of establishing a state drug and alcohol toxicology testing laboratory that is intended to support the prosecution of offenses relating to operation of a motor vehicle while under the influence of an intoxicant.”

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 without possibility of probation or suspension of sentence as follows:

- (1) For the first offense, or any offense not preceded within a ten-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) One-year revocation of license and privilege to operate a vehicle during the revocation period and installation during the

- revocation period of an ignition interlock device on any vehicle operated by the person;
- (C) Any one or more of the following:
- (i) Seventy-two hours of community service work;
 - (ii) No less than forty-eight hours and no more than five days of imprisonment; or
 - (iii) A fine of no less than \$250 but no more than \$1,000;
- (D) A surcharge of \$25 to be deposited into the neurotrauma special fund; and
- (E) A surcharge, if the court so orders, of up to \$25 to be deposited into the trauma system special fund;
- (2) For an offense that occurs within ten years of a prior conviction for an offense under this section or section 291E-4(a):
- (A) Revocation for no less than twenty-four months nor more than three years of license and privilege to operate a vehicle during the revocation period and installation during the revocation period of an ignition interlock device on any vehicle operated by the person;
- (B) Either one of the following:
- (i) No less than two hundred forty hours of community service work; or
 - (ii) No less than five days but no more than thirty days of imprisonment, of which at least forty-eight hours shall be served consecutively;
- (C) A fine of no less than \$1,000 but no more than \$3,000[;]. to be deposited into the state drug and alcohol toxicology testing laboratory special fund;
- (D) A surcharge of \$25 to be deposited into the neurotrauma special fund; and
- (E) A surcharge of up to \$50, if the court so orders, to be deposited into the trauma system special fund;
- (3) In addition to a sentence imposed under paragraphs (1) and (2), 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) or (2), as applicable. Notwithstanding paragraphs (1) and (2), the revocation period for a person sentenced under this paragraph shall be no less than two years; and
- (4) If the person demonstrates to the court that the person:
- (A) Does not own or have the use of a vehicle in which the person can install an ignition interlock device during the revocation period; or
- (B) Is otherwise unable to drive during the revocation period, the person shall be absolutely prohibited from driving during the period of applicable revocation provided in paragraphs (1) to (3); provided that the court shall not issue an ignition interlock permit pursuant to subsection (i) and the person shall be subject to the penalties provided by section 291E-62 if the person drives during the applicable revocation period.”

SECTION 5. Section 291E-61.5, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

- “(c) For a conviction under this section, the sentence shall be either:
- (1) An indeterminate term of imprisonment of five years; or
 - (2) A term of probation of five years, with conditions to include:
 - (A) Mandatory revocation of license and privilege to operate a vehicle for a period no less than three years but no more than five years;
 - (B) No less than ten days imprisonment, of which at least forty-eight hours shall be served consecutively;
 - (C) A fine of no less than \$2,000 but no more than \$5,000[;], to be deposited into the state drug and alcohol toxicology testing laboratory special fund;
 - (D) Referral to a certified substance abuse counselor as provided in subsection (d);
 - (E) A surcharge of \$25 to be deposited into the neurotrauma special fund; and
 - (F) ~~[May be charged a]~~ A surcharge of up to \$50 to be deposited into the trauma system special fund if the court so orders.

In addition to the foregoing, any vehicle owned and operated by the person committing the offense shall be subject to forfeiture pursuant to chapter 712A; provided that the department of transportation shall provide storage for vehicles forfeited under this subsection.”

SECTION 6. Section 291E-62, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) Any person convicted of violating this section shall be sentenced as follows without possibility of probation or suspension of sentence:

- (1) For a first offense, or any offense not preceded within a five-year period by conviction for an offense under this section, section 291E-66, or section 291-4.5 as that section was in effect on December 31, 2001:
 - (A) A term of imprisonment of ~~[not]~~ no less than three consecutive days but ~~[not]~~ no more than thirty days;
 - (B) A fine of ~~[not]~~ no less than \$250 but ~~[not]~~ no more than \$1,000[;], to be deposited into the state drug and alcohol toxicology testing laboratory special fund;
 - (C) Revocation of license and privilege to operate a vehicle for an additional year; and
 - (D) Loss of the privilege to operate a vehicle equipped with an ignition interlock device, if applicable;
- (2) For an offense that occurs within five years of a prior conviction for an offense under this section, section 291E-66, or section 291-4.5 as that section was in effect on December 31, 2001:
 - (A) Thirty days imprisonment;
 - (B) A \$1,000 fine[;], to be deposited into the state drug and alcohol toxicology testing laboratory special fund;
 - (C) Revocation of license and privilege to operate a vehicle for an additional two years; and
 - (D) Loss of the privilege to operate a vehicle equipped with an ignition interlock device, if applicable; and
- (3) For an offense that occurs within five years of two or more prior convictions for offenses under this section, section 291E-66, or sec-

tion 291-4.5 as that section was in effect on December 31, 2001, or any combination thereof:

- (A) One year imprisonment;
- (B) A \$2,000 fine^[;], to be deposited into the state drug and alcohol toxicology testing laboratory special fund;
- (C) Permanent revocation of the person's license and privilege to operate a vehicle; and
- (D) Loss of the privilege to operate a vehicle equipped with an ignition interlock device, if applicable.”

SECTION 7. Section 706-643, Hawaii Revised Statutes, is amended by amending subsection (2) to read as follows:

“(2) All fines and other final payments received by a clerk or other officer of a court shall be accounted for, with the names of persons making payment, and the amount and date thereof, being recorded. All such funds shall be deposited with the director of finance to the credit of the general fund of the State. With respect to fines and bail forfeitures that are proceeds of the wildlife revolving fund under section 183D-10.5^[;]; fines that are proceeds of the state drug and alcohol toxicology testing laboratory special fund under sections 291E-61(b)(2)(C), 291E-61.5(c)(2)(C), and 291E-62(c); and fines that are proceeds of the compliance resolution fund under sections 26-9(o) and 431:2-410, the director of finance shall transmit the fines and forfeitures to the respective funds.”

SECTION 8. No later than thirty days prior to the convening of each of the regular sessions of 2023 and 2024, the department of health shall submit a report to the legislature on the expenditures made from the state drug and alcohol toxicology testing laboratory special fund, including the amounts expended and the purpose of each expenditure as it relates to supporting the state drug and alcohol toxicology testing laboratory.

SECTION 9. The state drug and alcohol toxicology testing laboratory special fund established in section 291E- , Hawaii Revised Statutes, shall be abolished and repealed on June 30, 2026, and any unencumbered remaining balances shall lapse to the general fund.

SECTION 10. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 11. This Act shall take effect on July 1, 2021; provided that on June 30, 2026, sections 4, 5, 6, and 7 of this Act shall be repealed and section 291E-61, 291E-61.5, 291E-62, and 706-643, Hawaii Revised Statutes, shall be reenacted in the form in which it read on the day before the effective date of this Act.

(Approved July 6, 2021.)

Note

1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to School Impact Fees.

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

PART I

SECTION 1. Section 302A-1603, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(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 that is or will be paying the transient accommodations tax under chapter 237D;
- (3) All nonresidential development; ~~and~~
- (4) Any development with an executed education contribution agreement or other like document with the department¹ for the contribution of school sites or payment of fees for school land or school construction~~[-]; and~~
- (5) Any form of housing developed by the department of Hawaiian home lands for use by beneficiaries of the Hawaiian Homes Commission Act, 1920, as amended.”

PART II

SECTION 2. The legislature finds that the department of education requires statutory flexibility to effectively manage and expend school impact fees. The purpose of this part is to provide that flexibility.

SECTION 3. Section 302A-1608, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (h) to read:

“~~[(h)]~~ Construction cost component impact fees shall be used only ~~for~~;

- (1) For the costs of new school facilities that expand the student capacity of existing schools or adds student capacity in new schools~~[-]; or~~
- (2) To improve or renovate existing structures for school use.

Construction cost component impact fees ~~may~~ shall 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.”

2. By amending subsection (j) to read:

“~~[(j)]~~ Construction cost component impact fees shall not be expended for[~~;~~

- (1) ~~The~~ the maintenance or operation of existing schools in the district~~[-]; or~~
- (2) ~~Portable or temporary facilities].”~~

3. By amending subsection (l) to read:

“~~[(l)]~~ Fees in lieu, proceeds from the sale of all or part of an existing school site that has been dedicated by a developer pursuant to the requirements of this subpart, and construction cost component impact fees 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 all collected impact fees shall be incorporated into the annual budget process of the department and subject to legislative approval of the budget.]”

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.

SECTION 6. This Act shall take effect upon its approval; provided that on July 1, 2024, section 1 of this Act shall be repealed and section 302A-1603(b), 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 July 6, 2021.)

Note

1. Prior to amendment “agency” appeared here.

ACT 198

H.B. NO. 776

A Bill for an Act Relating to the Issuance of Special Purpose Revenue Bonds to Assist Pueo Development, LLC.

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

SECTION 1. The legislature finds that the development of low- and moderate-income housing, alternative energy sources, agriculture, infrastructure, and economic opportunities continues to be in the public interest. Pueo Development, LLC, is a Hawaii company that offers sustainable solutions for developing low- and moderate-income housing, alternative energy, agriculture, and infrastructure, while facilitating economic opportunities through project development. Pueo Development, LLC, proposes to design, build, and operate a master planned development in support of a public-private partnership with Waiohuli Hawaiian Homesteaders Association, Inc., on an estimated one hundred fifty acres of department of Hawaiian home lands land in Waiohuli, Maui. This proposed development includes low- and moderate-income housing units; rental housing units; elderly care units; alternative energy development systems; agricultural development; and infrastructure development, including roads and utilities. The legislature acknowledges that this development will create numerous new jobs in the State, which will in turn improve the State’s economy.

The legislature has carefully considered the use of special purpose revenue bonds to support Pueo Development, LLC, and its proposed development. The legislature finds that the use of special purpose revenue bonds to assist Pueo Development, LLC, is consistent with similar investments that the State has made for other comparable master planned projects. The legislature believes that the issuance of special purpose revenue bonds to assist Pueo Development, LLC, will provide critical financial flexibility to support the proposed development’s initiatives. Through the utilization of special purpose revenue bonds as a means of financing the proposed development, Pueo Development, LLC, will provide the public with benefits derived from developing the master planned community without investment or operational risk to the State or counties.

Accordingly, the purpose of this Act is to authorize the issuance of special purpose revenue bonds and appropriate the bond revenues derived therefrom for a master planned development proposed by Pueo Development, LLC.

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 IX, 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 \$80,000,000, in one or more series, for the purpose of assisting Pueo Development, LLC, a Hawaii limited liability company, for its proposed master planned development that will include low- and moderate-income homes; rental housing units; elderly care units; alternative energy development; agricultural development; and infrastructure development, including roads and utilities. The legislature hereby finds and determines that the proposed master planned development constitutes a project as defined in part IX, chapter 39A, Hawaii Revised Statutes, and the financing thereof is assistance to the development of low- and moderate-income housing.

SECTION 3. The special purpose revenue bonds and the refunding special purpose revenue bonds issued under this Act shall be issued pursuant to part IX, chapter 39A, Hawaii Revised Statutes, relating to the power to issue special purpose revenue bonds to assist the development of low- and moderate-income housing.

SECTION 4. The department of budget and finance is authorized, from time to time, including times subsequent to June 30, 2026, 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, 2026.

SECTION 6. This Act shall take effect on July 1, 2021.

(Approved July 6, 2021.)

ACT 199

H.B. NO. 991

A Bill for an Act Relating to the Disclosure of Vital Statistics Records.

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

SECTION 1. The purpose of this Act is to:

- (1) Enable the department of health to disclose vital statistics records for public health purposes; and
- (2) Update the categories of those who may access otherwise confidential vital statistics records.

SECTION 2. Section 338-18, Hawaii Revised Statutes, is amended to read as follows:

“§338-18 Disclosure of records. (a) To protect the integrity of vital statistics records, to ensure their proper use, and to ensure the efficient and proper administration of the vital statistics system, it shall be unlawful for any person to permit inspection of, or to disclose information contained in vital statistics records, or to copy or issue a copy of all or part of any ~~[such]~~ record, except as authorized by this part or ~~[by]~~ in a manner consistent with rules adopted by the department of health.

(b) The department of health shall not permit inspection of public health statistics records, or issue a certified copy of any ~~[such]~~ record or part thereof, unless it is satisfied that the applicant has a direct and tangible interest in the record. The following persons or agencies shall be considered to have a direct and tangible interest in a public health statistics record:

- (1) The registrant;
- (2) The spouse of the registrant;
- (3) A parent of the registrant;
- (4) A descendant of the registrant;
- (5) A person having a common ancestor with the registrant;
- (6) A legal guardian of the registrant;
- (7) A person or agency acting on behalf of the registrant;
- (8) A personal representative or trustee of the registrant’s estate~~;~~ or trust;
- (9) A person whose right to inspect or obtain a certified copy of the record is established by an order of a court of competent jurisdiction;
- (10) Adoptive parents who have filed a petition for adoption and who need to determine the death of one or more of the prospective adopted child’s natural or legal parents;
- (11) A person who needs to determine the marital status of a former spouse ~~[in order]~~ to determine the payment of alimony;
- (12) A person, agency, or a beneficiary of a will or trust who needs to determine the death of a ~~[nonrelated]~~ co-owner of property ~~[purchased under a joint tenancy agreement; and~~
- ~~(13) A person who needs a death certificate for the determination of payments under a credit insurance policy; and~~
- (13) A person or agency who seeks access to vital statistics records for a public health purpose, as reviewed by the department of health’s institutional review committee and approved by the director of health.

(c) The department of health may permit the use ~~[[of]]~~ the data contained in public health ~~[statistical]~~ statistics records for research purposes only, but no identifying use thereof shall be made.

(d) Index data consisting of name and sex of the registrant, type of vital event, and such other data as the director may authorize shall be made available to the public.

(e) The department of health may permit persons working on genealogy projects access to microfilm or other copies of vital records of events that occurred more than ~~[seventy-five]~~ one hundred fifteen years ~~[prior to]~~ before the current year.

~~[(f) Subject to this section, the department may direct its local agents to make a return upon filing of birth, death, and fetal death certificates with them, of certain data shown to federal, state, territorial, county, or municipal agencies. Payment by these agencies for these services may be made as the department shall direct.~~

~~(g)~~ (f) The department of health shall not issue a verification in lieu of a certified copy of any [~~such~~] record, or any part thereof, unless it is satisfied that the applicant requesting a verification is:

- (1) A person who has a direct and tangible interest in the record but requests a verification in lieu of a certified copy;
- (2) A [~~governmental~~] government agency that, for a legitimate government purpose, maintains and needs to update official lists of persons in the ordinary course of the agency's activities. Notwithstanding other provisions of this section, upon request from a [~~governmental~~] government agency of the State [~~of Hawaii~~] or its political subdivisions, the department of health may further disclose to that [~~governmental~~] government agency the date of the vital event that has been verified;
- (3) A [~~governmental agency, or~~] government, private, social, or educational agency or organization that seeks confirmation of a certified copy of any [~~such~~] record submitted in support of or information provided about a vital event relating to any [~~such~~] record and contained in an official application made in the ordinary course of the agency's or organization's activities by an individual seeking employment with, entrance to, or the services or products of the agency or organization;
- (4) A private or government attorney who seeks to confirm information about a vital event relating to any [~~such~~] record that was acquired during the course of or for purposes of legal proceedings; or
- (5) An individual employed, endorsed, or sponsored by a [~~governmental agency, or~~] government, private, social, or educational agency or organization who seeks to confirm information about a vital event relating to preparation of reports or publications by the agency or organization for research or educational purposes.

(g) For the purposes of this section, "research purposes" shall be limited to those purposes that have been reviewed by the department of health's institutional review committee and approved by the department of health's institutional review committee and the director of health."

SECTION 3. Section 338-18.5, Hawaii Revised Statutes, is repealed.

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

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

(Approved July 6, 2021.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 200

H.B. NO. 1004

A Bill for an Act Relating to the Boiler and Elevator Safety Law.

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

SECTION 1. Section 397-2, Hawaii Revised Statutes, is amended to read as follows:

~~“§397-2~~ **Findings and purpose.** The legislature finds that the Hawaii occupational safety and health law does not adequately provide for the safe operation and use of ~~[boilers, pressure systems,]~~ pressure retaining items, amusement rides, and elevators and kindred equipment. The purpose of this law is to assure the safe operation and use of such apparatus in Hawaii.”

SECTION 2. Section 397-3, Hawaii Revised Statutes, is amended by adding three new definitions to be appropriately inserted and to read as follows:

“Amusement ride” means a mechanically or electrically operated device designed to carry passengers in various modes and used for entertainment and amusement.

“Permit to operate” means a certificate issued by the department that indicates that the pressure retaining item, amusement ride, or elevator and kindred equipment has met the required safety inspection and tests required by this chapter and rules adopted under this chapter, and that required fees have been paid as set forth in this chapter.

“Pressure retaining item” means a boiler, pressure vessel, or pressure system.”

SECTION 3. Section 397-4, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Administration.

- (1) The department shall establish a boiler and elevator inspection branch for the enforcement of the rules adopted under this chapter and other duties as assigned;
- (2) The department shall:
 - (A) Implement and enforce the requirements of this chapter; and
 - (B) Keep adequate and complete records of the type, size, location, identification data, and inspection findings for ~~[boilers, pressure systems,]~~ pressure retaining items, amusement rides, and elevators and kindred equipment required to be inspected pursuant to this chapter;
- (3) The department shall formulate definitions and adopt and enforce standards and rules pursuant to chapter 91 that may be necessary for carrying out this chapter;
- (4) Emergency temporary standards may be adopted without conforming to chapter 91 and without hearings to take immediate effect upon giving public notice of the emergency temporary standards or upon another date that may be specified in the notice. An emergency temporary standard may be adopted, if the director determines:
 - (A) That the public or individuals are exposed to grave danger from exposure to hazardous conditions or circumstances; and
 - (B) That the emergency temporary standard is necessary to protect the public or individuals from danger.

Emergency temporary standards shall be effective until superseded by a standard adopted under chapter 91, but shall not be effective longer than six months;

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

- (6) Permits.

- (A) The department shall issue a [~~“permit to operate”~~] permit to operate regarding any [~~boiler, pressure system,~~] pressure retaining item, amusement ride, or elevator and kindred equipment if found to be safe in accordance with rules adopted pursuant to chapter 91[;] and all required fees have been paid;

- (B) The department may issue an order immediately [~~revoke~~] revoking or suspending any [~~“permit to operate”~~] permit to operate, or an order prohibiting the use or operation of [~~any boiler, pressure system,~~] a pressure retaining item, amusement ride, or elevator and kindred equipment [~~found~~] when:

- (i) The department finds the pressure retaining item, amusement ride, or elevator and kindred equipment to be in an unsafe condition [or where a];

- (ii) A user, owner, or contractor ignores a prior department [orders] order to correct a condition, [specific defects or hazards] defect, or hazard relating to the pressure retaining item, amusement ride, or elevator and kindred equipment, and continues to use or operate the [aforementioned apparatus] the pressure retaining item, amusement ride, or elevator and kindred equipment without abating the [hazards or defects;] condition, defect, or hazard identified in the order; or

- (iii) A user, owner, or contractor fails to pay any fee or fine required under this chapter or any rule adopted under this chapter.

The order may be rescinded when the department has determined that the owner, user, or contractor has complied with the order to correct the condition, defect, or hazard identified in the order or has paid all fees or fines imposed by the department;

- (C) The department [~~shall~~] may reissue a [~~“permit to operate”~~] permit to operate to any user, owner, or contractor who demonstrates that the user, owner, or contractor is proceeding in good faith to abate all nonconforming conditions mentioned in department orders and the [~~boilers, pressure systems,~~] pressure retaining items, amusement rides, and elevators and kindred equipment are safe to operate; and

- (D) The department shall establish criteria for the periodic reinspection and renewal of the permits to operate, and may provide for the issuance of temporary permits to operate while any noncomplying [~~boiler, pressure system,~~] pressure retaining item, amusement ride, and elevator and kindred equipment are

being brought into full compliance with the applicable standards and rules adopted pursuant to this chapter; provided that the period between an initial safety inspection or the inspection used as a basis for the issuance of a permit to operate, and any subsequent inspection of elevators and kindred equipment shall not exceed one year;

- (7) No person shall operate a [~~boiler, pressure system,~~] pressure retaining item, amusement ride, or elevator and kindred equipment that [~~are~~] is required to be inspected by this chapter or by any rule adopted pursuant to this chapter, except as necessary to install, repair, or test, unless a permit to operate has been authorized or issued by the department and remains valid; and
- (8) The department, upon the application of any owner, user, or other person affected thereby, may grant time that may reasonably be necessary for compliance with any order. Any person affected by an order may for cause petition the department for an extension of time.”

SECTION 4. Section 397-5, Hawaii Revised Statutes, is amended to read as follows:

“**§397-5 Fees.** (a) [~~The~~] By rules adopted pursuant to chapter 91, the director [may] shall prescribe reasonable fees to be charged for inspection, examination, and other services rendered, and for permits, certificates, or licenses, the issuance of which are required by this chapter or by any rules of the department adopted pursuant to this chapter[~~], and~~]. The fee schedule shall include fees for:

- (1) Inspections by the department of any [~~boiler, pressure system,~~] pressure retaining item, amusement ride, and elevator and kindred equipment for which a permit or certificate is required for its installation, repair, alteration, operation, or use, and which is required to be inspected by this chapter or by any rules of the department; and
- (2) Examination of any person applying for permits, certificates, or licenses as required by this chapter or by any rules of the department.

(b) All fees received by the department pursuant to this section shall be paid into the boiler and elevator revolving fund.

~~[(c) Effective July 1, 2012, the fees for inspections, permits, and examinations of boilers, pressure systems, elevators, kindred equipment, and amusement rides shall be as prescribed by the schedules in this section; provided that the director may adopt rules pursuant to chapter 91 to amend the fees specified in this section.~~

**SCHEDULE A: Boiler and Pressure System Fees
Installation, Repair, and Alteration Permit Fees:**

- (1) ~~Power boilers (shall pass a hydrostatic test unless indicated otherwise):~~
 - Miniature electric (no hydrostatic test required) \$190
 - Less than 500 square feet of heating surface \$250
 - Greater than or equal to 500 and less than or equal to 3,000 square feet of heating surface \$400
 - Greater than 3,000 square feet of heating surface \$750
- (2) Heating boiler \$190

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	Retrofit	\$160
(3)	Pressure vessel Retrofit	\$175 \$130
(4)	Sterilizers and steam kettles Retrofit	\$150 \$110
(5)	Repair application fee	\$200
(6)	Alteration application fee	\$500
	Examination and License Fees:	
(1)	Boiler inspectors certificate of competency examination fee	\$300
(2)	Review of shops and facilities for the issuance of National Board or American Society of Mechanical Engineers certificate of authorization	\$1,500
(3)	Review of shops and facilities for the issuance of Non-Boiler External Piping certificate of authorization	\$750
(4)	Boiler inspector's Hawaii commission, initial and renewal	\$75
	Internal and External Inspection Fees:	
(1)	Power boilers:	
	Without manholes	\$150
	With manholes but less than or equal to 3,000 square feet of heating surface	\$180
	With manholes greater than 3,000 and less than or equal to 10,000 square feet of heating surface	\$260
	With manholes and over 10,000 square feet of heating surface	\$450
(2)	Heating boilers:	
	Hot water supply	\$130
	Steam and water heating without manholes	\$110
	Steam, over 100 square feet but not over 500 square feet of heating surface	\$140
	All with manholes and steam over 500 square feet of heating surface	\$170
(3)	Pressure vessels:	
	Routine inspections	\$65
	Internal for air or water service	\$130
	Ultrasonic testing	\$130
(4)	For all other types of inspections an hourly fee is assessed	\$100
(5)	Hydrostatic test	\$300
(6)	School "specials" (non-code objects)	\$10
	Reports and Permit Processing Fees:	
(1)	Report and permit	\$25
(2)	Permit reprint	\$20
(3)	Signed permit card (old issue)	\$10
(4)	Owner portal	\$5

SCHEDULE B: Elevator and Kindred Equipment Fees

Installation and Alteration Permits:

(1)	Alteration involving only the replacement of up to two parts (such as a valve, a jack, or a cylinder)	\$150
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(2)	Alteration involving only cosmetic changes (such as car interior modernizations)	\$300
(3)	Alterations of more than two parts, components, or subsystems:	
	1—3 floors	\$600
	4—9 floors	\$650
	10—19 floors	\$700
	20—29 floors	\$750
	30—39 floors	\$800
	40 or more floors	\$900
(4)	Where alterations to four or more units at the same location are identical, the fee for each additional alteration permit shall be reduced by fifty per cent. The applications must be submitted at the same time to qualify for the fee reduction.	
(5)	Installation of new elevators (including material lifts) and kindred equipment:	
	Dumbwaiter	\$500
	Escalator, moving walk, or moving ramp	\$500
	Hand elevator or stage lift	\$500
	Wheelchair or stairway lifts	\$500
	Elevator, 1—3 floors	\$600
	Elevator, 4—9 floors	\$650
	Elevator, 10—19 floors	\$700
	Elevator, 20—29 floors	\$750
	Elevator, 30—39 floors	\$800
	Elevator, 40 or more floors	\$900
	Personnel hoists	\$250
	Inclined tunnel lifts	\$500
	(For elevators, such as observation or deep well elevators, which have considerable rise but few openings, each ten feet of vertical rise shall be considered one floor for the purpose of determining installation or alteration permit fees.)	
(6)	Temporary use permits (construction car)	\$450
(7)	For each valid alteration or installation permit, the department shall provide one inspection per unit.	
(8)	The fee for each additional inspection or witnessing of tests, or both, shall be \$300 per day for up to two hours and \$600 per day for more than two hours if during the normal workday. Fees for overtime hours shall be \$600 per day for up to two hours and \$1,200 per day for more than two hours.	
(9)	Each installation or alteration permit shall be valid for up to one year from date of issuance.	
	Inspection Fees:	
(1)	Permit renewal inspection fees:	
	Dumbwaiter	\$140
	Escalator, moving walk, or moving ramp	\$150

Hand elevator or stage lift	\$150
Wheelchair or stairway lifts	\$150
Hydraulic elevator—holed	\$150
Hydraulic elevator—holeless	\$200
Traction elevator:	
1—3 floor rise	\$225
4—9 floor rise	\$250
10—19 floor rise	\$275
20—29 floor rise	\$325
30—39 floor rise	\$400
40 or more floor rise	\$475
Personnel hoists	\$175
Inclined tunnel lifts	\$220
(2) Safety, load or internal test (witness fees):	
3-year safety test	\$200
5-year safety test	\$300
Escalator internal	\$100
(3) Permit renewal and witness fees are per inspection, which may constitute one day or part of the day. If the inspector is required to return on another day or at another time on the same day, additional fees shall be assessed at the rate of \$300 per day for up to two hours and \$600 per day for more than two hours. Fees for overtime hours shall be \$600 per day for up to two hours and \$1,200 per day for more than two hours.	

SCHEDULE C: Amusement Ride Fees

Inspection Fees:

- (1) Permit renewal inspection fees:

Amusement ride	\$100
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- (2) Permit renewal fees are per inspection, which may constitute one day or part of the day. If the inspector has to return on another day or at another time within the same day, additional fees shall be assessed at the rate of \$300 per day for up to two hours and \$600 per day for more than two hours. Fees for overtime hours shall be \$600 per day for up to two hours and \$1,200 per day for more than two hours.]”

SECTION 5. Section 397-6, Hawaii Revised Statutes, is amended to read as follows:

“§397-6 Safety inspection by qualified inspectors. (a) All safety inspections required under this chapter of [~~boilers and pressure systems~~] pressure retaining items shall be performed by deputy boiler inspectors in the employ of the department who are qualified boiler inspectors and, when authorized by the director, may be performed by special inspectors who are qualified boiler inspectors in the employ of insurance companies insuring [~~boilers or pressure systems~~] pressure retaining items in this State.

(b) A qualified boiler inspector is a person eligible for or in possession of a valid commission issued by the National Board of Boiler and Pressure Ves-

sel Inspectors, who has satisfied the requirements established by the department, and who has received from the director or the director's authorized agent briefings and instructions regarding the rules pertaining to ~~[boilers and pressure systems]~~ pressure retaining items in this State.

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

(d) A qualified elevator inspector is a person who meets the criteria of the American Society of Mechanical Engineers and the standards for the qualification of elevator inspectors of the American National Standards Institute and has satisfied requirements established by the department ~~[of labor and industrial relations].~~"

SECTION 6. Section 397-10, Hawaii Revised Statutes, is amended to read as follows:

~~“[§397-10]~~ **Judicial review.** Except where an order has already become final for failure to contest, the decision and order of the appeals board shall be final and conclusive, unless the director or any party to the proceedings before the appeals board obtains a review thereof in the manner provided in chapter 91 by instituting proceedings in the circuit court of the circuit in which the ~~[boiler, pressure system,]~~ pressure retaining item, amusement ride, or elevator and kindred equipment is situated or such practice, means, method, operation, or process is employed. The hearing on review shall be on the record and the department shall be deemed a party to any such proceedings. The court shall give precedence to such proceedings over all other civil cases.”

SECTION 7. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

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

(Approved July 6, 2021.)

ACT 201

H.B. NO. 1096

A Bill for an Act Relating to Parentage.

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

SECTION 1. The purpose of this Act is to require the department of health to convene a task force to recommend amendments to the Hawaii Revised Statutes to update existing parentage laws that reflect outdated, cisheteronormative concepts of families, parenthood, and parental rights.

SECTION 2. (a) The department of health shall convene a task force to recommend amendments to the Hawaii Revised Statutes to update existing parentage laws that reflect outdated, cisheteronormative concepts of families, parenthood, and parental rights.

(b) The task force shall include the following members:

- (1) The director of health, or the director's designee, who shall serve as chairperson; and
- (2) A representative from the department of the attorney general.

(c) The director of health shall invite the following individuals to become members of the task force:

- (1) A family court judge;
- (2) A family law attorney;
- (3) A representative of AF3IRM Hawaii;
- (4) A representative of the department of health’s sexual and gender minority working group;
- (5) A representative of Ka Aha Mahu; and
- (6) Any other member as recommended by the task force.

(d) The 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 2022.

(e) The task force shall be dissolved on June 30, 2022.

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

(Approved July 6, 2021.)

ACT 202

S.B. NO. 222

A Bill for an Act Relating to the Department of Accounting and General Services.

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

SECTION 1. Section 40-5, Hawaii Revised Statutes, is amended to read as follows:

“**§40-5 Annual reports.** (a) The comptroller shall make an annual report to the governor and to the legislature. Beginning July 1, 2022, the comptroller shall include in the comptroller’s annual report a list of all accounts closed by the comptroller during the immediately preceding fiscal year and a list of any accounts that remain open but are serving a lapsed program or initiative.

(b) The comptroller [~~may~~], in the comptroller’s yearly report, or in any special report [~~which~~] that the comptroller [~~may at any time think~~] thinks fit to make, may recommend any [~~plans~~]:

- (1) Plans and suggestions that the comptroller [~~may think~~] thinks fit or worthy of adoption for the better collection, custody, and payment of the public moneys and the more economical auditing and examining of the public accounts[;]; and [~~any improvements~~]

- (2) Improvements in the mode of keeping these accounts that may at any time be brought to the comptroller’s notice,

and generally report upon all matters relating to public accounts.”

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 6, 2021.)

ACT 203

S.B. NO. 332

A Bill for an Act Relating to Preaudit Payments.

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

SECTION 1. The legislature finds that the government would be able to provide services more effectively, efficiently, and expeditiously by updating the preaudit process for proposed payments to meet the demands of the public. Currently, the comptroller is required to preaudit all proposed payments of \$10,000 or more to determine the propriety of the expenditures and its compliance with the operative and relevant executive orders and rules.

Accordingly, the purpose of this Act is to temporarily amend the powers and duties of the comptroller to reduce the preaudit requirements of all proposed payments to expenditures by:

- (1) Amending the minimum dollar amount of payments to be preaudited; and
- (2) Allowing, rather than requiring, the comptroller to preaudit proposed payments of expenditures below the threshold amount.

SECTION 2. Section 40-1, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) With respect to the executive branch, except the University of Hawaii and the department of education, the comptroller shall have complete supervision of all accounts. The comptroller may preaudit all proposed payments less than \$100,000 to determine the propriety of expenditures and compliance with executive orders and rules that may be in effect. The comptroller shall preaudit all proposed payments of [~~\$10,000~~] \$100,000 or more to determine the propriety of expenditures and compliance with executive orders and rules that may be in effect. When necessary, the comptroller shall withhold approval of any payment. Whenever approval is withheld, the department or agency concerned shall be promptly notified. With respect to the University of Hawaii and the department of education, the comptroller shall issue warrants for the release of funds for the operating costs of the university or the department of education, as applicable, in amounts and at times mutually agreed upon by the governor or director of finance and the university or department of education, as applicable; provided that:

- (1) The amounts released shall not exceed the allotment ceilings for the respective funding sources of the university’s or the department of education’s appropriations established by the governor for an allotment period pursuant to section 37-34; and
- (2) The comptroller may issue warrants as an advance from the state treasury to the University of Hawaii and the department of education to establish a checking account and provide working capital in amounts and at times mutually agreed upon by the governor or director of finance and the University of Hawaii and the department of education.

The University of Hawaii and the department of education shall preaudit all proposed payments of \$10,000 or more and shall preaudit samples of the population of proposed payments of less than \$10,000; provided that the sample size comprises at least five per cent of the population, and is of a size that the chief financial officers of the University of Hawaii and the department of education, as applicable, determine appropriate, to determine the propriety of expenditures and compliance with applicable laws, executive orders, and rules. The University

of Hawaii and the department of education shall make disbursements for operating expenses from the amounts released by the comptroller and maintain records and documents necessary to support those disbursements at times mutually agreed upon by the university president or the superintendent of education, as applicable, and the comptroller; provided that when requested by the university or the department of education, the comptroller shall make all disbursements for the university or the department of education, as applicable, subject to available allotment. Funds released pursuant to this section shall be deposited by the university or the department of education, as applicable, in accordance with the provisions applicable to the director of finance by chapter 38. Any interest earned on the deposit of funds released pursuant to this section shall be deposited in the state treasury at the end of each fiscal year.”

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, 2021, and shall be repealed on July 1, 2024; provided that section 40-1(b), Hawaii Revised Statutes, shall be reenacted in the form in which it read on the day before the effective date of this Act.

(Approved July 6, 2021.)

ACT 204

S.B. NO. 400

A Bill for an Act Relating to Campaign Finance Reports.

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

SECTION 1. Section 11-340, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) Subsection (b) notwithstanding, if a candidate committee does not file the ~~[second]~~ preliminary primary report that is due ten calendar days prior to a primary, initial special, or initial nonpartisan election, or the preliminary general report~~;~~ that is due ten calendar days prior to a general, subsequent special, or subsequent nonpartisan election; or if a noncandidate committee does not file the preliminary primary report that is due ten calendar days prior to a primary, special, or nonpartisan election, or the ~~[second]~~ preliminary general report that is due ten calendar days prior to a general election by the due date, the fine, if assessed, shall not exceed \$300 per day; provided that, in aggregate:

- (1) The fine shall not exceed twenty-five per cent of the total amount of contributions or expenditures, whichever is greater, for the period covered by the report; and
- (2) The minimum fine, if assessed, shall be \$300.”

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 its approval.

(Approved July 6, 2021.)

ACT 205

S.B. NO. 402

A Bill for an Act Relating to Reimbursements for Expenditures by Committees.

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

SECTION 1. Section 11-333, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Schedules filed with the reports shall include the following additional information:

- (1) The amount and date of deposit of each contribution and the name and address of each contributor who makes contributions aggregating more than \$100 in an election period; provided that if all the information is not on file, the contribution shall be returned to the contributor within thirty days of deposit;
- (2) The amount and date of deposit of each contribution and the name, address, occupation, and employer of each contributor who makes contributions aggregating \$1,000 or more during an election period; provided that if all the information is not on file, the contribution shall be returned to the contributor within thirty days of deposit;
- (3) All expenditures, including the name and address of each payee and the amount, date, and purpose of each expenditure. Expenditures for consultants, advertising agencies and similar firms, credit card payments, salaries, and ~~[candidate]~~ committee reimbursements to the candidate or other individuals shall be itemized to permit a reasonable person to determine the ultimate intended recipient of the expenditure and its purpose;
- (4) The amount, date of deposit, and description of other receipts and the name and address of the source of each of the other receipts;
- (5) Information about each loan received by the committee, together with the names and addresses of the lender and each person liable directly, and the amount of each loan. A copy of the executed loan document shall be received by the commission by mail or delivery on or before the filing date for the report covering the reporting period when the loan was received. The document shall contain the terms of the loan, including the interest and repayment schedule. Failure to disclose the loan or to provide documentation of the loan to the commission shall cause the loan to be treated as a contribution, subject to all relevant provisions of this part;
- (6) A description of each durable asset, the date of acquisition, value at the time of acquisition, and the name and address of the vendor or contributor of the asset; and
- (7) The date of disposition of each durable asset, value at the time of disposition, the method of disposition, and the name and address of the person receiving the asset.”

SECTION 2. Section 11-335, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Schedules filed with the reports shall include the following additional information:

- (1) The amount and date of deposit of each contribution received and the name, address, occupation, and employer of each contributor making a contribution aggregating more than \$100 during an election period, which was not previously reported; provided that if:

- (A) All the information is not on file, the contribution shall be returned to the contributor within thirty days of deposit; and
- (B) A noncandidate committee making only independent expenditures receives a contribution of more than \$10,000 in the aggregate in an election period from an entity other than an individual, for-profit business entity, or labor union, then the schedule shall include:
 - (i) The internet address where the contributing entity's disclosure report can be publicly accessed, if the contributing entity is subject to state or federal disclosure reporting requirements regarding the source of the contributing entity's funds;
 - (ii) The name, address, occupation, and employer of each funding source that contributed \$100 or more in the aggregate in an election period to that contributing entity; or
 - (iii) An acknowledgment that the contributing entity is not subject to any state or federal disclosure reporting requirements regarding the source of the contributing entity's funds;
- (2) The amount and date of each contribution made and the name and address of the candidate, candidate committee, or noncandidate committee to which the contribution was made;
- (3) All expenditures, including the name and address of each payee and the amount, date, and purpose of each expenditure; provided that:
 - (A) Expenditures for advertisements or electioneering communications shall include the names of the candidates supported, opposed, or clearly identified;
 - (B) Expenditures for consultants, advertising agencies and similar firms, credit card payments, and salaries, ~~and candidate reimbursements~~ shall be itemized to permit a reasonable person to determine the ultimate intended recipient of the expenditure and its purpose;
 - (C) Independent expenditures shall include the name of any candidate supported, opposed, or clearly identified; and
 - (D) The purpose of an independent expenditure shall include the name of the candidate who is supported or opposed by the expenditure, and whether the expenditure supports or opposes the candidate;
- (4) For noncandidate committees making only independent expenditures, certification that no expenditures have been coordinated with a candidate, candidate committee, or any agent of a candidate or candidate committee;
- (5) The amount, date of deposit, and description of other receipts and the name and address of the source of each of the other receipts;
- (6) A description of each durable asset, the date of acquisition, value at the time of acquisition, and the name and address of the vendor or contributor of the asset; and
- (7) The date of disposition of a durable asset, value at the time of disposition, method of disposition, and name and address of the person receiving the asset."

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 6, 2021.)

ACT 206

H.B. NO. 1253

A Bill for an Act Relating to Employment Practices.

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

SECTION 1. The legislature finds that in response to the coronavirus disease 2019 (COVID-19) pandemic, applications for mobile phones have been promoted as a means to track the whereabouts of individuals who may have been exposed to someone testing positive for the virus, prompting privacy concerns and anxiety over potential misuse of the location information. While mobile phone users may voluntarily agree to be tracked, the legislature finds that privacy concerns dictate against making the downloading of mobile applications to an employee's personal mobile phones a condition of employment.

The purpose of this Act is to prohibit an employer, with certain exemptions, from:

- (1) Requiring an employee or prospective employee to download a mobile application to the employee's personal communication device that enables the employee's location to be tracked or the employee's personal information to be revealed as a condition of employment or continued employment; or
- (2) Terminating, discharging, or otherwise discriminating against an employee for:
 - (A) Refusing to download or refusing to consent to download to the employee's personal communication device, a mobile application that enables the employee's location to be tracked or the employee's personal information to be revealed; or
 - (B) Opposing any practice forbidden by this Act or filing a complaint, testifying, or assisting in any proceeding concerning an unlawful practice prohibited under this Act.

SECTION 2. Chapter 378, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

"PART . MOBILE APPLICATIONS

§378- Definitions. As used in this part:

"Employee" means an individual who performs a service for wages or other remuneration under a contract for hire, written or oral, or expressed or implied. "Employee" includes:

- (1) A prospective employee who has applied for or otherwise actively expressed interest in employment with an employer; and
- (2) An individual employed by the State or a political subdivision of the State.

"Employer" means a person who has one or more employees. "Employer" includes an agent of an employer or of the State or a political subdivision thereof but does not include the United States.

"Employer-owned communication device" means a device allowing for electronic communications, such as a mobile phone or tablet, that is owned or whose cost is reimbursed by the employer.

“Mobile application” means a type of application software designed to run on a mobile electronic device, such as a smartphone or tablet computer.

“Personal communication device” means a device allowing for electronic communication, including a mobile phone and tablet, that is not owned, or the cost of which is not reimbursed, by the employer.

§378- Unlawful practices. It shall be unlawful for any employer to:

- (1) Require an employee to download a mobile application to the employee’s personal communication device that enables the employee’s location to be tracked or the employee’s personal information to be revealed as a condition of employment or continued employment; or
- (2) Terminate, discharge, or otherwise discriminate against an employee for:
 - (A) Refusing to download or refusing to consent to download to the employee’s personal communication device, a mobile application that enables the employee’s location to be tracked or the employee’s personal information to be revealed; or
 - (B) Opposing any practice forbidden by this part or filing a complaint, testifying, or assisting in any proceeding concerning an unlawful practice prohibited under this part.

§378- Exception. Nothing in this part shall be deemed to:

- (1) Repeal or affect any law, ordinance, rule, or regulation having the force and effect of law;
- (2) Apply to the United States government;
- (3) Conflict with or affect the application of security regulations in employment established by the United States or the State;
- (4) Apply if the employee consents to downloading the mobile application to the employee’s personal communication device that enables the employee’s location to be tracked or the employee’s personal information to be revealed; or
- (5) Prohibit an employer from requiring an employee to carry or use an employer-owned communication device that enables the employee’s location to be tracked.

§378- Civil actions for injunctive relief or damages. (a) A person who alleges a violation of this part may bring a civil action for appropriate injunctive relief, actual damages, or both within two years after the occurrence of the alleged violation.

(b) A cause of action pursuant to subsection (a) may be brought in the appropriate court in the circuit where the alleged violation occurred, where the plaintiff resides, or where the defendant resides or has a principal place of business.

(c) A defendant who violates this part shall be fined \$500 for each violation. A civil fine that is ordered pursuant to this section shall be deposited with the director of finance to the credit of the general fund.

(d) For purposes of this section, “damages” means damages for injury or loss caused by each violation of this part, including reasonable attorney’s fees.”

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

(Approved July 6, 2021.)

ACT 207

S.B. NO. 405

A Bill for an Act Relating to Campaign Contributions.

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

SECTION 1. Section 11-364, Hawaii Revised Statutes, is amended by amending its title and subsection (a) to read as follows:

~~“§11-364~~ **Excess contribution; return; escheat.** (a) Any candidate, candidate committee, or noncandidate committee that receives in the aggregate more than the applicable contribution limit in section 11-357, 11-358, 11-359, or 11-360 shall return any excess contribution to the contributor within thirty days of receipt of the excess contribution. Any candidate, candidate committee, or noncandidate committee that receives in the aggregate more than the applicable contribution limit in section 11-362 shall return any excess contribution to the contributor within thirty days of the end of the election period; provided that the candidate, candidate committee, or noncandidate committee may choose which contributions to return. Any excess contribution not returned to the contributor within thirty days shall escheat to the Hawaii election campaign 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 July 6, 2021.)

ACT 208

H.B. NO. 1281

A Bill for an Act Relating to Emergency Medical Services.

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

PART I

SECTION 1. Chapter 46, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

“PART . COUNTY EMERGENCY MEDICAL SERVICES SYSTEM

§46- Definitions. As used in this part, unless the context clearly requires otherwise:

“Advanced life support” shall have the same meaning as defined in section 321-222.

“Basic life support” means initiating noninvasive emergency patient care designed to optimize the patient’s chances of surviving the emergency situation. The care rendered consists of all first aid procedures needed, but does not include invasive procedures that constitute the practice of medicine; provided that state-approved basic life support personnel may use fully automatic external defibrillators, initiate intravenous lines, and perform manual external defibrillation under the direction and personal supervision of a mobile intensive care technician.

“Community paramedicine program” means an enhanced and expanded service in the county emergency medical services system that allows state-licensed health care professionals and community health workers to assist with

public health, primary care, and prevention services, including services through telehealth.

“County” means any county having a population of five hundred thousand or more.

“County system” means the county emergency medical services system.

“Emergency aeromedical services” shall have the same meaning as defined in section 321-222.

“Emergency medical services for children” shall have the same meaning as defined in section 321-222.

“Emergency medical services personnel” shall have the same meaning as defined in section 321-222.

§46- County emergency medical services system; establishment. Each county shall establish, administer, and maintain a county emergency medical services system to serve the emergency health needs of the people in the county. The county, in the implementation of this part, shall plan, coordinate, and provide assistance to all entities and agencies, public and private, involved in the county system. All emergency medical services or ambulance services conducted by or under the authority of the county shall be consistent with this part.

§46- County, functions; duties. In addition to other functions and duties assigned under this part, the county shall:

- (1) Establish emergency medical services throughout the county that may include emergency aeromedical services, which shall meet the requirements of this part and include the purchase, maintenance, and servicing of all vehicles, equipment, and supplies; a National Emergency Medical Services Information System compliant pre-hospital electronic patient care record system; and compatible data uploads to the cardiac arrest registry to enhance survival, the state trauma system, and the department of health pre-hospital electronic patient record registries; and
- (2) Establish, administer, and maintain a medical communication system for the county.

§46- Emergency medical services; fees. (a) The county may establish reasonable fees to be collected from individuals who are:

- (1) Transported by emergency ground ambulance services to a health care facility within the county designated by the county for the care of the individual;
- (2) Provided health care by emergency medical services personnel within the county but not transported by ground ambulance to a health care facility; or
- (3) Provided care by the community paramedicine program.

(b) No ambulance services, or any other emergency medical services available from or under the authority of this part shall be denied to any person on the basis of the ability of the person to pay or because of the lack of prepaid health care coverage or proof of the ability to pay or coverage.

(c) The county may adopt rules pursuant to chapter 91 necessary to effectuate the purposes of this section.

§46- Community paramedicine program; established. (a) The county may establish and administer the community paramedicine program.

- (b) The county may:

- (1) Develop community paramedicine guidelines consistent with those adopted by the department of health;
 - (2) Explore and develop partnerships with public and private health care entities, insurers, and community organizations to facilitate the community paramedicine program; and
 - (3) Employ telehealth within the community paramedicine program to enhance access and improve the patient experience.
- (c) The county shall adopt rules pursuant to chapter 91 to effectuate the purposes of this section.

§46- Emergency medical services; levels of service; contracts. The county shall determine the levels of emergency medical services that shall be implemented throughout the county; provided that the county shall provide no fewer than twenty-one ground ambulance units. The county may contract to provide emergency medical services, including emergency aeromedical services, or any necessary component of the county system.

§46- Grants. The county system may seek and accept any funds or property and other desirable support and assistance from any source whatsoever, whether gift, grant, services, or any combination thereof, subject to applicable laws.

§46- Immunity and limitation on liability for emergency aeromedical services. The county shall not be liable for any claim of injury or death based on a failure to establish or continue emergency aeromedical services in any part of the county.

§46- Rules. The county may adopt rules necessary for the implementation of this part, subject to chapter 91.”

SECTION 2. Chapter 321, Hawaii Revised Statutes, is amended by adding a new section to part XVIII to be appropriately designated and to read as follows:

“§321- Retention of relevant documentation. Notwithstanding any provision of this part or any other state or county law or ordinance to the contrary, the department shall maintain data repositories, charts, patient information, data submission, and epidemiology information for all emergency medical services statewide.”

SECTION 3. Chapter 321, part XVIII, Hawaii Revised Statutes, is amended by amending its title to read as follows:

“PART XVIII. STATE [COMPREHENSIVE] EMERGENCY MEDICAL SERVICES SYSTEM.”

SECTION 4. Section 321-221, Hawaii Revised Statutes, is amended to read as follows:

“§321-221 Findings and purpose. The legislature finds that the establishment of a state [comprehensive] emergency medical services system [to include but not be limited to], including emergency medical services for children, is a matter of compelling state interest and necessary to protect and preserve [the] public health [of the people of the State]. A system designed to reduce medical emergency deaths, injuries, and permanent long-term disability through the implementation of a fully integrated, cohesive network of components, the legislature further finds, will best serve [the] public health needs [of the people]. Accordingly, the purpose of this part is to establish and maintain a state [com-

~~prehensive] emergency medical services system [throughout the] in communities that can be most effectively served by the State, and to fix the responsibility for the administration of this state system, which shall provide for the arrangement of personnel, facilities, and equipment for the effective and coordinated delivery of health care services under emergency conditions, whether occurring as the result of a patient's condition [or of], from natural disasters, or from other causes. The system shall provide for personnel, personnel training, communications, emergency transportation, facilities, coordination with emergency medical and critical care services, coordination and use of available public safety agencies, promotion of consumer participation, accessibility to care, mandatory standard medical recordkeeping, consumer information and education, independent review and evaluation, disaster linkage, mutual aid agreements, and other components necessary to meet the purposes of this part."~~

SECTION 5. Section 321-222, Hawaii Revised Statutes, is amended as follows:

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

““Service area” means the State, excluding any county having a population of five hundred thousand or more.

“Statewide” means all counties in the State.”

2. By amending the definition of “emergency medical services for children” to read:

““Emergency medical services for children” means [~~comprehensive]~~ emergency medical services, including preventive, pre-hospital, hospital, rehabilitative, and other post-hospital care for children.”

3. By amending the definition of “state system” to read:

““State system” means the state [~~comprehensive]~~ pre-hospital emergency medical services system.”

SECTION 6. Section 321-223, Hawaii Revised Statutes, is amended to read as follows:

~~“[§321-223] State [comprehensive] emergency medical services system, establishment. The department [of health] shall establish, administer, and maintain the state [comprehensive] emergency medical services system to serve the emergency health needs of the people [of] in the [State.] service area. [The department of health in the implementation of this part shall plan, coordinate, and provide assistance to all entities and agencies, public and private, involved in the state system.] All emergency medical services or ambulance services [conducted] contracted by or under the authority of the department [of health] or any county within the service area shall be consistent with this part.”~~

SECTION 7. Section 321-224, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) In addition to other functions and duties assigned under this part, the department shall:

- (1) Regulate ambulances and ambulance services[;] statewide;
- (2) Establish emergency medical services throughout the [State,] service area, including emergency aeromedical services, which shall meet the requirements of this part, subject to section 321-228;
- (3) Review and approve the curricula and syllabi of training courses offered to emergency medical services personnel statewide who provide basic, intermediate, and advanced life support, consult and coordinate with the University of Hawaii, or any other accredited

- community college, college, or university, or any professional organization that provides emergency medical services training, regarding the training for basic, intermediate, and advanced life support personnel, as provided in section 321-229;
- (4) Collect and evaluate data for the continued evaluation of the [state] statewide emergency medical services system, subject to section 321-230;
 - (5) Coordinate, on a statewide basis, emergency medical resources and the allocation of [~~the state system's~~] emergency services and facilities in the event of mass casualties, natural disasters, national emergencies, and other emergencies, ensuring linkage to local, state, and national disaster plans, and participation in exercises to test these plans;
 - (6) Establish, administer, and maintain a communication system for the [~~state system;~~] service area;
 - (7) Assist each county in the service area in the development of a "911" emergency telephone system;
 - (8) Secure technical assistance and other assistance and consultation necessary for the implementation of this part, subject to section 321-230;
 - (9) Implement public information and education programs to inform the public of the [state] statewide system and its use, and disseminate other emergency medical information, including appropriate methods of medical self-help and first-aid, and the availability of first-aid training programs [~~in the State;~~] statewide;
 - (10) Establish standards and provide training for dispatchers in the state system, and maintain a program of quality assurance for dispatch equipment and operations; provided that individuals acting as dispatchers in the State as of July 1, 2022, shall obtain emergency medical dispatch certification by July 1, 2026, and shall maintain certification thereafter;
 - (11) Establish a program that will enable emergency service personnel statewide to provide early defibrillation;
 - (12) Establish within the department the emergency medical service system for children[;] statewide;
 - (13) Consult with the advisory committee on matters relating to the implementation of this part; and
 - (14) Establish and maintain statewide standards for emergency medical services course instructor qualifications and statewide requirements for emergency medical services training facilities."

SECTION 8. Section 321-224.2, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The department shall establish reasonable fees to be collected from individuals who are:

- (1) Transported by emergency ground ambulance services to a health care facility within the service area designated by the department for the care of the individual; or
- (2) Provided health care by emergency medical services personnel within the service area but not transported by ground ambulance to a health care facility."

SECTION 9. Section 321-224.4, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

“(a) The department [~~of health~~] shall establish and administer the community paramedicine program[~~:-~~] within the service area.”

2. By amending subsection (c) to read:

“(c) For purposes of this part, “community paramedicine program” means an enhanced and expanded service in the state [~~comprehensive~~] emergency medical services system that allows state-licensed health care professionals, and community health workers, to assist with public health, primary care, and prevention services, including services through telehealth.”

SECTION 10. Section 321-226, Hawaii Revised Statutes, is amended to read as follows:

“**§321-226 Emergency medical services and systems, standards.** The department [~~of health~~] shall establish statewide standards for emergency medical services and for emergency medical service systems consistent with [~~the state system~~] this part and applicable federal guidelines for [~~such~~] those services, including a requirement that ambulance service providers licensed by the State establish and maintain an alcohol and substance abuse policy for employees that the department [~~of health~~] deems is equivalent to, or exceeds the provisions of, the safety and health standards established by the federal Department of Transportation for holders of commercial driver’s licenses. In the event the standards are determined or regulated by any other law, or by applicable federal guidelines, standards required to be set by this section shall be at least equivalent to or exceed the other state and federal standards.”

SECTION 11. Section 321-227, Hawaii Revised Statutes, is amended to read as follows:

“**§321-227 Regulation of ambulances.** The department of health shall adopt, amend, and repeal rules under chapter 91 for the regulation of ambulances within the State, including but not limited to the certification of vehicles, equipment, supplies, and communications systems[~~:-~~]; provided that any county operating a county emergency medical services system pursuant to part ___ of chapter 46 shall be responsible for the purchase, maintenance, and servicing of all vehicles, equipment, supplies, and communication systems operated for emergency services within the county. The department may contract to certify air and ground ambulance units statewide. The department may charge a reasonable fee for annual certification and safety inspections of air and ground ambulances. Any person who provides emergency medical service as an employee of any emergency ambulance service statewide shall be subject to chapter 453.”

SECTION 12. Section 321-228, Hawaii Revised Statutes, is amended to read as follows:

“**§321-228 Emergency medical services; counties.** The department shall determine, in consultation with the advisory committee under section 321-225, the levels of emergency medical services that shall be implemented in each county[~~:-~~] within the service area. The department may contract to provide emergency medical services, including emergency aeromedical services, or any necessary component of [~~a county~~] the emergency services system of a county within the service area in conformance with the state system. [~~In the event~~] If any county within the service area shall apply to the department to operate emergency medical ambulance services within the respective county, the department may contract with the county for the provision of those services. The department shall operate emergency medical ambulance services or contract with a private agency in those counties [~~which~~] within the service area that do not apply to it

under this section. Any county or private agency contracting to provide emergency medical ambulance services under this section shall be required by the department to implement those services in a manner and at a level consistent with the levels determined under this section.”

SECTION 13. Section 321-229, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) The University of Hawaii shall provide training courses in basic, intermediate, and advanced life support for emergency medical services personnel~~[-] statewide~~. The curricula and syllabi of these courses shall be approved in advance by the department ~~[of health]~~. The curricula and syllabi of courses for ambulance personnel shall be consistent with the scope and level of the practice of emergency medical services associated with emergency ambulance personnel certification defined by the Hawaii medical board under part II of chapter 453.

(b) The University of Hawaii, or other accredited community college, college, or university, or any professional organization that is approved by the department ~~[of health]~~ to provide emergency medical services training, shall consult with the department ~~[of health]~~ and any county operating a county emergency medical services system pursuant to part of chapter 46 to determine the number and type of emergency medical services courses necessary to support the staffing requirements for emergency medical services. The basic life support and advanced life support training programs shall be relevant to and consistent with the training course required for certification under chapter 453.”

SECTION 14. Section 321-230, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) The department may contract for technical assistance and consultation, including ~~[but not limited to]~~ categorization, data collection, and evaluation appropriate to the needs of the ~~[state]~~ statewide emergency medical services system. The collection and analysis of statewide emergency medical services data, including pediatrics, trauma, cardiac, medical, and behavioral medical emergencies, shall be for the purpose of improving the quality of services provided.

The department may implement and maintain a trauma registry for the collection of information concerning the treatment of critical trauma patients at state designated trauma centers, and carry out a system for the management of that information. The system may provide for the recording of information concerning treatment received before and after a trauma patient’s admission to a hospital or medical center. All state designated trauma centers shall submit to the department ~~[of health]~~ periodic reports of each patient treated for trauma in the state system in ~~[such]~~ the manner as the department shall specify.

For the purposes of this subsection, “categorization” means systematic identification of the readiness and capabilities of hospitals and their staffs to adequately, expeditiously, and efficiently receive and treat emergency patients.

(b) The department shall establish, administer, and maintain an aeromedical emergency medical services system designed to collect and analyze data to measure the efficiency and effectiveness of each phase of ~~[an]~~ the statewide emergency aeromedical program.

The department shall monitor aeromedical emergency ambulance service flights statewide to include date of service, patient demographics, transport diagnosis, and medical outcomes. The department shall work with each health care facility as the intermediary to arrange emergency transport of bariatric patients by the United States Coast Guard, and maintain a registry of all emergency transports provided by the United States Coast Guard. All statewide aeromedi-

cal providers shall submit their data to the department as specified and requested by the department.

The statewide aeromedical emergency medical services system shall serve the emergency health needs of the people of the State by identifying:

- (1) The system's strengths and weaknesses;
- (2) The allocation of resources; and
- (3) The development of rotary-wing emergency aeromedical services standards;

provided that emergency helicopter use, including triage protocols, shall be based on national aeromedical triage and transport guidelines established by the Association of Air Medical Services, the American College of Surgeons ~~[and]~~, the National Association of Emergency Medical Service Physicians~~[-]~~, or other department-approved national aeromedical accreditation agency. The department, in the implementation of this subsection, shall plan, coordinate, and provide assistance to all entities and agencies, public and private, involved in the statewide system."

SECTION 15. Section 321-232, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

"(a) The department ~~[of health]~~ shall establish reasonable fees for services rendered to the public within the service area by the department ~~[of health]~~, any county~~[-]~~ within the service area, or private agency under this part; provided that all ~~[such]~~ revenues ~~[which shall be]~~ collected by the department ~~[of health]~~ and the respective counties pursuant to this section shall be deposited into the state general fund, except ~~[such]~~ amounts necessary to provide for collection services for bad debt accounts. Fees required to be set by this section shall be established in accordance with chapter 91."

2. By amending subsection (c) to read:

"(c) In the event of nonpayment of any fees required to be assessed by this section, the department ~~[of health]~~ shall determine whether the recipient of ~~[such]~~ services is financially able to pay ~~[such]~~ the fees and make every reasonable effort to collect ~~[such]~~ the fees. In the event the department finds the person is without sufficient resources to pay for the services, no further action to collect the fees shall be taken. If the services are paid by a county or any other entity, and collection of ~~[such]~~ the fee is delegated by contractual agreement to the county or other agency ~~[which]~~ that provides the services, the county or other agency shall forward records relating to unpaid fees for action by the department ~~[of health]~~ under this subsection. No county or other entity shall make a final determination of the ability of a person to pay under this subsection. Any determination of ability to pay for purposes of this subsection shall be in accordance with rules ~~[which]~~ that the department ~~[of health]~~ shall adopt, subject to chapter 91, governing ~~[such]~~ the determinations."

SECTION 16. Section 321-234, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

follows: "(b) The moneys in the special fund shall be ~~[used by]~~ distributed as follows:

- (1) Beginning with fiscal year 2021-2022, \$3,500,000 shall be distributed each fiscal year to a county operating a county emergency medical services system pursuant to part _____ of chapter 46 for the operation of that system; and
- (2) The remainder shall be distributed to the department for operating [a state comprehensive emergency medical services] the system es-

established pursuant to this chapter, including enhanced and expanded services, and shall not be used to supplant funding for emergency medical services authorized prior to [[July 1, 2004]].”

SECTION 17. Section 321-236, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§321-236]]~~ **Emergency medical services; use of latex gloves prohibited.** The use of latex gloves by personnel providing ambulance services or emergency medical services statewide pursuant to this part and part of chapter 46 shall be prohibited.”

PART II

SECTION 18. (a) The transition of all rights, powers, functions, and duties of the department of health under part XVIII of chapter 321, Hawaii Revised Statutes, that are exercised within the island of Oahu are hereby transferred to the city and county of Honolulu and the transition shall commence on July 1, 2021. The transition of the rights, powers, functions, and duties of the department of health pursuant to part I, to the city and county of Honolulu shall be completed no later than June 30, 2024.

(b) Funding for the transition and maintenance of the rights, powers, functions, and duties of the department of health pursuant to part I, to the city and county of Honolulu shall be allocated as follows:

- (1) For the first year of the transition (fiscal year 2021-2022), the city and county of Honolulu shall be reimbursed for fiscal year 2021-2022 emergency medical services operational expenses, up to \$46,171,411, and the amount specified in section 321-234(b), Hawaii Revised Statutes, from the emergency medical services special fund for the operation of an emergency medical service system in the city and county of Honolulu. Any additional costs shall be borne by the city and county of Honolulu. The department shall continue to provide all emergency service medical billing and collections for the city and county of Honolulu with all moneys received deposited in the State’s general fund;
- (2) For the second year of the transition (fiscal year 2022-2023), the city and county of Honolulu shall retain all the amounts it receives from billing for its services, receive \$8,904,499, and receive the amount specified in section 321-234(b), Hawaii Revised Statutes, from the emergency medical services special fund for the operation of an emergency medical services system in the city and county of Honolulu. Any additional costs shall be borne by the city and county of Honolulu;
- (3) For the third year of the transition (fiscal year 2023-2024), the city and county of Honolulu shall retain all the amounts it receives from billing for its services, receive \$4,452,249, and the amount specified in section 321-234(b), Hawaii Revised Statutes, from the emergency medical services special fund for the operation of an emergency medical services system in the city and county of Honolulu. Any additional costs shall be borne by the city and county of Honolulu; and
- (4) Every year thereafter, the city and county of Honolulu shall continue to retain all the amounts it receives from billing for its services and the amount specified in section 321-234(b), Hawaii Revised Statutes, from the emergency medical services special fund as the

State's share pursuant to section 5 of article VIII of the Constitution of the State of Hawaii, and receive no additional funds from the State's general fund for the operation of an emergency medical services system in the city and county of Honolulu. Any additional costs shall be borne by the city and county of Honolulu.

SECTION 19. All rules, policies, procedures, guidelines, and other material adopted or developed by the department of health to implement provisions of the Hawaii Revised Statutes that are reenacted or made applicable to the city and county of Honolulu by this Act shall remain in full force and effect until amended or repealed by the city and county of Honolulu pursuant to chapter 91, Hawaii Revised Statutes. In the interim, every reference to the department of health or director of health in those rules, policies, procedures, guidelines, and other material as made applicable by this Act, is amended to refer to the city and county of Honolulu or the mayor of the city and county of Honolulu.

SECTION 20. All deeds, leases, contracts, loans, agreements, permits, or other documents executed or entered into by or on behalf of the department of health, pursuant to the provisions of the Hawaii Revised Statutes, that are reenacted or made applicable to the city and county of Honolulu by this Act shall remain in full force and effect. Effective July 1, 2021, every reference to the department of health or the director of health in those deeds, leases, contracts, loans, agreements, permits, or other documents shall be construed as a reference to the city and county of Honolulu or the mayor of the city and county of Honolulu.

SECTION 21. All personal computers and radios used, acquired, or held by the department of health relating to the functions transferred to the city and county of Honolulu shall be transferred with the functions to which they relate; provided that the department of health shall retain data repositories, charts, patient information, data submission, and epidemiology information for all emergency medical services within the State.

SECTION 22. There is appropriated out of the emergency medical services special fund established pursuant to section 321-234, Hawaii Revised Statutes, the sum of \$3,500,000 or so much thereof as may be necessary for fiscal year 2021-2022 and the same sum or so much thereof as may be necessary for fiscal year 2022-2023 for emergency medical services in the city and county of Honolulu.

The sums appropriated shall be expended by the city and county of Honolulu for the purposes of this Act.

SECTION 23. There is appropriated out of the funds received by the State from the American Rescue Plan Act, Public Law 117-2 (Section 9901), the sum of \$84,257,043 or so much thereof as may be necessary for fiscal year 2021-2022 and \$46,990,131 or so much thereof as may be necessary for fiscal year 2022-2023 for the operation of the statewide emergency medical services and injury prevention system.

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

SECTION 24. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 25. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 26. This Act shall take effect upon its approval; provided that part I, except section 16, shall take effect on July 1, 2022; and section 16 and part II shall take effect on July 1, 2021.

(Approved July 6, 2021.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 209

H.B. NO. 1322

A Bill for an Act Relating to Trauma-Informed Care.

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

SECTION 1. The legislature finds that research conducted over the last two decades in the fields of neuroscience, molecular biology, public health, genomics, and epigenetics reveal that experiences in the first few years of life build changes into the biology of the human body that, in turn, influence a person's physical, mental, and spiritual health. Adverse childhood experiences are traumatic experiences that occur during childhood, including physical, emotional, or sexual abuse; physical and emotional neglect; household dysfunction, including substance abuse, untreated mental illness, or incarceration of a household member; domestic violence; and separation or divorce involving household members. These experiences can have a profound effect on a child's developing brain and body and, if not treated properly, can increase a person's risk for disease and other poor health conditions through adulthood.

The legislature further finds that early adverse childhood experiences shape the physical architecture of a child's developing brain and can prevent the development of a sturdy foundation for learning, quality health, and positive behavior. Strong, frequent, or prolonged stress in childhood caused by adverse childhood experiences can become toxic stress, impacting the development of a child's fundamental brain architecture and stress response systems. Early childhood education offers a unique window of opportunity to prevent and heal the impacts of adverse childhood experiences and toxic stress on a child's brain, body, and spirit. Research on toxic stress and adverse childhood experiences indicates a growing public health crisis for the State with implications for the State's educational, juvenile justice, criminal justice, and public health systems.

The legislature also finds that neurobiological, epigenetics, and physiological studies have shown that traumatic experiences in childhood and adolescence can diminish concentration, memory, and the organizational language abilities students need to succeed in school, thereby negatively impacting a student's academic performance, classroom behavior, and the ability to form relationships. A critical factor in buffering children from the effects of toxic stress and adverse childhood experiences is the existence of supportive, stable relationships between children and their families, caregivers, and other important adults in their lives. Cultural practices that provide asset-based approaches involving the influence of a stable non-relative adult can provide the resilience needed to mitigate a child with high adverse childhood experiences. Positively influencing

the architecture of a child’s developing brain is more effective and less costly than attempting to correct poor learning, health, and behaviors later in life.

The purpose of this Act is to establish a task force to develop and make recommendations for trauma-informed care in the State.

SECTION 2. (a) There is established within the department of health for administrative purposes a trauma-informed care task force. The task force shall consist of the following members:

- (1) The director of health, or the director’s designee, who shall serve as the chairperson of the task force;
- (2) The director of human services, or the director’s designee;
- (3) The superintendent of education, or the superintendent’s designee;
- (4) The director of public safety, or the director’s designee;
- (5) The director of the executive office on early learning, or the director’s designee;
- (6) A member of the judiciary, to be appointed by the chief justice of the supreme court;
- (7) A faculty member from the university of Hawaii John A. Burns school of medicine, to be appointed by the dean of the university of Hawaii John A. Burns school of medicine;
- (8) The chief executive officer of Kamehameha Schools, or the chief executive officer’s designee, who shall be invited by the chairperson;
- (9) A member of the law enforcement community, who shall be invited by the chairperson;
- (10) A member of the non-profit sector, who shall be invited by the chairperson; and
- (11) A community member or non-profit representative from the Compact of Free Association islander community, who shall be invited by the chairperson.

(b) The task force shall develop and make recommendations for trauma-informed care in the State. Specifically, the task force shall:

- (1) Create, develop, and adopt a statewide framework for trauma-informed and responsive practice. The framework shall include:
 - (A) A clear definition of “trauma-informed and responsive practice”;
 - (B) Principles of trauma-informed and responsive care that may apply to any school, health care provider, law enforcement agency, community organization, state agency, or other entity that has contact with children or youth;
 - (C) Clear examples of how individuals and institutions may implement trauma-informed and responsive practices across different domains, including organizational leadership, workforce development, policy and decision-making, and evaluation;
 - (D) Strategies for preventing and addressing secondary traumatic stress for all professionals and providers working with children and youth and their families who have experienced trauma;
 - (E) Recommendations to implement trauma-informed care professional development and strategy requirements in county and state contracts; and
 - (F) An implementation and sustainability plan, consisting of an evaluation plan with suggested metrics for assessing ongoing progress of the framework;

- (2) Identify best practices, including those from native Hawaiian cultural practices, with respect to children and youth who have experienced or are at risk of experiencing trauma, and their families;
 - (3) Provide a trauma-informed care inventory and assessment of public and private agencies and departments;
 - (4) Identify various cultural practices that build wellness and resilience in communities;
 - (5) Convene trauma-informed care practitioners so that they may share research and strategies in helping communities build wellness and resilience;
 - (6) Seek ways in which federal funding may be used to better coordinate and improve the response to families impacted by coronavirus disease 2019, substance use disorders, domestic violence, poverty, and other forms of trauma, including making recommendations for a government position to interface with federal agencies to seek and leverage federal funding with county and state agencies and philanthropical organizations; and
 - (7) Coordinate data collection and funding streams to support the efforts of the interagency task force.
- (c) The 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 2024.
- (d) The task force shall cease to exist on July 1, 2024.

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

(Approved July 6, 2021.)

ACT 210

H.B. NO. 1362

A Bill for an Act Relating to Access to Learning.

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

SECTION 1. The purpose of this Act is to:

- (1) Establish the Hawaii early childhood educator stipend program and Hawaii early childhood educator special fund; and
- (2) Clarify and make adjustments to Act 46, Session Laws of Hawaii 2020, to reflect the current situation brought upon by the coronavirus 2019 pandemic and improve assessment of the longitudinal education and workforce outcomes of students who were provided with early childhood services.

SECTION 2. Chapter 302L, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

“§302L-A Hawaii early childhood educator stipend program. (a) There is established the Hawaii early childhood educator stipend program to be administered by the office to address the shortage of early childhood educators who have coursework in early childhood education.

(b) An individual shall be eligible for stipend consideration if the individual:

- (1) Is enrolled at a University of Hawaii campus or in a University of Hawaii program and qualifies for Hawaii resident tuition; and

(2) Is enrolled in a certificate, degree, or license program in early childhood education, including those in the Hawaiian language medium, which includes courses required for the respective program of study, within the University of Hawaii system.

(c) Immediately following completion of a certificate, degree, or license program pursuant to subsection (b), stipend recipients shall provide early care and education services directly to children from birth through five years of age for at least two consecutive years in one of the early learning systems described in section 302L-2, including Hawaiian language medium and Hawaiian immersion settings and early learning settings at charter schools.

(d) If the recipient fails to complete a certificate, degree, or license program pursuant to subsection (b), or to satisfy the work requirements of subsection (c), stipend funds shall be repaid as follows:

(1) For each year less than the designated number of years that a stipend recipient does not meet the work requirements of subsection (c), the recipient shall repay a proportionate percentage of the total stipend funds received; and

(2) The repayment shall be subject to the terms and conditions set by the office for stipend repayment, including circumstances under which recipients may be eligible for deferment or forgiveness due to hardship or inability to secure employment, as well as potential for fees for the collection of delinquent repayment.

(e) Stipend funds repaid by a stipend recipient pursuant to subsection (d) shall be deposited into Hawaii early childhood educator special fund established pursuant to section 302L-B.

(f) The office may accept federal funds to support the Hawaii early childhood educator stipend program.

(g) In accordance with chapter 103D, the office may enter into written contracts with collection agencies to collect delinquent repayment of stipends owed to the office pursuant to subsection (d). A collection agency that enters into a written contract with the office to collect delinquent stipend repayments pursuant to this section may collect a fee from the debtor in accordance with the terms of, and up to the amounts authorized in, the written contract.

(h) The office may adopt rules pursuant to chapter 91 to implement and administer the stipend program, including the terms of repayment pursuant to subsection (d).

§302L-B Hawaii early childhood educator special fund. There is established within the state treasury the Hawaii early childhood educator special fund, to be administered by the office, into which shall be deposited all moneys received by the office pursuant to section 302L-A(e). Moneys in the fund shall be used for the Hawaii early childhood educator stipend program established pursuant to section 302L-A.”

SECTION 3. Section 26-12, Hawaii Revised Statutes, is amended to read as follows:

“§26-12 Department of education. (a) The department of education shall be headed by an executive board to be known as the board of education.

(b) Under policies established by the board, the superintendent shall administer programs of education and public instruction throughout the State, including education at the primary and secondary school levels, adult education, school library services, health education and instruction (not including dental health treatment transferred to the department of health), special education and Title I funded programs at the prekindergarten level, and such other programs as may be established by law; provided that the department shall not establish

general education prekindergarten classrooms, including private partnership-funded classrooms and classrooms to provide general education settings for children whose individualized education programs require such placement; provided further that the department may ~~establish~~:

- (1) Establish Title I-funded prekindergarten classrooms[-]; and
- (2) Directly accept private funding for the purpose of establishing public prekindergarten programs; provided further that:
 - (A) The department shall comply with section 302L-7;
 - (B) The department and the executive office on early learning shall sign a bilateral memorandum of agreement or understanding; and
 - (C) The department, the executive office on early learning, and the person or entity providing the private funding may sign a multilateral memorandum of agreement or understanding.

(c) If the private funding provided is insufficient to maintain the classroom operations of a public prekindergarten program established pursuant to subsection (b)(2), the department and executive office on early learning shall be prohibited from requesting additional funding from the legislature to pay for the remaining costs.

(d) The department shall collaborate with the executive office on early learning to coordinate services for children who are placed through their individualized education programs in a general education prekindergarten setting in a classroom offered by the executive office on early learning public prekindergarten program. Under policies established by the early learning board, the executive office on early learning shall have administrative authority over all state-funded prekindergarten programs, and private partnership-funded prekindergarten programs in the public schools, except for special education and Title I-funded prekindergarten programs. The state librarian, under policies established by the board of education, shall be responsible for the administration of programs relating to public library services and transcribing services for the blind.

(e) The functions and authority exercised by the department relating to state-funded prekindergarten programs, private partnership-funded prekindergarten programs in the public schools, and classrooms to provide general education settings for children whose individualized education programs require such placement, except for special education and Title I-funded prekindergarten programs, shall be transferred to the executive office on early learning; provided that the department shall continue to provide, and have administrative authority over[-, services]:

- (1) Services generally provided to the schools, excluding those services related to curriculum, instruction, assessment, and professional learning support, for any facility on a department school campus at which the executive office on early learning administers programs[-]; and
- (2) Public prekindergarten programs established pursuant to subsection (b)(2).

(f) The functions and authority heretofore exercised by the department of education (except dental health treatment transferred to the department of health), library of Hawaii, Hawaii county library, Maui county library, and the transcribing services program of the bureau of sight conservation and work with the blind, as heretofore constituted are transferred to the public library system established by this chapter.

(g) The management contract between the board of supervisors of the county of Kauai and the Kauai public library association shall be terminated

at the earliest time after November 25, 1959, permissible under the terms of the contract and the provisions of this [paragraph] subsection shall constitute notice of termination, and the functions and authority heretofore exercised by the Kauai county library as heretofore constituted and the Kauai public library association over the public libraries in the county of Kauai shall thereupon be transferred to the public library system established by this chapter.

(h) The management contracts between the trustees of the library of Hawaii and the Friends of the Library of Hawaii, and between the library of Hawaii and the Hilo library and reading room association, shall be terminated at the earliest time after November 25, 1959, permissible under the terms of the contracts, and the provisions of this [paragraph] subsection shall constitute notice of termination.

(i) Upon the termination of the contracts, the State or the counties shall not enter into any library management contracts with any private association; provided that in providing library services, the board of education may enter into contracts approved by the governor for the use of lands, buildings, equipment, and facilities owned by any private association.

(j) Notwithstanding any law to the contrary, the board of education may establish, specify the membership number and quorum requirements for, appoint members to, and disestablish a commission in each county to be known as the library advisory commission, which shall in each case sit in an advisory capacity to the board of education on matters relating to public library services in their respective county.”

SECTION 4. Section 302D-39, Hawaii Revised Statutes, is amended to read as follows:

“~~§§302D-39~~ **Public early learning and preschool programs; administrative authority.** (a) The commission shall have administrative authority over all state-funded early learning programs and private partnership-funded preschool programs in public charter schools except for special education and Title I-funded prekindergarten programs.

(b) The early learning programs in charter schools shall enroll no more than a maximum of twenty children per classroom who are three- or four-years-old on or before July 31 of the school year, as aligned with the department’s kindergarten age entry requirements.

(c) Subject to the availability of funding, the commission shall implement an application process for schools to establish an early learning program.

(d) Each early learning program and preschool program shall meet the following requirements:

- (1) The availability of a classroom and outdoor play area that meet department of human services requirements for the health and safety of three- and four-year-old children and is exempt from section 346-161 as a public preschool provider;
- (2) The commitment of the principal to implementing an early learning program, including through active participation in professional development sessions offered through the commission, and promoting continuity and alignment between and across other early learning programs in the community and other grade levels in the school to ensure the positive outcomes of children are sustained;
- (3) The inclusion of students with disabilities based on individualized education program placement; provided that:
 - (A) The in-classroom ratio of students with disabilities shall be based on the inclusion of children with disabilities in proportion to the general population of the school;

- (B) Subparagraph (A) does not anticipate or permit imposing caps or quotas on the number of children with disabilities in a program or not individualizing services for children with disabilities under the Individuals with Disabilities Education Act of 2004 (20 U.S.C. 1400 et seq., as amended);
 - (C) The department shall collaborate with the charter school to coordinate services for students with disabilities who are placed in the classroom offered through the program; and
 - (D) Funding for all costs associated with the implementation of the individualized education program of students shall be provided through the department;
- (4) Enrollment in the program shall be free and voluntary;
 - (5) The enrollment shall not exceed twenty children per classroom; and
 - (6) The incorporation of standards that are research-based and developmentally-appropriate practices associated with improved educational outcomes for children, such as:
 - (A) Positive teacher-child interactions that shall be evaluated through observations conducted by the commission using a research-based tool at least twice a year, for the purposes of professional development; provided that the observations shall not be used for the purposes of teacher evaluation;
 - (B) The early learning environment shall be assessed using a tool that measures its effectiveness and shall be conducted at least two times per school year by a certified observer who is employed or contracted by the commission; provided that the teaching staff shall use the assessment data and feedback to improve the quality of the learning environment; provided further that observations shall be used for the purposes of professional development and shall not be used for the purposes of teacher evaluation;
 - (C) Use of individual child formative assessments that are used for ongoing planning relating to all areas of child development and learning including cognitive, linguistic, social emotional approaches to learning, and health and physical development;
 - (D) Family engagement in partnership with charter schools, including conducting outreach for enrollment and engagement of families in their children's education in recognition of families' role as their child's first and most important teacher;
 - (E) Alignment with the Hawaii early learning and development standards, department standards, state content and performance standards, and general learner outcomes for grades kindergarten to twelve to facilitate a seamless educational experience for children;
 - (F) Requirements that any teacher shall have coursework in early childhood education pursuant to Hawaii teacher standards board licensing requirements for a prekindergarten teacher or be enrolled in a state-approved teacher education program and be working toward satisfying the Hawaii teacher standards board licensing requirements; and
 - (G) Requirements that any educational assistant has a current child development associate credential, coursework for a certificate that meets the requirements for child development associate credential preparation, or be enrolled in and working

toward completing a program that prepares the individual to obtain the credential.

(e) The commission shall monitor the implementation of the educational experience for children.

(f) The commission shall provide support to incorporate the standards developed pursuant to subsection (d), including support related to teacher-child interactions, early childhood learning environment, individual child assessments, and family engagement.

(g) Teaching staff participating in a program established pursuant to this section shall participate in coaching and mentoring and professional development opportunities offered through the commission; provided that the commission shall cover the associated travel and substitute teacher costs, contingent upon funding availability. The commission may extend this support, excluding travel and substitute teacher costs, to individuals who are not participating in the program to promote alignment between all grade levels, programs, and settings.

(h) School leaders shall attend professional development sessions related to P-3 (preschool to grade three) alignment offered through the commission. The commission shall cover the costs associated with travel and substitute teacher expenditures, contingent upon the availability of funding. The commission may extend this support, excluding travel and substitute teacher costs, to individuals who are not participating in the program to promote alignment between all grade levels, programs, and settings.

(i) The commission shall work with each charter school to develop and annually update a written three-year plan that promotes, within the school and community, alignment of and transitions between learning experiences, and report on the progress made toward the plan by the end of the school year.

(j) The commission shall coordinate with other agencies and programs to facilitate comprehensive services for early learning.

(k) The commission shall promote the development of a cohesive, comprehensive, and sustainable early learning system. The commission shall coordinate with other early learning providers, including those providing the programs and services, to promote alignment between prekindergarten and elementary school programs and to support children and their families in making successful transitions from prekindergarten into kindergarten.

(l) Each early learning program and preschool program may use available classrooms for public preschool programs statewide.

~~[(4)]~~ (m) The commission shall adopt rules pursuant to chapter 91 for the purpose of this section.

~~[(m)]~~ (n) The commission shall submit a report to the legislature no later than twenty days prior to the convening of each regular session regarding state-funded early learning programs in charter schools. The report shall include, as related to each type of program:

- (1) The number and location of classrooms;
- (2) Sources of funding for each classroom;
- (3) Aggregated data reflecting the quality of teacher-child interactions relating to emotional support, classroom organization, and instructional support;
- (4) Aggregated data reflecting the quality of the early learning environment and the teacher-child interactions that maximize the learning opportunities of the environment; and
- (5) Aggregated student outcomes related to all areas of child development and learning, including cognitive, linguistic, social and emotional approaches to learning and health and physical development,

as assessed using a formative assessment tool selected or approved by the commission.

This reported data shall be compiled from the previously state-funded school year.”

SECTION 5. Section 302L-7, Hawaii Revised Statutes, is amended by amending subsections (o) and (p) to read as follows:

“(o) The office shall collect data with assistance from the department of ~~education,~~ education and state public charter school commission, based on a schedule to be determined by the office, to:

- (1) Evaluate the services provided;
- (2) Inform policy; and
- (3) Make any improvements to the program.

(p) The department of education and any state public charter school commission that exists pursuant to chapter 302D may use available classrooms for public preschool programs statewide. The office shall give priority to public charter schools that serve high populations of underserved or at-risk children. Preschool classrooms established pursuant to this section shall be in addition to any classrooms used for the pre-plus program established pursuant to section 302L-1.7.”

SECTION 6. Section 346-181, Hawaii Revised Statutes, is amended by amending subsections (b) and (c) to read as follows:

“(b) Subject to the availability of funds, the program shall serve ~~three-~~ and] four-year-old children [who are in the two years prior to kindergarten entry pursuant to section 302A-411], with priority extended ~~[in the following order to any:]~~ to:

- (1) Children who are not eligible to attend public school kindergarten in the calendar year in which they turn five years of age because their birth date occurs after the kindergarten eligibility date pursuant to section 302A-411; and
- ~~[(4)]~~ (2) Underserved or at-risk [four-year-old child who was previously served as a three-year-old child;] children, as defined by rules adopted by the department[;]
- ~~(2)~~ Four-year-old child who was previously served as a three-year-old child;
- ~~(3)~~ Four-year-old child;
- ~~(4)~~ Underserved or at-risk three-year-old child, as defined by rules adopted by the department; and
- ~~(5)~~ Three-year-old child].

(c) Enrollment in the program shall be voluntary. A parent or guardian of a child enrolled in the program ~~[may]~~ shall share in the costs of the program through a copayment according to a sliding fee scale that is based on need pursuant to rules adopted by the department.”

SECTION 7. Section 346-184, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Each service provider of the preschool open doors program shall be accredited or shall obtain accreditation within seven calendar years of first receiving any funds from the preschool open doors program; provided that any existing service provider unaccredited on July 1, ~~[2020;]~~ 2022, shall commence the accreditation process no later than July 1, ~~[2022;]~~ 2024, and obtain accreditation by July 1, ~~[2027;]~~ 2029; provided further that the director may grant to any

service provider one or more extensions to obtain accreditation on a case-by-case basis.”

SECTION 8. Section 443B-9, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) This section shall not prohibit a collection agency from collecting, or attempting to collect, from a debtor, a commission authorized under a contract with the University of Hawaii, [ø] a contract with the department of taxation pursuant to sections 231-13 and 231-26[-], or a contract with the executive office on early learning.”

SECTION 9. Act 46, Session Laws of Hawaii 2020, is amended as follows:

1. By amending sections 2 and 3 to read:

“SECTION 2. Chapter 302A, Hawaii Revised Statutes, is amended by adding two new sections to subpart C of part IV to be appropriately designated and to read as follows:

“**§302A-A Standardized assessment for students entering kindergarten.**

(a) The board of education shall adopt a ~~[student assessment model pursuant to section 302A-1101(a) to assess all students entering kindergarten.~~

~~(b) Within the first thirty days of each school year, the department shall assess all kindergarten students with the student assessment model; provided that any assessment administered pursuant to this subsection shall be conducted in either English or Hawaiian.] kindergarten entry assessment, and the department of education shall administer the kindergarten entry assessment.~~

~~(b) The kindergarten entry assessment shall:~~

~~(1) Be administered within the first thirty days of each child’s admission into kindergarten;~~

~~(2) Be a uniform, statewide assessment; provided that the assessment shall be conducted in English or Hawaiian;~~

~~(3) Cover all essential domains of school readiness, including:~~

~~(A) Language and literacy development;~~

~~(B) Cognition and general knowledge;~~

~~(C) Approaches to learning;~~

~~(D) Physical well-being and motor development; and~~

~~(E) Social and emotional development;~~

~~(4) Be used in conformance with the recommendations of the National Research Council reports on early childhood; and~~

~~(5) Be valid and reliable for its intended purpose.~~

~~(c) Information obtained from the kindergarten entry assessments shall be used to:~~

~~(1) Close the school readiness gap at kindergarten entry;~~

~~(2) Inform instruction in the early elementary school grades; and~~

~~(3) Inform parents of their children’s status and to involve parents in decisions regarding their children’s education.~~

~~[(e)] (d) The department shall share the information gathered pursuant to this section with the department of human services, executive office on early learning, and public charter school commission to the extent not otherwise prohibited by administrative rule or law.~~

§302A-B Prior early learning programs attendance disclosure. (a) At least one parent or guardian of each child entering kindergarten shall disclose to the department the name of, address of, and duration of attendance at the early learning program that the child attended during the previous academic year. The

department may also require the disclosure of any other information not otherwise prohibited by law that would assist the department, the department of human services, and the executive office on early learning in developing, assessing, and implementing strategies to meet the early learning needs of children in the State. The department and the executive office on early learning shall use the information to assist the executive office on early learning and department of human services in determining the levels of prekindergarten attendance and need for child care in geographic regions of the State and identify the highest priority regions requiring prekindergarten programs and child care to meet the needs of unserved or underserved eligible children.

(b) The department may include a request for the information required by subsection (a) on a kindergarten enrollment form or any other appropriate form.

(c) The department shall share the information gathered pursuant to this section with the department of human services, executive office on early learning, and public charter school commission to the extent not otherwise prohibited by administrative rule or law.”

SECTION 3. Chapter 302D, Hawaii Revised Statutes, is amended by adding three new sections to be appropriately designated and to read as follows:

“**§302D-A Standardized assessment for students entering kindergarten.**

(a) The commission shall adopt the ~~[student assessment model]~~ kindergarten entry assessment adopted by the board pursuant to section 302A-A(a) to assess all charter school students entering kindergarten[-] within the first thirty days of admission into kindergarten.

(b) ~~[Within the first thirty days of each school year, the commission shall ensure that all charter school kindergarten students are assessed by public charter schools with the student assessment model; provided that any assessment administered pursuant to this subsection shall be conducted in either English or Hawaiian.]~~ The commission may waive the requirements of the uniform kindergarten entry assessment on a case-by-case basis.

(c) The commission shall share the information gathered from public charter schools pursuant to this section with the department, department of human services, and executive office on early learning to the extent not otherwise prohibited by administrative rule or law.

§302D-B Prior early learning programs attendance disclosure. (a) At least one parent or guardian of each child entering kindergarten shall disclose to the public charter school at which the child is enrolled the name and address of the early learning program that the child attended during the previous academic year. Each public charter school shall provide to the commission the information disclosed pursuant to this section. The commission may also require the disclosure of any other information not otherwise prohibited by law that would assist the department, the department of human services, and the executive office on early learning in developing, assessing, and implementing strategies to meet the early learning needs of children in the State. The commission and the executive office on early learning shall use the information to assist the department of human services and executive office on early learning in determining the levels of prekindergarten attendance and need for child care in geographic regions of the State and identify the highest priority regions requiring prekindergarten programs and child care to meet the needs of unserved or underserved eligible children and shall provide the information to the department of human services.

(b) The commission may include a request for the information required by subsection (a) on a kindergarten enrollment form or any other appropriate form used at all public charter schools.

(c) The commission shall share the information gathered pursuant to this section with the department, department of human services, and executive office on early learning to the extent not otherwise prohibited by administrative rule or law.

§302D-C Public early learning and preschool programs; administrative authority. (a) The commission shall have administrative authority over all state-funded early learning programs and private partnership-funded preschool programs in public charter schools except for special education and Title I-funded prekindergarten programs.

(b) The early learning programs in charter schools shall enroll no more than a maximum of twenty children per classroom who are three- or four-years-old on or before July 31 of the school year, as aligned with the department's kindergarten age entry requirements.

(c) Subject to the availability of funding, the commission shall implement an application process for schools to establish an early learning program.

(d) Each early learning program and preschool program shall meet the following requirements:

- (1) The availability of a classroom and outdoor play area that meet department of human services requirements for the health and safety of three- and four-year-old children and is exempt from section 346-161 as a public preschool provider;
- (2) The commitment of the principal to implementing an early learning program, including through active participation in professional development sessions offered through the commission, and promoting continuity and alignment between and across other early learning programs in the community and other grade levels in the school to ensure the positive outcomes of children are sustained;
- (3) The inclusion of students with disabilities based on individualized education program placement; provided that:
 - (A) The in-classroom ratio of students with disabilities shall be based on the inclusion of children with disabilities in proportion to the general population of the school;
 - (B) Subparagraph (A) does not anticipate or permit imposing caps or quotas on the number of children with disabilities in a program or not individualizing services for children with disabilities under the Individuals with Disabilities Education Act of 2004 (20 U.S.C. 1400 et seq., as amended);
 - (C) The department shall collaborate with the charter school to coordinate services for students with disabilities who are placed in the classroom offered through the program; and
 - (D) Funding for all costs associated with the implementation of the individualized education program of students shall be provided through the department;
- (4) Enrollment in the program shall be free and voluntary;
- (5) The enrollment shall not exceed twenty children per classroom; and
- (6) The incorporation of standards that are research-based and developmentally-appropriate practices associated with improved educational outcomes for children, such as:
 - (A) Positive teacher-child interactions that shall be evaluated through observations conducted by the commission using a

- research-based tool at least twice a year, for the purposes of professional development; provided that the observations shall not be used for the purposes of teacher evaluation;
- (B) The early learning environment shall be assessed using a tool that measures its effectiveness and shall be conducted at least two times per school year by a certified observer who is employed or contracted by the commission; provided that the teaching staff shall use the assessment data and feedback to improve the quality of the learning environment; provided further that observations shall be used for the purposes of professional development and shall not be used for the purposes of teacher evaluation;
 - (C) Use of individual child formative assessments that are used for ongoing planning relating to all areas of child development and learning including cognitive, linguistic, social emotional approaches to learning, and health and physical development;
 - (D) Family engagement in partnership with charter schools, including conducting outreach for enrollment and engagement of families in their children's education in recognition of families' role as their child's first and most important teacher;
 - (E) Alignment with the Hawaii early learning and development standards, department standards, state content and performance standards, and general learner outcomes for grades kindergarten to twelve to facilitate a seamless educational experience for children;
 - (F) Requirements that any teacher shall have coursework in early childhood education pursuant to Hawaii teacher standards board licensing requirements for a prekindergarten teacher or be enrolled in a state-approved teacher education program and be working toward satisfying the Hawaii teacher standards board licensing requirements; and
 - (G) Requirements that any educational assistant has a current child development associate credential, coursework for a certificate that meets the requirements for child development associate credential preparation, or be enrolled in and working toward completing a program that prepares the individual to obtain the credential.
- (e) The commission shall monitor the implementation of the educational experience for children.
 - (f) The commission shall provide support to incorporate the standards developed pursuant to subsection (d), including support related to teacher-child interactions, early childhood learning environment, individual child assessments, and family engagement.
 - (g) Teaching staff participating in a program established pursuant to this section shall participate in coaching and mentoring and professional development opportunities offered through the commission; provided that the commission shall cover the associated travel and substitute teacher costs, contingent upon funding availability. The commission may extend this support, excluding travel and substitute teacher costs, to individuals who are not participating in the program to promote alignment between all grade levels, programs, and settings.
 - (h) School leaders shall attend professional development sessions related to P-3 (preschool to grade three) alignment offered through the commission. The commission shall cover the costs associated with travel and substitute teacher expenditures, contingent upon the availability of funding. The commis-

sion may extend this support, excluding travel and substitute teacher costs, to individuals who are not participating in the program to promote alignment between all grade levels, programs, and settings.

(i) The commission shall work with each charter school to develop and annually update a written three-year plan that promotes, within the school and community, alignment of and transitions between learning experiences, and report on the progress made toward the plan by the end of the school year.

(j) The commission shall coordinate with other agencies and programs to facilitate comprehensive services for early learning.

(k) The commission shall promote the development of a cohesive, comprehensive, and sustainable early learning system. The commission shall coordinate with other early learning providers, including those providing the programs and services, to promote alignment between prekindergarten and elementary school programs and to support children and their families in making successful transitions from prekindergarten into kindergarten.

(l) The commission shall adopt rules pursuant to chapter 91 for the purpose of this section.

(m) The commission shall submit a report to the legislature no later than twenty days prior to the convening of each regular session regarding state-funded early learning programs in charter schools. The report shall include, as related to each type of program:

- (1) The number and location of classrooms;
- (2) Sources of funding for each classroom;
- (3) Aggregated data reflecting the quality of teacher-child interactions relating to emotional support, classroom organization, and instructional support;
- (4) Aggregated data reflecting the quality of the early learning environment and the teacher-child interactions that maximize the learning opportunities of the environment; and
- (5) Aggregated student outcomes related to all areas of child development and learning, including cognitive, linguistic, social and emotional approaches to learning and health and physical development, as assessed using a formative assessment tool selected or approved by the commission.

This reported data shall be compiled from the previously state-funded school year.””

2. By amending section 8 to read:

“SECTION 8. Chapter 346, Hawaii Revised Statutes, is amended by adding a new section to part VIII to be appropriately designated and to read as follows:

“§346- **Prior early learning program information.** (a) The department shall establish or augment an existing database to collect and analyze information it receives from the department of education pursuant to sections 302A-A and 302A-B and the state public charter school commission pursuant to sections 302D-A and 302D-B and any other information the department may collect on all children in the State who are three to four years old and children who will not be at least five years of age on or before July 31 of the current school year.

(b) To the extent not prohibited by administrative rule or law, the department, department of education, public charter school commission, and executive office on early learning shall share any information gathered pursuant to sections 302A-A, 302A-B, 302D-A, and 302D-B with each other, along with any other information the department, department of education, or public charter school commission may collect on all children in the State who are three to four

years old and children who will not be at least five years of age on or before July 31 of the current school year.

(c) An organization whose mission is to strengthen the education pipeline from early childhood through postsecondary education and training with data-informed decision making, advocacy, and policy coordination may include, in the state longitudinal system, prior early learning program information from the department, executive office on early learning, department of education, Hawaii state public charter school commission, and department of health.

~~[(e)]~~ (d) Any procurement executed pursuant to this section shall be exempt from chapters 103D and 103F.””

3. By amending sections 11, 12, and 13 to read:

“SECTION 11. There is appropriated out of federal funds deposited in the state treasury the sum of \$5,000,000 or so much thereof as may be necessary for fiscal year 2020-2021 for the department of human services to expand its information technology system for the purpose of managing the information collected pursuant to this Act~~[-];~~ provided that the funds appropriated by this section shall not lapse at the end of the fiscal year for which they are appropriated; provided further that all moneys from the appropriation that are unencumbered as of June 30, 2023, shall lapse as of that date.

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

SECTION 12. Chapter 26, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

“PART . EARLY LEARNING

§26- Benchmarks; duties. (a) The department of human services and the executive office on early learning shall ensure access to learning through preschool programs that meet or exceed the following benchmarks:

- (1) Fifty per cent of all otherwise unserved children who are three to four years of age, or will not be at least five years of age on or before July 31 of the current school year, shall have access to enrollment in a preschool program by December 31, 2027; and
- (2) One hundred per cent of all children who are three to four years of age, or will not be at least five years of age on or before July 31 of the current school year, shall have access to enrollment in a preschool program by December 31, 2032.

The department of human services and the executive office on early learning shall submit an annual report to the legislature, no later than August 31 of each year, on the progress toward achieving the benchmarks until all children who are three to four years of age, or will not be at least five years of age on or before July 31 of the current school year, are enrolled in a preschool program.

(b) The department of human services and the executive office on early learning shall collaborate to identify the need for child care and early learning in geographic regions of the State and consider using public facilities including schools, libraries, and the ~~[university]~~ University of Hawaii system as locations for child care and early learning programs.

~~(c) The department of human services [may create programs and private sector delivery systems that can pose the essential information and policy questions, monitor the progress of the implementation of this part, and generate timely detailed reports to the extent allowable by law.] shall work jointly with the executive office on early learning to monitor the progress of implementing the early care and education sector programs. No later than twenty days prior to the convening of the regular sessions of 2025, 2026, and 2027, the department~~

of human services and the executive office on early learning shall submit to the legislature a joint report on the progress of implementing the early care and education sector programs.

(d) The department of human services shall facilitate and support data sharing among public and private entities to the extent not otherwise prohibited by law or rule.”

SECTION 13. Section 27-7, Hawaii Revised Statutes, is amended to read as follows:

16“§27-7 Departmental data sharing. (a) The department of education, the executive office on early learning, the University of Hawaii, the department of labor and industrial relations, the department of human services, and other state agencies, as appropriate, shall share data through the statewide longitudinal data system to support research and evaluation that will improve [educational and workforce] outcomes [and meet the longitudinal data requirements of the federal American Recovery and Reinvestment Act of 2009, as amended.] throughout the early education to workforce pipeline. The data to be shared shall be determined jointly by the department of education, the executive office on early learning, the University of Hawaii, the department of labor and industrial relations, the department of human services, and other state agencies, as appropriate, and shall be shared no less than annually.

(b) The department of education, the executive office on early learning, the University of Hawaii, the department of labor and industrial relations, the department of human services, and other state agencies, as appropriate, shall share data in a manner that safeguards the confidentiality of student education records, as defined by the federal Family Educational Rights and Privacy Act, and workforce data, as provided by applicable federal and state laws, rules, and regulations.

(c) All data shared by or with the department of human services, department of education, public charter school authorizers, public charter schools, executive office on early learning, and other entities as required by statute shall be subject to any administrative rule regarding privacy adopted by the department or agency that collected the data.

(d) The department of education, the executive office on early learning, the University of Hawaii, the department of labor and industrial relations, the department of human services, and other state agencies, as appropriate, shall ~~[establish a data governance and access committee that meets on a quarterly basis to]~~ partner to collectively govern the statewide longitudinal data system and determine protocols to:

- (1) Prioritize analyses and research questions that will provide information to improve educational and workforce outcomes and policies; and
 - (2) Approve requests for access to data provided by the department of education, the executive office on early learning, the University of Hawaii, the department of labor and industrial relations, the department of human services, and other state agencies, as appropriate.
- (e) All state agency directors shall consider sharing data for the statewide longitudinal data system.””

4. By amending sections 15 and 16 to read:

“SECTION 15. There is appropriated out of the Hawaiian early learning trust fund the sum of \$5,000,000 or so much thereof as may be necessary for fiscal year 2020-2021 for the purpose of assisting Ka Haka Ula O Keelikolani, in partnership with the Imiloa astronomy center and other public or private partners as appropriate or required by law, to build two or more classrooms for Hawaiian language medium pre-kindergarten programs that shall be used to

establish a pathway for the development of other Hawaiian language medium pre-kindergarten and Hawaiian language immersion classes[-]; provided that no funds shall be made available to a program under this section unless the program is licensed by the department of human services for the purposes of health and safety.

The sum appropriated shall be expended by the [university] University of Hawaii at Hilo for the purposes of this Act.

SECTION 16. The standards, assessments, performance ratings, staff qualifications, and staff training requirements established by this Act shall not apply to any laboratory school program of the Hawaiian language college at the [university] University of Hawaii at Hilo until July 1, 2026[-]; provided that all child care centers at any applicable college shall be licensed by the department of human services prior to accepting children into care."

5. By amending section 21 to read:

"SECTION 21. This Act shall take effect upon approval; provided that:

- (1) Sections 10, 11, 15, and 18 shall take effect on July 1, 2020;
- (2) Section 2; sections 302D-A and 302D-B, Hawaii Revised Statutes, as set forth in section 3; [~~section 8~~]; and section 13 shall take effect on July 1, [~~2022~~]; 2023;
- (3) Section 12 shall take effect on July 1, 2024."

SECTION 10. The Hawaii early childhood educator special fund established in section 302L-B, Hawaii Revised Statutes, shall be abolished and repealed on June 30, 2023, and any unencumbered remaining balances shall lapse to the general fund.

SECTION 11. There is appropriated out of the general revenues of the State of Hawaii the sum of \$98,000 or so much thereof as may be necessary for fiscal year 2021-2022 and the same sum or so much thereof as may be necessary for fiscal year 2022-2023 for one full-time equivalent (1.0 FTE) position to coordinate, staff, and facilitate the implementation of Act 46, Session Laws of Hawaii 2020, which will report to the early learning board.

The sums appropriated shall be expended by the department of education for the purposes of this Act.

SECTION 12. 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 13. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 14. This Act shall take effect upon its approval; provided that:

- (1) Section 5 shall be repealed on July 1, 2022, and section 302L-7, Hawaii Revised Statutes, shall be reenacted in the form in which it read on the day prior to the effective date of this Act;
- (2) Section 6 shall be repealed on July 1, 2024, and section 346-181, Hawaii Revised Statutes, shall be reenacted in the form in which it read on the day prior to the effective date of this Act; and
- (3) Section 11 shall take effect on July 1, 2021.

(Approved July 6, 2021.)

Notes

1. So in original.

2. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to Licensing.

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

SECTION 1. The legislature finds that marriage in the United States is a civil institution and the right to marry belongs to citizens without regard to their moral beliefs or religious creed. However, apart from justices, judges, or magistrates, state law requires a marriage officiant to be affiliated with or ordained by a religious denomination or society. While those with a religious affiliation may have their trusted pastor or minister officiate their wedding, those without a religious affiliation are legally unable to have a trusted friend or mentor officiate their wedding.

The purpose of this Act is to broaden who may solemnize marriage by authorizing the issuance of civil licenses and allowing this rite to be performed by persons without requiring a religious affiliation for those families who may not share one.

SECTION 2. Section 572-12, Hawaii Revised Statutes, is amended to read as follows:

“**§572-12 By whom solemnized.** (a) A license to solemnize marriages may be issued to, and the marriage rite may be performed and solemnized by ~~any~~;

- (1) Any minister, priest, or officer of any religious denomination or society who has been ordained or is authorized to solemnize marriages according to the usages of ~~[such]~~ that denomination or society~~[-or any]~~;
- (2) Any religious society not having clergy but providing solemnization in accordance with the rules and customs of that society~~[-or any]~~; or
- (3) Any justice or judge or magistrate, active or retired, of a state or federal court in the State,

upon presentation to ~~[such]~~ the person or society solemnizing the marriage of a license to marry, as prescribed by this chapter. ~~[Such]~~ A person or society licensed to solemnize a marriage may receive the price stipulated by the parties or ~~[the gratification]~~ any gratuity tendered.

(b) A civil license to solemnize marriages may be issued to, and the marriage rite may be performed and solemnized by, any individual at least eighteen years of age, upon presentation to the individual of a license to marry, as prescribed by this chapter. An individual with a civil license to solemnize a marriage may receive the price stipulated by the parties or any gratuity tendered. The civil license shall be valid for no less than two years from the date of its issuance; provided that a temporary three-month civil license may be issued upon an individual's request. The fee for a civil license shall be \$100 per year the permit is valid; provided that the fee for a temporary three-month license shall be \$25. An individual who performs a solemnization of a marriage pursuant to a civil license issued under this subsection shall obtain the prior written consent of each person for whom a solemnization is performed and fulfill all provisions of sections 572-13 and 572-15 applicable to persons authorized to solemnize marriages.”

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 6, 2021.)

ACT 212

S.B. NO. 628

A Bill for an Act Relating to the Transition of the Oahu Regional Health Care System from the Hawaii Health Systems Corporation into the Department of Health.

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

PART I

SECTION 1. The legislature finds that the Hawaii health systems corporation comprises five semi-autonomous health care regions within the State, including east Hawaii, west Hawaii, Kauai, Oahu, and Maui. The Maui region no longer operates any health care facilities.

The legislature further finds that the Oahu region is unique and distinguishable from the other regions due to the logistical complexities of the Oahu regional health care system facilities and the limited but crucial nature of the services these facilities, Leahi hospital and Maluhia, currently provide. Because the Oahu facilities almost exclusively serve long-term care and medicaid patients, groups traditionally underserved by private facilities because of the high cost of their care, the Oahu region's long-term care operations are run more as a safety-net social service and, compared to the other regions, have less opportunity for additional revenue generation.

While the need for long-term care beds on Oahu has decreased in recent years, a study completed by the department of business, economic development, and tourism has projected that the State's population aged sixty-five and older will grow by one hundred forty-eight per cent over the next twenty-five years. On Oahu, this translates to an estimated shortfall of eleven hundred long-term care beds in the next five to ten years alone. Thus, despite the costs of long-term care, it is vital that state facilities continue to operate to ensure that beds remain available for the State's aging population.

Similar to the Oahu region, the department of health operates the Hawaii state hospital, a facility that does not generate revenue but is nonetheless necessary to provide care and treatment for mentally ill patients in Hawaii. In recent years, the Hawaii state hospital has experienced a challenge in providing sufficient bed space for admitted patients. As of September 2019, two hundred twenty patients occupied beds at the Hawaii state hospital—well over the maximum capacity of two hundred two. To meet its needs, the Hawaii state hospital was also required to contract with Kahi Mohala, a privately-run facility, to care for an additional forty-six patients.

Beyond its responsibility for the Hawaii state hospital, the department of health has also been charged with addressing the significant gap in the behavioral health care system between acute psychiatric care facilities and low acuity residential treatment. Data collected in the State estimate that more than half of all individuals experiencing a mental health crisis, or fifty-four per cent, have needs that align better with services delivered within a subacute level of care facility rather than an emergency room.

The legislature also finds that Act 90, Session Laws of Hawaii 2019, established the involuntary hospitalization task force and Act 263, Session Laws of Hawaii 2019, established a working group to evaluate current behavioral health care and related systems, including existing resources, systems gaps, and identification of action steps that may be taken to improve the overall system of care. The findings from these initiatives highlight the need in Hawaii for a coordinated network of stabilization beds that will allow triage, clinical assessment, and rec-

ommendation for the next level of care for those struggling with substance use, mental health conditions, and homelessness.

The National Coalition for the Homeless has found that sixty-four per cent of homeless individuals are dependent on alcohol or other substances. In Hawaii, the Oahu homeless point in time count reported that 36.4 per cent of homeless single adults suffer from some type of mental illness. The intersection of homelessness and behavioral health conditions is a crisis in Hawaii, which contributes to Hawaii having the second highest rate of homelessness in the nation. Unfortunately, there is currently no coordinated system of stabilization from the streets that assesses for and links to the next level of clinical care.

The legislature additionally finds that the current options for those needing stabilization from challenges related to substance use, mental health conditions, and homelessness are overburdened and inadequate, and emergency facilities throughout the State have experienced substantial increases in psychiatric emergency admissions, resulting in overcrowding and unsafe environments for patients and medical staff.

The legislature also finds that comprehensive crisis response and stabilization services are crucial elements of the continuum of care. Reducing unnecessary transportation to emergency departments and appropriately placing individuals in more suitable levels of care will improve outcomes for patients, reduce inpatient hospital stays, and facilitate access to other behavioral health services.

Subacute residential stabilization services have been a missing component of a comprehensive behavioral health continuum of care, which would bridge the gap between acute hospitalization and lower-level residential and community resources. Many individuals who are transported to an emergency room or for emergency examination and hospitalization are not acute enough in their illness to warrant psychiatric hospitalization. On the other hand, their symptomology is too acute for them to be admitted to a group home, shelter, or other existing low acuity residential program or, if they are admitted, they are often unsuccessful in those environments. More often than not, these individuals fail because they have not had time to stabilize in an environment where they can be closely monitored. This lack of post-acute care contributes to the poor outcomes of both acute behavioral health inpatient and community-based services because many individuals are not appropriate for either level, but fall somewhere in the middle.

The legislature further finds that state facilities exist that have underutilized space that could accommodate these services with minimal effort and adjustments and reduce certain burdens and barriers. Therefore, assertive efforts should be undertaken to ensure the availability of these resources and to organize them in a way that is beneficial to the State.

Through discussions with the Oahu region, it has been determined that some of the Oahu region's health care facilities, particularly Leahi hospital, are currently underutilized and have the potential to be re-purposed for other important health care and social service needs.

The legislature also finds that, while statutorily tied to the Hawaii health systems corporation, the Oahu region operates mostly autonomously and its functions and target population are unique from those of the other regional health care systems. As such, there is little necessity for the Oahu regional health care system to remain a part of the Hawaii health systems corporation. With proper planning and implementation, the Oahu regional health care system could be strategically assimilated into the department of health, and its facilities could be used, in addition to long-term care, to help alleviate the need for subacute residential mental health stabilization and other subacute care services.

The purpose of this Act is to:

- (1) Commence the transfer of the Oahu regional health care system in its entirety from the Hawaii health systems corporation to the department of health, to be completed no later than December 31, 2022;
- (2) Enable the Oahu regional health care system, department of health, Hawaii health systems corporation, and other state agencies to implement the processes and transactions required to effectuate the completion of the transition;
- (3) Require the department of health to consult with the University of Hawaii regarding services provided at Leahi hospital and Maluhia, and allow University of Hawaii students to rotate through those facilities for training purposes;
- (4) Authorize the department of health to pay rent to the University of Hawaii for the use of the Leahi hospital property at a rate and on terms to be negotiated between the department of health and the University of Hawaii;
- (5) Clarify the rights, powers, and exemptions held by the Oahu regional health care system during the transition period and the rights, powers, and exemptions held by the inpatient services division of the department of health following completion of the transfer of the Oahu regional health care system;
- (6) Establish a working group to develop, evaluate, and implement the transition plan;
- (7) Appropriate moneys from the mental health and substance abuse special fund to formulate and execute a comprehensive business and transition plan; and
- (8) Appropriate moneys from the funds received by the State of Hawaii from the American Rescue Plan Act of 2021, Public Law 117-2 (Section 9901) to transfer the Oahu regional health care system in its entirety from the Hawaii health systems corporation to the department of health.

PART II

SECTION 2. 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]~~ four regional systems, as follows:

- ~~[(1)]~~ ~~The Oahu regional health care system;~~
- ~~[(2)]~~ (1) The Kauai regional health care system;
- ~~[(3)]~~ (2) The Maui regional health care system;
- ~~[(4)]~~ (3) The east Hawaii regional health care system, comprising the Puna district, north Hilo district, south Hilo district, Hamakua district, and Kau district; and
- ~~[(5)]~~ (4) The 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 regional systems I, II, III, and IV, ~~[and V,]~~ respectively.”

SECTION 3. Section 323F-3, Hawaii Revised Statutes, is amended to read as follows:

“**§323F-3 Corporation board.** (a) The corporation shall be governed by ~~[an eighteen-member]~~ a fifteen-member board of directors that 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(c)(20) and the operation thereof.

(b) The members of the corporation board shall be appointed as follows:

- (1) The director of health as an ex officio, voting member;
- (2) The ~~[five]~~ four regional chief executive officers as ex officio, nonvoting members;
- (3) Three members who reside in the county of Maui, two of whom shall be appointed by the Maui regional system board and one of whom shall be appointed by the governor, all of whom shall serve as voting members;
- (4) Two members who reside in the eastern section of the county of Hawaii, one of whom shall be appointed by the East Hawaii regional system board and one of whom shall be appointed by the governor, both of whom shall serve as voting members;
- (5) Two members who reside in the western section of the county of Hawaii, one of whom shall be appointed by the West Hawaii regional system board and one of whom shall be appointed by the governor, both of whom shall serve as voting members;
- (6) Two members who reside on the island of Kauai, one of whom shall be appointed by the Kauai regional system board and one of whom shall be appointed by the governor, both of whom shall serve as voting members;
- ~~[(7) Two members who reside on the island of Oahu, one of whom shall be appointed by the Oahu regional system board and one of whom shall be appointed by the governor, both of whom shall serve as voting members;]~~ and
- ~~[(8)]~~ (7) One member who shall be appointed by the governor and serve as an at-large voting member.

The appointed board members who reside in the county of Maui, eastern section of the county of Hawaii, western section of the county of Hawaii, and on the island of Kauai~~[-, and on the island of Oahu]~~ shall each serve for a term of four years; provided that the terms of the initial appointments of the members who are appointed by their respective regional system boards shall be as follows: one of the initial members from the county of Maui shall be appointed to serve a term of two years and the other member shall be appointed to serve a term of four years; the initial member from East Hawaii shall be appointed to serve a term of two years; the initial member from West Hawaii shall be appointed to serve a term of four years; and the initial member from the island of Kauai shall be appointed to serve a term of two years; ~~[and the initial member from the island of Oahu shall be appointed to serve a term of four years;]~~ and provided further that the terms of the initial appointments of the members who are appointed by the governor shall be four years. The at-large member appointed by the governor shall serve 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. The board member appointments shall strive to create a board that includes expertise in the fields of medicine, finance, health care administration, government affairs, human resources, and law.

(c) The selection, appointment, and confirmation of any nominee shall be based on ensuring that board members have diverse and beneficial perspec-

tives and experiences and that they include, to the extent possible, representatives of the medical, business, management, law, finance, and health sectors, and patients or consumers. Members of the board shall serve without compensation but may be reimbursed for actual expenses, including travel expenses, incurred in the performance of their duties.

(d) Any member of the board may be removed for cause by vote of a two-thirds majority of the board's 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 or 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) Upon completion of the transition of the Oahu regional health care system into the department of health, the corporation board shall have no legal relationship with the Oahu regional health care system or its facilities."

PART III

SECTION 4. Section 323F-7.6, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§323F-7.6]]~~ Transition of Hawaii health systems regional system or health facility to a new entity. (a) Notwithstanding any other law to the contrary, including but not limited to section 27-1 and chapter 171, any of the regional systems or individual facilities of the Hawaii health systems corporation is hereby authorized to transition into a new legal entity in any form recognized under the laws of the State, including but not limited to:

- (1) A nonprofit corporation;
- (2) A for-profit corporation;
- (3) A municipal facility;
- (4) A public benefit corporation; ~~[or]~~
- (5) A division or branch under a state executive department; or
- ~~[(5)]~~ (6) Any two or more of the entities in paragraphs (1) through [(4)].
(5).

A transition shall occur through the sale, lease, or transfer of all or substantially all of the assets of the facility or regional system, except for real property, which shall only be transferred by lease~~[-];~~ provided that under a transfer that is effectuated pursuant to paragraph (5), real property shall transfer in its then-existing state, whether in lease, fee, or otherwise, to the department of land and natural resources. Any transition shall comply with chapter 323D.

(b) A transition shall only occur upon approval of the appropriate regional system board in the case of a regional system or individual facility transition, or upon approval of the regional system boards and the corporation in the case of the transition of the entire corporation. Any transition shall be subject to legal review by the attorney general, who shall approve the transition if satisfied that the transition conforms to all applicable laws, subject to the review of the director of the department of budget and finance, who shall approve the transition if it conforms to all applicable financing procedures, and subject to the governor's approval. In addition, the transition shall be subject to the following terms and conditions:

- (1) All proceeds from the sale, lease, or transfer of assets shall be used for health care services in the respective regional system or facility, except that real property shall only be transferred by lease; provided that under a transfer that is effectuated pursuant to subsection (a)(5), real property shall transfer in its then-existing state, whether in lease, fee, or otherwise, to the department of land and natural resources;
- (2) Any and all liabilities of a regional system or facility transitioning into a new entity that were transferred to the Hawaii health systems corporation upon its creation by Act 262, Session Laws of Hawaii 1996, and all liabilities of the regional system or facility related to collective bargaining contracts negotiated by the State, shall become the responsibility of the State; and
- (3) During the period of transition:
 - (A) The State shall continue to fund the provision of health care services provided for by the regional system or individual facility; and
 - (B) All applicable provisions of this chapter shall continue to apply.

Upon the completion of the transition of all the facilities in a regional system to a new entity, the regional system board for that regional system shall terminate; provided that if not all of a regional system's facilities are transitioned to a new entity, the existing regional system board shall not terminate but shall continue to retain jurisdiction over those facilities remaining in the regional system."

PART IV

SECTION 5. Chapter 321, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

“PART . LEAHI HOSPITAL AND MALUHIA

§321- Authority of the department of health. The department of health may:

- (1) Conduct long-term care and substance abuse treatment at Leahi hospital and Maluhia;
- (2) Pay rent to the University of Hawaii for the use of the Leahi hospital property, at a rate and on terms to be negotiated between the department of health and the University of Hawaii;
- (3) Use moneys from the mental health and substance abuse special fund established pursuant to section 334-15 to fund the department's operations at Leahi hospital and Maluhia;
- (4) Develop and implement its own policies, procedures, and rules necessary or appropriate to plan, operate, manage, and control Leahi hospital and Maluhia without regard to chapter 91;
- (5) Enter into and perform any contract, lease, cooperative agreement, partnership, or other transaction whatsoever that may be necessary or appropriate in the performance of its purposes and responsibilities, and on any terms the department may deem appropriate with either:
 - (A) Any agency or instrumentality of the United States, or with any state, territory, possession, or 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;

- (6) Conduct activities and enter into business relationships the department deems necessary or appropriate, including but not limited to:
 - (A) Creating nonprofit corporations, including but not limited to charitable fundraising foundations, to be controlled wholly by the department or jointly with others; and
 - (B) Entering into partnerships and other joint venture arrangements, or participating in alliances, purchasing consortia, health insurance pools, or other cooperative agreements with any public or private entity; provided that any corporation, venture, or relationship entered into under this section shall further the public interest;
- (7) Make and alter facility bylaws and rules for the organization and management of Leahi hospital and Maluhia without regard to chapter 91;
- (8) Contract for and accept any gifts, grants, and loans of funds or 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, in compliance with the terms and conditions thereof;
- (9) Provide health and medical services to the public directly or by agreement or lease with any person, firm, or private or public corporation, partnership, or association through or in Leahi hospital and Maluhia or otherwise; and
- (10) Approve medical staff bylaws, rules, and medical staff appointments and reappointments for Leahi hospital and Maluhia, including but not limited to determining the conditions under which a health professional may be extended the privilege of practicing within Leahi hospital or Maluhia, as determined by the department or facility management, 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 the department or facility management shall be the governing body responsible for all medical staff organization, peer review, and credentialing activities to the extent allowed by law.

§321- Consultation with the University of Hawaii required. The department of health shall regularly consult with the University of Hawaii regarding services provided at Leahi hospital and Maluhia. The department may coordinate with the University of Hawaii to allow university students to rotate through the facilities for training purposes and may take any action necessary or proper to effectuate this purpose.

§321- Reduction or elimination of direct patient care services. (a) No planned substantial reduction or elimination of direct patient care services at Leahi hospital or Maluhia shall be undertaken unless all of the following requirements are met:

- (1) An initial determination is made by the department as to critical and emergency services, which shall not be subject to reduction or elimination pursuant to this section;
- (2) The plan of the facility to substantially reduce or eliminate any direct patient care services at Leahi hospital or Maluhia shall first be presented to the director of health for approval;
- (3) Subsequent to the requisite director approval, the department shall present the plan to the community in which the facility is located at

- a community informational meeting, in order to obtain community input on the plan; and
- (4) After the community informational meeting, but at least twenty days prior to the implementation of the approved plan, the director shall give notice of the implementation of the plan to the governor, president of the senate, and speaker of the house of representatives.
 - (b) Upon meeting the requirements of subsection (a), the approved plan shall be implemented unless legislation has been enacted that:
 - (1) Requires the reinstatement and continuation of direct patient care services that are subject to reduction or elimination under the plan; and
 - (2) Includes an appropriation of additional moneys sufficient to adequately fund the mandated reinstatement and continuation of the direct patient care services that are subject to reduction or elimination under the plan.”

PART V

SECTION 6. (a) The budget of the Oahu regional health care system shall be transferred from the Hawaii health systems corporation to the department of health; provided that:

- (1) The Oahu regional health care system’s budget codes and all related allocated funds of the Oahu region shall be reflected in the state budget and all other related tables; and
- (2) The organizational structure of the Oahu regional health care system shall remain unchanged, unless modified and approved by the working group established pursuant to section 9 of this Act, and as approved by the conditions established in this part or as required by law.
- (b) The transfer of positions and respective class specifications of the Oahu region from the Hawaii health systems corporation’s personnel system to the department of health, as set forth in a transition document submitted by the working group established pursuant to section 9 of this Act no later than twenty days prior to the convening of the regular session of 2022, shall be completed no later than December 31, 2022, provided that:
 - (1) All employees of the Oahu region who are employed as of December 31, 2022, shall be transferred to the department of health before the transition of the Oahu regional health care system into the department of health is complete;
 - (2) All employees of the Oahu region who occupy civil service positions shall be transferred to the department of health by this Act and retain their civil service status, whether permanent or temporary, and shall maintain their respective functions as reflected in their current position descriptions during the transition period; provided that any changes determined necessary by the working group established pursuant to section 9 of this Act shall follow standard union consultation process prior to implementation;
 - (3) Employees shall be transferred without loss of salary; seniority, except as prescribed by applicable collective bargaining agreements; retention points; prior service credit; any vacation and sick leave credits previously earned; and other rights, benefits, and privileges, in accordance with state employment laws;
 - (4) The personnel structure of the Oahu regional health care system shall remain unchanged, unless modified and approved by the work-

ing group and as approved by the conditions established pursuant to this Act;

- (5) Any employee who, prior to this Act, is exempt from civil service or collective bargaining and is transferred as a consequence of this Act shall be transferred without loss of salary and shall not suffer any loss of prior service credit, contractual rights, vacation or sick leave credits previously earned, or other employee benefits or privileges, and, except in the instance of discipline, shall be entitled to remain employed in the employee's current position for a period of no less than one year after the transition of the Oahu regional health care system into the department of health is complete;
- (6) The wages, hours, and other conditions of employment shall be negotiated or consulted, as applicable, with the respective exclusive representative of the affected employees, in accordance with chapter 89, Hawaii Revised Statutes; and
- (7) The rights, benefits, and privileges currently enjoyed by employees, including those rights, benefits, and privileges under chapters 76, 78, 87A, 88, and 89, Hawaii Revised Statutes, shall not be impaired or diminished as a result of these employees being transitioned to the department of health pursuant to this Act. The transition to the department of health shall not result in any break in service for the affected employees. The rights, benefits, and privileges currently enjoyed by employees shall be maintained under their existing collective bargaining or other agreements and any successor agreement.

PART VI

SECTION 7. (a) The Oahu regional board shall, through the Oahu regional board chair, facilitate the transition of the Oahu region into the department of health as part of the working group established pursuant to section 9 of this Act and effectuate the assignment of all contracts and agreements in which the Oahu region is a party to the department of health.

(b) Notwithstanding any law to the contrary, the terms of the following members of the board of directors of the Hawaii health systems corporation shall expire on December 31, 2022:

- (1) The regional chief executive officer of the Oahu regional health care system; and
- (2) The two board members residing on the island of Oahu appointed pursuant to section 323F-3(b)(7), Hawaii Revised Statutes.

SECTION 8. (a) During the transition planning period commencing on July 1, 2021, to and including the completion of the transition of the Oahu regional health care system into the department of health no later than December 31, 2022, the Oahu regional system board may:

- (1) Develop and implement its own policies, procedures, and rules necessary or appropriate to plan, operate, manage, and control its facilities without regard to chapter 91, Hawaii Revised Statutes;
- (2) Enter into and perform any contract, lease, cooperative agreement, partnership, or other transaction whatsoever that may be necessary or appropriate in the performance of its purposes and responsibilities, and on any terms the regional system board may deem appropriate with either:
 - (A) Any agency or instrumentality of the United States, or with any state, territory, possession, or 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;
- (3) Conduct activities and enter into business relationships the regional system board deems necessary or appropriate, including but not limited to:
 - (A) Creating nonprofit corporations, including but not limited to charitable fundraising foundations, to be controlled wholly by the 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 agreements, with any public or private entity; provided that any corporation, venture, or relationship entered into under this subsection shall further the public interest;
- (4) Execute, in accordance with all applicable bylaws, rules, and laws, all instruments necessary or appropriate in the exercise of any powers of the regional system board;
- (5) Make and alter regional system board bylaws and rules for its organization and management without regard to chapter 91, Hawaii Revised Statutes;
- (6) Enter into any contract or agreement whatsoever, not inconsistent with the laws of the State, execute all instruments, and do all things necessary or appropriate in the exercise of the powers granted under chapter 323F, Hawaii Revised Statutes, including securing the payment of bonds; provided that contracts or agreements executed by the regional system board shall only encumber the regional subaccounts of the regional system board;
- (7) Own, purchase, lease, exchange, or otherwise acquire property, whether real, personal, or mixed, tangible or intangible, and any interest therein, in the name of the regional system board; provided that the regional system board shall be subject to the requirements of section 323F-3.5, Hawaii Revised Statutes;
- (8) Contract for and accept any gifts, grants, and loans of funds or 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, in compliance, subject to chapter 323F, Hawaii Revised Statutes, with the terms and conditions thereof; provided that the regional system board shall be responsible for contracting for and accepting any gifts, grants, loans, property, or other aid if intended to exclusively benefit the Oahu region public health facilities and operations;
- (9) Provide health and medical services to 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 regional system board or otherwise; provided that the regional system board shall be responsible for conducting the activities under this paragraph solely within the Oahu regional system;
- (10) Approve medical staff bylaws, rules, and medical staff appointments and reappointments for all public health facilities of the regional system board, including 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 regional system board, and adopting and implementing reasonable rules, without regard to chapter 91, Hawaii Revised Statutes, for the credentialing and peer review of all persons and health professionals within the facility; provided that the regional system board shall be the governing body responsible for all medical staff organization, peer review, and credentialing activities to the extent allowed by law;
- (11) Enter into any agreement with the State, including but not limited to contracts for the provision of goods, services, and facilities for the support of the regional system board's programs, and contracting for the provision of services to or on behalf of the State;
 - (12) Develop internal policies and procedures for the procurement of goods and services, consistent with the goals of public accountability and public procurement practices, and subject to management and financial legislative audits; provided that the regional system board shall enjoy the exemptions under section 103-53(e) and chapter 103D, Hawaii Revised Statutes;
 - (13) Authorize, establish, and abolish positions; and
 - (14) Employ or retain any attorney, by contract or otherwise, for the purpose of representing the regional system board in any litigation, rendering legal counsel, or drafting legal documents for the regional system board.

(b) During the transition period commencing on July 1, 2021, to and including the completion of the transition of the Oahu regional health care system into the department of health no later than December 31, 2022, the Oahu regional system board shall continue to enjoy the same sovereign immunity available to the State.

(c) During the transition period commencing on July 1, 2021, to and including the completion of the transition of the Oahu regional health care system into the department of health no later than December 31, 2022, the Oahu regional system board shall be exempt from chapters 36, 37, 38, 40, 41D, 103D, 103F, part I of chapter 92, and section 102-2, Hawaii Revised Statutes.

PART VII

SECTION 9. (a) There is established a working group of the Oahu regional health care system and department of health to develop, evaluate, and implement any additional steps necessary to complete the transition of the Oahu regional health care system into the department of health.

- (b) The working group shall consist of the following members:
 - (1) The director of health or the director's designee, who shall serve as co-chair and who, along with the chair of the Oahu regional system board or the chair's designee, shall have final authority over transfer activities to be implemented by the working group;
 - (2) The chair of the Oahu regional system board or the chair's designee, who shall serve as co-chair and who, along with the director of health or the director's designee, shall have final authority over transfer activities to be implemented by the working group;
 - (3) The chief executive officer of the Oahu regional health care system or the chief executive officer's designee;
 - (4) One or more department of health staff members as deemed necessary by the director of health or the director's designee; and

- (5) One or more Oahu regional health care system staff members as deemed necessary by the chief executive officer of the Oahu regional health care system or the chief executive officer's designee.

(c) In addition, the working group shall include the following members who shall serve in a consultative capacity:

- (1) One representative from the behavioral health administration of the department of health;
- (2) One representative from the department of human resources development;
- (3) One representative from the department of accounting and general services;
- (4) One representative from the department of the attorney general;
- (5) One representative from the department of budget and finance;
- (6) One representative from the office of planning;
- (7) The chair of the Hawaii health systems corporation board or the chair's designee;
- (8) One representative from the Hawaii health systems corporation human resources department;
- (9) One representative from the Hawaii health systems corporation finance department;
- (10) One representative from the state procurement office;
- (11) One representative from the Hawaii Government Employees Association, who shall be invited to participate;
- (12) One representative from the United Public Workers, who shall be invited to participate;
- (13) Community representatives as recommended and invited by the co-chairs; and
- (14) Others as recommended and invited by the co-chairs.

(d) In carrying out its purpose, the working group shall develop a comprehensive business plan and transfer framework to govern and manage the additional steps necessary to complete the transfer of the Oahu region into the department of health. The comprehensive business plan and transfer framework shall include but not be limited to the following:

- (1) Preparation of a five-year pro forma operating plan and budget for the continuing operations of Leahi hospital and Maluhia;
- (2) Preparation of a ten-year pro forma capital improvement plan and budget for the continuing operations of Leahi hospital and Maluhia;
- (3) Identification and preparation of proposed legislation to address any matters not covered by this Act that may be necessary to complete the transfer of the Oahu regional health care system into the department of health;
- (4) Identification of all real property, appropriations, records, equipment, machines, files, supplies, contracts, books, papers, documents, maps, and other property made, used, acquired, or held by the Oahu regional health care system to effectuate the transfer of the same to the department of health;
- (5) Identification of all debts and other liabilities that will remain with the Hawaii health systems corporation and the remaining debts and liabilities to be transferred to the department of health;
- (6) Identification of all contractual arrangements and obligations of the Oahu regional health care system, including but not limited to those related to personal service contracts, vendor contracts, and capital improvement projects;

- (7) Development and implementation of any and all policies and procedures necessary to ensure that the facilities within the Oahu regional health care system remain compliant with all federal, state, and local laws and regulations; and
- (8) Development and implementation of procedures to extricate the Oahu regional health care system from system-wide services secured or provided by the Hawaii health systems corporation or enable the Oahu region to continue to utilize those services on a temporary or permanent basis through interagency agreement.
- (e) Members of the working group shall serve without compensation but shall be reimbursed for reasonable expenses necessary for the performance of their duties, including travel expenses. No member of the working group shall be subject to chapter 84, Hawaii Revised Statutes, solely because of the member's participation in the working group.
- (f) The working group shall submit a report to the legislature no later than twenty days prior to the convening of the regular session of 2022 that shall include the five-year pro forma operating and budget plan, ten-year pro forma capital improvement plan, proposed legislation to address any matters not covered by this Act that may be necessary to complete the transfer of the Oahu regional health care system into the department of health, and a timeline of major milestones necessary to effectuate the transfer of personnel, assets, liabilities, and contracts needed to complete the transfer pursuant to this Act. The report shall also document the completion of the transfer and dissolution of the Oahu regional health care system.
- (g) The working group shall be dissolved on December 31, 2022, or upon completion of the transition of the Oahu regional health care system into the department of health, whichever is first.

SECTION 10. All transition actions shall be subject to the following conditions:

- (1) The attorney general shall approve the legality and form of any material transition actions created by the working group prior to implementation; the director of finance shall evaluate and approve any expenditure of public funds determined to be in accordance with the budget laws and controls in force; the director of human resources development and comptroller shall approve the transition of employee positions and payroll in accordance with all applicable laws, rules, policies and procedures; and the director of accounting and general services shall approve transition actions in accordance with all applicable laws, rules, policies, and procedures; and
- (2) Liabilities of the Oahu regional health care system that were transferred to the Hawaii health systems corporation upon its creation by Act 262, Session Laws of Hawaii 1996, or to the Oahu regional health care system upon its establishment by Act 290, Session Laws of Hawaii 2007, and all other contractual liabilities of the Oahu regional health care system, including those related to collective bargaining contracts negotiated by the State in existence at the time they are transferred to the department of health, shall become the responsibility of the State.

PART VIII

SECTION 11. There is appropriated out of the mental health and substance abuse special fund the sum of \$200,000 or so much thereof as may be

ACT 213

necessary for fiscal year 2021-2022 for the formulation of a comprehensive business plan and transfer framework for the transfer of Leahi hospital and Maluhia to the department of health.

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

SECTION 12. There is appropriated out of the funds received by the State of Hawaii from the American Rescue Plan Act of 2021, Public Law 117-2 (Section 9901) the sum of \$16,320,700 or so much thereof as may be necessary for fiscal year 2021-2022 for the transfer of the Oahu regional health care system in its entirety from the Hawaii health systems corporation to the department of health.

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

PART IX

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, 2021; provided that part II of this Act shall take effect on December 31, 2022.

(Approved July 6, 2021.)

ACT 213

S.B. NO. 548

A Bill for an Act Relating to Elections by Mail.

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

SECTION 1. The legislature finds that Act 136, Session Laws of Hawaii 2019, required all elections statewide to be conducted by mail beginning with the 2020 primary election.

The purpose of this Act is to:

- (1) Amend the State's election laws to clarify and improve the administration of elections by mail;
- (2) Establish voters with special needs advisory committees;
- (3) Require the department of public safety and Hawaii paroling authority to inform individuals on parole or probation of their right to vote and provide them with information on how to register and vote; and
- (4) Require the office of elections and the county clerks to make a determination, as soon as practicable, of the optimal number and placement of voter service centers.

SECTION 2. Chapter 11, Hawaii Revised Statutes, is amended by adding three new sections to be appropriately designated and to read as follows:

“§11- Minimum number of precincts. Beginning with the 2022 primary election, there shall be a minimum of four precincts in each district; provided that each inhabited island with at least one hundred residents shall include at least one precinct.

§11- Statewide voters with special needs advisory committee. (a) There is established a statewide voters with special needs advisory committee within the office of elections for administrative purposes. The purpose of the advisory committee is to ensure equal and independent access to voter registration, casting of ballots, and all other office of elections services.

(b) The advisory committee shall consist of five members appointed by the governor based on recommendations from organizations within the State that are comprised of a majority of officers and members who are persons with physical disabilities including visual impairment. Each member shall identify as a voter with special needs arising from physical disabilities including visual and hearing impairments that require an accommodation to vote. The terms of advisory committee members shall be four years; provided that initial terms shall be one, two, three, or four years to ensure staggered rotation of members.

(c) The advisory committee shall meet at least annually to review election procedures, services, and technology and access to information, and shall make recommendations to the office of elections on at least an annual basis. The advisory committee may meet and subsequently make recommendations at additional times as determined by a majority of the members.

§11- County voters with special needs advisory committees. (a) Each county shall establish a county voters with special needs advisory committee. The purpose of the advisory committee shall be to ensure equal and independent access to voter registration, casting of ballots, and all other county elections division services.

(b) Each advisory committee shall consist of five members appointed by the mayor of each respective county based on recommendations from organizations within the county that are comprised of a majority of officers and members who are persons with physical disabilities including visual impairment. Each member shall identify as a voter with special needs arising from physical disabilities including visual and hearing impairments which require an accommodation to vote. The terms of advisory committee members shall be four years; provided that initial terms shall be one, two, three, or four years to ensure staggered rotation of members.

(c) Each advisory committee shall meet at least annually to review election procedures, services, and technology and access to information, and shall make recommendations to the office of elections on at least an annual basis. The advisory committees may meet and subsequently make recommendations at additional times as determined by a majority of the members.”

SECTION 3. Chapter 353C, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“**§353C- Eligible voter notification.** The department shall notify individuals on parole or probation of their eligibility to vote and provide them with information on how to register and vote.”

SECTION 4. Section 11-1, Hawaii Revised Statutes, is amended as follows:

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

““Ballot summary” means a complete record of ballot selections that is verified by the voter.

““Closing hour of voting” means 7:00 p.m. Hawaii Standard Time on election day.

““Precinct” means the smallest political subdivision established by law.

“Provisional ballot” means a ballot and any accompanying materials issued to a voter that are segregated for review and subsequent determination of validity, in accordance with eligibility criteria and other requirements of law.”

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

““Ballot” means a ballot, including an absentee ballot, that is a written or printed, or partly written and partly printed paper or papers containing the names of persons to be voted for, the office to be filled, and the questions or issues to be voted on. “Ballot” includes [a]:

- (1) A ballot summary reflecting a complete record of the ballot selections made by a voter utilizing an HTML ballot or similar accessible ballot that produces a ballot summary;
- (2) A voter verifiable paper audit trail in the event there is a discrepancy between a voting machine’s electronic record of the voted ballot and the voter verifiable paper audit trail; and
- (3) A ballot used in an election by mail pursuant to part VIIA, including a ballot approved for electronic transmission. A ballot may consist of one or more cards or pieces of paper, or one face of a card or piece of paper, or a portion of the face of a card or piece of paper, depending on the number of offices, candidates to be elected thereto, questions or issues to be voted on, and the voting system in use.”

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

““District” means, unless otherwise specified, the district of political representation ~~[with the fewest eligible voters in a particular election.]~~ associated with a state representative.”

SECTION 5. Section 11-15, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Any person qualified to and desiring to register as a voter in any county shall make and subscribe to an application in the form of an affidavit.

The affidavit shall contain the following information:

- (1) Name;
- (2) The applicant’s Hawaii driver’s license number or Hawaii state identification card number; provided that:
 - (A) If no driver’s license or identification card has been issued to the applicant, the last four digits of the applicant’s social security number; and
 - (B) If no social security number has been issued to the applicant, an election official or county clerk shall assign the applicant a unique identification number for voter registration purposes and enroll the applicant in the State’s computerized voter registration list, if any;
- (3) Date of birth;
- (4) Residence, including mailing address;
- (5) That the residence stated in the affidavit is not simply because of the person’s presence in the State, but that the residence was acquired with the intent to make Hawaii the person’s legal residence with all the accompanying obligations therein; ~~and~~
- (6) That the person is a citizen~~[-]; and~~
- (7) A statement, if the applicant is unable to read standard print due to disability, acknowledging that fact and requesting an electronic ballot be sent to the applicant’s email address.

~~[An application to register to vote shall include a space to request a permanent absentee ballot.]”~~

SECTION 6. Section 11-15.2, Hawaii Revised Statutes, is amended to read as follows:

“§11-15.2 [Late registration,] Same day in-person registration. (a) Notwithstanding the closing of the general county register pursuant to section 11-24, a person who is ~~[eligible to vote but is]~~ not registered to vote may register by appearing in person at any voter service center on or before election day~~[-]~~ or register electronically pursuant to section 11-15.3.

(b) The clerk shall designate a registration clerk~~[-, who may be an election official,]~~ at each voter service center~~[-~~

~~(c) The registration clerk]~~ who shall process applications for any person [not registered to vote] who submits a signed affidavit in accordance with section 11-15, which shall include a sworn affirmation:

- (1) Of the person's qualification to vote;
- (2) Acknowledging that the person has not voted and will not attempt to vote again in that election, and has not cast and will not cast any absentee ballot pursuant to chapter 15 in that election; and
- (3) Acknowledging that providing false information may result in a class C felony, punishable by a fine not exceeding ~~[\$1,000]~~ \$10,000 or imprisonment not exceeding five years, or both.

~~[(d)] (c)~~ The registration clerk may accept, as prima facie evidence, the allegation of the person in the application regarding the person's residence in accordance with section 11-15(b), unless the allegation is contested by a qualified voter. The registration clerk may demand that the person furnish substantiating evidence to the other allegations of the person's application in accordance with section 11-15(b). If additional time or information is required to validate an application, the applicant shall be provided a provisional ballot.

~~(e) Registration may be challenged in accordance with section 11-25.~~

~~(f) Notwithstanding subsection (a), registration pursuant to this section may also be used by a person who is registered to vote but whose name cannot be found on the county register.~~

~~(g) The clerk of each county shall add persons who properly register under this section to the respective general county register. Within thirty days of registration, the clerk shall mail to the person a notice including the person's name, current street address, district, and date of registration. A notice mailed pursuant to this subsection shall serve as prima facie evidence that the person is a registered voter as of the date of registration.]”~~

SECTION 7. Section 11-17, Hawaii Revised Statutes, is amended to read as follows:

“§11-17 Removal of names from register, when; reregistration. (a) The clerk, ~~[no later than 4:30 p.m. on the sixtieth day]~~ after every general election, shall remove the ~~[name] names~~ of ~~[any] registered [voter] voters who were identified as having an outdated or undeliverable address~~ who did not vote in ~~[that general election, and also did not vote in the primary election preceding that general election, and also did not vote in the previous general election, and also did not vote in the primary election preceding that general election, and also did not vote in the regularly scheduled special elections held in conjunction with those primary and general elections, if any,]~~ all elections held during the two previous federal election cycles with the exception of]:

- (1) Those who submitted written requests for absentee ballots as provided in section 15-4; or
- (2) ~~Anyone]~~ anyone who preregistered pursuant to section 11-12(b).

~~[If a person voted, at least once, in any of the above-mentioned elections, the person's name shall remain on the list of registered voters.]~~ For this purpose,

“vote” means the depositing of the ballot in the ballot box regardless of whether the ballot is blank or later rejected for any reason. In the case of voting machines, “vote” means the voter has activated the proper mechanism and fed the ballot into the machine. In the case of an election by mail pursuant to part VIIA, “vote” means the voter has returned the ballot to the chief election officer or clerk by the United States Postal Service, by personal delivery of the ballot to a place of deposit or voter service center, or by electronic transmission under certain circumstances pursuant to part VIIA.

(b) ~~[The] Before removal as noted in subsection (a), the clerk shall [also] identify [or remove the name of any] registered voter [if the clerk, after] names from a postal database containing outdated or undeliverable addresses or by mailing a notice or other correspondence, properly addressed, [with postage prepaid, receives the notice or other correspondence as return mail with] and receiving a postal notation that the notice or other correspondence was not deliverable. [On election day, any person identified or removed shall have the person's name corrected or restored in the register and shall be allowed to vote if the person completes an affidavit or other form prescribed by the chief election officer affirming that the person:~~

- ~~(1) Claims the person's legal residence at the address listed on the register;~~
- ~~(2) Changed the person's legal residence after the closing of the register for that election; or~~
- ~~(3) Moved to a new residence within the same district as the person's residence as listed on the register.]~~

(c) Upon identification of names of registered voters as prescribed in subsection (b), the clerk shall conduct any notification mailings as required by applicable federal law.

~~[(e)] (d)~~ The clerk may also remove the name of any registered voter, if the voter so desires and properly notifies the clerk pursuant to the procedures established by the chief election officer.

~~[(d)] (e)~~ Any person whose name has been removed from the register~~;~~ at any time prior to the closing of the register, as provided in section 11-24,] may have that person's name restored in the register by presenting oneself to the clerk and reregistering pursuant to section 11-15, or by making application by mail or otherwise pursuant to procedures established by the clerk. The clerk shall require satisfactory evidence to establish the identity of the applicant. The names of all those persons shall be reentered in the register.”

SECTION 8. Section 11-21, Hawaii Revised Statutes, is amended by amending subsections (c) and (d) to read as follows:

“(c) Any person whose name appears on the registered voters list whose residence has changed since the last election, and whom the clerk has not transferred under section 11-20, may apply on a form prescribed by the chief election officer on the day of the election for transfer of registration to the [district] precinct of the new residence. Any person so transferring voter registration shall be immediately added to the register of the new [district.] precinct.

(d) Where a person was incorrectly placed on a list of voters of a [district] precinct in which the person does not actually reside, the person may correct the registration.”

SECTION 9. Section 11-22, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The clerk shall correct the register if at any time it shall be manifest to the clerk that the name of a person registered has been accidentally mis-

spelled, or that the person has been misnamed therein, or that the person has been accidentally registered under the wrong [~~district,~~] precinct, or that the person was accidentally removed pursuant to section 11-17(a), or that the name of the person should be corrected or restored pursuant to section 11-17(b).”

SECTION 10. Section 11-23, Hawaii Revised Statutes, is amended to read as follows:

“§11-23 Changing register; striking names of disqualified voters. [(a)] Whenever the clerk receives from the department of health or any informing agency, information of the death, loss of voting rights of a person sentenced for a felony as provided in section 831-2, adjudication as an incapacitated person under the provisions of chapter 560, loss of citizenship, or any other disqualification to vote, [~~of any person registered to vote in that county, or who the clerk has reason to believe may be registered to vote therein, the clerk shall thereupon make such investigation as may be necessary to prove or disprove the information, giving the person concerned, if available, notice and an opportunity to be heard. If after the investigation the clerk finds that the person is dead, or incapacitated to the extent that the person lacks sufficient understanding or capacity to make or communicate responsible decisions concerning voting, or has lost voting rights pursuant to section 831-2, or has lost citizenship, or is disqualified for any other reason to vote, the clerk shall remove the name of the person from the register.~~

(b) ~~The clerk shall make and keep an index of all information furnished to the clerk under any requirements of law concerning any of the matters in this section. Whenever any person applies to register as a voter, the clerk shall, before registering the person, consult the index for the purpose of ascertaining whether or not the person is in any manner disqualified to vote.] the clerk may accept the reported information as prima facie evidence to maintain and update the general register. Any person whose name is removed from the register of voters under this section may reregister to vote or appeal in the manner provided by sections 11-26 and 11-51, and [~~sueh~~] the proceedings shall be had upon the appeal as in other appeals under these sections.”~~

SECTION 11. Section 11-24, Hawaii Revised Statutes, is amended to read as follows:

“§11-24 Closing register. (a) At 4:30 p.m. on the [~~thirtieth~~] tenth day [~~prior to~~] before each [~~primary, special primary, or special~~] election, but if the day is a Saturday, Sunday, or holiday then at 4:30 p.m. on the first working day immediately thereafter, the general county register shall be closed to registration for persons seeking to vote [~~at the primary, special primary, or special election~~] and remain closed to registration until after the election, subject to change only as provided in sections 11-15.2, 11-21(c), 11-22, 11-25, 11-26, and this section.

(b) ~~Notwithstanding the [closing of the register for registration to vote at the primary or special primary election, the register shall remain open for the registration of persons seeking to vote at the general or special general election, until 4:30 p.m. on the thirtieth day prior to the general or special general election, but if the day is a Saturday, Sunday, or holiday then at 4:30 p.m. on the first working day immediately thereafter, at the end of which period the general county register shall be closed to registration and remain closed until after the general or special general election next following, subject to change only as provided in sections 11-21(c), 11-22, 11-25, and 11-26.]~~ time of closing the general county registrar under subsection (a), the clerk may accept an application submitted on the tenth day if it was received electronically through the online voter registration system in accordance with section 11-15.3 or received as part

of a driver's licensing transaction or from another designated voter registration agency under the National Voter Registration Act of 1993. The clerk shall also accept an application that is postmarked before or on the tenth day before the election."

SECTION 12. Section 11-25, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Any registered voter may challenge the right of a person to be or to remain registered as a voter in any precinct for any cause not previously decided by the board of registration or the supreme court in respect to the same person. The challenge shall be in writing, setting forth the grounds upon which it is based, and be signed by the person making the challenge. The challenge shall be delivered to the clerk who shall immediately serve notice thereof on the person challenged. The clerk shall, as soon as possible, investigate and rule on the challenge."

SECTION 13. Section 11-26, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

"(a) In cases where the clerk, or ~~[precinct]~~ voter service center officials, rules on a challenge on election day, the person ruled against may appeal from the ruling to the board of registration of the person's county for review under part III. The appeal shall be brought before the challenger and challenged party leave the ~~[polling place-]~~ voter service center. If an appeal is brought, both the challenger and the challenged voter may be parties to the appeal."

2. By amending subsection (c) to read:

"(c) If the appeal is sustained, the board shall immediately certify that finding to the clerk, who shall thereupon alter the register to correspond to the findings of the board, and when necessary, the clerk shall notify the ~~[precinct]~~ voter service center officials of the change in the register."

SECTION 14. Section 11-91, Hawaii Revised Statutes, is amended to read as follows:

"**§11-91 Proclamation.** ~~[Not]~~ No later than 4:30 p.m. on the tenth day ~~[prior to]~~ before the close of filing in elections involving state offices, the chief election officer shall issue an election proclamation. In elections involving only county offices the clerk shall issue the proclamation. In elections involving both state and county offices the proclamation may be issued jointly.

The proclamation shall contain a statement of the ~~[time and places where, and the]~~ purposes for which~~[-]~~ the election is to be held, and a designation of the offices and the terms thereof for which candidates are to be nominated or elected. It may also contain any other relevant matter including an offer of rewards for the detection and conviction of offenders against the election laws. The chief election officer or clerk shall cause the election proclamation to be published at least once in a newspaper of general circulation and ~~[not]~~ no later than on the tenth day ~~[prior to]~~ before the close of filing."

SECTION 15. Section 11-92.1, Hawaii Revised Statutes, is amended to read as follows:

"**§11-92.1 Election proclamation; establishment of a new precinct; voter service centers and places of deposit; changes to ~~[district]~~ precinct boundaries.** (a) The ~~[chief election officer]~~ clerk shall issue a proclamation listing all voter service centers and places of deposit, including the days each voter service center and place of deposit is open and the hours of operations and location of each voter

service center and place of deposit, as may have been determined by the clerk as of the proclamation date[-] and whenever a new precinct is established in any representative district. The clerk shall make arrangements for the rental or erection of suitable shelter for the establishment of a voter service center whenever public buildings are not available and shall cause these voter service centers to be equipped with the necessary facilities for lighting, ventilation, and equipment needed for elections on any island. This proclamation may be issued jointly with the proclamation required in section 11-91.

(b) No change shall be made in the boundaries of any [~~district~~] precinct later than 4:30 p.m. on the tenth day before the close of filing for an election.

(c) Notwithstanding subsection (a), and pursuant to section 15-2.5, the clerk is not required to establish voter service centers for [~~districts~~] precincts affected by natural disasters, as provided in section 15-2.5.”

SECTION 16. Section 11-92.3, Hawaii Revised Statutes, is amended to read as follows:

“**§11-92.3 Natural disasters; postponement; consolidation of [~~districts~~]; precincts; special elections.** (a) In the event of a flood, tsunami, earthquake, volcanic eruption, high wind, or other natural disaster, occurring before an election where the extent of damage caused is such that the ability of voters, in any precinct, district, or county, to exercise their right to vote is substantially impaired, the chief election officer or clerk in the case of county elections may postpone the conducting of an election in the affected [~~area~~] precinct, district, or county for no more than twenty-one days; provided that any postponement shall not affect the conduct of the election, tabulation, or distribution of results for those precincts, districts, or counties not designated for postponement. The chief election officer or clerk in the case of county elections shall give notice of the postponement by whatever possible news or broadcast media are available.

(b) In the event the chief election officer or the clerk in a county election determines that the number of candidates or issues on the ballot in a special, special primary, or special general election does not require the full number of established [~~districts~~] precincts, the [~~districts~~] precincts may be consolidated for the purposes of the special, special primary, or special general election into a small number of special, special primary, or special general election [~~districts~~] precincts.

A special, special primary, or special general election [~~district~~] precinct shall be considered the same as an established [~~district~~] precinct for all purposes. No later than 4:30 p.m. on the tenth day before the special, special primary, or special general election, the chief election officer or the clerk shall give public notice, in the area in which the special, special primary, or special general election is to be held, of the special, special primary, or special general election [~~districts~~] precincts.”

SECTION 17. Section 11-101, Hawaii Revised Statutes, is amended to read as follows:

“**§11-101H Elections eligible to be conducted by mail.** Beginning with the 2020 primary election, all elections shall be conducted by mail in accordance with this title. A voter in an election conducted by mail shall not be precluded from voting by absentee ballot under chapter 15 or 15D, if the voter complies with the applicable requirements.”

SECTION 18. Section 11-102, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) To the extent practicable, the clerk shall mail a ballot package by non-forwardable mail to each registered voter in the county so as to enable voters to receive the ballot package ~~[approximately]~~ at least eighteen days before the election[-]; provided that the State and counties shall not be liable if the ballot package is received fewer than eighteen days before the election. The clerk shall continue mailing ballot packages to voters who register to vote no later than ten days before the date of the election and to voters who update their voter registration address no later than [fourteen] seven days before the date of the election[-] and who have not yet voted; provided that the clerk may continue mailing ballot packages beyond the deadlines established by this subsection if the clerk determines that there is reasonable time for a voter to receive and submit the ballot package before the election. In determining the initial mailing date of the ballot packages, the clerk shall consider the mailing place of origin and the most recent postal service delivery standards. The clerk shall not mail a ballot package to any voter in the county register who is identified as having an outdated or non-deliverable mailing address. Nothing in this part shall be construed to change the responsibilities of the clerk or chief election officer under chapter 15 with respect to voters requesting to vote by absentee ballot or chapter 15D with respect to uniform military and overseas voters.”

SECTION 19. Section 11-104, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

“(a) After a voter receives a ballot package, the voter shall comply with the instructions included in the ballot package in order to cast a valid vote. The instructions shall include directions for:

- (1) Marking the ballot;
- (2) Inserting the marked ballot in the secrecy envelope or secrecy sleeve;
- (3) Inserting the secrecy envelope or secrecy sleeve with the marked ballot in the return identification envelope; and
- (4) Signing the affirmation on the return identification envelope before mailing or delivering the return identification envelope containing the secrecy envelope or secrecy sleeve with the marked ballot. The affirmation shall consist of a statement to be subscribed to by the voter that affirms the fact that the voter is the person voting and that the voter’s employer or agent of the employer, agent of the voter’s labor union, or any candidate listed on the ballot did not assist the voter, as described in section 11-139, along with the instruction that the voter’s ballot will be valid only if the affirmation statement is signed.”

2. By amending subsection (c) to read:

“(c) To cast a valid ballot, the voter shall return the return identification envelope containing the optional secrecy envelope or secrecy sleeve with the marked ballot[-] in any manner:

- (1) ~~[By mail so]~~ So that the return identification envelope is received ~~[at the office of]~~ by the clerk or the clerk’s designee no later than the closing ~~[time provided in section 11-131 on the date of the election;]~~ hour of voting; provided that anyone who is standing in line at the closing hour of voting with the intent of returning a ballot shall be permitted to do so;
- (2) ~~[By personal delivery at]~~ To any place of deposit no later than ~~[7:00 p.m. on the date of the election;]~~ the closing hour of voting; provided that ~~[any voter]~~ anyone who is standing in line at a place of deposit at ~~[7:00 p.m. on the date of the election]~~ the closing hour of

- voting with the intent of returning a ballot [~~and casting a vote~~] shall be [~~allowed to vote;~~] permitted to do so; or
- (3) [~~By personal delivery to~~] To any voter service center no later than the closing [~~time provided in section 11-131 on the date of the election;~~] hour of voting; provided that [~~any voter~~] anyone who is standing in line at a voter service center at the closing [~~time provided in section 11-131 on the date of the election~~] hour of voting with the intent of returning a ballot [~~and casting a vote~~] shall be [~~allowed to vote;~~] permitted to do so.”

SECTION 20. Section 11-105, Hawaii Revised Statutes, is amended by amending subsections (b) and (c) to read as follows:

“(b) Upon receipt of a completed replacement ballot application form[~~]~~ or request, the clerk shall:

- (1) Verify the registration of the voter and ensure that another ballot has not been returned by the voter;
 - (2) Record that the voter has requested a replacement ballot;
 - (3) Mark the return identification envelope as containing a replacement ballot; and
 - (4) Issue the replacement ballot package by mail or make the ballot package available for pick-up by the voter.
- (c) Voters who obtain a replacement ballot shall return the return identification envelope containing [~~the secrecy envelope or secrecy sleeve with~~] the marked replacement ballot[~~]:~~
- (1) ~~By mail so that the return identification envelope is received at the office of the clerk no later than the closing time provided in section 11-131 on the date of the election;~~
 - (2) ~~By personal delivery to any place of deposit no later than 7:00 p.m. on the date of the election; provided that any voter who is standing in line at a place of deposit at 7:00 p.m. on the date of the election with the intent of returning a ballot and casting a vote shall be allowed to vote; or~~
 - (3) ~~By personal delivery to any voter service center no later than the closing time provided in section 11-131 on the date of the election; provided that any voter who is standing in line at a voter service center at the closing time provided in section 11-131 on the date of the election with the intent of returning a ballot and casting a vote shall be allowed to vote.] in the same manner as provided in section 11-104(c).”~~

SECTION 21. Section 11-106, Hawaii Revised Statutes, is amended to read as follows:

“~~§~~**§11-106** **Deficient return identification envelopes.** If:

- (1) A return identification envelope is returned with an unsigned affirmation;
- (2) The affirmation signature does not match a reference signature image; or
- (3) A return identification envelope contains another condition that would not allow the counting of the ballot,

the clerk shall make an attempt to notify the voter by first class mail, telephone, or electronic mail to inform the voter of the procedure to correct the deficiency. The voter shall have five business days after the date of the election to cure the deficiency. The chief election officer may adopt rules regarding requirements and procedures for correcting deficient return identification envelopes. The counting

of ballots and disclosure of subsequent election results may continue during the time period permitted to cure a deficiency under this section. The clerk's inability to contact voters under this section shall not be grounds for a contest for cause under section 11-172. This section shall apply to all return identification envelopes, including ballots utilizing the provisions of section 11-107 or chapter 15 or 15D."

SECTION 22. Section 11-107, Hawaii Revised Statutes, is amended to read as follows:

~~“[H§11-107H]~~ **Electronic transmission under certain circumstances.** (a) If a ballot package is not received by a voter by the fifth day before the date of the election or a voter otherwise requires a replacement ballot within five days of an election, the voter may request that a ballot be forwarded by electronic transmission~~]; provided that a voter with special needs may request that a ballot be forwarded by electronic transmission at any time~~. Upon receipt of such a request and confirmation that ~~[proper application was made,]~~ the voter has not already voted, the clerk may transmit the appropriate ballot, ~~[together with a form containing the affirmations,]~~ voting information, and a waiver of the right to secrecy under section 11-137. The waiver of the right to secrecy shall not be required if the voted ballot is returned in a signed ballot return identification envelope issued to the voter pursuant to section 11-102.

(b) The voter may return the completed replacement ballot and executed forms:

- (1) By electronic transmission so that the completed replacement ballot and executed forms are received ~~[at the office of]~~ by the clerk or the clerk's designee no later than the closing ~~[time provided in section 11-131 on the date of the election;]~~ hour of voting; or
- (2) ~~[By mail so that the completed replacement ballot and executed forms are received at the office of the clerk no later than the closing time provided in section 11-131 on the date of the election;~~
- (3) ~~By personal delivery to any place of deposit no later than 7:00 p.m. on the date of the election; provided that any voter who is standing in line at a place of deposit at 7:00 p.m. on the date of the election with the intent of returning a ballot and casting a vote shall be allowed to vote; or~~
- (4) ~~By personal delivery to a voter service center no later than the closing time provided in section 11-131 on the date of the election; provided that any voter who is standing in line at a voter service center at the closing time provided in section 11-131 on the date of the election with the intent of returning a ballot and casting a vote shall be allowed to vote.]~~ In the same manner as provided in section 11-104(c).

(c) A voter with special needs may request that a ballot be forwarded by electronic transmission at any time, but no earlier than the date that the voter's initial ballot package was or would have been transmitted. Upon receipt of such a request and confirmation that the voter has not already voted, the clerk may transmit the appropriate ballot, voting information, and a means of electronic authentication that does not include the voter's hand written signature or a waiver of secrecy. The voter with special needs may return the completed ballot and executed forms by any of the methods specified in subsection (b); provided that the voter's hand written signature or a waiver of secrecy shall not be required.

~~[(e)]~~ (d) Upon receipt, the clerk shall verify compliance with the requirements of this part; provided that if the voter returns multiple voted ballots for

the same election, the clerk shall prepare only the first ballot returned that is not spoiled.

(e) The clerk may maintain a listing of voters with special needs that utilize a ballot forwarded by electronic transmission to facilitate the provision of voting services in subsequent elections.”

SECTION 23. Section 11-108, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

“(a) Ballot processing for tabulation may begin no sooner than the ~~[tenth] eighteenth~~ day before the election. In the presence of official observers, counting center employees may open the return identification envelopes and count the ballots; provided that any tabulation of the number of votes cast for a candidate or question appearing on the ballot, including a counting center printout or other disclosure, shall be kept confidential and shall not be disclosed to the public until after ~~[7:00 p.m. on the date of the election]~~ the closing hour of voting or after the last person in line at a voter service center desiring to vote at ~~[7:00 p.m. on the date of the election]~~ the closing hour of voting has voted, as provided in section 11-131, whichever is later. All handling and counting of ballots shall be conducted in accordance with procedures established by the chief election officer.”

2. By amending subsection (c) to read:

“(c) Any ballot the validity of which cannot be established upon receipt shall be retained by the clerk and shall not be commingled with ballots for which validity has been established until the validity of the ballot in question can be verified by the clerk. No ballot shall be included in an initial tabulation until the clerk has determined its validity. The clerk shall make reasonable efforts to determine the validity of ballots within seven days following an election day. No ballot shall be validated beyond the seventh day following an election.”

SECTION 24. Section 11-109, Hawaii Revised Statutes, is amended as follows:

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

“(a) Voter service centers shall be established ~~[at the office of the clerk, and may be established at additional locations within a county as may be designated by a clerk]~~ by the clerks to service the particular needs of ~~[a]~~ each county’s voters.

(b) ~~[Voter service centers]~~ In each county, a voter service center shall be open from the tenth business day preceding the day of the election during regular business hours until the [time provided in section 11-131 on the date of the election] closing hour of voting and at the same times statewide. The clerks may operate additional voter service centers with varying days or hours of operation to service the voters of particular areas that otherwise could not support the operation of a voter service center for ten business days or the same times statewide. Anyone standing in line at a voter service center at the closing hour of voting with the intent of voting shall be permitted to do so. A person eligible to vote but who is not registered to vote standing in line at a voter service center at the closing hour of voting shall be permitted to apply under section 11-15.2 to register to vote and subsequently vote that election day. To the extent the registration clerk determines the applicant to be registered at that time, the applicant will be permitted to vote a regular ballot. If additional time is required to process the application, the applicant shall be provided a provisional ballot.”

2. By amending subsection (d) to read:

“(d) The clerks may designate and provide for places of deposit to be open ~~[five business days before the election until 7:00 p.m. on the day of the election;]~~ as early as the mailing of ballots by the clerks; provided that the locations and apparatus for receiving voted ballots can be securely maintained during the period of use for each election, and as may be permitted by the operational hours.”

SECTION 25. Section 11-117, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) On receipt of the notice of death, withdrawal, or upon determination of disqualification, the chief election officer or the clerk shall inform the chairperson of the political party of which the person deceased, withdrawing, or disqualified was a candidate. When a candidate dies, withdraws, or is disqualified after the close of filing and the ballots have been printed, the chief election officer or the clerk may order the candidate’s name stricken from the ballot or order that a notice of the death, withdrawal, or disqualification be prominently posted at the appropriate ~~[polling places]~~ voter service centers on election day.”

SECTION 26. Section 11-131, Hawaii Revised Statutes, is amended to read as follows:

“**§11-131 Voter service center hours.** The hours of voting at voter service centers shall be:

- (1) Regular business hours as prescribed in section 11-109 and by the clerk; and
- (2) On an election day, from 7:00 a.m. until ~~[7:00 p.m. of that day.]~~ the closing hour of voting.

If, at ~~[7:00 p.m. on an election day,]~~ the closing hour of voting, any voter is standing in line at a voter service center with the desire of entering and voting, but due to the voter service center being overcrowded has been unable to do so, the voter shall be allowed to vote. No voter shall be permitted to enter or join the line after the prescribed hours of voting specified in this section.”

SECTION 27. Section 11-132, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Election officials shall post in a conspicuous place, before operation of voting service centers or places of deposit, a map designating an area of two hundred feet from the perimeter of any voter service center, place of deposit, and its appurtenances. Any person who remains or loiters within this specified area for the purpose of campaigning shall be guilty of a misdemeanor. For the purposes of this section, a voter service center, place of deposit, and its appurtenances shall include:

- (1) The building in which a voter service center, place of deposit, or its appurtenances are located;
- (2) Any parking lot adjacent to the building and routinely used for parking at that building;
- (3) The routes of access between the building and any parking lot; ~~[and]~~
- (4) Any route of access between any public thoroughfare (right of way) and the voter service center, place of deposit, or its appurtenances, to ensure an open and accessible ingress and egress to and from the voter service center, place of deposit, or appurtenances for voters[-]; and
- (5) Any area at a voter service center, place of deposit, or its appurtenances designated for voters waiting to vote.”

SECTION 28. Section 11-138, Hawaii Revised Statutes, is amended to read as follows:

“§11-138 Time allowed voters. A voter shall be allowed to remain in the voting booth for five minutes, and having voted the voter shall at once emerge and leave the voting booth. If the voter refuses to leave when so requested by a majority of [~~precinct~~] voter service center officials after the lapse of five minutes, the voter shall be removed by the [~~precinct~~] voter service center officials.”

SECTION 29. Section 11-153, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The chief election officer or the clerk shall make a list of all [~~districts~~] precincts in which an overage or underage occurred and the amount of the overage or underage. This list shall be filed and kept as a public record in the office of the chief election officer or the clerk in county elections.

An election contest may be brought under part XI, if the overage or underage in any [~~district~~] precinct could affect the outcome of an election.”

SECTION 30. Section 11-155, Hawaii Revised Statutes, is amended to read as follows:

“§11-155 Certification of results of election. On receipt of certified tabulations from the election officials concerned, the chief election officer, or county clerk in a county election, shall compile, certify, and release the election results by district and precinct after the expiration of the time for bringing an election contest. The certification shall be based on a comparison and reconciliation of the following:

- (1) The results of the canvass of ballots conducted pursuant to chapter 16;
- (2) The audit of [~~pollbooks (and related record books)]~~ records and resultant overage and underage report;
- (3) The audit results of the manual audit team;
- ~~[(4) The results of the absentee ballot reconciliation report compiled by the clerks;~~
- ~~(5)]~~ (4) The results of any mandatory recount of votes conducted pursuant to section 11-158; and
- ~~[(6)]~~ (5) All logs, tally sheets, and other documents generated during the election and in the canvass of the election results.

A certificate of election or a certificate of results declaring the results of the election as of election day shall be issued pursuant to section 11-156; provided that in the event of an overage or underage, a list of all precincts in which an overage or underage occurred shall be attached to the certificate. The number of candidates to be elected receiving the highest number of votes in any election district shall be declared to be elected. Unless otherwise provided, the term of office shall begin or end as of the close of [~~polls~~] voter service centers on election day. The position on the question receiving the appropriate majority of the votes cast shall be reflected in a certificate of results issued pursuant to section 11-156.”

SECTION 31. Section 11-172, Hawaii Revised Statutes, is amended to read as follows:

“§11-172 Contests for cause; generally. With respect to any election, any candidate, or qualified political party directly interested, or any thirty voters of any election district, may file a complaint in the supreme court. The complaint shall set forth any cause or causes, such as but not limited to, provable fraud, overages, or underages, that could cause a difference in the election results. The complaint shall also set forth any reasons for reversing, correcting,

or changing the decisions of the [preinnet] voter service center officials or the officials at a counting center in an election using the electronic voting system. A copy of the complaint shall be delivered to the chief election officer or the clerk in the case of county elections.”

SECTION 32. Section 11-174.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) In cases involving general, special general, special, or runoff elections the complaint shall be heard by the supreme court in which the complaint was filed as soon as it reasonably may be heard. On the return day, the court, upon its motion or otherwise, may direct summons to be issued to any person who may be interested in the result of the proceedings.

At the hearing, the court shall cause the evidence to be reduced to writing and shall give judgment, stating all findings of fact and of law. The judgment may invalidate the general, special general, special, or runoff election on the grounds that a correct result cannot be ascertained because of a mistake or fraud on the part of the [preinnet] voter service center officials; or decide that a certain candidate, or certain candidates, received a majority or plurality of votes cast and were elected. If the judgment should be that the general, special general, special, or runoff election was invalid, a certified copy thereof shall be filed with the governor, and the governor shall duly call a new election to be held not later than one hundred twenty days after the judgment is filed. If the court shall decide which candidate or candidates have been elected, a copy of that judgment shall be served on the chief election officer or county clerk, who shall sign and deliver to the candidate or candidates certificates of election, and the same shall be conclusive of the right of the candidate or candidates to the offices.”

SECTION 33. Section 15-2, Hawaii Revised Statutes, is amended to read as follows:

“§15-2 **Who may vote by absentee ballot.** Any person registered to vote may cast an absentee ballot in any election, including an election conducted by mail, in the manner provided in this chapter and rules adopted by the chief election officer.”

SECTION 34. Section 15-2.5, Hawaii Revised Statutes, is amended by amending its title and subsections (a) and (b) to read as follows:

“§15-2.5 **Voting by mail in [district] precinct affected by natural disasters.**

(a) If the chief election officer and clerk of a county affected as a result of a natural disaster determine that the opening of a designated voter service center will adversely affect the health and safety of voters or [preinnet] voter service center officials, the chief election officer and county clerk, by written order, may require the registered voters of any [district] precinct to vote by mail as provided in part VIIA of chapter 11.

(b) Within thirty days after the issuance of such an order, the chief election officer and county clerk shall notify all registered voters in the affected [district] precinct of the issuance of the order.”

SECTION 35. Section 15-5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) If absentee ballots requested under section 15-4 are not received by a voter within five days of an election, if a voter requires a replacement ballot within five days of an election, or if a voter would otherwise not be able to return a properly issued ballot by the close of polls, then a voter may request that absentee ballots be forwarded by electronic transmission; provided that a voter

with special needs, including a disability, may request that a ballot be forwarded by electronic transmission at any time[-], but no earlier than the date that the voter's initial ballot package was or would have been transmitted. Upon receipt of such a request and confirmation that ~~[proper application was made,]~~ the voter has not already voted, the clerk may transmit appropriate ballots, ~~[together with a form requiring the affirmations and]~~ voting information required by section 15-6, and a form containing a waiver of the right to secrecy, as provided by section 11-137. The waiver of the right to secrecy shall not be required if the voted ballot is returned in a signed ballot return identification envelope issued to the voter. The voter may return the voted ballots and executed forms by electronic transmission or mail; provided that they are received by the issuing clerk no later than the ~~[close of polls]~~ closing hour on election day[-] in accordance with section 11-131. Upon receipt, the clerk shall verify compliance with the requirements of section ~~[15-9(e)]~~ 15-9 and prepare the ballots for counting pursuant to section 15-10; provided that if the voter returns multiple voted absentee ballots for the same election, the clerk shall, for purposes of counting ballots, prepare only the first absentee ballot returned that is not spoiled.”

SECTION 36. Section 15-9, Hawaii Revised Statutes, is amended to read as follows:

“§15-9 Return [and], receipt, processing, and treatment of absentee ballots. ~~[(a) The return envelope shall be:~~

- ~~(1) Mailed and must be received by the clerk issuing the absentee ballot no later than the closing hour on election day in accordance with section 11-131; or~~
- ~~(2) Delivered other than by mail to the clerk issuing the absentee ballot, or to a voter service center no later than the closing hour on election day in accordance with section 11-131.~~
- ~~(b) Upon receipt of the return envelope from any person voting under this chapter, the clerk may prepare the ballots for counting pursuant to this section and section 15-10.~~

~~(c) Before opening the return and ballot envelopes and counting the ballots, the return envelopes shall be checked for the following:~~

- ~~(1) Signature on the affirmation statement;~~
- ~~(2) Whether the signature corresponds with the absentee request or register as prescribed in the rules adopted by the chief election officer; and~~
- ~~(3) Whether the person is a registered voter and has complied with the requirements of sections 11-15 and 11-16.~~

~~(d) If any requirement listed in subsection (c) is not met or if the return or ballot envelope appears to be tampered with, the clerk or the absentee ballot team official shall mark across the face of the envelope “invalid” and it shall be kept in the custody of the clerk and disposed of as prescribed for ballots in section 11-154.] An absentee ballot shall be returned, received, processed, and treated in the same manner as a return identification envelope in an election by mail as provided by part VIIA of chapter 11.”~~

SECTION 37. Section 15-11, Hawaii Revised Statutes, is amended to read as follows:

“§15-11 Voting by absentee voter at [polls] a voter service center prohibited. Any person having voted an absentee ballot pursuant to this chapter shall not be entitled to cast a ballot at ~~[the polls]~~ a voter service center on election day. An absentee voter who ~~[does cast]~~ casts a ballot at ~~[the polls]~~ a voter service center shall be guilty of an election offense under section 19-3(5).”

SECTION 38. Section 15-13.5, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§15-13.5]]~~ **Eligibility of voter after absentee ballot cast.** The absentee ballot of any voter who was eligible to vote at the time the ballot was cast shall not be deemed invalid solely because the voter became ineligible to vote after casting the ballot. For the purposes of this section, “cast” means that the voter has:

- (1) Deposited the absentee ballot in the mail for ballots mailed in accordance with section 15-9(a)(1);
- (2) Delivered the absentee ballot to the appropriate county clerk or polling place in accordance with section ~~[15-9(a)(2) or (3)]~~ 15-9; or
- (3) Completed voting in person at an absentee polling place.”

SECTION 39. Section 15D-10, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§15D-10]]~~ **Receipt of voted ballot.** A valid military-overseas ballot shall be counted if it is received by the close of the ~~[polls]~~ voter service center on the day of the election and meets the requirements ~~[prescribed under]~~ for absentee ballots pursuant to section 15-9.”

SECTION 40. Section 16-23, Hawaii Revised Statutes, is amended to read as follows:

“**§16-23 Paper ballot; voting.** Upon receiving the ballot the voter shall proceed into one of the voting booths provided for the purpose, and shall mark the voter’s ballot in the manner prescribed by section 16-22.

The voter shall then leave the booth and deliver the ballot to the ~~[precinct]~~ voter service center official in charge of the ballot boxes. The ~~[precinct]~~ voter service center official shall be sufficiently satisfied that there is but one ballot enclosed, whereupon the ballot shall be immediately dropped into the proper box by the ~~[precinct]~~ voter service center official.”

SECTION 41. Section 16-26, Hawaii Revised Statutes, is amended to read as follows:

“**§16-26 Questionable ballots.** A ballot shall be questionable if:

- (1) ~~[A]~~ The ballot contains any mark or symbol whereby it can be identified, or any mark or symbol contrary to the provisions of law; or
- (2) Two or more ballots are found in the ballot box so folded together as to make it clearly evident that more than one ballot was put in by one person, the ballots shall be set aside as provided below.

Each ballot ~~[which]~~ that is held to be questionable shall be endorsed on the back by ~~[the chairperson of precinct officials with the chairperson’s]~~ a voter service center official with the official’s name or initials, and the word “questionable”. All questionable ballots shall be set aside uncounted and disposed of as provided for ballots in section 11-154.”

SECTION 42. Section 16-27, Hawaii Revised Statutes, is amended to read as follows:

“**§16-27 Number of blank and questionable ballots; record of.** In addition to the count of the valid ballots, the ~~[precinct]~~ voter service center officials shall, as to each separate official ballot, also determine and record the number of totally blank ballots and the number of questionable ballots.”

SECTION 43. Section 16-28, Hawaii Revised Statutes, is amended to read as follows:

“§16-28 Declaration of results. When the [preeinet] voter service center officials have ascertained the number of votes given for each candidate they shall make public declaration of the whole number of votes cast, the names of the persons voted for, and the number of votes for each person.”

SECTION 44. Section 19-6, Hawaii Revised Statutes, is amended to read as follows:

“§19-6 Misdemeanors. The following persons shall be guilty of a misdemeanor:

- (1) Any person who offers any bribe or makes any promise of gain, or with knowledge of the same, permits any person to offer any bribe or make any promise of gain for the person’s benefit to any voter to induce the voter to sign a nomination paper, and any person who accepts any bribe or promise of gain of any kind as consideration for signing the same, whether the bribe or promise of gain be offered or accepted before or after the signing;
- (2) Any person who wilfully tears down, destroys, or defaces any election proclamation, poster, notice, [~~list of voters, visual aids, or~~] facsimile ballot, or election signage issued or posted by authority of law;
- (3) Any person printing or duplicating or causing to be printed or duplicated any ballot, conforming as to the size, weight, shape, thickness, or color to the official ballot so that it could be cast or counted as an official ballot in an election;
- (4) Every person who is disorderly or creates a disturbance whereby any meeting of the board of registration of voters during an election is disturbed or interfered with; or whereby any person who intends to be lawfully present at any meeting or election is prevented from attending; or who causes any disturbance at any election; and every person assisting or aiding or abetting any disturbance;
- (5) Every person who, either in person or through another, in any manner breaks up or prevents, or endeavors to break up or prevent, the holding of any meeting of the board of registration of voters, or in any manner breaks up or prevents, or endeavors to break up or prevent, the holding of any election;
- (6) Any person, other than those designated by section 11-132, who remains or loiters within the area set aside for voting as set forth in section 11-132 during the time appointed for voting;
- (7) Any person, including candidates carrying on any campaign activities within the area described in section 11-132 during the period of time starting one hour before voting opens and ending when voting closes for the purpose of influencing votes. Campaign activities shall include the following:
 - (A) Any distribution, circulation, carrying, holding, posting, or staking of campaign cards, pamphlets, posters, and other literature;
 - (B) The use of public address systems and other public communication media;
 - (C) The use of motor caravans or parades; and
 - (D) The use of entertainment troupes or the free distribution of goods and services;
- (8) Any person who opens a return envelope containing:
 - (A) An absentee ballot voted under chapter 15 other than those persons authorized to do so under chapter 15; or

- (B) A ballot voted by mail under part VIIA of chapter 11 other than those persons authorized to do so under part VIIA of chapter 11;
- (9) Any unauthorized person found in possession of any voting machine or keys thereof; ~~and~~
- (10) Any person other than the postal service or the clerk as authorized in section 11-109, who sponsors, establishes, or displays a collection receptacle for the purpose of receiving voted mail ballots or ballot return envelopes in an election; and
- ~~[(40)]~~ (11) Every person who wilfully violates or fails to obey any of the provisions of law, punishment for which is not otherwise specified in this chapter.”

SECTION 45. Section 353-62, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) In addition to any other responsibility or duty prescribed by law for the Hawaii paroling authority, the paroling authority shall:

- (1) Serve as the central paroling authority for the State;
- (2) In selecting individuals for parole, consider for parole all committed persons, except in cases where the penalty of life imprisonment not subject to parole has been imposed, regardless of the nature of the offense committed;
- (3) Determine the time at which parole shall be granted to any eligible individual as that time at which maximum benefits of the correctional institutions to the individual have been reached and the element of risk to the community is minimal;
- (4) Establish rules of operation to determine conditions of parole applicable to any individual granted parole;
- (5) Provide continuing custody, control, and supervision of paroled individuals;
- (6) Revoke or suspend parole and provide for the authorization of return to a correctional institution for any individual who violates parole or any condition of parole when, in the opinion of the Hawaii paroling authority, the violation presents a risk to community safety or a significant deviation from any condition of parole;
- (7) Discharge an individual from parole when supervision is no longer needed;
- (8) Interpret the parole program to the public in order to develop a broad base of public understanding and support; ~~and~~
- (9) Recommend to the legislature sound parole legislation and recommend to the governor sound parole administration[-]; and
- (10) Notify individuals on parole of their eligibility to vote and provide them with information on how to register and vote.”

SECTION 46. Section 11-181, Hawaii Revised Statutes, is repealed.

SECTION 47. As soon as practicable, the office of elections and the county clerks shall make a determination of the optimal number and placement of voter service centers and places of deposit. In making the determination, the office of elections and the county clerks shall consider the following factors:

- (1) Proximity to public transit;
- (2) Access to free parking;
- (3) Traffic patterns;
- (4) Proximity to communities with low rates of vehicle ownership;

- (5) Time and distance that voters must travel to reach a voter service center or place of deposit;
- (6) Proximity to population centers;
- (7) Proximity to geographically isolated populations;
- (8) Proximity to official language minority communities;
- (9) Proximity to low-income communities;
- (10) Proximity to voters having disabilities;
- (11) The need for alternate voting methods for voters with disabilities;
- (12) Proximity to communities with historically low vote by mail usage; and
- (13) Proximity to communities of eligible voters who are not registered.

SECTION 48. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 49. This Act shall take effect upon its approval.

(Approved July 6, 2021.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 214

S.B. NO. 615

A Bill for an Act Relating to Rentals of Mopeds and Motor Scooters.

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

PART I

SECTION 1. This part shall be known and may be cited as “Lexi’s Law”.

SECTION 2. The legislature finds that wearing a helmet while operating a moped, powered scooter, or other motorized cycle decreases fatalities and serious injuries. In August 2017, Alexis “Lexi” Jenkins, a visitor to Maui who was not wearing a helmet, suffered a fatal accident when the rented moped she was riding collided with a truck.

According to the Hawaii Injury Prevention Plan for 2012-2017, published by the emergency medical services and injury prevention system branch of the department of health, properly worn helmets prevent death and brain injuries. In the event of a crash, helmets reduce the risk of death by forty-two per cent and the risk of a head injury by sixty-nine per cent. The legislature recognizes that wearing a helmet can be a significant factor in helping to reduce fatalities or the severity of injuries in accidents on Hawaii’s roadways.

The purpose of this part is to mitigate fatalities and traumatic brain injuries on Hawaii’s roadways by strengthening helmet safety laws as they relate to mopeds and motor scooters that are rented.

SECTION 3. Chapter 286, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§286- Leased or rented moped or motor scooter; flag required. No person shall lease or rent a moped or motor scooter to another person unless

the moped or motor scooter is equipped with a safety flag that shall extend not less than five feet above the ground and be permanently affixed to the rear of the moped or motor scooter. The safety flag shall be triangular in shape with an area of not less than thirty square inches. The safety flag and the pole that secures the flag to the moped or motor scooter shall be fluorescent orange in color.”

SECTION 4. Section 286-2, Hawaii Revised Statutes, is amended by amending the definition of “motor scooter” to read as follows:

““Motor scooter” means [~~every motorcycle~~]:

- (1) Every motor vehicle that has a handlebar and seating that requires the operator to straddle or sit astride on it and is designed to travel on no more than three wheels in contact with the ground, but excludes a farm tractor; or
- (2) Every motor vehicle that has a steering wheel and seating that does not require the operator to straddle or sit astride on it, and is designed to travel on three wheels in contact with the ground, called an autocycle, which is certified by the manufacturer to comply with all applicable Federal Motor Vehicle Safety Standards as of the date of manufacture,

with a motor [~~which~~] that produces [~~not~~] no more than five horsepower, but excludes a moped.”

SECTION 5. Section 286-81, Hawaii Revised Statutes, is amended to read as follows:

“§286-81 Motorcycle, motor scooter, moped, etc.; protective devices.

(a) No person shall[:

- (1) ~~Operate~~ operate a motorcycle or motor scooter, on any highway in the State unless the person and any passenger the person carries on the motorcycle or motor scooter wears:
 - [(A)] (1) Safety glasses, goggles, or a face shield, in the case of a motorcycle or motor scooter that is not equipped with windscreens or windshields; and
 - [(B)] (2) Any other protective devices, other than a safety helmet, required by rules adopted by the director.

For the purpose of meeting the requirements of this [~~paragraph,~~] subsection, a required device shall meet the specifications and requirements established by rules adopted by the director[;].

[(2) ~~Lease~~] (b) Notwithstanding subsection (a) and section 291C-195, no person shall operate a moped or motor scooter leased from a rental company on any roadway in the State unless the person wears a safety helmet, which shall be provided by the rental company unless the person provides the person’s own safety helmet; provided that this subsection shall not apply to persons who possess a valid license under this chapter to operate a motorcycle or an equivalent license issued from another state. To meet the requirements of this subsection, the safety helmet shall meet the specifications and requirements established by rules adopted by the director.

(c) In addition to the requirements of subsection (b), no person shall lease or rent a motorcycle or motor scooter to another person unless the person furnishes:

- [(A)] (1) Safety glasses, goggles, or a face shield, in the case of a motorcycle or motor scooter that is not equipped with windscreens or windshields; and
- [(B)] (2) Any other protective devices required by the rules adopted by the director for the use of the person or persons intending to

operate or ride as a passenger on the motorcycle or motor scooter; provided that any person to whom a motorcycle or motor scooter is leased or rented may furnish for the person's own use the protective devices required by this part.

For the purposes of meeting the requirements of this ~~[paragraph,]~~ subsection, a required device shall meet the specifications and requirements established by rules adopted by the director~~[-øf]~~.

~~[(3) Sell-øf]~~ (d) No person shall sell, offer for sale, or furnish any safety helmet, safety glasses, goggles, face shield, windscreen, windshield, or other protective devices represented to meet the requirements of this part unless the device meets the specifications and requirements established by rules adopted by the director.

~~[(b)]~~ (e) No person less than eighteen years of age shall operate or ride as a passenger on a motorcycle or motor scooter on any highway in the State unless the person wears a safety helmet securely fastened with a chin strap.

~~[(e)]~~ (f) A safety helmet shall not be required for any person who operates or rides as a passenger on a motorcycle or motor scooter; provided that the motorcycle or motor scooter:

- (1) Has three wheels;
- (2) Is powered by an electric motor;
- (3) Has a full body enclosed cab; and
- (4) Has a seat belt assembly or a child restraint system for the driver and passenger;

and the operator and passenger uses the seat belt or child restraint system pursuant to sections 291-11.5 and 291-11.6.”

SECTION 6. Section 291C-1, Hawaii Revised Statutes, is amended by amending the definition of “motor scooter” to read as follows:

““Motor scooter” means ~~[every motorcycle which]~~:

- (1) Every motor vehicle that has a handlebar and seating that requires the operator to straddle or sit astride on it and is designed to travel on no more than three wheels in contact with the ground, but excludes a farm tractor; or
- (2) Every motor vehicle that has a steering wheel and seating that does not require the operator to straddle or sit astride on it, and is designed to travel on three wheels in contact with the ground, called an autocycle, which is certified by the manufacturer to comply with all applicable Federal Motor Vehicle Safety Standards as of the date of manufacture,

with a motor that produces ~~[not]~~ no more than five horsepower, ~~[and]~~ but excludes a moped.”

SECTION 7. Section 291C-195, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) ~~[No]~~ Notwithstanding section 286-81(b), no person ~~[less]~~:

- (1) Less than fifteen years of age shall drive a moped on a highway, street, roadway, or any other public property in the State~~[-No person less]; and~~
- (2) Less than eighteen years of age shall drive a moped unless the person wears a safety helmet securely fastened with a chin strap.

The safety helmet shall meet the specifications and requirements established by rules adopted by the director.”

PART II

SECTION 8. The purpose of this part is to encourage safety on Hawaii’s roadways through motor vehicle safety standards by prohibiting moped and motor scooter rental companies from renting any moped or motor scooter that has an aftermarket modification to the motor of the moped or the motor of a motor scooter.

SECTION 9. Section 291C-206, Hawaii Revised Statutes, is amended to read as follows:

“§291C-206 **Modifying moped motor; violation.** (a) A motor used to power a moped shall not be modified in any manner except as authorized by the motor manufacturer and any ~~such~~ modification shall not increase the power capacity of the motor above two horsepower (one thousand four hundred ninety-two watts).

(b) No person shall rent or lease to another person any moped or motor scooter that has an aftermarket modification to the motor of the moped or motor scooter that does not comply with this subsection.

~~[(b)]~~ (c) Any person who violates this section shall be fined not more than \$500.”

PART III

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.¹

SECTION 12. This Act shall take effect on July 1, 2021.

(Approved July 6, 2021.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 215

S.B. NO. 764

A Bill for an Act Relating to Human Trafficking.

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

SECTION 1. The legislature finds that on July 23, 2019, the Federal Motor Carrier Safety Administration amended title 49 Code of Federal Regulations parts 383 and 384 to permanently disqualify individuals who have been convicted of a felony involving severe forms of trafficking in persons from driving a commercial motor vehicle. The Federal Motor Carrier Safety Administration rule amendment, which took effect on September 23, 2019, also requires states to come into substantial compliance within three years of the effective date, or face penalties. The issuance of the final rule reflects Congress’ passage of the No Human Trafficking on Our Roads Act, P.L. 115-106, and it being signed into law.

The purpose of this Act is to bring the State into compliance with federal regulations by harmonizing existing state law with the new amendments of the Federal Motor Carrier Safety Administration to permanently disqualify any person from driving a commercial motor vehicle for life, and without the possibility of reinstatement, if the person uses a commercial motor vehicle in the commission of any felony involving severe forms of trafficking in persons as defined in title 22 United States Code section 7102(11).

SECTION 2. Section 286-240, Hawaii Revised Statutes, is amended to read as follows:

“§286-240 Disqualification, cancellation, and downgrade. (a) The examiner of drivers shall disqualify any person from driving a commercial motor vehicle for a period of [~~not~~] no less than one year if convicted of a first violation of:

- (1) Driving a motor vehicle under the influence of alcohol, a controlled substance, or any drug that impairs driving ability;
- (2) Driving a commercial motor vehicle while the alcohol concentration of the driver's blood is 0.04 or more grams of alcohol per two hundred ten liters of breath or 0.04 or more grams of alcohol per one hundred milliliters or cubic centimeters of blood;
- (3) Refusing to submit to a test to determine the driver's alcohol concentration while driving a motor vehicle as required under sections 286-243 and 291E-11;
- (4) Using a motor vehicle in the commission of any felony;
- (5) Leaving the scene of an accident involving the motor vehicle driven by the person;
- (6) Unlawful transportation, possession, or use of a controlled substance while on duty;
- (7) Driving a commercial motor vehicle when, as a result of prior violations committed while operating a commercial motor vehicle, the driver's commercial driver's license or commercial learner's permit is revoked, suspended, or canceled, or the driver is otherwise disqualified from operating a commercial motor vehicle; or
- (8) Causing a fatality through the operation of a commercial motor vehicle, including through the commission of the crimes of manslaughter and negligent homicide in any degree.

(b) The examiner of drivers shall disqualify any person for a period of [~~not~~] no less than three years for any conviction of a violation of any offense listed in subsection (a) that is committed while a hazardous material required to be placarded under title 49 Code of Federal Regulations, part 172, subpart F, is being transported.

(c) The examiner of drivers shall disqualify any person from driving a commercial motor vehicle for life if the person is convicted two or more times for any of the offenses listed in subsection (a).

(d) The examiner of drivers shall disqualify any person from driving a commercial motor vehicle for life if the person uses a motor vehicle in the commission of any felony involving the manufacturing, distributing, or dispensing of a controlled substance, or possession with intent to manufacture, distribute, or dispense a controlled substance.

(e) The examiner of drivers shall disqualify any person from driving a commercial motor vehicle for a period of [~~not~~] no less than sixty days if the person is convicted of two serious traffic violations, or one hundred twenty days if the person is convicted of three serious traffic violations; provided that the violations are committed in a commercial motor vehicle and arise from sepa-

rate incidents occurring within a three-year period. The one hundred twenty-day disqualification period required for a third conviction within three years of a serious traffic violation, as defined in section 286-231, shall be in addition to any other previously imposed period of disqualification. The disqualification periods specified in this subsection shall also apply to offenses committed while operating a noncommercial motor vehicle only if the conviction for the offense results in the revocation, cancellation, or suspension of the driver's license.

(f) The examiner of drivers shall disqualify any person from driving a commercial motor vehicle or from resubmitting an application for a period of ~~not~~ no less than sixty days if the examiner of drivers finds that a commercial driver's license or a commercial learner's permit holder or applicant for a commercial driver's license or commercial learner's permit has falsified information or failed to report or disclose required information either before or after issuance of a commercial driver's license or a commercial learner's permit.

(g) The examiner of drivers shall disqualify any person from driving a commercial motor vehicle for a period of ~~not~~ no less than one hundred eighty days and ~~not~~ no more than one year for a first violation, for at least two years and ~~not~~ no more than five years for a second violation, and at least three years and ~~not~~ no more than five years for a third or subsequent violation of a driver or vehicle out-of-service order committed in a commercial motor vehicle transporting non-hazardous materials arising from separate incidents occurring within a ten-year period.

(h) The examiner of drivers shall disqualify any person from driving a commercial motor vehicle for a period of ~~not~~ no less than one hundred eighty days and ~~not~~ no more than two years for a first violation and for at least three years and ~~not~~ no more than five years for any subsequent violation of a driver or vehicle out-of-service order committed in a commercial motor vehicle transporting hazardous materials required to be placarded under title 49 Code of Federal Regulations, part 172, subpart F, or designed to transport sixteen or more occupants including the driver; provided that each violation arises from separate incidents occurring within a ten-year period.

(i) The examiner of drivers shall disqualify any person from driving a commercial motor vehicle for a period of ~~not~~ no less than sixty days if the person is convicted of a first violation, ~~not~~ no less than one hundred twenty days if the person is convicted of a second violation during any three-year period, and ~~not~~ no less than one year if the person is convicted of a third or subsequent violation during any three-year period of a federal, state, or local law or regulation pertaining to one of the following six offenses at a railroad-highway grade crossing:

- (1) For all drivers who are not required to always stop, failing to slow down and check that the tracks are clear of an approaching train;
- (2) For all drivers who are not required to always stop, failing to stop before reaching the crossing, if the tracks are not clear;
- (3) For all drivers who are always required to stop, failing to stop before driving onto the crossing;
- (4) For all drivers, failing to have sufficient space to drive completely through the crossing without stopping;
- (5) For all drivers, failing to obey a traffic control device or the directions of an enforcement official at the crossing; or
- (6) For all drivers, failing to negotiate a crossing because of insufficient undercarriage clearance.

(j) The examiner of drivers shall disqualify any person from driving a commercial motor vehicle if the driver's driving is determined to constitute an

imminent hazard, as defined in section 286-231 and in accordance with the provisions of title 49 Code of Federal Regulations section 383.52.

(k) Beginning January 30, 2014, if a driver fails to provide the examiner of drivers with the certification required under title 49 Code of Federal Regulations section 383.71(b)(1) or a current medical examiner's certificate if the driver self-certifies according to title 49 Code of Federal Regulations section 383.71(b)(1)(i) that the driver is operating in non-excepted interstate commerce as required by title 49 Code of Federal Regulations section 383.71(h), the examiner of drivers shall mark the commercial driver's license information system driver record as not-certified and initiate a commercial driver's license downgrade.

(l) The examiner of drivers shall permanently disqualify any person from driving a commercial motor vehicle for life without the possibility of reinstatement, if the person uses a commercial motor vehicle in the commission of any felony involving severe forms of trafficking in persons.

(m) As used in this section:

"Commercial sex act" means any sex act on account of which anything of value is given to or received by any person.

"Severe forms of trafficking in persons" means either sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained eighteen years of age; or the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act; or the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery."

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 6, 2021.)

ACT 216

S.B. NO. 765

A Bill for an Act Relating to Operating A Vehicle Under the Influence of an Intoxicant.

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

SECTION 1. Section 291E-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

"Highly intoxicated driver" means a person whose measurable amount of alcohol is:

- (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."

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 or breath 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-38, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

- "(d) The director shall conduct the hearing and have authority to:
- (1) Administer oaths and affirmations;
 - (2) Examine witnesses and take testimony;

- (3) Receive and determine the relevance of evidence;
- (4) Issue subpoenas;
- (5) Regulate the course and conduct of the hearing; and
- ~~[(6) Impose up to the maximum license revocation period as specified under section 291E-41(b)(4); and~~
- (7) (6) Make a final ruling.”

SECTION 4. Section 291E-41, Hawaii Revised Statutes, is amended by amending subsections (a) through (d) to read as follows:

“(a) Unless an administrative revocation is reversed or the temporary permit is extended by the director, administrative revocation shall become effective on the day specified in the notice of administrative revocation. Except as provided in section 291E-44.5, no license ~~[and privilege]~~ to operate a vehicle shall be restored under any circumstances during the administrative revocation period. Upon completion of the administrative revocation period, the respondent may reapply and be reissued a license pursuant to section 291E-45.

(b) Except as provided in ~~[paragraph]~~ paragraphs (4)(A)(ii) and (5) and in section 291E-44.5, the respondent shall keep an ignition interlock device installed and operating in ~~[any vehicle]~~ all vehicles operated by the respondent ~~[operates]~~ during the revocation period. Except as provided in section 291E-5, installation and maintenance of the ignition interlock device shall be at the respondent’s expense. The periods of administrative revocation, with respect to a license ~~[and privilege]~~ to operate a vehicle, that shall be imposed under this part are as follows:

- (1) A 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]~~ ten years preceding the date the notice of administrative revocation was issued;
- (2) ~~[An eighteen-month]~~ A two-year revocation of license ~~[and privilege]~~ to operate a vehicle, if the respondent’s record shows one prior alcohol enforcement contact or drug enforcement contact during the ~~[five]~~ ten years preceding the date the notice of administrative revocation was issued;
- (3) A ~~[two-year]~~ four-year revocation of license ~~[and privilege]~~ to operate a vehicle, if the respondent’s record shows two or more prior alcohol enforcement contacts or drug enforcement contacts during the ~~[five]~~ ten years preceding the date the notice of administrative revocation was issued;
- (4) ~~[A minimum of five years up to a maximum of ten years revocation of license and privilege to operate a vehicle, 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;]~~ For a respondent who is a highly intoxicated driver:
 - (A) If the respondent’s record shows no prior alcohol enforcement contact or drug enforcement contact during the ten years preceding the date the notice of administrative revocation was issued:
 - (i) An eighteen-month revocation of license to operate a vehicle, with mandatory installation of an ignition interlock device in all vehicles operated by the respondent during the revocation period; or
 - (ii) A two-year revocation of license to operate a vehicle, without mandatory installation of an ignition interlock

device in all vehicles operated by the respondent during the revocation period;

- (B) If the respondent's record shows one prior alcohol enforcement contact or drug enforcement contact during the ten years preceding the date the notice of administrative revocation was issued, a three-year revocation of license to operate a vehicle, with mandatory installation of an ignition interlock device in all vehicles operated by the respondent during the revocation period; and
- (C) If the respondent's record shows two or more prior alcohol enforcement contacts or drug enforcement contacts during the ten years preceding the date the notice of administrative revocation was issued, a six-year revocation of license to operate a vehicle, with mandatory installation of an ignition interlock device in all vehicles operated by the respondent during the revocation period;
- (5) 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 for the appropriate revocation period provided in paragraphs (1) to ~~[(4)]~~ (3) or in subsection (c); provided that the respondent shall be prohibited from driving during the period preceding the respondent's eighteenth birthday and shall thereafter be subject to the ignition interlock requirement of this subsection for the balance of the revocation period; or
- (6) For respondents, other than those excepted pursuant to section 291E-44.5(c), who do not install an ignition interlock device in ~~[any vehicle]~~ all vehicles operated by the respondent ~~[operates]~~ during the revocation period, revocation of license ~~[and privilege]~~ to operate a vehicle for the period of revocation provided in paragraphs (1) to ~~[(5)]~~ (4)(A) or in subsection (c); provided that:
 - (A) The respondent shall be absolutely prohibited from driving during the revocation period and subject to the penalties provided by section 291E-62 if the respondent drives during the revocation period; and
 - (B) The director shall not issue an ignition interlock permit to the respondent pursuant to section 291E-44.5;

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.

- (c) If a respondent has refused to be tested after being informed:
 - (1) That the person may refuse to submit to testing in compliance with section 291E-11; and
 - (2) Of the sanctions of this part and then asked if the person still refuses to submit to a breath, blood, or urine test, in compliance with the requirements of section 291E-15,

the revocation imposed under subsection (b)(1), (2), or (3) ~~[- or (4)]~~ shall be for a period of two years, ~~[three years,]~~ four years, or ~~[ten]~~ eight years, respectively.

(d) Whenever a license ~~[and privilege]~~ to operate a vehicle is administratively revoked under this part, the respondent shall be referred to the driver's education program for an assessment, by a certified substance abuse counselor, of the respondent's substance abuse or dependence and the need for treatment. The counselor shall submit a report with recommendations to the director. If the counselor's assessment establishes that the extent of the respondent's substance

abuse or dependence warrants treatment, the director shall so order. All costs for assessment and treatment shall be paid by the respondent.”

SECTION 5. Section 291E-61, Hawaii Revised Statutes, is amended to read as follows:

1. By amending subsection (b) to read:

“(b) A person committing the offense of operating a vehicle under the influence of an intoxicant shall be sentenced without possibility of probation or suspension of sentence as follows:

(1) ~~[(F)]~~ Except as provided in paragraph (4), for the first offense, or any offense not preceded within a ten-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) One-year revocation of license ~~[and privilege]~~ to operate a vehicle ~~[during the revocation period and installation];~~

(C) Installation during the revocation period of an ignition interlock device on ~~[any vehicle]~~ all vehicles operated by the person;

~~[(C)]~~ (D) Any one or more of the following:

(i) Seventy-two hours of community service work;

(ii) No less than forty-eight hours and no more than five days of imprisonment; or

(iii) A fine of no less than \$250 but no more than \$1,000;

~~[(D)]~~ (E) A surcharge of \$25 to be deposited into the neurotrauma special fund; and

~~[(E)]~~ (F) A surcharge, if the court so orders, of up to \$25 to be deposited into the trauma system special fund;

(2) For an offense that occurs within ten years of a prior conviction for an offense under this section ~~[or section 291E-4(a)]~~:

(A) A substance abuse program of at least thirty-six hours, including education and counseling or other comparable programs deemed appropriate by the court;

~~[(A)]~~ (B) Revocation of license to operate a vehicle for no less than ~~[twenty-four months nor]~~ two years but no more than three years ~~[of license and privilege to operate a vehicle during the revocation period and installation];~~

(C) Installation during the revocation period of an ignition interlock device on ~~[any vehicle]~~ all vehicles operated by the person;

~~[(B)]~~ (D) Either one of the following:

(i) No less than two hundred forty hours of community service work; or

(ii) No less than five days but no more than thirty days of imprisonment, of which at least forty-eight hours shall be served consecutively;

~~[(C)]~~ (E) A fine of no less than \$1,000 but no more than \$3,000;

~~[(D)]~~ (F) A surcharge of \$25 to be deposited into the neurotrauma special fund; and

~~[(E)]~~ (G) A surcharge of up to \$50, if the court so orders, to be deposited into the trauma system special fund;

(3) In addition to a sentence imposed under paragraphs (1) and (2), 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) or (2), as applicable. Notwithstanding paragraphs (1) and (2), the revocation period for a person sentenced under this paragraph shall be no less than two years; ~~and]~~

(4) In addition to a sentence imposed under paragraph (1), for a first offense under this section, or an offense not preceded within a ten-year period by a conviction for an offense, any person who is convicted under this section and was a highly intoxicated driver at the time of the subject incident shall be sentenced to an additional mandatory term of imprisonment for forty-eight consecutive hours and an additional mandatory revocation period of six months; 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). Notwithstanding paragraph (1), the revocation period for a person sentenced under this paragraph shall be no less than eighteen months;

(5) In addition to a sentence under paragraph (2), for an offense that occurs within ten years of a prior conviction for an offense under this section, any person who is convicted under this section and was a highly intoxicated driver at the time of the subject incident shall be sentenced to an additional mandatory term of imprisonment of ten consecutive days and an additional mandatory revocation period of one year; 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 (2), as applicable. Notwithstanding paragraph (2), the revocation period for a person sentenced under this paragraph shall be no less than three years; and

[(4)] (6) If the person demonstrates to the court that the person:
 (A) Does not own or have the use of a vehicle in which the person can install an ignition interlock device during the revocation period; or
 (B) Is otherwise unable to drive during the revocation period, the person shall be absolutely prohibited from driving during the period of applicable revocation provided in paragraphs (1) to (3); provided that the court shall not issue an ignition interlock permit pursuant to subsection (i) and the person shall be subject to the penalties provided by section 291E-62 if the person drives during the applicable revocation period.”

2. By amending subsections (g) and (h) to read:

“(g) Notwithstanding any other law to the contrary, any:

- (1) Conviction under this section, section 291E-4(a), or section 291E-61.5;
- (2) Conviction in any other state or federal jurisdiction for an offense that is comparable to operating or being in physical control of a vehicle while having either an unlawful alcohol concentration or an unlawful drug content in the blood or urine or while under the influence of an intoxicant or habitually operating a vehicle under the influence of an intoxicant; or

(3) Adjudication of a minor for a law violation that, if committed by an adult, would constitute a violation of this section or an offense under section 291E-4(a), or section 291E-61.5, shall be considered a prior conviction for the purposes of imposing sentence under this section. Any judgment on a verdict or a finding of guilty, a plea of guilty or nolo contendere, or an adjudication, in the case of a minor, that at the time of the offense has not been expunged by pardon, reversed, or set aside shall be deemed a prior conviction under this section. ~~[No license and privilege revocation shall be imposed pursuant to this section if the person's license and privilege to operate a vehicle has previously been administratively revoked pursuant to part III for the same act; provided that, if the administrative revocation is subsequently reversed, the person's license and privilege to operate a vehicle shall be revoked as provided in this section. There shall be no requirement for the installation of an ignition interlock device pursuant to this section if the requirement has previously been imposed pursuant to part III for the same act; provided that, if the requirement is subsequently reversed, a requirement for the installation of an ignition interlock device shall be imposed as provided in this section.]~~

(h) Whenever a court sentences a person pursuant to subsection (b), it also shall require that the offender be referred to the driver's education program for an assessment, by a certified substance abuse counselor~~[,]~~ deemed appropriate by the court, of the offender's substance abuse or dependence and the need for appropriate treatment. The counselor shall submit a report with recommendations to the court. The court shall require the offender to obtain appropriate treatment if the counselor's assessment establishes the offender's substance abuse or dependence. All costs for assessment and treatment shall be borne by the offender."

SECTION 6. Section 291E-61.5, Hawaii Revised Statutes, is amended to read as follows:

"§291E-61.5 Habitually operating a vehicle under the influence of an intoxicant. (a) A person commits the offense of habitually operating a vehicle under the influence of an intoxicant if:

- (1) The person is a habitual operator of a vehicle while under the influence of an intoxicant; and
 - (2) The person operates or assumes actual physical control of a vehicle:
 - (A) While under the influence of alcohol in an amount sufficient to impair the person's normal mental faculties or ability to care for the person and guard against casualty;
 - (B) While under the influence of any drug that impairs the person's ability to operate the vehicle in a careful and prudent manner;
 - (C) With .08 or more grams of alcohol per two hundred ten liters of breath; or
 - (D) With .08 or more grams of alcohol per one hundred milliliters or cubic centimeters of blood.
- (b) Habitually operating a vehicle while under the influence of an intoxicant is a class C felony.
- (c) For a conviction under this section, the sentence shall be either:
 - (1) An indeterminate term of imprisonment of five years; or
 - (2) A term of probation of five years, with conditions to include:
 - (A) Mandatory revocation of license ~~[and privilege]~~ to operate a vehicle for a period no less than three years but no more than five years~~;~~, with mandatory installation of an ignition interlock device in all vehicles operated by the respondent during the revocation period;

- (B) No less than ten days imprisonment, of which at least forty-eight hours shall be served consecutively;
- (C) A fine of no less than \$2,000 but no more than \$5,000;
- (D) Referral to a certified substance abuse counselor as provided in subsection [(d);] (e);
- (E) A surcharge of \$25 to be deposited into the neurotrauma special fund; and
- (F) ~~May be charged a~~ A surcharge of up to \$50 to be deposited into the trauma system special fund if the court so orders.

In addition to the foregoing, any vehicle owned and operated by the person committing the offense shall be subject to forfeiture pursuant to chapter 712A~~;~~ provided that the department of transportation shall provide storage for vehicles forfeited under this subsection].

(d) For any person who is convicted under this section and was a highly intoxicated driver at the time of the subject incident, the offense shall be a class B felony and the person shall be sentenced to the following:

- (1) An indeterminate term of imprisonment of ten years; or
- (2) A term of probation of five years, with conditions to include the following:
 - (A) Permanent revocation of license to operate a vehicle;
 - (B) No less than eighteen months imprisonment;
 - (C) A fine of no less than \$5,000 but no more than \$25,000; and
 - (D) Referral to a certified substance abuse counselor as provided in subsection (e).

In addition to the foregoing, any vehicle owned and operated by the person who committed the offense shall be subject to forfeiture pursuant to chapter 712A.

[(d)] (e) Whenever a court sentences a person under this section, it shall also require that the offender be referred to the driver’s education program for an assessment, by a certified substance abuse counselor, of the offender’s substance abuse or dependence and the need for appropriate treatment. The counselor shall submit a report with recommendations to the court. The court shall require the offender to obtain appropriate treatment if the counselor’s assessment establishes the offender’s substance abuse or dependence. All costs for assessment and treatment shall be borne by the offender.

[(e)] (f) Notwithstanding any other law to the contrary, whenever a court revokes a person’s driver’s license pursuant to this section, the examiner of drivers shall not grant to the person a new driver’s license until expiration of the period of revocation determined by the court. After the period of revocation is complete, the person may apply for and the examiner of drivers may grant to the person a new driver’s license.

[(f)] (g) Any person sentenced under this section may be ordered to reimburse the county for the cost of any blood or urine tests conducted pursuant to section 291E-11. The court shall order the person to make restitution in a lump sum, or in a series of prorated installments, to the police department or other agency incurring the expense of the blood or urine test.

[(g)] (h) As used in this section:
 “Convicted one or more times for offenses of habitually operating a vehicle under the influence” means that, at the time of the behavior for which the person is charged under this section, the person had one or more times within ten years of the instant offense:

- (1) A judgment on a verdict or a finding of guilty, or a plea of guilty or nolo contendere, for a violation of this section or section 291-4.4 as that section was in effect on December 31, 2001;

- (2) A judgment on a verdict or a finding of guilty, or a plea of guilty or nolo contendere, for an offense that is comparable to this section or section 291-4.4 as that section was in effect on December 31, 2001; or
- (3) An adjudication of a minor for a law or probation violation that, if committed by an adult, would constitute a violation of this section or section 291-4.4 as that section was in effect on December 31, 2001,

that, at the time of the instant offense, had not been expunged by pardon, reversed, or set aside. All convictions that have been expunged by pardon, reversed, or set aside before the instant offense shall not be deemed prior convictions for the purposes of proving the person's status as a habitual operator of a vehicle while under the influence of an intoxicant.

"Convicted two or more times for offenses of operating a vehicle under the influence" means that, at the time of the behavior for which the person is charged under this section, the person had two or more times within ten years of the instant offense:

- (1) A judgment on a verdict or a finding of guilty, or a plea of guilty or nolo contendere, for a violation of section [291-4, 291-4.4, or 291-7 as those sections were in effect on December 31, 2001, or section] 291E-61 or 707-702.5;
- (2) A judgment on a verdict or a finding of guilty, or a plea of guilty or nolo contendere, for an offense that is comparable to section [291-4, 291-4.4, or 291-7 as those sections were in effect on December 31, 2001, or section] 291E-61 or 707-702.5; or
- (3) An adjudication of a minor for a law or probation violation that, if committed by an adult, would constitute a violation of section [291-4, 291-4.4, or 291-7 as those sections were in effect on December 31, 2001, or section] 291E-61 or 707-702.5,

that, at the time of the instant offense, had not been expunged by pardon, reversed, or set aside. All convictions that have been expunged by pardon, reversed, or set aside before the instant offense shall not be deemed prior convictions for the purposes of proving that the person is a habitual operator of a vehicle while under the influence of an intoxicant.

"Examiner of drivers" has the same meaning as provided in section 286-2.

"Habitual operator of a vehicle while under the influence of an intoxicant" means that the person was convicted:

- (1) Two or more times for offenses of operating a vehicle under the influence; or
- (2) One or more times for offenses of habitually operating a vehicle under the influence."

SECTION 7. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 8. 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 9. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 10. This Act shall take effect on July 1, 2021.

(Approved July 6, 2021.)

A Bill for an Act Relating to the School Facilities Agency.

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

PART I

SECTION 1. The purpose of this Act is to rename the school facilities agency to the school facilities authority and clearly describe the powers and responsibilities of the school facilities authority and its school facilities authority board, executive director, and administrative staff by amending part VI, subpart C, chapter 302A, Hawaii Revised Statutes.

PART II

SECTION 2. Chapter 302A, part VI, subpart C, Hawaii Revised Statutes, is amended to read as follows:

“[[C.]] School Facilities [Agency] Authority

[[§302A-1701]] Definitions. As used in this subpart, [“agency”] unless the context clearly requires otherwise:

“Authority” means the school facilities [agency] authority established by section 302A-1702.

“Facilities” includes school classrooms, auditoriums, libraries, office and maintenance buildings, gymnasiums, and athletic fields.

“Project” means the development and construction of new school facilities, including infrastructure; access and other support for new school facilities; major renovation of school facilities; public-private partnership projects; new capital improvement projects funded by the legislature for completion by the authority; acquisition of real property, personal property, or mixed property for new school facilities; and planning, development and leasing of public school land or facilities to private partners pursuant to section 302A-1151.1.

[[§302A-1702]] School facilities [agency;] authority; established. (a) There is established the school facilities [agency;] authority, which shall be a body corporate and a public instrumentality of the State[; for the purpose of implementing this subpart]. The [agency] authority shall be placed within the department for administrative purposes only.

(b) The authority shall employ an executive director exempt from chapters 76 and 89. The governor shall appoint [an] the executive director [to enable the agency to perform its duties. The appointment shall be:

- (1) Exempt from chapter 76 and the term limitation in section 26-34;
- (2) Subject to the advice and consent of the senate; and
- (3) For a term of six years.

If a vacancy occurs during a term, the governor shall appoint an executive director for a six-year term that shall begin on the first date of employment of the new executive director;] in the manner prescribed in section 26-34; provided that the executive director’s term shall be for six years, which shall commence on the day the senate advises and consents to the executive director’s nomination and the executive director shall not be limited in the number of terms served. If a vacancy occurs during a term, the governor shall appoint an interim executive director whose appointment shall expire if the senate does not advise and consent to the nomination of an executive director at the next regular session of the legislature after the vacancy occurs. The salary of the executive director shall be set by the

school facilities board and the executive director shall be included in any benefit program generally applicable to the officers and employees of the State.

- (c) The executive director shall:
- (1) Serve as the [agency's] authority's chief executive officer[;] and chief procurement officer;
 - (2) Be responsible for carrying out the purposes of the [agency;] au-
thority; and
 - (3) Serve on a full-time basis.

§302A-1703 Powers; generally. (a) Except as otherwise limited by this chapter, the [agency] authority shall be responsible for all public school development, planning, and construction related to capital improvement projects assigned by the legislature, governor, or board of education. ~~[The agency shall act as its procurement officer.]~~

~~(b) [Any award of a contract for construction shall be subject to the requirements of section 103D-302; provided that the agency shall give preference to construction bids submitted by a contractor or subcontractor domiciled within the State. Notwithstanding subsection (a), professional services contracts for licensees under chapter 464 shall be procured in accordance with section 103D-304.]~~ The authority shall comply with chapter 103D.

(c) Except as otherwise limited by this chapter, the [agency] authority may also:

- (1) Have a seal and alter the same at its pleasure;
- (2) Subject to subsection (b), make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this subpart;
- (3) Make and alter bylaws for its organization and internal management;
- (4) Adopt rules pursuant to chapter 91 with respect to its projects, operations, properties, and facilities[;], including qualifications for persons and entities wishing to enter into a public-private partnership with the authority, as permitted in paragraph (7);
- (5) ~~Acquire, reacquire,~~ or contract to acquire ~~[or reacquire]~~ by grant or purchase real, personal, or mixed property or any interest therein; to ~~[own, hold, hold title,]~~ clear, improve, and rehabilitate and to sell, assign, exchange, transfer, convey, lease, or otherwise dispose of or encumber the same;
- (6) ~~[Acquire or reacquire by condemnation real, personal, or mixed property or any interest therein for public facilities, including but not limited to streets, sidewalks, parks, schools, and other public improvements;]~~ Acquire property by condemnation pursuant to chapter 101;
- (7) ~~[By itself, or in partnership]~~ Enter into partnerships with qualified persons, including public-private[;] partnerships, as defined in the authority's rules, to acquire, [reacquire,] construct, reconstruct, rehabilitate, improve, alter, or provide for the construction, reconstruction, improvement, or alteration of any project; [own, hold, hold title,] and sell, assign, transfer, convey, exchange, lease, or otherwise dispose of or encumber any project[;]; and in the case of the sale of any project, accept a purchase money mortgage in connection therewith; ~~[and repurchase or otherwise acquire any project that the agency has theretofore sold or otherwise conveyed, transferred, or disposed of;~~
- (8) ~~Arrange or contract for the planning, replanning, opening, grading, or closing of streets, roads, roadways, alleys, or other places, or~~

~~for the furnishing of facilities or for the acquisition of property or property rights or for the furnishing of property or services in connection with a project;~~

- (9)] (8) Grant options to purchase any project or to renew any lease entered into by it in connection with any of its projects, on terms and conditions as it deems advisable;
- [(40)] (9) Prepare or cause to be prepared plans, specifications, designs, and estimates of costs for the construction, reconstruction, rehabilitation, improvement, or alteration of any project, and from time to time to modify the plans, specifications, designs, or estimates;
- [(11)] ~~Provide advisory, consultative, training, and educational services, technical assistance, and advice to any person, partnership, or corporation, either public or private, to carry out the purposes of this subpart, and engage the services of consultants on a contractual basis for rendering professional and technical assistance and advice;~~
- [(12)] (10) Procure insurance against any loss in connection with its property and other assets and operations in amounts and from insurers as it deems desirable;
- [(13)] (11) ~~[Contract]~~ Apply for and accept gifts or grants in any form from any public agency or from any other source, including gifts or grants from private individuals and private entities;
- [(14)] ~~Issue bonds for the purpose of financing any project; and]~~
- (12) Borrow money or procure loan guarantees from the federal government for or in aid of any project the authority is authorized to undertake pursuant to this chapter. Additionally, in connection with borrowing or procurement of loan guarantees, the authority:
 - (A) Shall comply with conditions required by the federal government pursuant to applicable regulation or required in any contract for federal assistance;
 - (B) Shall repay indebtedness incurred pursuant to this section, including any interest thereon;
 - (C) May execute loan and security agreements and related contracts with the federal government;
 - (D) May issue bonds pledging revenues, assessments, or other taxes as security for indebtedness incurred pursuant to this section; and
 - (E) May enter into financing agreements as that term is defined in section 37D-1;
- (13) Appoint or retain by contract one or more attorneys who are independent of the attorney general to provide legal services solely in cases of negotiations in which the attorney general lacks the sufficient expertise: provided that the independent attorney shall consult and work in conjunction with the designated deputy attorney general;
- (14) Use the department of human resources development to recruit, hire, and retain exempt employees, architects, engineers, existing civil service positions, and other technical positions for the development, planning, and construction related to capital improvement projects; and
- (15) Do any and all things necessary to carry out its purposes and exercise the powers given and granted in this subpart.
 - (d) Prior to project approval, the ~~[agency]~~ authority shall consult with the Hawaii state public library system regarding any construction or renovation

projects for school lands that are adjacent to or have Hawaii state public library facilities on them.

~~[[§302A-1704]]~~ **School facilities authority board.** (a) There is established ~~[within the department for administrative purposes only a]~~ the school facilities authority board[-], which shall head and oversee the authority.

(b) ~~The [school facilities] board shall consist of five voting members. The [five voting] members shall:~~

- (1) Be appointed by the governor pursuant to section 26-34;
- (2) Have an interest in public school facilities; ~~[and]~~
- (3) Include one member ~~[representing]~~ actively or previously engaged in the construction industry[-] for at least five years; and
- (4) Serve without compensation but may be reimbursed for expenses, including travel expenses, necessary for the performance of their duties.

(c) ~~The [school facilities] board shall [advise the agency on policies relating to public school development, planning, and construction within the jurisdiction of the agency. The board shall]~~ be responsible for:

- (1) ~~[Advising the agency on preferred strategies to complete construction projects of the agency;]~~ All matters related to the projects the authority is authorized and responsible for initiating and completing under this subpart, including preferred strategies to complete those projects; and
- (2) Evaluating the performance of the authority's executive director on an annual basis.

(d) ~~The [school facilities] board shall select a chairperson by a majority vote of its voting members. A majority of the voting members serving on the board shall constitute a quorum to conduct business. The concurrence of the majority of the voting members serving on the board shall be necessary to make any action of the board valid.~~

(e) ~~The [school facilities] board may form workgroups and subcommittees[-, including with] that include individuals who are not [school facilities] board members, to:~~

- (1) Obtain resource information from construction and education professionals and other individuals as deemed necessary by the [school facilities] board;
- (2) Make recommendations to the [school facilities] board; and
- (3) Perform other functions as deemed necessary by the [school facilities] board to fulfill its duties and responsibilities.

Two or more [school facilities] board members, but less than a quorum, may discuss matters relating to official [school facilities] board business in the course of their participation in a workgroup or subcommittee, and these discussions shall be a permitted interaction as provided for in section 92-2.5; provided that all other provisions of chapter 92 shall apply.

~~[(f) The school facilities board may testify before the legislature on any matter related to its duties and responsibilities.~~

~~(g) Members of the school facilities board shall serve without compensation but may be reimbursed for expenses, including travel expenses, necessary for the performance of their duties.~~

~~(h) No member of the school facilities board shall have any financial interest in any entity that bids on projects authorized by the agency.~~

~~(i) No individual shall be appointed as a member of the school facilities board less than one year after the individual, or an entity having a financial interest owned by the individual, has submitted a bid on a project of the agency.~~

§302A-1705 Use of public lands; acquisition of state lands. (a)

If state lands, other than public lands, under the control and management of another department or agency are required by the [agency] authority for [its] purposes[-] of this chapter, the department or agency having [the] control and management of [those] the required lands, upon a request by the [agency] authority and with the approval of the governor, [may] shall convey title or lease those lands to the [agency] authority upon terms and conditions as may be agreed to by the parties; provided that [any lands for which] at the request of the authority, the department [currently] shall transfer any land to which it holds title [that are agreed to be transferred shall be transferred] to the [agency no later than January 1, 2021.] authority.

(b) If public land set-aside to a department or agency pursuant to section 171-11, is required by the authority for purposes of this chapter, the authority shall submit a request to the governor to withdraw the set-aside and to re-set-aside the land to the authority pursuant to section 171-11.

~~(b)~~ (c) Notwithstanding the foregoing and section 302A-1703(c), no [public] lands shall be conveyed or leased to the [agency] authority as provided in this section if the conveyance or lease would impair any covenant between the State or any county or any department or board thereof and the holders of bonds issued by the State or county, department, or board.

~~(e)~~ (d) [If state] When public lands [held by] transferred to the [agency] authority are no longer needed for school facilities purposes, title to those lands shall be [returned to the public trust administered by] transferred to the department of land and natural resources[-] and the lands shall be reclassified as public lands.

§302A-1706 School facilities special fund. (a) There is established

within the state treasury a special fund to be known as the school facilities special fund into which shall be deposited:

- (1) All moneys the authority receives, including funds appropriated or transferred by the legislature for [any public school development, planning, or construction related to a capital improvement project;] deposit into the special fund;
- (2) [Revenues] Funds collected pursuant to section 302A-1608(a); provided that these moneys shall be deposited into the appropriate sub-account established pursuant to subsection (b);
- (3) Any [other] moneys received by the department in the form of a grant, gift, endowment, or donation for [any public school] the development, planning, or construction [related to a capital improvement project, including funds transferred to the special fund by the agency pursuant to subsection (e);] of new school facilities or major renovations of school facilities; and
- ~~(4)~~ All moneys allocated to the special fund by the governor or board for a project;
- ~~(5)~~ Any other appropriation by the legislature to the special fund; and
- ~~(6)~~ Income and capital gains earned by the special fund.]
- (4) All other moneys received by the authority and not deposited into a trust fund or trust account, including unrestricted grants, gifts, and donations; proceeds from sales of property; rents and other receipts from leases, rights of entry, and the like; and interest, refunds, and other receipts and payments.

(b) The [agency] authority shall establish and appropriately name sub-accounts within the school facilities special fund to accept deposits of revenues from school impact fees that are required to be expended within a specific school

impact district pursuant to section 302A-1608(a) or restricted ~~[to another specific]~~ for a specified purpose pursuant to part V, subpart B of this chapter.

(c) The school facilities special fund shall be administered by the ~~[agency]~~ authority and used to fund any school development, planning, or construction project within the jurisdiction of the ~~[agency.]~~ authority.

(d) Subject to chapter 84, ~~[but]~~ any other law to the contrary notwithstanding, the governor may authorize expenditures from the school facilities special fund of any donation, grant, bequest, and devise of money from any private institution, person, firm, or corporation for the purposes of funding the salaries of the executive director and any officers, agents, and employees of the ~~[agency.]~~ authority. If all or any portion of any salary of the executive director or any officer, agent, or employee of the ~~[agency]~~ authority is funded pursuant to this subsection, the ~~[agency]~~ authority shall submit a report to the legislature detailing the use of any funds authorized under this subsection no later than twenty days prior to the convening of the next regular session following the expenditure authorization.

~~[(e) The agency may transfer any other unencumbered or unrestricted moneys received in the form of grants and donations for school development, planning, or construction to the school facilities special fund.~~

~~(f)~~ (e) The ~~[agency]~~ authority shall submit to the director of finance a report that shall be prepared in the form prescribed by the director of finance and shall identify the total amount of funds in the school facilities special fund that will carry over to the next fiscal year. The ~~[agency]~~ authority shall submit the report to the director of finance within ninety days of the close of each fiscal year and a copy of the information contained in the report to the director of finance shall be included within the ~~[agency's]~~ authority's report to the legislature pursuant to section 302A-1707.

~~(g)~~ (f) Within the school facilities special fund there shall be established accounts and subaccounts as may be necessary from time to time in order to ensure compliance with the Internal Revenue Code, as amended.

§302A-1707 Annual report. At least twenty days prior to the convening of each regular session, the ~~[agency]~~ authority shall submit to the governor, board of education, and legislature, a complete and detailed report of its activities during the prior fiscal year.”

SECTION 3. Act 72, Session Laws of Hawaii 2020, is amended by amending section 5 to read as follows:

“SECTION 5. There are established seven full-time equivalent (7.0 FTE) administrative positions, exempt from chapter 76, Hawaii Revised Statutes, and excluded from chapter 89, Hawaii Revised Statutes, for the school facilities ~~[agency.]~~ authority.”

SECTION 4. Act 72, Session Laws of Hawaii 2020, is amended by amending section 10 to read as follows:

“SECTION 10. The school facilities ~~[agency]~~ authority shall collaborate with the department of education and submit a report to the legislature, no later than twenty days prior to the convening of the regular session of ~~[2021,]~~ 2022, identifying positions of the department of education that should be transferred to the school facilities ~~[agency]~~ authority ~~[established by section 1 of this Act,]~~ including positions responsible for ~~[public school]~~ implementing the provisions of sections 302A-1151.1 and 302A-1151.2, Hawaii Revised Statutes, subpart B, part VI of chapter 302A, Hawaii Revised Statutes, and the development, planning, and construction ~~[related to capital improvement projects,]~~ of public

school facilities that the school facilities authority is authorized to undertake and complete, along with proposed legislation to further implement the transfer of positions and related records and equipment to effectuate the purpose of this Act.”

PART III

SECTION 5. Section 28-8.3, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(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; provided that if the attorney general is requested to provide representation to a court or judicial office by the chief justice or the chief justice’s designee, or to a legislative office by the speaker of the house of representatives and the president of the senate jointly, and the attorney general declines to provide such representation on the grounds of conflict of interest, the attorney general shall retain an attorney for the court, judicial, or legislative office, subject to approval by the court, judicial, or legislative office;
- (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 office of Hawaiian affairs;
- (8) By the department of commerce and consumer affairs for the enforcement of violations of chapters 480 and 485A;
- (9) As grand jury counsel;
- (10) By the Hawaii health systems corporation, or its regional system boards, or any of their facilities;
- (11) By the auditor;
- (12) By the office of ombudsman;
- (13) By the insurance division;
- (14) By the University of Hawaii;
- (15) By the Kahoolawe island reserve commission;
- (16) By the division of consumer advocacy;
- (17) By the office of elections;
- (18) By the campaign spending commission;
- (19) By the Hawaii tourism authority, as provided in section 201B-2.5;
- (20) By the division of financial institutions;
- (21) By the office of information practices; ~~or~~
- (22) By the school facilities authority; or
- ~~[(22)]~~ (23) By a department, if the attorney general, for reasons deemed by the attorney general to be good and sufficient, declines to employ

or retain an attorney for a department; provided that the governor waives the provision of this section.”

SECTION 6. Section 76-16, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The civil service to which this chapter applies shall comprise all positions in the State now existing or hereafter established and embrace all personal services performed for the State, except the following:

- (1) Commissioned and enlisted personnel of the Hawaii National Guard as such, and positions in the Hawaii National Guard that are required by state or federal laws or regulations or orders of the National Guard to be filled from those commissioned or enlisted personnel;
- (2) Positions filled by persons employed by contract where the director of human resources development has certified that the service is special or unique or is essential to the public interest and that, because of circumstances surrounding its fulfillment, personnel to perform the service cannot be obtained through normal civil service recruitment procedures. Any such contract may be for any period not exceeding one year;
- (3) Positions that must be filled without delay to comply with a court order or decree if the director determines that recruitment through normal recruitment civil service procedures would result in delay or noncompliance, such as the Felix-Cayetano consent decree;
- (4) Positions filled by the legislature or by either house or any committee thereof;
- (5) Employees in the office of the governor and office of the lieutenant governor, and household employees at Washington Place;
- (6) Positions filled by popular vote;
- (7) Department heads, officers, and members of any board, commission, or other state agency whose appointments are made by the governor or are required by law to be confirmed by the senate;
- (8) Judges, referees, receivers, masters, jurors, notaries public, land court examiners, court commissioners, and attorneys appointed by a state court for a special temporary service;
- (9) One bailiff for the chief justice of the supreme court who shall have the powers and duties of a court officer and bailiff under section 606-14; one secretary or clerk for each justice of the supreme court, each judge of the intermediate appellate court, and each judge of the circuit court; one secretary for the judicial council; one deputy administrative director of the courts; three law clerks for the chief justice of the supreme court, two law clerks for each associate justice of the supreme court and each judge of the intermediate appellate court, one law clerk for each judge of the circuit court, two additional law clerks for the civil administrative judge of the circuit court of the first circuit, two additional law clerks for the criminal administrative judge of the circuit court of the first circuit, one additional law clerk for the senior judge of the family court of the first circuit, two additional law clerks for the civil motions judge of the circuit court of the first circuit, two additional law clerks for the criminal motions judge of the circuit court of the first circuit, and two law clerks for the administrative judge of the district court of the first circuit; and one private secretary for the administrative director of the courts, the deputy administrative director of the courts, each

- department head, each deputy or first assistant, and each additional deputy, or assistant deputy, or assistant defined in paragraph (16);
- (10) First deputy and deputy attorneys general, the administrative services manager of the department of the attorney general, one secretary for the administrative services manager, an administrator and any support staff for the criminal and juvenile justice resources coordination functions, and law clerks;
 - (11) (A) Teachers, principals, vice-principals, complex area superintendents, deputy and assistant superintendents, other certificated personnel, not more than twenty noncertificated administrative, professional, and technical personnel not engaged in instructional work;
 - (B) Effective July 1, 2003, teaching assistants, educational assistants, bilingual/bicultural school-home assistants, school psychologists, psychological examiners, speech pathologists, athletic health care trainers, alternative school work study assistants, alternative school educational/supportive services specialists, alternative school project coordinators, and communications aides in the department of education;
 - (C) The special assistant to the state librarian and one secretary for the special assistant to the state librarian; and
 - (D) Members of the faculty of the University of Hawaii, including research workers, extension agents, personnel engaged in instructional work, and administrative, professional, and technical personnel of the university;
 - (12) Employees engaged in special, research, or demonstration projects approved by the governor;
 - (13) (A) Positions filled by inmates, patients of state institutions, persons with severe physical or mental disabilities participating in the work experience training programs;
 - (B) Positions filled with students in accordance with guidelines for established state employment programs; and
 - (C) Positions that provide work experience training or temporary public service employment that are filled by persons entering the workforce or persons transitioning into other careers under programs such as the federal Workforce Investment Act of 1998, as amended, or the Senior Community Service Employment Program of the Employment and Training Administration of the United States Department of Labor, or under other similar state programs;
 - (14) A custodian or guide at Iolani Palace, the Royal Mausoleum, and Hulihee Palace;
 - (15) Positions filled by persons employed on a fee, contract, or piecework basis, who may lawfully perform their duties concurrently with their private business or profession or other private employment and whose duties require only a portion of their time, if it is impracticable to ascertain or anticipate the portion of time to be devoted to the service of the State;
 - (16) Positions of first deputies or first assistants of each department head appointed under or in the manner provided in section 6, article V, of the Hawaii State Constitution; three additional deputies or assistants either in charge of the highways, harbors, and airports divisions or other functions within the department of transportation as may be assigned by the director of transportation, with the ap-

- proval of the governor; four additional deputies in the department of health, each in charge of one of the following: behavioral health, environmental health, hospitals, and health resources administration, including other functions within the department as may be assigned by the director of health, with the approval of the governor; an administrative assistant to the state librarian; and an administrative assistant to the superintendent of education;
- (17) Positions specifically exempted from this part by any other law; provided that:
 - (A) Any exemption created after July 1, 2014, shall expire three years after its enactment unless affirmatively extended by an act of the legislature; and
 - (B) All of the positions defined by paragraph (9) shall be included in the position classification plan;
 - (18) Positions in the state foster grandparent program and positions for temporary employment of senior citizens in occupations in which there is a severe personnel shortage or in special projects;
 - (19) Household employees at the official residence of the president of the University of Hawaii;
 - (20) Employees in the department of education engaged in the supervision of students during meal periods in the distribution, collection, and counting of meal tickets, and in the cleaning of classrooms after school hours on a less than half-time basis;
 - (21) Employees hired under the tenant hire program of the Hawaii public housing authority; provided that not more than twenty-six per cent of the authority's workforce in any housing project maintained or operated by the authority shall be hired under the tenant hire program;
 - (22) Positions of the federally funded expanded food and nutrition program of the University of Hawaii that require the hiring of nutrition program assistants who live in the areas they serve;
 - (23) Positions filled by persons with severe disabilities who are certified by the state vocational rehabilitation office that they are able to perform safely the duties of the positions;
 - (24) The sheriff;
 - (25) A gender and other fairness coordinator hired by the judiciary;
 - (26) Positions in the Hawaii National Guard youth and adult education programs;
 - (27) In the state energy office in the department of business, economic development, and tourism, all energy program managers, energy program specialists, energy program assistants, and energy analysts;
 - (28) Administrative appeals hearing officers in the department of human services;
 - (29) In the Med-QUEST division of the department of human services, the division administrator, finance officer, health care services branch administrator, medical director, and clinical standards administrator;
 - (30) In the director's office of the department of human services, the enterprise officer, information security and privacy compliance officer, security and privacy compliance engineer, and security and privacy compliance analyst; ~~and~~
 - (31) The Alzheimer's disease and related dementia services coordinator in the executive office on aging[-]; and

(32) The executive director and seven full-time administrative positions of the school facilities authority.

The director shall determine the applicability of this section to specific positions.

Nothing in this section shall be deemed to affect the civil service status of any incumbent as it existed on July 1, 1955.”

SECTION 7. Section 171-2, Hawaii Revised Statutes, is amended to read as follows:

“§171-2 **Definition of public lands.** “Public lands” means all lands or interest therein in the State classed as government or crown lands previous to August 15, 1895, or acquired or reserved by the government upon or subsequent to that date by purchase, exchange, escheat, or the exercise of the right of eminent domain, or in any other manner; including lands accreted after May 20, 2003, and not otherwise awarded, submerged lands, and lands beneath tidal waters that are suitable for reclamation, together with reclaimed lands that have been given the status of public lands under this chapter, except:

- (1) Lands designated in section 203 of the Hawaiian Homes Commission Act, 1920, as amended;
- (2) Lands set aside pursuant to law for the use of the United States;
- (3) Lands being used for roads and streets;
- (4) Lands to which the United States relinquished the absolute fee and ownership under section 91 of the Hawaiian Organic Act prior to the admission of Hawaii as a state of the United States unless subsequently placed under the control of the board of land and natural resources and given the status of public lands in accordance with the state constitution, the Hawaiian Homes Commission Act, 1920, as amended, or other laws;
- (5) Lands to which the University of Hawaii holds title;
- (6) Lands to which the Hawaii housing finance and development corporation in its corporate capacity holds title;
- (7) Lands to which the Hawaii community development authority in its corporate capacity holds title;
- (8) Lands set aside by the governor to the Hawaii public housing authority or lands to which the Hawaii public housing authority in its corporate capacity holds title;
- (9) Lands to which the department of agriculture holds title by way of foreclosure, voluntary surrender, or otherwise, to recover moneys loaned or to recover debts otherwise owed the department under chapter 167;
- (10) Lands that are set aside by the governor to the Aloha Tower development corporation; lands leased to the Aloha Tower development corporation by any department or agency of the State; or lands to which the Aloha Tower development corporation holds title in its corporate capacity;
- (11) Lands that are set aside by the governor to the agribusiness development corporation; lands leased to the agribusiness development corporation by any department or agency of the State; or lands to which the agribusiness development corporation in its corporate capacity holds title;
- (12) Lands to which the Hawaii technology development corporation in its corporate capacity holds title; ~~and~~
- (13) Lands to which the department of education holds title; and
- (14) Lands to which the school facilities authority holds title;

provided that, except as otherwise limited under federal law and except for state land used as an airport as defined in section 262-1, public lands shall include the air rights over any portion of state land upon which a county mass transit project is developed after July 11, 2005.”

SECTION 8. Section 171-64.7, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) This section applies to all lands or interest therein owned or under the control of state departments and agencies classed as government or crown lands previous to August 15, 1895, or acquired or reserved by the government upon or subsequent to that date by purchase, exchange, escheat, or the exercise of the right of eminent domain, or any other manner, including accreted lands not otherwise awarded, submerged lands, and lands beneath tidal waters that are suitable for reclamation, together with reclaimed lands that have been given the status of public lands under this chapter, including:

- (1) Land set aside pursuant to law for the use of the United States;
- (2) Land to which the United States relinquished the absolute fee and ownership under section 91 of the Organic Act prior to the admission of Hawaii as a state of the United States;
- (3) Land to which the University of Hawaii holds title;
- (4) Land to which the Hawaii housing finance and development corporation in its corporate capacity holds title;
- (5) Land to which the department of agriculture holds title by way of foreclosure, voluntary surrender, or otherwise, to recover moneys loaned or to recover debts otherwise owed the department under chapter 167;
- (6) Land that is set aside by the governor to the Aloha Tower development corporation; or land to which the Aloha Tower development corporation holds title in its corporate capacity;
- (7) Land that is set aside by the governor to the agribusiness development corporation; or land to which the agribusiness development corporation in its corporate capacity holds title;
- (8) Land to which the Hawaii technology development corporation in its corporate capacity holds title;
- (9) Land to which the department of education holds title; ~~and~~
- (10) Land to which the Hawaii public housing authority in its corporate capacity holds title~~[-]; and~~
- (11) Land to which the school facilities authority holds title.”

SECTION 9. Section 302A-1602, Hawaii Revised Statutes, is amended as follows:

1. By adding a new definition to be appropriately inserted and to read: ““Authority” means the school facilities authority established by section 302A-1702.”

2. By amending the definition of “school facilities” to read: ““School facilities” means the facilities owned or operated by the [~~agen-~~ey,] authority or the department, or the facilities included in the [~~agency~~] authority or the department’s capital budget or capital facilities plan.”

SECTION 10. Section 302A-1603, Hawaii Revised Statutes, is amended to read as follows:

“§302A-1603 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 component impact fee or fee in lieu requirement and construction cost component impact fee requirement of the [agency;] authority, including all government housing projects and projects processed pursuant to sections 46-15.1 and 201H-38.

(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 that is or will be paying the transient accommodations tax under chapter 237D;
- (3) All nonresidential development; and
- (4) Any development with an executed education contribution agreement or other like document with the [agency] authority or the department for the contribution of school sites or payment of fees for school land or school construction.”

SECTION 11. Section 302A-1606, Hawaii Revised Statutes, is amended by amending subsections (c) and (d) to read as follows:

“(c) 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 or to satisfy the land component impact fee shall be as follows:

- (1) A new residential development with fifty or more units shall include a written agreement between the owner or developer of the property and the [agency;] authority, executed prior to issuance of a building permit, 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 [agency;] authority; or
 - (B) Agreed to pay to the [agency;] authority, at a time specified in the agreement, a fee in lieu of land dedication;
- (2) A new residential development with less than fifty units shall include a written agreement between the owner or the developer of the property and the [agency;] authority, executed prior to the issuance of the building permit, under which the owner or developer has agreed to a time specified for payment for the fee in lieu;
- (3) Prior to approval of any change of zoning, subdivision, or any other approval for a:
 - (A) Residential development with fifty or more units; or
 - (B) Condominium property regime development of fifty or more units,
 the [agency] authority shall notify the approving [agency] entity of its determination on whether it will require the development to dedicate land, pay a fee in lieu thereof, or a combination of both for the provision of new school facilities;
- (4) The [agency’s] authority’s determination to require land dedication or the payment of a fee in lieu, or a combination of both, 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;
- (5) The determination of the [agency] authority as to whether lands shall be dedicated or whether a fee in lieu shall be paid, or a combination of both, shall be final;
 - (6) 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; and
 - (7) 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.
- (d) 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 [agency] authority does not agree with the developer's appraisal, the [agency] authority 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 [agency] authority and the developer, and the third appraisal shall be binding on both parties."

SECTION 12. Sections 302A-1604, 302A-1605, 302A-1607, 302A-1609, 302A-1610, 302A-1611, and 302A-1612, Hawaii Revised Statutes, are amended by substituting the word "authority" wherever the word "agency" appears.

SECTION 13. Section 302A-1151.1, Hawaii Revised Statutes, is amended as follows:

1. By substituting the term "school facilities authority", or similar term, wherever the word "department" appears.
2. By substituting the term "school facilities authority" wherever the word "board" or "board of education" appears.

PART IV

SECTION 14. All rules, policies, procedures, guidelines, and other materials relating to the school impact fees adopted or developed by the department of education to implement provisions of the Hawaii Revised Statutes that are reenacted or made applicable to the school facilities authority by Act 72, Session Laws of Hawaii 2020, shall remain in full force and effect until amended or repealed by the school facilities authority pursuant to chapter 91, Hawaii Revised Statutes. In the interim, every reference to the department of education, board of education, chairperson of the board of education, or superintendent of education relating to the school impact fees in those rules, policies, procedures, guidelines, and other material is amended to refer to the school facilities authority, executive director of the school facilities authority, school facilities board, or chairperson of the school facilities board, as appropriate.

SECTION 15. All deeds, lease, contracts, loans, agreements, permits, or other documents relating to the school impact fees executed or entered into by or on behalf of the department of education, pursuant to the provisions of the Hawaii Revised Statutes, that are reenacted or made applicable to the school facilities board by Act 72, Session Laws of Hawaii 2020, shall remain in full force

and effect. Effective July 1, 2021, every reference to the department of education, board of education, chairperson of the board of education, or superintendent of education relating to the school impact fees in those deeds, leases, contracts, loans, agreements, permits, or other documents shall be construed as a reference to the school facilities authority, executive director of the school facilities authority, school facilities board, or chairperson of the school facilities board, as appropriate.

SECTION 16. The department of education shall transfer the total fund balance in the state educational facilities improvement fund as of September 15, 2020, and all encumbrances against that fund open and outstanding as of that date, to the school facilities special fund no later than one hundred eighty days of the effective date of this Act.

SECTION 17. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 18. This Act shall take effect on July 1, 2021.
(Approved July 6, 2021.)

ACT 218

S.B. NO. 791

A Bill for an Act Relating to Vessels.

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

SECTION 1. The legislature finds that vessel ownership and operation come with many responsibilities and that vessels likewise pose significant threats to natural resources and to public health and safety if abandoned, neglected, or left in disrepair. The legislature recognizes that unauthorized, abandoned, grounded, and derelict vessels on state property and in the waters of the State must be removed as soon as possible to minimize the hazards posed to the public while balancing the vessel owner’s right to due process.

Since 2002, the division of boating and ocean recreation within the department of land and natural resources has expended in excess of \$2,340,000 from the boating special fund to address unauthorized, abandoned, grounded, and derelict vessels on state property or in the waters of the State. However, under existing law, in many instances, by the time the department of land and natural resources may begin removing an unauthorized, abandoned, grounded, or derelict vessel, the condition of the vessel has deteriorated, further complicating removal efforts and increasing the potential to create threats to public health, public safety, and natural resources.

The purpose of this Act is to amend provisions regarding the designation, impoundment, and disposal of unauthorized, abandoned, grounded, and derelict vessels on state property or in the waters of the State to facilitate faster responses of these proceedings.

SECTION 2. Section 200-16, Hawaii Revised Statutes, is amended to read as follows:

“§200-16 [Mooring of unauthorized vessel in state small boat harbors and offshore mooring areas;] Unauthorized vessels; impoundment and disposal proceedings. (a) [No person shall moor a vessel in a state small boat harbor or offshore mooring area without obtaining a use permit; nor shall a person continue to

moor a vessel in any state small boat harbor or offshore mooring area if the use permit authorizing the vessel to moor has expired or otherwise been terminated.] A vessel moored without a valid use permit or moored with a use permit that has expired or been terminated [is] shall be deemed an unauthorized vessel [and is subject to] in violation of this section~~[-]~~ and shall be subject to impoundment and disposal.

(b) The department shall ~~[cause to be placed]~~ place upon, or as near to ~~[the]~~ an unauthorized vessel as possible, a notice to remove the vessel, which shall, at a minimum, indicate that the vessel is in violation of this section, the date and time the notice was posted, and that the vessel ~~[must]~~ shall be removed within seventy-two hours ~~[from]~~ of the time that the notice was posted~~[-]~~; provided that if the vessel is in imminent danger of breaking up on state submerged land, a shoreline, or a coral reef, the notice shall indicate that the owner shall commence effective salvage operations within twenty-four hours of the time that the notice was posted.

(c) An unauthorized vessel may be impounded by the department at the sole risk and expense of the owner of the vessel~~[-]~~ if the vessel is not removed after the ~~[seventy-two hour]~~ period ~~[or]~~ specified in subsection (b). Calculation of the time period shall not restart if, during that period, the vessel is [removed and removed in the harbor or mooring or anchorage area or any other state harbor or mooring or anchorage area without a use permit.] moved anywhere in the waters of the State or to any public property and remains in violation of this section. The owner of the vessel shall be solely responsible for all costs of the impoundment and the disposal of the unauthorized vessel. All owners of unauthorized vessels that are impounded by the department shall be responsible for paying impound storage fees to the department while the vessel remains impounded and until the time that the vessel is returned to the custody of a person entitled to possession. Impound storage fees shall be equal to the rate set by the department for vessels moored without a valid permit. Any proceeds [resulting from] collected by the department in relation to the impoundment and the disposal of the unauthorized vessel shall be used first to pay for the costs of impoundment and disposal [and], then to pay for any additional costs related to the impoundment and disposal, then to pay for any outstanding mooring fees due[-] to the department from the owner, and then to the general fund. If the proceeds resulting from the impoundment and the disposal are inadequate to pay for all costs and mooring fees due, the owner of the unauthorized vessel shall remain liable for ~~[the] paying the department any and all~~ outstanding costs and mooring fees[-] due.

(d) Custody of an unauthorized vessel shall be returned to the person entitled to possession only upon payment ~~[to the department]~~ in full of all fees and costs due~~[-]~~ to the department and any and all fines levied by the department or a court~~[-]~~ of competent jurisdiction. In addition, the department, within seventy-two hours of impoundment, shall send by certified mail, return receipt requested, a notice of impoundment to the registered or documented owner or any lien holder or operator of the impounded vessel on record with the department or the United States Coast Guard. The owner, lien holder, or operator of the impounded vessel shall have ~~[ten]~~ five working days after receipt of notice of impoundment of the vessel to request ~~[in writing]~~ an administrative hearing. ~~[This]~~ A request for an administrative hearing [is] under this subsection shall:

- (1) Be made in writing to the department;
- (2) Not be deemed delivered until the time that the department receives the written request; and

- (3) Be solely for the purpose of allowing the owner, lien holder, or operator of an impounded vessel to contest the basis given by the department for the impoundment of the vessel.

The administrative hearing [must] shall be held within five working days of [~~the department's receipt~~] delivery of the written request. The department [~~shall~~] may adopt rules pursuant to chapter 91 to implement the requirement for this post-seizure administrative hearing process.

(e) Any unauthorized vessel impounded under this section[~~, which~~] that remains unclaimed for more than [~~thirty~~] ten working days by the registered or documented owner, a lien holder, or operator of record[~~;~~] may be sold by the department at public auction. If the department does not, or is unable to, sell the vessel at public auction, [or if its appraised value is less than \$5,000 as determined by an independent appraiser with at least one year of experience in the sale and purchase of vessels,] the department, after giving public notice of intended disposition, if that notice was not previously included in a public auction notice, may sell the vessel by negotiation, retain and use the vessel, donate [it] the vessel to any other government agency, or dispose of [it] the vessel as junk."

SECTION 3. Section 200-41, Hawaii Revised Statutes, is amended to read as follows:

“§200-41 [Disposition of certain abandoned] Abandonment of vessels.

(a) No person shall abandon any vessel in the waters of the State or on any property, other than the property of the vessel owner, without the consent of the property owner.

[~~(a) Any~~] (b) A vessel [may be deemed] shall be presumed abandoned if [the]:

(1) The vessel has been moored, anchored, or otherwise left unattended in the waters of the State or on public property [contrary to law or rules having the force and effect of law, or left] for more than seventy-two hours without a valid use permit;

(2) The vessel has been left unattended on private property without authorization of the owner or occupant of the property [if:

(1) The vessel's registration certificate or marine document has expired and the registered owner no longer resides at the address listed in the vessel registration or marine document records of the department or the United States Coast Guard;] for more than seventy-two hours;

(2) (3) The last registered owner of record disclaims ownership and the current owner's name or address cannot be determined;

(3) The vessel identification numbers and other means of identification have been removed so as to hinder or nullify efforts to locate or identify the owner;

(4) The vessel registration records of the department of land and natural resources and the marine document records of the United States Coast Guard contain no record that the vessel has ever been registered or documented and the owner's name or address cannot be determined; or]

(4) The vessel does not have a valid registration certificate or United States Coast Guard documentation and has been moored, anchored, or otherwise left unattended in the waters of the State or on public property for more than seventy-two hours; or

(5) The requirements of section 200-52 are met.

[~~(b)~~] (c) The determination of whether a vessel is abandoned on public property may be made by:

- (1) The chairperson, or the chairperson's authorized representative, with regard to public property under the jurisdiction of the department [of land and natural resources]; [or]
- (2) Any other state department or agency through its director, with regard to public property within the department or agency's respective jurisdiction; or
- (3) Any county through its mayor or the mayor's designee, or chief of police, with regard to public property within the respective county's jurisdiction; provided that the department shall provide to the respective county access to the department's vessel registration and marine document records or those of the United States Coast Guard for the purposes of this section.

Once a vessel is deemed abandoned[;] in the waters of the State or on public property, the appropriate official under this subsection may direct and cause the vessel to be taken into custody and disposed of pursuant to, and in the manner provided in, this [chapter:] part. All owners of abandoned vessels that are impounded by the department shall be responsible for paying impound fees to the department while the vessel remains impounded and until the vessel is returned to the custody of a person entitled to possession or disposed of by the department. Impound storage fees shall be equal to the rate set by the department for vessels moored without a valid permit.

[(e)] (d) All vessels abandoned on private property shall be the responsibility of the private property owner.

(e) Any person who abandons a vessel in the waters of the State or on public property shall be guilty of a petty misdemeanor and shall be fined not more than \$1,000 or imprisoned not more than thirty days, or both, for each offense. Each day of each violation shall be deemed a separate offense. All criminal fines collected pursuant to this subsection shall be deposited into the general fund in accordance with section 706-643. It shall be an affirmative defense to prosecution that a vessel was abandoned during a national emergency declared by the President or Congress of the United States, or a state of emergency declared by the governor, or as otherwise approved in writing by the chairperson, or the chairperson's designee; provided that the defense shall be valid only for the duration of the declared emergency or written approval."

SECTION 4. Section 200-42, Hawaii Revised Statutes, is amended to read as follows:

"§200-42 Notice to owner. (a) A state or county agency, upon taking custody of any vessel[;] deemed abandoned pursuant to section 200-41, shall immediately post a written notice on the vessel and send a duplicate original by registered or certified mail, with a return receipt requested, to any owner registered with the department or documented by the United States Coast Guard or any lien holder or operator of the vessel on record with the department or the United States Coast Guard at their respective last known address on record with the department or the United States Coast Guard. The notice shall contain a brief description of the vessel, the location of custody, and the intended disposition of the vessel if not repossessed within [twenty] ten working days after the mailing of the notice. [Such owner, lien holder, or operator, of the vessel shall have ten days after receipt of the mailed notice to request in writing an administrative hearing pursuant to chapter 91 from the state or county agency that took custody of the vessel. This administrative hearing is solely for the purpose of allowing the owner, lien holder, or operator of an impounded vessel to contest the basis given for the impoundment of the vessel. The hearing shall be held within five working days of the state or county agency's receipt of the written request.]

(b) The owner, lien holder, or operator of the vessel shall have five working days after receipt of notice of impoundment of the vessel to request an administrative hearing from the state or county agency that took custody of the vessel. A request for administrative hearing shall:

- (1) Be made in writing to the state or county agency that took custody of the vessel;
- (2) Not be deemed delivered until the time that the agency receives the written request; and
- (3) Be solely for the purpose of allowing the owner, lien holder, or operator of an impounded vessel to contest the basis given by the agency for the impoundment of the vessel.

The administrative hearing shall be held within five working days of delivery of the written request.”

SECTION 5. Section 200-43, Hawaii Revised Statutes, is amended to read as follows:

“§200-43 Public auction[-]; disposition of abandoned vessels. [If the vessel is not repossessed within twenty days after the mailing of the notice, the vessel shall be disposed of by public auction, through oral tenders, or by sealed bids, after public notice has been given at least once; provided that the public auction shall not be held less than five days after the notice is given. Where no bid is received, the vessel may be sold by negotiation, disposed of as junk, or donated to any governmental agency.] Any abandoned vessel impounded under this part that remains unclaimed by the registered or documented owner, lien holder, or operator of record for more than ten working days after mailing of the notice required by section 200-42 may be sold at public auction by the state or county agency that took custody of the vessel. If the agency does not, or is unable to, sell the vessel at public auction, the agency, after giving public notice of intended disposition, may sell the vessel by negotiation, retain and use the vessel, donate the vessel to any other government agency, or dispose of the vessel as junk.”

SECTION 6. Section 200-47.5, Hawaii Revised Statutes, is amended by amending subsections (b) to (g) to read as follows:

“(b) Solely for the purposes of removal and with no liability to the department, the department may immediately assume control of any vessel that is grounded on state submerged land, a shoreline, or a coral reef [ø]; in imminent danger of breaking up; and cannot be removed by the owner within twenty-four hours from the time the vessel [is] was grounded; provided that this subsection shall not apply [if]:

- (1) During a national emergency declared by the President or Congress of the United States;
- (2) During a state of emergency declared by the governor;
- (3) If the owner or owner’s representative has received notice from the department and has commenced effective salvage operations[-]; or
- (4) If otherwise approved in writing by the chairperson or the chairperson’s designee.

(c) [Vessels] Except during a national emergency declared by the President or Congress of the United States, or a state of emergency declared by the governor, or as otherwise approved in writing by the chairperson or the chairperson’s designee, vessels grounded on a sand beach, sandbar, or mudflat [and not in imminent danger of breaking up] shall be removed by the owner or operator within seventy-two hours[-, unless otherwise agreed to by the department].

(d) Solely for the purposes of removal and with no liability to the department, the department may immediately assume control of any vessel that is grounded on a sand beach, sandbar, or mudflat [and]; not in imminent danger of breaking up [that is]; and not removed by the owner in a manner that is reasonably safe, as determined by the department, within seventy-two hours of notification to the vessel owner or the owner's representative; provided that this subsection shall not apply [if]:

(1) During a national emergency declared by the President or Congress of the United States;

(2) During a state of emergency declared by the governor;

(3) If the owner or owner's representative has received notice from the department and has commenced effective salvage operations[-]; or

(4) If otherwise approved in writing by the chairperson or the chairperson's designee.

(e) Once the department assumes control [over the] of a vessel[-] pursuant to this section, the vessel shall be removed by conventional salvage methods if possible, and if not possible, then by any means necessary[-] to minimize damage to the natural resources and not become a hazard to navigation.

(f) All costs and expenses [of] related to removing the vessel and damage to state or private property shall be the sole responsibility of the vessel's owner or operator. The department may take legal action to collect any costs or expenses incurred by the department for any removal under this section. All moneys collected shall be deposited [in] into the boating special fund.

(g) Any person who renders assistance to the department when it acts pursuant to subsection (b) or [(e)] (d) and any person who, in good faith and without remuneration or expectation of remuneration, renders assistance at the scene of a vessel:

(1) Grounded on state submerged land, a shoreline, or a coral reef;

(2) In imminent danger of breaking up; or

(3) Grounded on a sand beach, sandbar, or mudflat [~~and not in imminent danger of breaking up~~],

shall not be liable for any civil damages resulting from the person's acts or omissions in providing or arranging towage or other assistance, except for damages caused by the person's gross negligence or wanton acts or omissions."

SECTION 7. Section 200-49, Hawaii Revised Statutes, is amended by amending subsections (b) and (c) to read as follows:

"(b) The owner, lien holder, or operator of the vessel shall have [~~ten~~] five working days after the date of the public notice or receipt of the mailed notice, whichever occurs later, to request [~~in writing~~] an administrative hearing. [~~This~~] A request for an administrative hearing [is] shall be made in writing to the department, shall not be deemed delivered until the time that the department receives the written request, and shall be solely for the purpose of allowing the owner, lien holder, or operator of [an] the impounded vessel to contest the basis given by the department for the impoundment of the vessel. The administrative hearing [must] shall be held within five working days of [the department's receipt] delivery of the written request.

(c) If the vessel is not repossessed within [~~twenty~~] ten working days after the date of the public notice or mailing of the notice, whichever occurs later, the vessel may be disposed of by negotiated sale except that, when two or more purchasers indicate an interest in purchasing the vessel, the vessel [~~will~~] shall be sold at public auction to the highest bidder[, ~~unless the vessel is exempt from public auction under section 200-45~~]. If no purchaser expresses a desire to pur-

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chase the vessel, the vessel may be destroyed or donated to any governmental agency.”

SECTION 8. Section 200-45, Hawaii Revised Statutes, is repealed.

SECTION 9. Statutory material to be repealed is bracketed and stricken.¹ New statutory material is underscored.

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

(Approved July 6, 2021.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 219

S.B. NO. 1015

A Bill for an Act Relating to the Comptroller.

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

SECTION 1. The legislature finds that the coronavirus disease 2019 pandemic has required many state employees to work from home or other remote locations to maintain social distancing and prevent the spread of the SARS-CoV-2 virus. However, the relocation of state employees to non-traditional work environments has left an indelible impression on the possibilities of how state work can be accomplished.

The legislature has also determined that working from home or other off-worksites locations has demonstrated the cost-effectiveness and productivity of public services. Remote teleworking can and should continue to remain an important option for state employees who can accomplish their duties outside of their traditional work environment. Social distancing and decreasing employees' physical presence in state facilities can continue to provide a defense against the spread of infectious diseases as well as enable more cost-efficient use of state office facilities.

The legislature also finds that employees working off-site enables the State to make better use of its limited resources, including but not limited to office space, furnishing, equipment, electrical and data requirements, storage space, and other traditional needs of employees who work at state facilities. State facilities can also be adjusted and consolidated to accommodate workers from various state agencies at single locations. Employees who can accomplish the same work from an off-site location may prefer to work at home to accommodate the caregiving of keiki and kupuna. These considerations can result in a win-win outcome for both taxpayers and state employees.

The purpose of this Act is to add, as part of the comptroller's state facilities management responsibilities, the assessment and determination of office space requirements, authorization of space allocation, and determination of telework infrastructure requirements for tenants in buildings managed by the department of accounting and general services.

SECTION 2. Chapter 40, Hawaii Revised Statutes, is amended by adding a new section to part I to be appropriately designated and to read as follows:

“§40- Office space management. (a) For state agencies occupying space in facilities managed by the department of accounting and general services or in non-state facilities, the comptroller shall:

- (1) Assess and determine office space requirements;
- (2) Initiate or cancel leases upon the determination of each agency’s requirements;
- (3) Renegotiate existing leases;
- (4) Authorize office space allocation; and
- (5) Determine infrastructure requirements to allow employees to telework.

(b) The comptroller shall reduce the total square footage of space leased by the State as of July 1, 2021, by ten per cent no later than July 1, 2026.

(c) The comptroller shall submit a progress report on the implementation of this section to the legislature no later than twenty days prior to the convening of each regular session beginning in the regular session of 2022.”

SECTION 3. New statutory material is underscored.¹

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

(Approved July 6, 2021.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 220

S.B. NO. 1034

A Bill for an Act Relating to Sunshine Law Boards.

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

SECTION 1. The legislature finds that the coronavirus disease 2019 (COVID-19) pandemic forced the implementation of emergency measures suspending certain requirements of the State’s sunshine law in order to allow boards to continue meeting and conducting necessary business while protecting participants’ health and safety and expanding public access to meetings throughout the State. Due to the emergency stay-at-home orders and travel restrictions, board members, staff, or members of the public could not attend public meetings in person. In lieu of traditional in-person meetings, remote meetings connected people in different physical locations through the use of interactive conference technology and thus enabled and enhanced board and public participation.

The legislature further finds that, based on boards’ experiences with remote meetings during the COVID-19 pandemic, the increased costs of staffing, technological equipment, and resources needed to conduct remote meetings are offset by the savings in time, convenience, and travel costs for board members and participants, especially those from the neighbor islands. During the COVID-19 pandemic, remote meetings helped to prevent the spread of disease, and even when there is not an ongoing pandemic, remote meetings can be a way to protect the health and safety of participants, particularly those who have disabilities or medical conditions that would place them at greater risks during travel or attendance at in-person public meetings.

The legislature additionally finds that the benefits of remote meetings should continue in non-emergency times, requiring permanent amendments to

the sunshine law. For remote meetings not held during times of emergency, there is a need for boards to provide for an in-person meeting location where members of the public can come to observe the remote meeting or testify in person using interactive conference technology equipment provided by the board, without requiring board members to be at the in-person location.

The purpose of this Act is to allow boards the option to use interactive conference technology to conduct remote meetings under the sunshine law, while still retaining the option to conduct traditional in-person meetings at a single meeting site or at multiple meeting sites connected by interactive conference technology.

SECTION 2. Chapter 92, Hawaii Revised Statutes, is amended by adding a new section to part I to be appropriately designated and to read as follows:

“§92- Remote meeting by interactive conference technology; notice; quorum.

(a) A board may hold a remote meeting by interactive conference technology; provided that the interactive conference technology used by the board allows audiovisual interaction among all members of the board participating in the meeting and all members of the public attending the meeting, except as otherwise provided under this section; provided further that there is at least one meeting location that is open to the public and has an audiovisual connection. A board holding a remote meeting pursuant to this section shall not be required to allow members of the public to join board members in person at nonpublic locations where board members are physically present or to identify those locations in the notice required by section 92-7; provided that at the meeting, each board member shall state who, if anyone, is present at the nonpublic location with the member. The notice required by section 92-7 shall:

- (1) List at least one meeting location that is open to the public that shall have an audiovisual connection; and
- (2) Inform members of the public how to contemporaneously:
 - (A) Remotely view the video and audio of the meeting through internet streaming or other means; and
 - (B) Provide remote oral testimony in a manner that allows board members and other meeting participants to hear the testimony, whether through an internet link, a telephone conference, or other means.

The board may provide additional locations open for public participation. The notice required by section 92-7 shall list any additional locations open for public participation and specify, in the event an additional location loses its audiovisual connection to the remote meeting, whether the meeting will continue without that location or will be automatically recessed to restore communication as provided in subsection (c).

(b) For a remote meeting held by interactive conference technology pursuant to this section:

- (1) The interactive conference technology used by the board shall allow interaction among all members of the board participating in the meeting and all members of the public attending the meeting;
- (2) Except as provided in subsections (c) and (d), a quorum of board members participating in the meeting shall be visible and audible to other members and the public during the meeting; provided that no other meeting participants shall be required to be visible during the meeting;
- (3) Any board member participating in a meeting by interactive conference technology shall be considered present at the meeting for the

purpose of determining compliance with the quorum and voting requirements of the board;

- (4) At the start of the meeting the presiding officer shall announce the names of the participating members;
- (5) All votes shall be conducted by roll call unless unanimous; and
- (6) When practicable, boards shall record meetings open to the public and make the recording of any meeting electronically available to the public as soon as practicable after a meeting and until a time as the minutes required by section 92-9 are electronically posted on the board's website.

(c) A meeting held by interactive conference technology shall be automatically recessed for up to thirty minutes to restore communication when audiovisual communication cannot be maintained with all members participating in the meeting or with the public location identified in the board's notice pursuant to subsection (a)(1) or with the remote public broadcast identified in the board's notice pursuant to subsection (a)(2)(A). This subsection shall not apply based on the inability of a member of the public to maintain an audiovisual connection to the remote public broadcast, unless the remote public broadcast itself is not transmitting an audiovisual link to the meeting. The meeting may reconvene when either audiovisual communication is restored, or audio-only communication is established after an unsuccessful attempt to restore audiovisual communication, but only if the board has provided reasonable notice to the public as to how to access the reconvened meeting after an interruption to communication. If audio-only communication is established, then each speaker shall be required to state their name before making their remarks. Within fifteen minutes after audio-only communication is established, copies of nonconfidential visual aids that are required by or brought to the meeting by board members or as part of a scheduled presentation shall be made available either by posting on the Internet or by other means to all meeting participants, including those participating remotely, and those agenda items for which visual aids are not available for all participants shall not be acted upon at the meeting. If it is not possible to reconvene the meeting as provided in this subsection within thirty minutes after an interruption to communication and the board has not provided reasonable notice to the public as to how the meeting will be continued at an alternative date and time, then the meeting shall be automatically terminated.

(d) During executive meetings from which the public has been excluded, board members shall be audible to other authorized participants but shall not be required to be visible. To preserve the executive nature of any portion of a meeting closed to the public, the presiding officer shall publicly state the names and titles of all authorized participants, and, upon convening the executive session, all participants shall confirm to the presiding officer that no unauthorized person is present or able to hear them at their remote locations or via another audio or audiovisual connection. The person organizing the interactive conference technology shall confirm that no unauthorized person has access to the executive meeting as indicated on the control panels of the interactive conference technology being used for the meeting, if applicable."

SECTION 3. Section 92-2, Hawaii Revised Statutes, is amended by amending the definition of "interactive conference technology" to read as follows:

““Interactive conference technology” means any form of ~~audio or~~ audio and visual conference technology, or audio conference technology where permitted under this part, including teleconference, videoconference, and voice

over internet protocol, that facilitates interaction between the public and board members.”

SECTION 4. Section 92-3.5, Hawaii Revised Statutes, is amended by amending its title and subsections (a) through (c) to read as follows:

“§92-3.5 [Meeting] In-person meeting at multiple sites by interactive conference technology; notice; quorum. (a) A board may hold [a] an in-person meeting at multiple meeting sites connected by interactive conference technology; provided that the interactive conference technology used by the board allows audio or audiovisual interaction among all members of the board participating in the meeting and all members of the public attending the meeting, and the notice required by section 92-7 identifies all of the locations where participating board members will be physically present and indicates that members of the public may join board members at any of the identified locations. The board may provide additional locations open for public participation but where no participating board members will be physically present. The notice required by section 92-7 shall list any additional locations open for public participation but where no participating board members will be physically present and specify, in the event one of those additional locations loses its audio connection to the meeting, whether the meeting will continue without that location or will be automatically recessed to restore communication as provided in subsection (c).

(b) Any board member participating in a meeting by interactive conference technology under this section shall be considered present at the meeting for the purpose of determining compliance with the quorum and voting requirements of the board.

(c) A meeting held by interactive conference technology under this section shall be [~~terminated~~] automatically recessed for up to thirty minutes to restore communication when audio communication cannot be maintained with all locations where the meeting by interactive conference technology is being held, even if a quorum of the board is physically present in one location. [~~If copies of visual aids required by, or brought to the meeting by board members or members of the public, are not available to all meeting participants, at all locations where audio-only interactive conference technology is being used, within] The meeting may reconvene when either audio or audiovisual communication is restored. Within fifteen minutes after audio-only communication is [used,] established, copies of nonconfidential visual aids that are required by or brought to the meeting by board members or as part of a scheduled presentation shall be made available either by posting on the Internet or by other means to all meeting participants, and those agenda items for which visual aids are not available for all participants at all meeting locations [cannot] shall not be acted upon at the meeting. If it is not possible to reconvene the meeting as provided in this subsection within thirty minutes after an interruption to communication, and the board has not provided reasonable notice to the public as to how the meeting will be continued at an alternative date and time, then the meeting shall be automatically terminated.”~~

SECTION 5. Section 92-7, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The board shall give written public notice of any regular, special, emergency, or rescheduled meeting, or any executive meeting when anticipated in advance. The notice shall include an agenda that lists all of the items to be considered at the forthcoming meeting; the date, time, and place of the meeting; the board’s electronic and postal contact information for submission of testimony before the meeting; instructions on how to request an auxiliary aid or service

or an accommodation due to a disability, including a response deadline, if one is provided, that is reasonable; and in the case of an executive meeting, the purpose shall be stated. If an item to be considered is the proposed adoption, amendment, or repeal of administrative rules, an agenda meets the requirements for public notice pursuant to this section if it contains a statement on the topic of the proposed rules or a general description of the subjects involved, as described in section 91-3(a)(1)(A), and a statement of when and where the proposed rules may be viewed in person and on the Internet as provided in section 91-2.6. The means specified by this section shall be the only means required for giving notice under this part notwithstanding any law to the contrary.”

SECTION 6. The office of information practices shall, in consultation with the disability and communication access board and the office of enterprise technology services, assess the implementation of meetings held using interactive conference technology, including participation by members of the public who need an accommodation due to a disability. The office shall submit a report of its assessment, including recommendations and proposed legislation, to the legislature no later than forty days prior to the convening of the regular session of 2023.

SECTION 7. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 8. This Act shall take effect on January 1, 2022.

(Approved July 6, 2021.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 221

S.B. NO. 1162

A Bill for an Act Relating to Forest Stewardship.

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

SECTION 1. Section 195F-1, Hawaii Revised Statutes, is amended to read as follows:

“~~§195F-1~~ **Findings and purpose.** The legislature finds that:

- (1) Much of the forest land in Hawaii is privately owned~~;~~ and managed;
- (2) The capacity to protect important watersheds and native Hawaiian plants and animals and to produce renewable forest resources is significantly dependent on these privately ~~owned~~ managed forest and formerly forested lands;
- (3) The factors essential to the quality of life in Hawaii, including our water and air quality, mild climate, and habitat available for plants and animals unique to these islands, can be maintained and improved through good stewardship of ~~private~~ privately managed forest lands;
- (4) To accomplish these purposes, the present system of state and federal financial and technical assistance programs needs to be expanded to promote the long-term management of additional privately

- [owned] managed forest and formerly forested lands throughout the State; and
- (5) A forest stewardship program should be established to supplement the natural area reserves system’s programs under chapter 195 by encouraging [~~private~~] landowners of privately [~~owned~~] managed forest and formerly forested lands that cannot qualify as potential natural area reserves to make long-term commitments to protect, maintain, and restore important watersheds, [~~timber~~] forest resources, forest products, fish and wildlife habitats, isolated populations of rare and endangered plants, native vegetation, and other lands that provide significant public benefits.

The purpose of this chapter is to establish a program to financially assist landowners in managing, protecting, and restoring important natural resources in Hawaii’s forested and formerly forested lands.”

SECTION 2. Section 195F-2, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““Program implementation agreement” means a written forest stewardship management contract between the board and program applicant.”

SECTION 3. Section 195F-3, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There is established a forest stewardship program to be administered by the board to assist [~~private landowners in managing, protecting, and restoring~~] landowners of privately managed forest lands to manage, protect, and restore important watersheds, native vegetation, [~~timber~~] forest resources, forest products, fish and wildlife habitats, isolated populations of rare and endangered plants, and other lands that are not recognized as potential natural area reserves.”

SECTION 4. Section 195F-5, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) To participate in the forest stewardship program, the applicant landowner shall prepare and submit [~~to the board~~] a forest stewardship management plan that shall:

- (1) Identify and describe the activities to be undertaken by the landowner to protect soil, water, aesthetic quality, recreation, [~~timber~~] forest resources, forest products, water, fish, wildlife, and native plant resources on the land in a manner that is compatible with the objectives of the program, is consistent with this chapter, and qualifies under the board’s list of approved activities;
- (2) Be signed by all parties having an interest in or holding any encumbrance upon the property, and shall state that the parties agree to comply with the plan upon its approval; and
- (3) Be approved by the board and available for public review.

(b) The board and other cooperating natural resource management agencies shall develop a list of approved management activities and practices that shall be eligible for cost-share assistance under the program in the following areas:

- (1) Enhanced management and maintenance of vegetation on vital watershed lands;
- (2) Sustainable growth and management of forests for [~~timber~~] forest resources and [~~other~~] forest products [~~on lands from which all or~~

- most of the native vegetation had been removed prior to January 1, 1991];
- (3) Management for non-native forest products; provided that the land was not previously cleared of native vegetation for the purpose of non-native forest production;
- [(3)] (4) Protection, restoration, and enhancement of native plants and animals;
- [(4)] (5) Management, maintenance, and restoration of forests for shelterbelts, windbreaks, aesthetic quality, and other conservation purposes ~~[on lands from which all or most of the native vegetation had been removed prior to January 1, 1991];~~
- [(5)] (6) Agroforestry management ~~[on lands from which all or most of the native vegetation had been removed prior to January 1, 1991];~~
- [(6)] (7) Management and maintenance of native fish and wildlife habitats;
- [(7)] (8) Management of outdoor recreational opportunities; and
- [(8)] (9) Other activities approved by the board, which are consistent with this chapter.”

SECTION 5. Section 195F-6, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:
 - “(a) Payments from the forest stewardship fund shall not exceed ~~[fifty];~~
 - (1) Seventy-five per cent of the total cost of the landowner in developing [and implementing] an approved management plan[-]; and
 - (2) Fifty per cent of the total cost of the landowner in implementing an approved management plan.

Total payments to any one landowner shall be determined by the board, and the reasonable value of material, goods, and services contributed toward the management plan by the landowner shall be included in determining the amount of the landowner’s cost. The landowner shall be required to spend private funds before reimbursements are made. In-kind services such as heavy equipment and existing sources of labor may be utilized as a portion of the landowner’s contribution in implementing the management plan that is consistent with this chapter.”

2. By amending subsections (c), (d), and (e) to read:
 - “(c) To receive funds under the forest stewardship program, an applicant shall:
 - (1) Be a landowner of ~~[private]~~ privately managed forest land that is not managed under existing federal, state, or private sector financial and technical assistance programs and that is not recognized as a potential natural area reserve. ~~[Private forest lands]~~ Privately managed forest lands under existing federal, state, or private sector financial and technical assistance programs may be eligible for assistance under this program if the landowner agrees to comply with the requirements of the program or if forest management activities are expanded or enhanced to meet the requirements of this chapter;
 - (2) Prepare and submit a forest stewardship management plan as set forth in section 195F-5; and
 - (3) Enter into ~~[an]~~ a program implementation agreement with the board ~~[to do the following:]~~ upon approval of the forest stewardship management plan by the board for implementation of all or selected portions of the forest stewardship management plan. Upon ap-

proval of the program implementation agreement by the board, the applicant shall:

- (A) Undertake and maintain the approved activities under the management plan for not fewer than ten years, unless the board approves modifications in the plan;
- (B) Complete all approved activities under the ~~[management plan]~~ program implementation agreement within the timetable agreed upon by the board and the landowner consistent with the intent of this chapter;
- (C) Submit an annual progress report to be reviewed by the board for each year in which the landowner receives support under the program. This report shall detail accomplishments, areas requiring technical advice, and any proposed modifications of the management plan; and
- (D) ~~[Other]~~ Meet any other conditions deemed necessary by the board to implement the purposes of this chapter.

(d) The board shall review the annual progress report and shall determine whether the landowner has met the objectives of the management plan. To facilitate the review, the department shall have the right to make inspections of the forest land after prior ~~[landowner notification.]~~ notice to the landowner. The board may approve alteration of the management plan to adapt to current conditions. Amendments to the management plan shall be available for public review.

(e) The board shall submit annually a detailed report to the governor and legislature that shall:

- (1) Identify management objectives that have been completed on ~~[private lands]~~ privately managed forest lands resulting from payments made pursuant to section 195F-4(a)(1) and provide an analysis of problems and issues encountered in meeting or failing to meet objectives as set forth in the management plans;
- (2) Identify all reforestation, forest management, education, and training objectives that have been completed as a result of any expenditures made pursuant to section 195F-4(a)(2);
- (3) Describe the financial condition of the fund, including receipts and expenditures from the previous fiscal year; and
- (4) Set forth plans and management objectives for the next fiscal year.”

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

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

(Approved July 6, 2021.)

ACT 222

S.B. NO. 1166

A Bill for an Act Relating to Rentals for Public Land Leases.

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

SECTION 1. The legislature finds that there are a number of long-term leases of public lands originally entered into in the 1940s that have expired in recent years. Some of these leases were used for hotels, and significant hotel improvements were constructed on the premises during the lease term. In some

cases, the leasehold improvements have exceeded their useful life and require costly demolition in the range of \$8,000,000 to \$10,000,000 for a single property. However, the lease forms used for these leases did not require the lessee to remove the improvements at the expiration of the lease term. As a result, the demolition cost falls on the State unless the State can pass the cost on to a future lessee who undertakes redevelopment of the land.

The legislature further finds that there are unimproved public lands in the State's inventory that the State desires to develop for resort, commercial, industrial, or other business or residential use. However, substantial investments in infrastructure, including drainage, sewer, water, electricity, and other utilities, will be required to facilitate development of the lands with costs in the tens of millions of dollars. The legislature recognizes the State's desire to pass the infrastructure and other development costs of these lands on to a future lessee of the lands.

Furthermore, the legislature recognizes that chapter 171, Hawaii Revised Statutes, regarding conservation and resources, limits the amount of rent reduction or waiver that a lessee of public lands can receive for redeveloping or improving public lands to one year's rent for land leased for resort, commercial, industrial, or other business use. In many cases, a rent reduction or waiver equal to one year of ground rent would be an insufficient incentive to induce a developer to invest in the demolition of aged improvements on and redevelopment of public land, or in the provision of basic infrastructure necessary to facilitate the further development of unimproved public land.

The purpose of this Act is to authorize the board of land and natural resources to approve rental reductions or waivers for leases that require substantial demolition costs or infrastructure improvement costs for the lessee to utilize the premises.

SECTION 2. Section 171-6, Hawaii Revised Statutes, is amended to read as follows:

“§171-6 Powers. Except as otherwise provided by law, the board of land and natural resources shall have the powers and functions granted to the heads of departments and the board of land and natural resources under chapter 26.

In addition to the foregoing, the board may:

- (1) Adopt a seal;
- (2) Administer oaths;
- (3) Prescribe forms of instruments and documents;
- (4) Adopt rules which, upon compliance with chapter 91, shall have the force and effect of law;
- (5) Set, charge, demand, and collect reasonable fees for the preparation of documents to be issued, for the surveying of public lands, and for the issuing of certified copies of its government records, which fees, when collected, shall be deposited into the state general fund, unless otherwise specified in this chapter;
- (6) Establish additional restrictions, requirements, or conditions, [~~not inconsistent~~] consistent with those prescribed in this chapter, relating to the use of particular land being disposed of, the terms of sale, lease, license, or permit, and the qualifications of any person to draw, bid, or negotiate for public land;
- (7) Reduce or waive the lease rental at the beginning of the lease on any lease of public land to be used for any agricultural or pastoral use, or for resort, commercial, industrial, or other business use where the land being leased requires substantial improvements to be

placed thereon; provided that ~~[such]~~ the reduction or waiver shall not exceed two years for land to be used for any agricultural or pastoral use, or exceed one year for land to be used for resort, commercial, industrial, or other business use~~;~~. When a lease for resort, commercial, industrial, or other business or residential purposes requires a lessee to demolish existing improvements or provide basic infrastructure, including drainage, sewer, water, electricity, and other utilities, before the lessee can make productive use of the land, the board may approve a reduction or waiver of lease rental for a period of up to twenty years; provided that the aggregate amount of the reduced or waived lease rental shall not exceed the amount of the lessee's total expenditures for demolition or provision of the infrastructure;

- (8) Delegate to the chairperson or employees of the department of land and natural resources, subject to the board's control and responsibility, ~~[such]~~ powers and duties as may be lawful or proper for the performance of the functions vested in the board;
- (9) Use arbitration under chapter 658A to settle any controversy arising out of any existing or future lease;
- (10) Set, charge, and collect reasonable fees in an amount sufficient to defray the cost of performing or otherwise providing for the inspection of activities permitted upon the issuance of a land license involving a commercial purpose;
- (11) Appoint ~~[masters of]~~ hearing officers to conduct public hearings as provided by law and under ~~[such]~~ conditions as the board by rules shall establish;
- (12) Bring ~~[such]~~ actions as may be necessary to remove or remedy encroachments upon public lands. Any person causing an encroachment upon public land shall:
 - (A) Be fined ~~[not]~~ no more than \$1,000 a day for the first offense;
 - (B) Be fined ~~[not]~~ no less than \$1,000 nor more than \$4,000 per day upon the second offense and thereafter;
 - (C) If required by the board, restore the land to its original condition if altered and assume the costs thereof;
 - (D) Assume ~~[such]~~ costs as may result from adverse effects from ~~[such]~~ restoration; and
 - (E) Be liable for administrative costs incurred by the department and for payment of damages;
- (13) Set, charge, and collect interest and a service charge on delinquent payments due on leases, sales, or other accounts. The rate of interest shall not exceed one per cent a month and the service charge shall not exceed \$50 a month for each delinquent payment; provided that the contract shall state the interest rate and the service charge and be signed by the party to be charged;
- (14) Set, charge, and collect additional rentals for the unauthorized use of public lands by a lessee, licensee, grantee, or permittee who is in violation of any term or condition of a lease, license, easement, or revocable permit, retroactive to the date of the occurrence of the violation. ~~[Such]~~ The amounts shall be considered delinquent payments and shall be subject to interest and service charges as provided in paragraph (13);
- (15) Set, charge, and collect reasonable fines for violation of this chapter or any rule adopted thereunder. Any person engaging in any prohibited use of public lands or conducting any prohibited activity on

public lands, or violating any of the other provisions of this chapter or any rule adopted thereunder, for which violation a penalty is not otherwise provided, shall be:

- (A) Fined ~~not~~ no more than \$5,000 per violation for a first violation or a violation beyond five years of the last violation; provided that, after written or verbal notification from the department, an additional \$1,000 per day per violation may be assessed for each day in which the violation persists;
- (B) Fined ~~not~~ no more than \$10,000 per violation for a second violation within five years of the last violation; provided that, after written or verbal notification from the department, an additional \$2,000 per day per violation may be assessed for each day in which the violation persists;
- (C) Fined ~~not~~ no more than \$20,000 per violation for a third or subsequent violation within five years of the last violation; provided that, after written or verbal notification from the department, an additional \$4,000 per day per violation may be assessed for each day in which the violation persists; and
- (D) Liable for administrative costs and expenses incurred by the department and for payment for damages, including but not limited to natural resource damages.

In addition to the fines, administrative costs, and damages provided for hereinabove, for damage to or theft of natural resources, the board may also set, charge, and collect a fine that, in its discretion, is appropriate considering the value of the natural resource that is damaged or the subject of the theft. In arriving at an appropriate fine, the board may consider the market value of the natural resource damaged or taken and any other factor it deems appropriate, such as the loss of the natural resource to its natural habitat and environment and the cost of restoration or replacement. The remedies provided for in this paragraph are cumulative and in addition to any other remedies allowed by law.

No person shall be sanctioned pursuant to this section for the exercise of native Hawaiian gathering rights and traditional cultural practices as authorized by law or as permitted by the department pursuant to article XII, section 7, of the Hawaii state constitution;

- (16) Issue revenue bonds, subject to the approval of the legislature. All revenue bonds shall be issued pursuant to part III of chapter 39, except as provided in this chapter. All revenue bonds shall be issued in the name of the department and not in the name of the State. The final maturity date of the revenue bonds may be any date not exceeding thirty years from the date of issuance;
- (17) Pledge or assign all or any part of the receipts and revenues of the department. The revenue bonds shall be payable from and secured solely by the revenue derived by the department from the industrial park or parks for which the bonds are issued;
- (18) Reimburse the state general fund for debt service on general obligation bonds or reimbursable general obligation bonds issued by the State for purposes of this chapter;
- (19) Notwithstanding part II of chapter 205A to the contrary, plan, design, construct, operate, and maintain any lands or facilities under the jurisdiction of the division of boating and ocean recreation of the department without the need to obtain a special management area minor permit or special management area use permit; and

ACT 223

- (20) Do any and all things necessary to carry out its purposes and exercise the powers granted in 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 and shall be repealed on June 30, 2026; provided that section 171-6, 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 July 6, 2021.)

ACT 223

S.B. NO. 1313

A Bill for an Act Relating to Sport Fish.

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

SECTION 1. The legislature finds that the northern largemouth bass and butterfly peacock bass, also known as tucunare, are some of the most popular gamefish in the United States, with northern largemouth bass existing in the State's artificial reservoirs since 1896, and butterfly peacock bass existing since 1957. More than 828,000 jobs nationally are directly supported in some way by bass fishing and more than \$48,000,000,000 in retail sales are directly attributed to bass fishing activities. Arkansas, Illinois, Kentucky, Michigan, Mississippi, Missouri, New Hampshire, and Vermont all recognize bass fishing as a high school sport.

The legislature further finds that based upon fishing licenses issued by the department of land and natural resources to fish for northern largemouth bass and butterfly peacock bass, bass fishing in the State is far less popular than in other states. One reason for the small number of anglers fishing for bass is the lack of a diverse population of these sport fish in Hawaii's artificial reservoirs. Restocking the reservoirs with new stocks of northern largemouth bass and butterfly peacock bass will refresh the genetic diversity of these fish populations. The legislature further finds that the board of agriculture can allow the importation of butterfly peacock bass and establish appropriate permit conditions, since it is already on the list of conditionally approved animals and is eligible for importation. The legislature also finds that the department of land and natural resources will need to request the board of agriculture to place the northern largemouth bass and butterfly peacock bass on the list of restricted animals that require a permit for both import into the State and possession, pursuant to section 150A-6.2, Hawaii Revised Statutes.

The purpose of this Act is to establish a pilot project in the department of land and natural resources to work with a public or private organization to import live northern largemouth bass and butterfly peacock bass for the purpose of enhancing and supporting the pre-existing populations for continued recreational fishing in Hawaii.

SECTION 2. No later than January 1, 2023, the division of aquatic resources of the department of land and natural resources shall establish a pilot project to restock northern largemouth bass, butterfly peacock bass, or both, in the Wahiawa public fishing area in central Oahu; provided that the board of agriculture has placed the northern largemouth bass and the butterfly peacock

bass on the list of restricted animals that require a permit for import into the State maintained pursuant to section 150A-6.2, Hawaii Revised Statutes. The division of aquatic resources shall apply to the board of agriculture for the permit to import the northern largemouth bass and butterfly peacock bass and may work with another public entity or partner with a private entity to accomplish the pilot project.

SECTION 3. This Act shall take effect on July 1, 2021.

(Approved July 6, 2021.)

ACT 224

S.B. NO. 1329

A Bill for an Act Relating to Procurement.

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

SECTION 1. The legislature finds that under the State's procurement code, an aggrieved party that submitted a bid for a state project that was not awarded the bid may protest the bid award. The legislature further finds that the procurement protest review process can be lengthy, causing project delays, thereby increasing project costs that are borne by taxpayers. Thus, it is imperative that the review process for protests is completed in a timely manner to reduce the cost of state projects. Establishing a deadline for bid protests to be reviewed and resolved would expedite the protest review process and reduce costly delays on major construction contracts and airport contracts.

The purpose of this Act is to:

- (1) Require the chief procurement officer or designee to address protests as expeditiously as possible;
- (2) Establish time limits to resolve the protests of construction contracts and airport contracts that are awarded pursuant to section 103D-302 or 103D 303,¹ Hawaii Revised Statutes, and that are not resolved by mutual agreement; and
- (3) Amend the cash or protest bond amount for a party initiating an administrative proceeding for review of a decision on the solicitation or award of a competitive sealed bidding or competitive sealed proposal contract.

SECTION 2. Section 103D-701, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The chief procurement officer or a designee shall resolve any protest as expeditiously as possible. If the protest is not resolved by mutual agreement, the chief procurement officer or a designee shall ~~promptly~~ issue a written decision ~~[in writing]~~ to uphold or deny the protest. The decision shall:

- (1) State the reasons for the action taken; and
- (2) Inform the protestor of the protestor's right to an administrative proceeding as provided in this part, if applicable.

If the protest of a construction contract or airport contract that is awarded pursuant to section 103D-302 or 103D-303 is not resolved by mutual agreement, the chief procurement officer or a designee shall issue a written decision to uphold or deny the protest within seventy-five calendar days of receipt of the protest; provided that the chief procurement officer or a designee may grant an extension based on written justification of the extenuating circumstances; provided further that the extension shall not exceed forty-five calendar days.”

SECTION 3. Section 103D-709, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) The party initiating a proceeding falling within subsection (d) shall pay to the department of commerce and consumer affairs a cash or protest bond in the amount of:

- (1) ~~\$1,000 for a contract with an estimated value of less than \$500,000;~~
- (2) ~~\$2,000 for a contract with an estimated value of \$500,000 or more, but less than \$1,000,000; or~~
- (3) ~~One-half] one~~ per cent of the estimated value of the contract ~~[if the estimated value of the contract is \$1,000,000 or more; provided that in no event shall the required amount of the cash or protest bond be more than \$10,000].~~

If the initiating party prevails in the administrative proceeding, the cash or protest bond shall be returned to that party. If the initiating party does not prevail in the administrative proceeding, the cash or protest bond shall be deposited into the 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 its approval.
(Approved July 6, 2021.)

Note

- 1. So in original.

ACT 225

H.B. NO. 1191

A Bill for an Act Relating to Broadband Service Infrastructure.

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

PART I

SECTION 1. The legislature finds that access to reliable high-speed broadband across the State and in every community is essential to the well-being and economic realities of the State’s residents. The need for new and enhanced broadband infrastructure is significant, highlighted by the devastating impact of the coronavirus disease 2019. The lack of accessibility to reliable high-speed broadband has had a tremendous negative effect in many areas, but particularly unserved and underserved communities. Insufficient broadband infrastructure and access has hampered the ability of the State to deliver consistent and meaningful distance learning for all students. Telehealth services have replaced in-person doctor visits and are now serving as a significant tool in providing remote medical services to those who would otherwise be unable to receive proper medical care.

The legislature further finds that reliable broadband access has meant the difference between an employee being able to work remotely or possibly facing unemployment. Online access is also a critical tool for those seeking to access social services such as unemployment claims, Supplemental Nutrition Assistance Program benefits, vital records, and other critical government services. The ability to provide the services needed relies upon the existence of a robust and extensive broadband infrastructure.

Increased access to broadband services in unserved and underserved areas of the State would enhance Hawaii’s overall economic development, education, health care, and emergency services. Making grants available for the de-

ployment of broadband infrastructure to unserved and underserved areas would encourage new private investment in broadband infrastructure and move the State toward universal access to broadband services.

The legislature strongly supports efforts to improve access to broadband services for residents, consumers, and businesses across the State. Although broadband coverage in the State is widespread, additional investment must be made to meet the needs in rural communities and enhance access for those in communities that require immediate broadband infrastructure.

The purpose of this part is to facilitate the deployment of last-mile broadband infrastructure in unserved and underserved areas of the State by identifying and addressing any remaining obstacles to full deployment of broadband infrastructure to all areas of Hawaii. More specifically, this part:

- (1) Establishes the broadband infrastructure grant program to award grants to extend the deployment of facilities used to provide broadband service to unserved and underserved areas of the State; and
- (2) Renames the Hawaii technology loan revolving fund to the Hawaii broadband infrastructure special fund and changes the types of funds to be deposited into the fund.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to title 13 to be appropriately designated and to read as follows:

**“CHAPTER A
BROADBAND INFRASTRUCTURE GRANT PROGRAM**

§A-1 Definitions. As used in this chapter, unless the context requires otherwise:

“Broadband infrastructure” shall have the same meaning as in section 440J-1.

“Broadband service” shall have the same meaning as “broadband access or broadband service” in section 440J-1. “Broadband service” does not include wireless network infrastructure or facilities used to provide wireless services over licensed spectrum.

“Department” means the department of business, economic development, and tourism.

“Program” means the broadband infrastructure grant program established by this chapter.

“Project” means a proposed deployment of wireline broadband infrastructure set forth in an application for grant funding authorized under this chapter.

“Project area” means an area identified by a shapefile that is proposed to be covered in an application for grant funding authorized under this chapter.

“Shapefile” means a file format for storing, depicting, and analyzing geospatial data depicting broadband coverage. “Shapefile” includes several component files, including a main file (.shp), index file (.shx), and dBASE table (.dbf).

“Underserved area” means a project area with access to broadband service but at speeds of less than fifty megabits per second for downloads and five megabits per second for uploads.

“Unserved area” means a project area without access to broadband service. “Unserved area” does not include any location where federal government funding has been awarded pursuant to the Rural Digital Opportunity Fund specifically to support the deployment or expansion of broadband networks; provided that an area shall be considered unserved if the funding award is forfeited or upon disqualification of the recipient entity awarded funding for the geographic area under the Rural Digital Opportunity Fund.

§A-2 Broadband infrastructure grant program; establishment. There is established the broadband infrastructure grant program within the department of business, economic development, and tourism for administrative purposes. The department shall receive and review grant applications and may award grants for eligible projects pursuant to the program.

§A-3 Eligible projects. The department may award grants for eligible projects; provided that on the date the application is submitted, the area to be served by the project shall include either unserved areas or underserved areas.

§A-4 Eligible applicants. To be eligible for a grant, an applicant shall:

- (1) Commit to paying a minimum of sixty per cent of the total project costs out of the applicant's own funds; and
- (2) Be a non-governmental entity with demonstrated experience in providing broadband service, broadband infrastructure, or other communication services to residential customers within the State.

§A-5 Applications. (a) The department shall establish an annual time period to commence an open process for submission of applications for funding under the program. The time period for submission shall be no less than sixty days and no more than ninety days.

(b) The form of the application shall be as prescribed by the department and shall include:

- (1) Evidence demonstrating the applicant's experience and ability to build, operate, and manage broadband infrastructure servicing residential customers;
- (2) A description of the project area, including a shapefile identifying the proposed deployment;
- (3) A description of the broadband infrastructure that is proposed to be deployed, including facilities; equipment; and network capabilities, including minimum speed thresholds;
- (4) Evidence, including certification from the applicant, demonstrating the unserved or underserved nature of the project area;
- (5) The number of households in each unserved or underserved area that would gain access to broadband service as a result of the project;
- (6) The total cost and timeline for completion of the project;
- (7) The amount of matching funds that the applicant proposes to contribute and a certification that no portion of the matching funds are derived from any state government grant, loan, or subsidy;
- (8) Evidence demonstrating the economic and commercial feasibility of the project;
- (9) A list of all expected government authorizations, permits, and other approvals required for the project and a timeline for the applicant's acquisition of the approvals;
- (10) A certification that no other federal or state program provides funding that is available to the applicant for the project; and
- (11) Any other information deemed necessary by the department.

§A-6 Review of applications; confidential treatment; approval. (a) Within five business days following the last day of the time period for submission of applications to the program, the department shall make all of the applications available for review in a publicly available electronic file posted on the department's website.

(b) To the extent the information in an application or challenge falls under one or more of the exceptions to public disclosure in section 92F-13 or comprises commercially sensitive information, including information regarding the location of critical infrastructure, addresses of locations capable of receiving service under an existing provider's standard installation intervals, number of actual subscribers, subscriber addresses, non-public internal financial or network cost information, or vendor agreements, the department shall keep the information confidential upon request by:

(1) An applicant for confidential treatment of an application, except that in no event shall a request for confidentiality prevent the publicly available portion of the application from including sufficient evidence to demonstrate the requirements of section A-5(b)(2) and A-5(b)(4); or

(2) A challenging provider for confidential treatment of a challenge submitted pursuant to this section.

(c) A broadband service provider that provides service within or directly adjacent to a proposed project area may submit a written challenge to any application within forty-five days of the department making the applications available for review pursuant to subsection (a). The challenge may:

(1) Dispute an applicant's certification that a proposed project area is an unserved or underserved area or that no other federal or state program provides funding that is available to the applicant for a project for which program support is sought;

(2) Attest to the challenging provider's existing or planned provision of broadband service within the applicant's proposed project area; or

(3) Attest that the project may jeopardize the eligibility of federal funding for the challenging provider.

(d) In reviewing applications and any accompanying challenge, the department shall review the proposed project areas to ensure that all awarded funds are used to deploy broadband infrastructure to unserved or underserved areas.

(e) The department shall award program grants based on a scoring system that shall be released to the public at least thirty days prior to the first day of the time period for the submission of applications. The scoring system shall give the highest weight or priority to the following:

(1) Projects proposing to serve a larger unserved or underserved geographic area;

(2) Applicants with more experience and technical ability to successfully deploy and provide broadband service and more financial resources available to finance the project;

(3) Projects for which fewer government funds and less support are necessary to deploy broadband infrastructure in an economically feasible manner;

(4) Projects with a higher amount of matching funds proposed to be committed by the applicant;

(5) High service speed thresholds proposed in the application and high scalability of the broadband infrastructure proposed to be deployed;

(6) Applicants with a high ability to leverage nearby or adjacent broadband infrastructure to facilitate the proposed deployment of service to households;

(7) Projects that do not duplicate any existing broadband infrastructure in the project area; and

- (8) Other factors the department determines to be reasonable, appropriate, and consistent with the purpose of facilitating the deployment of broadband infrastructure to unserved or underserved areas.

§A-7 Departmental authority. The department may:

- (1) Following notice and an opportunity to cure, require disgorgement of grant funds in response to an applicant’s pattern of failure to build out a project area in accordance with the timelines and milestones set forth in its application;
- (2) Consider an applicant’s financial ability to complete the project proposed in an application;
- (3) Make reasonable requests for information necessary for the oversight and administration of any project funded pursuant to this chapter;
- (4) Impose any new or additional regulatory requirements on grant recipients, through grant agreements or any other mechanism, in addition to the program implementation rules expressly authorized in this chapter; and
- (5) Deny or cancel a project if the department finds the project will impact federal funding opportunities.

§A-8 Rules. (a) The department shall adopt rules pursuant to chapter 91 to effectuate the purposes of this chapter.

- (b) The rules shall:
 - (1) Include reasonable oversight and reporting provisions to ensure that grant moneys are used as intended; and
 - (2) Not impose any financial penalty or liquidated damages provisions or provisions that are not reasonably related to the deployment of broadband infrastructure in the State in accordance with this chapter.”

SECTION 3. Section 206M-15.6, Hawaii Revised Statutes, is amended to read as follows:

~~“[§206M-15.6]]~~ **Hawaii ~~[technology loan revolving] broadband infrastructure special fund.~~** There is established the Hawaii ~~[technology loan revolving] broadband infrastructure special~~ fund for the purpose of investing in ~~[technology development] broadband infrastructure~~ in ~~[Hawaii.] the State.~~ The following shall be deposited into the Hawaii ~~[technology loan revolving] broadband infrastructure special~~ fund:

- (1) Appropriations from the legislature;
- ~~(2) Moneys received as repayments of loans;~~
- ~~(3) Investment earnings;~~
- ~~(4) Royalties;~~
- ~~(5) Premiums, or fees or equity charged by the corporation, or otherwise received by the corporation; and~~
- ~~(6) Loans that are convertible to equity;]~~
- (2) Funds received from the federal government; and
- (3) Funds received from the private sector;

provided that the total amount of moneys in the fund shall not exceed ~~[\$2,000,000] \$10,000,000~~ at the end of any fiscal year.”

SECTION 4. Within twelve months following the effective date of this Act, the department of business, economic development, and tourism shall adopt rules pursuant to chapter 91 and section A-8, Hawaii Revised Statutes, to

implement the broadband infrastructure grant program; provided that any rules adopted pursuant to this section shall include rules regarding the submission, review, and approval of applications; administration of the projects funded; and grant agreements memorializing the award of funds.

SECTION 5. There is appropriated out of the funds received by the State of Hawaii from the American Rescue Plan Act of 2021, Public Law 117-2 (Section 9901), the sum of \$5,000,000 or so much thereof as may be necessary for fiscal year 2021-2022 to be used for the broadband infrastructure grant program established by this part.

The sum appropriated shall be expended by the department of business, economic development, and tourism for the purposes of this part.

PART II

SECTION 6. The purpose of this part is to:

- (1) Establish the Hawaii broadband and digital equity office within the department of business, economic development, and tourism; and
- (2) Require the governor to appoint a strategic broadband coordinator to head the Hawaii broadband and digital equity office.

SECTION 7. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

“CHAPTER B HAWAII BROADBAND AND DIGITAL EQUITY OFFICE

§B-1 Definitions. As used in this chapter:

“Broadband” means high-speed internet access that is always on, including mobile and fixed technologies.

“Department” means the department of business, economic development, and tourism.

“Digital equity” means a condition in which all individuals and communities have the information technology capacity needed for full participation in society, democracy, and the economy.

“Office” means the Hawaii broadband and digital equity office.

§B-2 Hawaii broadband and digital equity office; establishment; strategic broadband coordinator; staff. (a) There is established the Hawaii broadband and digital equity office within the department of business, economic development, and tourism.

(b) The governor, upon the advice and consent of the senate, shall appoint a strategic broadband coordinator, who shall be exempt from chapter 76, to head the office.

§B-3 Hawaii broadband and digital equity office; duties. In furtherance of the State’s objectives and policies for the economy pursuant to section 226-10.5, the office shall:

- (1) Develop and implement specific strategies and plans to aggressively increase broadband affordability, penetration, and competitive availability in the State;
- (2) Support the efforts of both public and private entities in the State to enhance or facilitate the deployment of and access to competitively priced, advanced electronic communications services, including

broadband and its products and services and internet access services of general application throughout the State;

- (3) Promote the landing of trans-Pacific submarine cable, including the development of a shared access cable station and associated terrestrial connectivity to reduce barriers to fiber landing in Hawaii;
- (4) Promote, advocate, and facilitate the implementation of the findings and recommendations of the Hawaii broadband task force established by Act 2, First Special Session Laws of Hawaii 2007, and the 2020 Hawaii Broadband Strategic Plan;
- (5) Support the findings of the community-based Broadband Hui as reflected in its digital equity declaration;
- (6) Administer grant programs in support of broadband infrastructure, innovation, and the digital economy;
- (7) Actively seek out funding from public and private sources in furtherance of the office's duties pursuant to this section; and
- (8) Provide a repository, aggregation point, and governance framework for broadband mapping and digital equity data from various sources, including digital literacy, telehealth, distance education, remote work, internet accessibility, and service coverage to support mapping, reporting, infrastructure deployment, and data-driven policy.

§B-4 Broadband planning and coordination; cooperation. (a) The office shall:

- (1) Seek input and the widest possible cooperation from public and private agencies and individuals to achieve the purposes of this chapter;
- (2) Work closely with and assist the counties in the promotion of coordinated state and county broadband planning;
- (3) Encourage every state department, county agency, and other public or private agencies and individuals involved in broadband programs to participate in the activities of the office and incorporate, to the extent feasible, the ideas and suggestions of the participants in the office's comprehensive planning goals;
- (4) Monitor the broadband-based development efforts of other states and nations in areas such as business, education, and health;
- (5) Advise the department on other states' best practices involving remote work promotion and policies and strategies related to making affordable broadband services available to every home and business in the State;
- (6) Monitor broadband-related activities at the federal level;
- (7) Encourage public-private partnerships to increase the deployment and adoption of broadband services and applications;
- (8) Monitor regulatory and policy changes for potential impact on broadband deployment and sustainability in the State; and
- (9) Advise the director of business, economic development, and tourism on broadband deployment.

(b) Nothing in this section shall be construed to delegate, or detract in any way from, the functions, powers, and duties conferred by law or rule on any department or agency of the State or county."

PART III

SECTION 8. In codifying the new chapters added by sections 2 and 7 of this Act, the revisor of statutes shall substitute appropriate chapter numbers for the letters used in designating the new chapters in this Act.

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

SECTION 10. This Act shall take effect on July 1, 2021.

(Approved July 6, 2021.)

ACT 226

H.B. NO. 80

A Bill for an Act Relating to the Low-Income Housing Tax Credit.

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

SECTION 1. Section 235-110.8, Hawaii Revised Statutes, is amended to read as follows:

“§235-110.8 Low-income housing tax credit. (a) As modified herein, section 42 (with respect to low-income housing credit) of the Internal Revenue Code shall be operative for the purposes of this chapter as provided in this section. A taxpayer owning a qualified low-income building who has been awarded a subaward under section 1602 of the American Recovery and Reinvestment Act of 2009, Public Law 111-5, shall also be eligible for the credit provided in this section.

(b) Each taxpayer subject to the tax imposed by this chapter, who has filed a net income tax return for a taxable year may claim a low-income housing tax credit against the taxpayer's net income tax liability. The amount of the credit 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 on a timely basis. A credit under this section may be allocated by a partnership or limited liability company in any manner agreed to by the partners or members regardless of whether the individual or entity to receive the credit is deemed to be a partner or member for federal income tax purposes, so long as the individual or entity is deemed to be a partner or member pursuant to applicable state law. The credit may be claimed whether or not the taxpayer [claims] is eligible to be allocated a federal low-income housing tax credit pursuant to section 42 of the Internal Revenue Code.

(c) For any qualified low-income building that receives an allocation prior to January 1, 2017, the amount of the low-income housing tax credit that may be claimed by a taxpayer as provided in subsection (b) shall be fifty per cent of the applicable percentage of the qualified basis of each building located in Hawaii. The applicable percentage shall be calculated as provided in section 42(b) of the Internal Revenue Code.

(d) For any qualified low-income building that receives an allocation after December 31, 2016, the amount of the low-income housing tax credits that may be claimed by a taxpayer as provided in subsection (b) shall be:

- (1) For the first five years, equal to the amount of the federal low-income housing tax credits that have been allocated to the qualified low-income building pursuant to section 42(b) of the Internal Revenue Code by the corporation, provided that, if in any year the

aggregate amount of credits under this subsection would be such that it would exceed the amount of state credits allocated by the corporation for the qualified low-income building, the credits allowed for that year shall be limited to such amount necessary to bring the total of such state credits (including the current year state credits) to the full amount of state credits allocated to the qualified low-income building by the corporation;

- (2) For the sixth year, zero, except that, if, and only if, the amount of credits allowed for the first five years is less than the full amount of state credits allocated by the corporation for the qualified low-income building, an amount necessary to bring the amount of the state credits to the full amount allocated by the corporation for the qualified low-income building; and
- (3) For any remaining years, zero.

(e) If a subaward under section 1602 of the American Recovery and Reinvestment Act of 2009, Public Law 111-5, has been issued for a qualified low-income building, the amount of the low-income housing tax credits that may be claimed by a taxpayer as provided in subsection (b) shall be equal to fifty per cent of the amount of the federal low-income housing tax credits that would have been allocated to the qualified low-income building pursuant to section 42(b) of the Internal Revenue Code by the corporation had a subaward not been awarded with respect to the qualified low-income building.

- (f) For the purposes of this section, the determination of:
 - (1) Qualified basis and qualified low-income building shall be made under section 42(c);
 - (2) Eligible basis shall be made under section 42(d);
 - (3) Qualified low-income housing project shall be made under section 42(g);
 - (4) Recapture of credit shall be made under section 42(j), except that the tax for the taxable year shall be increased under section 42(j)(1) only with respect to credits that were used to reduce state income taxes; and
 - (5) [Application] Except as provided under subsection (j)(1), application of at-risk rules shall be made under section 42(k);

of the Internal Revenue Code.

(g) As provided in section 42(e), rehabilitation expenditures shall be treated as a separate new building and their treatment under this section shall be the same as in section 42(e). The definitions and special rules relating to credit period in section 42(f) and the definitions and special rules in section 42(i) shall be operative for the purposes of this section.

(h) The state housing credit ceiling under section 42(h) shall be zero for the calendar year immediately following the expiration of the federal low-income housing tax credit program and for any calendar year thereafter, except for the carryover of any credit ceiling amount for certain projects in progress which, at the time of the federal expiration, meet the requirements of section 42.

(i) The credit allowed under this section shall be claimed against net income tax liability for the taxable year. For the purpose of deducting this tax credit, net income tax liability means net income tax liability reduced by all other credits allowed the taxpayer under this chapter.

A tax credit under this section that exceeds the taxpayer's income tax liability may be used as a credit against the taxpayer's income tax liability in subsequent years until exhausted. All claims for a tax credit under this section shall be filed on or before the end of the twelfth month following the close of the taxable year for which the credit may be claimed[-] and shall include a copy of Form

8609 issued by the corporation with respect to the building; provided that with respect to the first year that the credit is claimed for a qualified low-income housing project, if the taxpayer has not yet received the Form 8609 prior to the time the taxpayer files its original tax return claiming the credit under this section, the taxpayer may claim the credit based upon the amount of credit set forth in the carryover allocation or 42(m) letter, as applicable, issued to the qualified low-income housing project, and upon receipt of the Form 8609, the taxpayer shall:

- (1) Amend its tax return to include the Form 8609; and
- (2) If the credit amount in the Form 8609 is different than the amount of credit previously claimed, adjust the credit amount claimed on its amended return.

Failure to properly and timely claim the credit shall constitute a waiver of the right to claim the credit. A taxpayer may claim a credit under this section only if the building or project is a qualified low-income housing building or a qualified low-income housing project under section 42 of the Internal Revenue Code.

~~[Section]~~ Except as provided under subsection (j)(1), section 469 (with respect to passive activity losses and credits limited) of the Internal Revenue Code shall be applied in claiming the credit under this section.

(j) For any qualified low-income building placed in service under this section after December 31, 2020:

- (1) Section 453 (with respect to the installment method), section 465 (with respect to deductions limited to amount at risk), and section 469 (with respect to passive activity losses and credits limited) of the Internal Revenue Code shall not be operative with respect to investments made in buildings and projects claiming the credit under this section;
- (2) All allocations to partners or members of their distributive shares of income, loss, and deductions under chapter 235 shall be made in accordance with the written agreement of the partners or members;
- (3) The total amount of state credits allocated by the corporation for the qualified low-income building shall not exceed fifty per cent of the total amount of federal credits allocated to the building for the ten-year federal credit period; and
- (4) The deductions and expenses claimed by all Hawaii taxpayers on Hawaii income tax returns shall not exceed the deductions and expenses claimed by all taxpayers on federal returns;

provided that this subsection shall not apply to any building that ceases to serve low-income households in accordance with federal and state low-income housing tax credit programs.

~~[(j)]~~ (k) In lieu of the credit awarded under this section for a qualified low-income building that has been awarded federal credits that are subject to the state housing credit ceiling under section 42(h)(3)(C) of the Internal Revenue Code, federal credits that are allocated pursuant to section 42(h)(4) of the Internal Revenue Code, or a subaward under section 1602 of the American Recovery and Reinvestment Act of 2009, Public Law 111-5, the taxpayer owning the qualified low-income building may make a request to the corporation for a loan under section 201H-86. If the taxpayer elects to receive the loan pursuant to section 201H-86, the taxpayer shall not be eligible for the credit under this section.

~~[(k)]~~ (l) The director of taxation may adopt any rules under chapter 91 and forms necessary to carry out this section.”

SECTION 2. Act 129, Session Laws of Hawaii 2016, is amended by amending section 4 to read as follows:

“SECTION 4. This Act, upon its approval, shall take effect on January 1, 2017, and shall apply to qualified low-income buildings awarded credits after December 31, 2016; provided that this Act shall be repealed on December 31, [2021,] 2027, and section 235-110.8, Hawaii Revised Statutes, shall be reenacted in the form in which it read on the day prior to the effective date 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, 2021, and shall apply to taxable years beginning after December 31, 2020; provided that the amendments made to section 235-110.8, Hawaii Revised Statutes, by section 1 of this Act shall not be repealed when that section is reenacted on December 31, 2027, pursuant to section 4 of Act 129, Session Laws of Hawaii 2016, and section 2 of this Act.

(Approved July 6, 2021.)

ACT 227

H.B. NO. 79

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 homeownership is positively correlated with economic and social stability in low- and moderate-income households. However, in the last fifty years, the number of full-time Hawaii residents who own homes has steadily declined. Currently, Hawaii has the third lowest homeownership rate of any state in the nation. The department of business, economic development, and tourism projects that Hawaii will need approximately thirty-four thousand new housing units by 2025 to address the critical shortage of housing. Action is needed to increase the availability of owner-occupied housing to meet demand.

The legislature also finds that the self-help housing model is a cost-effective means of assisting low-income families who would otherwise not have a homeownership opportunity. Self-help housing organizations, nonprofit developers, and community land trust organizations leverage federal funds from the United States Department of Housing and Urban Development and the United States Department of Agriculture - Rural Development program with low-income families' own contributions of labor to build their own communities. However, an additional non-federal matching funding source is needed.

The legislature also finds that nonprofit community development financial institutions are intermediaries that provide financing and technical assistance to assist nonprofit housing organizations in the development of affordable homeownership units in underserved communities. As private sector organizations, community development financial institutions establish and maintain revolving loan funds to attract capital from the United States Department of the Treasury and other public and private sources of capital in order to increase the collective impact of affordable housing development by nonprofit housing organizations. According to Opportunity Finance Network, community development financial institutions leverage federal funding for affordable housing and community development activities at a ratio of eight to one. Additional funding will help community development financial institutions attract private and public capital for affordable housing development.

The purpose of this Act is to establish an affordable homeownership revolving fund to provide funds for the development of affordable for-sale housing projects by nonprofit community development financial institutions and nonprofit housing development organizations to facilitate greater homeownership opportunities for Hawaii residents.

SECTION 2. Chapter 201H, Hawaii Revised Statutes, is amended by adding a new subpart to part III to be appropriately designated and to read as follows:

“ . **Affordable Homeownership Revolving Fund**

§201H-A Affordable homeownership revolving fund. (a) There is established an affordable homeownership revolving fund to be administered by the corporation for the purpose of providing, in whole or in part, loans to nonprofit community development financial institutions and nonprofit housing development organizations for the development of affordable homeownership housing projects.

(b) Loans shall be awarded in the following descending order of priority:

- (1) Projects or units in projects that are funded by programs of the United States Department of Housing and Urban Development, United States Department of Agriculture Rural Development, and United States Department of the Treasury Community Development Financial Institutions Fund, wherein:
 - (A) At least fifty per cent of the available units are reserved for persons and families having incomes at or below eighty per cent of the median family income and of which at least five per cent of the available units are for persons and families having incomes at or below fifty per cent of the median family income; and
 - (B) The remaining units are reserved for persons and families having incomes at or below one hundred twenty per cent of the median family income; and
- (2) Mixed-income affordable for-sale housing projects or units in a mixed-income affordable for-sale housing project wherein all of the available units are reserved for persons and families having incomes at or below one hundred per cent of the median family income.

(c) Moneys in the fund shall be used to provide loans for the development, pre-development, construction, acquisition, preservation, and substantial rehabilitation of affordable for-sale housing units. Uses of moneys in the fund may include but are not limited to planning, design, and land acquisition, including the costs of options, agreements of sale, and down payments; equity financing as matching funds for nonprofit community development financial institutions; or other housing development services or activities as provided in rules adopted by the corporation pursuant to chapter 91. The rules may provide that money from the fund shall be leveraged with other financial resources to the extent possible.

(d) The fund may include sums appropriated by the legislature, private contributions, proceeds from repayment of loans, interest, other returns, and moneys from other sources.

(e) An amount from the fund, to be set by the corporation and authorized by the legislature, may be used for administrative expenses incurred by the corporation in administering the fund; provided that moneys in the fund shall not be used to finance day-to-day administrative expenses of the projects allotted moneys from the fund.

(f) The corporation may provide loans under this section as provided in rules adopted by the corporation pursuant to chapter 91.

(g) The corporation may contract with nonprofit community development financial institutions to fund loans under this section. The corporation may contract for the service and custody of its loans.

(h) The corporation may establish, revise, charge, and collect a reasonable service fee, as necessary, in connection with its loans, services, and approvals under this part. The fees shall be deposited into the affordable homeownership revolving fund.

(i) The corporation shall submit a report to the legislature no later than twenty days prior to the convening of each regular session describing the projects funded using moneys from the affordable homeownership revolving fund.

§201H-B Additional powers. The powers conferred upon the corporation by this subpart shall be in addition and supplemental to the powers conferred by any other law, and nothing in this subpart shall be construed as limiting any powers, rights, privileges, or immunities conferred.”

SECTION 3. There is appropriated out of the funds received by the State of Hawaii from the American Rescue Plan Act of 2021, Public Law 117-2, (Section 9901), the sum of \$1,000,000 or so much thereof as may be necessary for fiscal year 2022-2023 for the purpose of providing, in whole or in part, loans to nonprofit community development financial institutions and nonprofit housing development organizations for the development of affordable homeownership housing projects.

The sum appropriated shall be expended by the Hawaii housing finance and development corporation for the purposes of this Act.

SECTION 4. 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 5. This Act shall take effect on July 1, 2021.

(Approved July 6, 2021.)

ACT 228

H.B. NO. 119

A Bill for an Act Relating to the Issuance of Special Purpose Revenue Bonds to Assist Kaunalewa.

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

SECTION 1. Act 43, Session Laws of Hawaii 2019, is amended by amending sections 1 and 2 as follows:

“SECTION 1. The legislature finds that [~~E Ola Mau Na Leo O Kekaha~~] Kaunalewa proposes to obtain, remediate, and develop the old Kekaha Sugar Mill from Kekaha MS, LLC, in Kekaha, Kauai, Hawaii, [~~through its subsidiary Kekaha Community Development Corporation,~~] to create, among other things, a [~~smart farming enterprise,~~] supply chain facilities community marketplace, a tourist and cultural center, [~~community sunshine market, community greenhouse, and community manufacturing and incubator facility,~~] workforce development programs, and a hub for product creation and incubation. Acquiring, remediating, and developing the property to provide various services will address community and island-wide issues relating to the preservation of a historic

cultural site, preservation of important agricultural endeavors, and development and creation of diverse economic drivers on the west side of Kauai that have significantly diminished in recent years due to the closing of the Kekaha Sugar Mill.

The legislature additionally finds and declares that the proposed acquisition, remediation, and development of the Kekaha Sugar Mill through the issuance of special purpose revenue bonds under this Act is in the public interest and will further public health, safety, and general welfare.

The purpose of this Act is to authorize the issuance of special purpose revenue bonds to assist ~~[E-Ola Mau Na Leo O Kekaha,]~~ Kaunalewa with the financing, acquisition, remediation, construction, and development of the old Kekaha Sugar Mill ~~[through its subsidiary, Kekaha Community Development Corporation].~~

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 ~~[E-Ola Mau Na Leo O Kekaha,]~~ Kaunalewa, a Hawaii domestic 501(c)(3) entity, in acquiring, remediating, and developing the aforementioned project. The legislature hereby finds and determines that ~~[E-Ola Mau Na Leo O Kekaha's]~~ Kaunalewa's financing, acquisition, remediation, construction, and development of this project constitutes projects as defined in part V, chapter 39A, Hawaii Revised Statutes, and the financing thereof will provide assistance to an industrial enterprise.”

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 6, 2021.)

ACT 229

H.B. NO. 468

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. The purpose of this Act is to temporarily suspend the requirement for public employers to make annual required contributions to the Hawaii Employer-Union Health Benefits Trust Fund through fiscal year 2022-2023.

SECTION 2. Section 87A-24, Hawaii Revised Statutes, is amended to read as follows:

“§87A-24 Other powers. In addition to the power to administer the fund, the board may:

- (1) Collect, receive, deposit, and withdraw money on behalf of the fund;
- (2) Invest moneys in the same manner specified in section 88-119;

- (3) Hold, purchase, sell, assign, transfer, or dispose of any securities or other investments of the fund, as well as the proceeds of those investments and any money belonging to the fund;
- (4) Appoint, and at pleasure dismiss, an administrator and other fund staff. The administrator shall be exempt from chapter 76. Other fund staff may be exempt from chapter 76 as determined by the board. The administrator and staff who are exempt from chapter 76 shall serve under and at the pleasure of the board; provided that civil service exempt positions under this section that are created after July 1, 2014, shall be exempt from section 76-16(b)(17)(A);
- (5) Make payments of periodic charges and pay for reasonable expenses incurred in carrying out the purposes of the fund;
- (6) Contract for the performance of financial audits of the fund and claims audits of its insurance carriers;
- (7) Retain auditors, actuaries, investment firms and managers, benefit plan consultants, or other professional advisors to carry out the purposes of this chapter~~[-including the retaining of an actuary to determine the annual required public employer contribution for the separate trust fund established under section 87A-42];~~
- (8) Establish health benefits plan and long-term care benefits plan rates that include administrative and other expenses necessary to effectuate the purposes of the fund; and
- (9) Require any department, agency, or employee of the State or counties to furnish information to the board to carry out the purposes of this chapter.”

SECTION 3. Section 87A-42, Hawaii Revised Statutes, is amended to read as follows:

“§87A-42 Other post-employment benefits trust. ~~[(a)]~~ Notwithstanding sections 87A-31 and 87A-31.5, the board, upon terms and conditions set by the board, shall establish and administer a separate trust fund for the purpose of receiving employer contributions that will prefund other post-employment health and other benefit plan costs for retirees and their beneficiaries. The separate trust fund shall meet the requirements of the Governmental Accounting Standards Board regarding other post-employment benefits trusts. The board shall establish and maintain a separate account for each public employer within the separate trust fund to accept and account for each public employer’s contributions. Employer contributions to the separate trust fund shall be irrevocable, all assets of the fund shall be dedicated exclusively to providing health and other benefits to retirees and their beneficiaries, and assets of the fund shall not be subject to appropriation for any other purpose and shall not be subject to claims by creditors of the employers or the board or plan administrator. The board’s powers under section 87A-24 shall also apply to the fund established pursuant to this section.

~~[(b) Public employer contributions shall be paid into the fund in each fiscal year, and commencing with the 2018-2019 fiscal year, the amount of the annual public employer contribution shall be equal to the amount of the annual required contribution, as determined by an actuary retained by the board.~~

~~(c) In any fiscal year subsequent to the 2017-2018 fiscal year in which the state public employer’s contributions into the fund are less than the amount of the annual required contribution, the amount that represents the excess of the annual required contribution over the state public employer’s contributions shall be deposited into the appropriate account of the separate trust fund from a~~

portion of all general excise tax revenues collected by the department of taxation under section 237-31.

If any general excise tax revenues are deposited into the separate trust fund in any fiscal year as a result of this subsection, the director of finance shall notify the legislature and governor whether the general fund expenditure ceiling for that fiscal year would have been exceeded if those revenues had been legislatively appropriated instead of deposited without appropriation into the trust fund. The notification shall be submitted within thirty days following the end of the applicable fiscal year.

~~(d) In any fiscal year subsequent to the 2017-2018 fiscal year in which a county public employer's contributions into the fund are less than the amount of the annual required contribution, the amount that represents the excess of the annual required contribution over the county public employer's contributions shall be deposited into the fund from a portion of all transient accommodations tax revenues collected by the department of taxation under section 237D-6.5(b)(4). The director of finance shall deduct the amount necessary to meet the county public employer's annual required contribution from the revenues derived under section 237D-6.5(b)(4) and transfer the amount to the board for deposit into the appropriate account of the separate trust fund.~~

~~(e) In any fiscal year subsequent to fiscal year 2017-2018 in which a public employer's contributions into the fund are less than the amount of the annual required contribution and the public employer is not entitled to transient accommodations tax revenues sufficient to satisfy the total amount of the annual required contribution, the public employer's contributions shall be deposited into the fund from portions of any other revenues collected on behalf of the public employer or held by the State. The director of finance shall deduct the amount necessary to meet the public employer's annual required contribution from any revenues collected on behalf of the public employer held by the State and transfer the amount to the board for deposit into the appropriate account of the separate trust fund.~~

~~(f) For the purposes of this section, "annual required contribution" means a public employer's required contribution to the trust fund established in this section that is sufficient to cover:~~

- ~~(1) The normal cost, which is the cost of other post-employment benefits attributable to the current year of service; and~~
- ~~(2) An amortization payment, which is a catch-up payment for past service costs to fund the unfunded actuarial accrued liability over the next thirty years.]"~~

SECTION 4. Section 237-31, Hawaii Revised Statutes, is amended to read as follows:

§237-31 Remittances. All remittances of taxes imposed by this chapter shall be made by money, bank draft, check, cashier's check, money order, or certificate of deposit to the office of the department of taxation to which the return was transmitted. The department shall issue its receipts therefor to the taxpayer and shall pay the moneys into the state treasury as a state realization, to be kept and accounted for as provided by law; provided that:

- (1) A sum, not to exceed \$5,000,000, from all general excise tax revenues realized by the State shall be deposited in the state treasury in each fiscal year to the credit of the compound interest bond reserve fund; and
- (2) A sum from all general excise tax revenues realized by the State that is equal to one-half of the total amount of funds appropriated or transferred out of the hurricane reserve trust fund under sections 4

and 5 of Act 62, Session Laws of Hawaii 2011, shall be deposited into the hurricane reserve trust fund in fiscal year 2013-2014 and in fiscal year 2014-2015; provided that the deposit required in each fiscal year shall be made by October 1 of that fiscal year[; and
 [(3)] ~~Commencing with fiscal year 2018-2019, a sum from all general excise tax revenues realized by the State that represents the difference between the state public employer's annual required contribution for the separate trust fund established under section 87A-42 and the amount of the state public employer's contributions into that trust fund shall be deposited to the credit of the State's annual required contribution into that trust fund in each fiscal year, as provided in section 87A-42.]”~~

SECTION 5. Section 237D-6.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Except for the revenues collected pursuant to section 237D-2(e), revenues collected under this chapter shall be distributed in the following priority, with the excess revenues to be deposited into the general fund:

- (1) \$1,500,000 shall be allocated to the Turtle Bay conservation easement special fund beginning July 1, 2015, for the reimbursement to the state general fund of debt service on reimbursable general obligation bonds, including ongoing expenses related to the issuance of the bonds, the proceeds of which were used to acquire the conservation easement and other real property interests in Turtle Bay, Oahu, for the protection, preservation, and enhancement of natural resources important to the State, until the bonds are fully amortized;
- (2) \$16,500,000 shall be allocated to the convention center enterprise special fund established under section 201B-8;
- (3) \$79,000,000 shall be allocated to the tourism special fund established under section 201B-11; provided that:
 - (A) Beginning on July 1, 2012, and ending on June 30, 2015, \$2,000,000 shall be expended from the tourism special fund for development and implementation of initiatives to take advantage of expanded visa programs and increased travel opportunities for international visitors to Hawaii;
 - (B) Of the \$79,000,000 allocated:
 - (i) \$1,000,000 shall be allocated for the operation of a Hawaiian center and the museum of Hawaiian music and dance; and
 - (ii) 0.5 per cent of the \$79,000,000 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; and
 - (C) 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 special fund, established in section 201B-10, in a manner sufficient to maintain a fund balance of \$5,000,000 in the tourism emergency special fund;
- (4) \$103,000,000 shall be allocated 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 coun-

ty shall receive 22.8 per cent[; provided that commencing with fiscal year 2018-2019, a sum that represents the difference between a county public employer's annual required contribution for the separate trust fund established under section 87A-42 and the amount of the county public employer's contributions into that trust fund shall be retained by the state director of finance and deposited to the credit of the county public employer's annual required contribution into that trust fund in each fiscal year, as provided in section 87A-42, if the respective county fails to remit the total amount of the county's required annual contributions, as required under section 87A-43]; and

- (5) \$3,000,000 shall be allocated to the special land and development fund established under section 171-19; provided that the allocation shall be expended in accordance with the Hawaii tourism authority strategic plan for:
- (A) The protection, preservation, maintenance, and enhancement of natural resources, including beaches, important to the visitor industry;
 - (B) Planning, construction, and repair of facilities; and
 - (C) Operation and maintenance costs of public lands, including beaches, connected with enhancing the visitor experience.

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.

[As used in this subsection, "fiscal year" means the twelve-month period beginning on July 1 of a calendar year and ending on June 30 of the following calendar year.]

SECTION 6. Section 37B-3, Hawaii Revised Statutes, is repealed.

SECTION 7. Section 87A-43, Hawaii Revised Statutes, is repealed.

SECTION 8. Statutory material to be repealed is bracketed and stricken.¹ New statutory material is underscored.

SECTION 9. This Act shall take effect on July 1, 2021; provided that on June 30, 2023, this Act shall be repealed and sections 37B-3, 87A-24, 87A-42, 87A-43, 237-31, and 237D-6.5(b), Hawaii Revised Statutes, shall be reenacted in the form in which they read on the day prior to the effective date of this Act.

(Approved July 6, 2021.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 230

S.B. NO. 1327

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

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

SECTION 1. Section 266-3, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

- “(a) The director of transportation may adopt rules as necessary [to]:
- (1) [~~Regulate~~] To regulate the manner in which all vessels may enter and moor, anchor, or dock in the commercial harbors, ports, and roadsteads of the State, or move from one dock, wharf, pier, quay, bulkhead, landing, anchorage, or mooring to another within the commercial harbors, ports, or roadsteads;
 - (2) [~~The~~] For the examination, guidance, and control of harbor masters and their assistants and their conduct while on duty;
 - (3) [~~The~~] For the embarking or disembarking of passengers;
 - (4) [~~The~~] For the expeditious and careful handling of freight, goods, wares, and merchandise of every kind [~~which~~] that may be delivered for shipment or discharged on the commercial docks, wharves, piers, quays, bulkheads, or landings belonging to or controlled by the State; and
 - (5) [~~Defining~~] To define the duties and powers of carriers, shippers, and consignees respecting passengers, freight, goods, wares, and merchandise in and upon the docks, wharves, piers, quays, bulkheads, or landings within the commercial harbors, ports, and roadsteads of the State. The director may also make further rules for the safety of the docks, wharves, piers, quays, bulkheads, and landings on, in, near, or affecting a commercial harbor and waterfront improvements belonging to or controlled by the State.”

SECTION 2. Section 266-19, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) At any time the director of transportation may transfer from the harbor special fund created by [~~paragraph~~] subsection (a) [~~of this section,~~] all or any portion of available moneys on deposit in the harbor special fund that is determined by the director of transportation to be in excess of one hundred fifty per cent of the requirements for the ensuing twelve months for the harbor special fund, as permitted by and in accordance with section 37-53. For purposes of [~~such~~] this determination, the director of transportation shall take into consideration the amount of federal funds and bond funds on deposit in, and budgeted to be expended from, the harbor special fund during [~~such period,~~] the ensuing twelve months; amounts on deposit in the harbor special fund [~~which~~] that are encumbered or otherwise obligated[.]; budgeted amounts payable from the harbor special fund during [~~such period, and~~] the ensuing twelve months; revenues anticipated to be received by and expenditures to be made from the harbor special fund during [~~such period~~] the ensuing twelve months based on existing agreements and other information for [~~the ensuing twelve months,~~] that period; and [~~such~~] any other factors as the director of transportation shall deem appropriate.”

SECTION 3. Section 268-9, Hawaii Revised Statutes, is amended to read as follows:

“**§268-9 Seamen may sue for injuries; venue.** The State consents to suits against the department of transportation by seamen for injuries occurring upon vessels under the authority of the Hawaii state ferries system in accordance with [~~section 688, Title~~] title 46[~~, of the~~] United States Code[.] section 30104. The venue of the actions may be in the first circuit court or the circuit wherein the injury occurred.”

SECTION 4. Section 291E-19, Hawaii Revised Statutes, is amended to read as follows:

~~“[§291E-19] Authorization to establish intoxicant control roadblock programs.~~ The police departments of the respective counties may establish and implement intoxicant control roadblock programs in accordance with the minimum standards and guidelines provided in section 291E-20. The chief of police in any county establishing an intoxicant control roadblock program pursuant to this section shall specify the procedures to be followed in carrying out the program in rules adopted under chapter 91; provided that the procedures shall be in conformity with and not more intrusive than the standards and guidelines described in section 291E-20. In the case of internal police standards that do not fall within the definition of “rule” under section ~~[91-1(4),]~~ 91-1, failure to comply scrupulously with ~~[such]~~ the internal police procedures shall not invalidate a roadblock that otherwise meets the minimum statutory criteria provided in section 291E-20.”

SECTION 5. Section 302A-1165, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The department shall share the information gathered pursuant to this section with the department of human services, executive office on early learning, and state public charter school commission to the extent not otherwise prohibited by administrative rule or law.”

SECTION 6. Section 302A-1166, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The department shall share the information gathered pursuant to this section with the department of human services, executive office on early learning, and state public charter school commission to the extent not otherwise prohibited by administrative rule or law.”

SECTION 7. Section 328G-2, Hawaii Revised Statutes, is amended by amending subsection (j) to read as follows:

“(j) The department may remove any person from the registry for failure to comply with any law or regulation under this chapter. It is the responsibility of the hemp processor to make sure it is registered and legally allowed to process hemp and in compliance with any and all laws and regulations. The removal of a hemp processor from the registry shall be in accordance with the procedures set forth in section ~~[328H-F,]~~ 328G-6.”

SECTION 8. Section 346-186, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) To the extent not prohibited by administrative rule or law, the department, department of education, state public charter school commission, and executive office on early learning shall share any information gathered pursuant to sections 302A-1165, 302A-1166, 302D-37, and 302D-38 with each other, along with any other information the department, department of education, or state public charter school commission may collect on all children in the State who are three to four years old and children who will not be at least five years of age on or before July 31 of the current school year.”

SECTION 9. Section 436M-8, Hawaii Revised Statutes, is amended to read as follows:

~~“[§436M-8] Activation.~~ No alarm system shall be activated intentionally except~~[:]~~ to:

- (1) ~~[to report]~~ Report an unauthorized intrusion or the commission of an unlawful act; ~~[or]~~

- (2) [~~to test~~] Test an installed system with the prior knowledge and consent of the police; or
- (3) [~~to permit~~] Permit an alarm business to demonstrate a system to a prospective buyer or user.”

SECTION 10. Section 437-1.1, Hawaii Revised Statutes, is amended by amending the definition of “new motor vehicle” to read as follows:

““New motor vehicle” means a motor vehicle [~~which~~] that:

- (1) [~~has~~] Has not previously been sold to any person except a distributor, wholesaler, or dealer for resale, except where the vehicle has not left the dealer’s possession after the sale to a consumer[;];
- (2) [~~has~~] Has not previously been registered or titled in the name of a consumer except where the vehicle has not left the dealer’s possession after the sale to a consumer[;]; and
- (3) [~~has~~] Has not been driven more than five hundred miles;

provided that where a sale, registration, entitlement, or transfer of title of a motor vehicle, or the accrual of mileage thereon, is primarily for the purpose of evading this provision, the motor vehicle shall be deemed a new motor vehicle for the purposes of this chapter.”

SECTION 11. Section 437B-12, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) Each:

- (1) Mobile air conditioner serviced without using refrigerant recovery and recycling equipment;
- (2) Motor vehicle or mobile air conditioner serviced after January 1, 1994, without successful completion of an appropriate training course dealing with the recovery and recycling of CFC and HCFC refrigerants; and
- (3) Violation of chapter 342C[;].

constitutes a separate offense for which fines may be imposed under subsection (b).”

SECTION 12. Section 440G-3, Hawaii Revised Statutes, is amended by amending the definitions of “cable operator”, “cable service”, “cable system”, and “public, educational, or governmental access facilities” to read as follows:

““Cable operator” means any person or group of persons who:

- (1) [~~who provides~~] Provides cable service over a cable system and directly or through one or more affiliates owns a significant interest in the cable system; or
- (2) [~~who otherwise~~] Otherwise controls or is responsible for, through any arrangement, the management and operation of a cable system.

“Cable service” means:

- (1) [~~the~~] The one-way transmission to subscribers of video programming or other programming service; and
- (2) [~~subscriber~~] Subscriber interaction, if any, [~~which~~] that is required for the selection of video programming or other programming service.

“Cable system” means any facility within this State consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service [~~which~~] that includes video programming and [~~which~~] is provided to multiple subscribers within a community, but does not include;

- (1) [a] A facility that serves only to retransmit the television signals of one or more television broadcast stations;
 - (2) [a] A facility that serves only subscribers in one or more multiple unit dwellings under common ownership, control, or management, unless that facility or facilities uses any public right-of-way; or
 - (3) [a] A facility of a public utility subject in whole or in part to the provisions of chapter 269, except to the extent that those facilities provide video programming directly to subscribers.
- “Public, educational, or governmental access facilities” means:
- (1) [~~channel~~] Channel capacity designated for public, educational, or governmental uses; and
 - (2) [~~facilities~~] Facilities and equipment for the use of that channel capacity.”

SECTION 13. Section 443B-3.5, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (b) to read:

“(b) To be designated as an exempt out-of-state collection agency, a collection agency shall:

- (1) Not have any employees or agents located in the State who engage in the collection of debts for another person;
- (2) Not have any business location or office in the State that engages in collection agency activities;
- (3) Hold a current, unrestricted, and unconditional license, permit, or registration as a collection agency in the reciprocal state identified in its application;
- (4) Limit its collection activity in the State to the collection of debts from residents of the State on behalf of out-of-state clients through interstate communication by telephone, mail, facsimile, or electronic mail; and
- (5) Not collect debts on behalf of creditors who have a business presence in the State.

~~[For purposes of this section, a creditor has a “business presence” in the State if either the creditor or an affiliate or subsidiary of the creditor has an office in the State.]”~~

2. By amending subsection (n) to read:

“(n) For purposes of this section~~[-, a “reciprocal state” is one]~~:

“Business presence in the State” means the creditor or an affiliate or subsidiary of the creditor has an office in the State.

“Reciprocal state” means a state:

- (1) Whose requirements to be licensed, permitted, or registered as a collection agency in that state are at a minimum substantially equivalent to the requirements to be registered as a collection agency in this State, including but not limited to the bonding requirements in section 443B-5; and
- (2) That does not require a Hawaii collection agency to obtain a license, permit, or registration to collect debts in that state if the activities of the Hawaii collection agency are limited to collecting debts on behalf of an out-of-state creditor using interstate communication methods, including telephone, facsimile, mail, or electronic mail, and the Hawaii collection agency does not solicit or engage in collection activities for clients in that state.”

SECTION 14. Section 444-16, Hawaii Revised Statutes, is amended to read as follows:

“**§444-16 Action on applications.** Within one hundred and twenty days after the filing of a proper application for a license and the payment of the required fees, the board shall:

- (1) [~~conduct~~] Conduct an investigation of the applicant, and in that investigation may post pertinent information, including [~~but not limited to,~~] the name and address of the applicant[;] and [~~if the applicant is associated in any partnership, corporation, or other entity,~~] the names, addresses, and official capacities of [~~the applicant's associates;~~] any partnership, corporation, or other entity that the applicant is associated with; and
- (2) [~~either~~] Either issue a license to the applicant or notify the applicant in writing by registered mail of the board's decision not to grant the license and specifically notify the applicant of the applicant's right to submit a request for a contested case hearing pursuant to chapter 91 within sixty days of the board's decision. The hearing shall be conducted in accordance with chapter 91.”

SECTION 15. Section 444-26, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

“(a) The board is authorized to establish and maintain a contractors recovery fund from which any person injured by an act, representation, transaction, or conduct of a duly licensed contractor [~~, which~~] that is in violation of this chapter or the rules adopted pursuant thereto[;] may recover, by order of the circuit court or district court of the judicial circuit where the violation occurred, an amount of not more than \$12,500 per contract, regardless of the number of persons injured under the contract, for damages sustained [~~by~~] from the act, representation, transaction, or conduct. Recovery from the fund shall be limited to the actual damages suffered by the claimant, including court costs and fees as set by law[;] and reasonable attorney fees as determined by the court; provided that recovery from the fund shall not be awarded to persons injured by an act, representation, transaction, or conduct of a contractor whose license was suspended, revoked, forfeited, terminated, or in an inactive status at the time the claimant entered into the contract with the contractor.”

2. By amending subsection (c) to read:

“(c) When any person applies for a contractors license, the person shall pay, in addition to the person's original license fee, a fee of \$150 for deposit in the contractors recovery fund[;] and a fee for deposit in the contractors education fund as provided in rules adopted by the director pursuant to chapter 91. [~~In the event that~~] If the board does not issue the license, these fees shall be returned to the applicant.”

SECTION 16. Section 456-17, Hawaii Revised Statutes, is amended to read as follows:

“**§456-17 Fees.** Subject to section 456-18, every notary public is entitled to demand and receive the following fees:

- (1) For noting the protest of mercantile paper, \$5;
- (2) For each notice and certified copy of protest, \$5;
- (3) For noting any other protest, \$5;
- (4) For every notice thereof[;] and certified copy of protest, \$5;
- (5) For every deposition[;] or official certificate, \$5;

- (6) For the administration of oath, including the certificate of the oath, \$5; for affixing the certificate of the oath to every duplicate original instrument beyond four, \$2.50;
- (7) For taking any acknowledgment, \$5 for each party signing; for affixing to every duplicate original beyond one of any instrument acknowledged before the notary public, the notary public's certificate of the acknowledgment, \$2.50 for each person making the acknowledgment; and
- (8) For any of the foregoing notarial acts performed for a remotely located individual under section 456-23, other than affixing a notary public's certificate to a duplicate original, \$25."

SECTION 17. Section 458-13, Hawaii Revised Statutes, is amended to read as follows:

"§458-13 Acts prohibited. It shall be unlawful to do any of the following:

- (1) To engage in the occupation of dispensing optician without first having been issued a dispensing optician license under this chapter;
- (2) To advertise in any manner that would tend to mislead or deceive the public;
- (3) To dispense, furnish, or supply the services and appliances to the intended wearer or user thereof, except upon a prescription issued by a licensed physician[;] or optometrist; provided that duplications, replacements, reproductions, and repetitions[;] without change in the refractive value may be done without prescription by individuals holding a license of dispensing optician issued under this chapter;
- (4) To fit or duplicate, or offer, undertake, or attempt to fit or duplicate, hard and soft contact lenses or artificial eyes except under the written orders and personal supervision of an ophthalmologist or optometrist [~~or fail to provide notice as required by section 458-12.5~~];
- (5) For a dispensing optician to grant, allow, credit, or pay, directly or indirectly, openly or secretly, any price differential, rebate, refund, discount, commission, credit, kickback, or other allowance, whether in the form of money or otherwise, to any oculist, optometrist, physician, or practitioner of any other profession for or on account of:

- (A) [~~for or on account of the~~] The referring or sending by any oculist, optometrist, physician, or practitioner to the dispensing optician of any person for the rendition of any of the services performed or articles or appliances furnished by a dispensing optician as described in section 458-1[;]; or
- (B) [~~for or on account of the~~] The rendition of any services or the furnishing of any articles or appliances to a person so referred or sent by any oculist, optometrist, physician, or practitioner.

Every scheme, agreement, undertaking, arrangement, or device shall also be deemed in violation of section 481-7. The license of every dispensing optician who violates this paragraph shall be revoked; or

- (6) For a dispensing optician to permit any unlicensed person to take facial measurements[;] or to fit or adjust lenses or frames or duplicate frames unless the unlicensed person is acting under the direct personal supervision of a licensed dispensing optician. "Direct personal supervision" means the licensed optician is present on the premises of the optical dispensing establishment and is available for consultation by the unlicensed person."

SECTION 18. Section 459-1.5, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

“Ophthalmic lens” means any spectacle lens that has a spherical, cylindrical, or prismatic power or value and is ground pursuant to a prescription.”

SECTION 19. Section 459-2, Hawaii Revised Statutes, is amended to read as follows:

§459-2 Optometry; unauthorized practice, unlawful. It shall be unlawful for any person to practice optometry or to append the letters “O.D.” or any other optometric degree to a person’s name with the intent thereby to imply that the individual is a practitioner of optometry, without first securing and holding an unrevoked and unsuspended license under and as provided in this chapter. This chapter shall not ~~apply~~:

- (1) Apply to, or prohibit, a duly licensed physician from practicing optometry as defined in this chapter ~~[defined, nor shall it prohibit]~~;
- (2) Prohibit a duly licensed physician or optometrist from filling prescriptions or orders ~~[, nor shall it prohibit]~~;
- (3) Prohibit the replacement, duplication, or repair of ophthalmic lenses, contact lenses, or frames, or fittings thereof, by persons qualified to write or fill prescriptions or orders under this chapter ~~[, nor shall it prohibit]~~;
- (4) Prohibit or prevent any dispensing optician licensed under chapter 458 from performing the activities authorized by the license ~~[, nor shall it apply]~~; or
- (5) Apply to optometric service corporations formed for the primary purpose of contracting with individuals, groups of individuals, and corporations for defraying or assuming the cost of services of optometrists and of contracting on behalf of optometrists to furnish services as provided in chapter 424.

~~[An “ophthalmic lens” within the meaning of this chapter means any spectacle lens which has a spherical, cylindrical, or prismatic power or value, and is ground pursuant to a prescription.]”~~

SECTION 20. Section 467-30, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

~~“(a) As used in this section[;]~~

~~“[condominium] “Condominium hotel” includes those units in a project as defined in section 514B-3 and subject to chapter 514B[; which] that are used to provide transient lodging for periods of less than thirty days.~~

~~“Operating a condominium hotel” includes the:~~

- (1) Management of the apartments or units in a condominium project for purposes of providing transient lodging; and
- (2) Renting or leasing of condominium apartments or units directly or indirectly from the apartment or unit owners for purposes of providing transient lodging.”

2. By amending subsection (e) to read:

~~“(e) [As used in this section, “operating a condominium hotel” includes the management of the apartments or units in a condominium project for purposes of providing transient lodging, and includes the renting or leasing of condominium apartments or units directly or indirectly from the apartment or unit owners for purposes of providing transient lodging.] The condominium hotel operator shall provide [a written contract] to the owner or owners of each apartment or unit under the condominium hotel operation[;] a written contract~~

expressing the exact agreements of each party, including all financial and accounting obligations, and the notification requirements of subsection (g).”

SECTION 21. Section 652-2, Hawaii Revised Statutes, is amended to read as follows:

“**§652-2 Garnishee, rights, duties; collection by levying officer.** The garnishee [~~shall~~], when summoned before judgment rendered against [~~his~~] the garnishee’s principal, if [~~he~~] the garnishee desires, shall be admitted to defend [~~his~~] the garnishee’s principal in the action.

If judgment is rendered in favor of the plaintiff, and likewise in all cases in which the garnishee is summoned after judgment, the garnishee fund, or [~~such~~] any part thereof as may be sufficient for that purpose, shall be liable to pay the same. The plaintiff on praying out execution shall be entitled to have included in the execution an order directing the officer serving the same to make demand of the garnishee for the goods and effects of the defendant secured in [~~his~~] the garnishee’s hands, whose duty it will be to expose the same to be taken on execution, and also to make demand of the garnishee for the debt or wages secured in [~~his~~] the garnishee’s hands or the moneys held by [~~him~~] the garnishee for safekeeping, or [~~such~~] any part thereof as may satisfy the judgment. It shall be the duty of the garnishee to pay the same. If the garnishee has in any manner disposed of the goods and effects or does not expose and subject the same to be taken on execution, or if the garnishee does not pay to the officer, when demanded, the debt [~~or~~], wages, or moneys held for safekeeping, the garnishee shall be liable to satisfy the judgment out of [~~his~~] the garnishee’s own estate, as [~~his~~] the garnishee’s own proper debt, if the goods [~~or~~], effects [~~or~~], debt [~~or~~], wages, or moneys held for safekeeping[;] be of sufficient value or amount and, if not, then to the value of the same; provided that every garnishee, whether summoned before or after judgment, shall be allowed to retain or deduct from the goods, effects, and credits of the defendant in [~~his~~] the garnishee’s hands at the time of service all demands against the defendant of which [~~he~~] the garnishee could have availed [~~himself~~] the garnishee’s self if [~~he~~] the garnishee had not been [~~garnisheed~~]; garnished, whether the same are at the time due or not, and whether by setoff on a trial or by setoff of judgments or executions between [~~himself~~] the garnishee and the defendant, and shall be liable only for the balance after adjustment of all mutual demands between [~~himself~~] the garnishee and the defendant; provided that in [~~such~~] the adjustment no demands for unliquidated damages for wrongs or injuries shall be included[;]; and provided further that the judgment shall show the amount of any setoff.

No garnishee shall be liable to anyone for the nonpayment of any sum or for the nondelivery of any goods or effects when the garnishee in good faith believes, or has reason to believe, that garnishment or other process affects the same, though such be not the case, but this paragraph shall not supersede section 652-9 where the same are applicable.”

SECTION 22. Section 36-35, Hawaii Revised Statutes, is repealed.

SECTION 23. Statutory material to be repealed is bracketed and stricken.¹ New statutory material is underscored.

SECTION 24. This Act shall take effect upon its approval.

(Approved July 6, 2021.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 231

H.B. NO. 513

A Bill for an Act Relating to the State Capitol Management Committee.

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

SECTION 1. Section 6E-34.5, Hawaii Revised Statutes, is repealed.

SECTION 2. All policies and procedures established by the state capitol management committee pursuant to section 6E-34.5, Hawaii Revised Statutes, shall remain in full force and effect until amended or repealed by the department of accounting and general services, governor, senate, or house of representatives, as applicable.

SECTION 3. Statutory material to be repealed is bracketed and stricken.¹

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

(Approved July 6, 2021.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 232

H.B. NO. 1031

A Bill for an Act Relating to the Hawaii Historic Places Review Board.

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

SECTION 1. Section 6E-5.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There is created a review board, to be designated the Hawaii historic places review board, for the Hawaii register of historic places and the national register of historic places which shall meet the requirements of federal law. The board shall be placed within the department of land and natural resources for administrative purposes and shall consist of [~~ten~~ seven] members to be appointed and removed by the governor as provided in section 26-34. The board shall include one professionally qualified member of each of the following disciplines: archaeology, architecture, history, and sociology. In addition, there shall be one person knowledgeable in traditional Hawaiian society and culture.”

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 6, 2021.)

ACT 233

H.B. NO. 1032

A Bill for an Act Relating to the Uniform Controlled Substances Act.

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

SECTION 1. Section 329-14, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (b) to read:

“(b) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:

- (1) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide);
- (2) Acetylmethadol;
- (3) Allylprodine;
- (4) Alphacetylmethadol (except levo-alphacetylmethadol, levomethadyl acetate, or LAAM);
- (5) Alphameprodine;
- (6) Alphamethadol;
- (7) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl] propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine);
- (8) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);
- (9) Benzethidine;
- (10) Betacetylmethadol;
- (11) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-piperidinyl]-N-phenylpropanamide);
- (12) Beta-hydroxy-3-methylfentanyl (N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl]-N-phenylpropanamide);
- (13) Betameprodine;
- (14) Betamethadol;
- (15) Betaprodine;
- (16) Clonitazene;
- (17) Dextromoramide;
- (18) Diampromide;
- (19) Diethylthiambutene;
- (20) Difenoxyin;
- (21) Dimenoxadol;
- (22) Dimepheptanol;
- (23) Dimethylthiambutene;
- (24) Dioxaphetyl butyrate;
- (25) Dipipanone;
- (26) Ethylmethylthiambutene;
- (27) Etonitazene;
- (28) Etoxidine;
- (29) Furethidine;
- (30) Hydroxypethidine;
- (31) Ketobemidone;
- (32) Levomoramide;
- (33) Levophenacilmorphan;
- (34) 3-Methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide);
- (35) 3-methylthiofentanyl (N-[3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);
- (36) Morpheridine;
- (37) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);
- (38) Noracymethadol;
- (39) Norlevorphanol;
- (40) Normethadone;

- (41) Norpipanone;
- (42) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidinyl] propanamide;
- (43) PEPAP (1-(-2-phenethyl)-4-phenyl-4-acetoxypiperidine);
- (44) Phenadoxone;
- (45) Phenampromide;
- (46) Phenomorphan;
- (47) Phenoperidine;
- (48) Piritramide;
- (49) Proheptazine;
- (50) Properidine;
- (51) Propiram;
- (52) Racemoramide;
- (53) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-propanamide);
- (54) Tilidine;
- (55) Trimeperidine;
- (56) N-[1-benzyl-4-piperidyl]-N-phenylpropanamide (benzylfentanyl), its optical isomers, salts, and salts of isomers;
- (57) N-[1-(2-thienyl)methyl-4-piperidyl]-N-phenylpropanamide (thenylfentanyl), its optical isomers, salts, and salts of isomers;
- (58) N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide, (acetyl fentanyl), its optical, positional, and geometric isomers, salts, and salts of isomers;
- (59) AH-7921 (3,4-dichloro-N-[(1-dimethylamino)cyclohexylmethyl]benzamide), its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers;
- (60) N-(1-phenethylpiperidin-4-yl)-N-phenylbutyramide, its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers (Other names: Butyryl fentanyl);
- (61) N-[1-[2-hydroxy-2-(thiophen-2-yl)ethyl]piperidin-4-yl]-N-phenylpropionamide, its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers (Other names: beta-hydroxythiofentanyl);
- (62) N-(1-phenethylpiperidin-4-yl)-N-phenylfuran-2-carboxamide, its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers (Other names: Furanyl fentanyl);
- (63) 3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methylbenzamide, its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers (Other names: U-47700);
- (64) 4-fluoroisobutyryl fentanyl or para-fluoroisobutyryl [~~fentanyl~~ fentanyl] [N-(4-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide];
- (65) Acryl fentanyl or acryloylfentanyl [N-(1-phenethylpiperidin-4-yl)-N-phenylacrylamide]; [~~and~~]
- (66) Ocfentanil [~~[N-(2-fluorophenyl)-2-methoxy-N-(1-phenethylpiperidin-4-yl)acetamide]-] [N-(2-fluorophenyl)-2-methoxy-N-(1-phenethylpiperidin-4-yl)acetamide];~~
- (67) Cyclopropyl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylcyclopropanecarboxamide;
- (68) Methoxyacetyl fentanyl (2-methoxy-N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide);

- (69) Ortho-fluorofentanyl (N-(2-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)propionamide) (Other name: 2-fluorofentanyl); and
- (70) Para-fluorobutyryl fentanyl (N-(4-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)butyramide).”
2. By amending subsection (e) to read:
- “(e) Depressants. Unless specifically excepted, the schedule shall include any material, compound, mixture, or preparation which contains any quantity of the substance:
- (1) Mecloqualone; [øƒ]
 - (2) Methaqualone[-];
 - (3) Etizolam (including its optical, positional, and geometric isomers, salts, and salts of isomers, where possible); or
 - (4) Flualprazolam (including its optical, positional, and geometric isomers, salts, and salts of isomers, where possible).”
3. By amending subsection (g) to read:
- “(g) Any of the following cannabinoids, their salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:
- (1) Tetrahydrocannabinols; meaning tetrahydrocannabinols naturally contained in a plant of the genus Cannabis (cannabis plant), as well as synthetic equivalents of the substances contained in the plant, or in the resinous extractives of Cannabis, sp. or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity to those substances contained in the plant, such as the following: Delta 1 cis or trans tetrahydrocannabinol, and their optical isomers; Delta 6 cis or trans tetrahydrocannabinol, and their optical isomers; and Delta 3,4 cis or trans-tetrahydrocannabinol, and its optical isomers (since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions, are covered);
 - (2) Naphthoylindoles; meaning any compound containing a 3-(1-naphthoyl)indole structure with substitution at the nitrogen atom of the indole ring by a alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent;
 - (3) Naphthylmethylindoles; meaning any compound containing a 1H-indol-3-yl-(1-naphthyl) methane structure with substitution at the nitrogen atom of the indole ring by a alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl or 2-(4-morpholinyl) ethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent;
 - (4) Naphthoylpyrroles; meaning any compound containing a 3-(1-naphthoyl)pyrrole structure with substitution at the nitrogen atom of the pyrrole ring by a alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl) ethyl group whether or not further substituted in the pyrrole ring to any extent, whether or not substituted in the naphthyl ring to any extent;

- (5) Naphthylmethylindenes; meaning any compound containing a naphthylideneindene structure with substitution at the 3-position of the indene ring by a alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl or 2-(4-morpholinyl) ethyl group whether or not further substituted in the indene ring to any extent, whether or not substituted in the naphthyl ring to any extent;
- (6) Phenylacetylindoles; meaning any compound containing a 3-phenylacetylindole structure with substitution at the nitrogen atom of the indole ring by a alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl or 2-(4-morpholinyl) ethyl group whether or not further substituted in the indole ring to any extent, whether or not substituted in the phenyl ring to any extent;
- (7) Cyclohexylphenols; meaning any compound containing a 2-(3-hydroxycyclohexyl) phenol structure with substitution at the 5-position of the phenolic ring by a alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl or 2-(4-morpholinyl) ethyl group whether or not substituted in the cyclohexyl ring to any extent;
- (8) Benzoylindoles; meaning any compound containing a 3-(benzoyl) indole structure with substitution at the nitrogen atom of the indole ring by a alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl, or 2-(4-morpholinyl) ethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent;
- (9) [2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl) pyrrolo[1,2,3-de]-1, 4-benzoxazin-6-yl]-1-naphthalenylmethanone (another trade name is WIN 55,212-2);
- (10) (6a,10a)-9-(hydroxymethyl)-6, 6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol (Other trade names are: HU-210/HU-211);
- (11) Tetramethylcyclopropanoylindoles; meaning any compound containing a 3-tetramethylcyclopropanoylindole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or tetrahydropyranylmethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the tetramethylcyclopropyl ring to any extent;
- (12) N-(1-adamantyl)-1-pentyl-1H-indazole-3-carboxamide, its optical, positional, and geometric isomers, salts, and salts of isomers (Other names: APINACA, AKB48);
- (13) Quinolin-8-yl 1-pentyl-1H-indole-3-carboxylate, its optical, positional, and geometric isomers, salts, and salts of isomers (Other names: PB-22; QUPIC);
- (14) Quinolin-8-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate, its optical, positional, and geometric isomers, salts, and salts of isomers (Other names: 5-fluoro-PB-22; 5F-PB-22);
- (15) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide, its optical, positional, and

- geometric isomers, salts, and salts of isomers (Other names: AB-FUBINACA);
- (16) N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide, its optical, positional, and geometric isomers, salts, and salts of isomers (Other names: ADB-PINACA);
- (17) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide, its optical, positional, and geometric isomers, salts, and salts of isomers (Other names: AB-CHMINACA);
- (18) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide, and geometric isomers, salts, and salts of isomers (Other names: AB-PINACA);
- (19) [1-(5-fluoropentyl)-1H-indazol-3-yl](naphthalen-1-yl)methanone, and geometric isomers, salts, and salts of isomers (Other names: THJ-2201);
- (20) Methyl [(1-(4-fluorobenzyl)-1H-indazole-3-carbonyl)-L-valinate;] (1-(4-fluorobenzyl)-1H-indazole-3-carbonyl)-L-valinate, and geometric isomers, salts, and salts of isomers (Other names: FUB-AMB[;], Methyl 2-(1-(4-fluorobenzyl)-1H-indazole-3-carboxamido)-3-methylbutanoate, MMB-FUBINACA, AMB-FUBINACA);
- (21) (S)-methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3-methylbutanoate, and geometric isomers, salts, and salts of isomers (Other names: 5-fluoro-AMB, 5-fluoro-AMP);
- (22) N-((3s,5s,7s)-adamantan-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide, and geometric isomers, salts, and salts of isomers (Other names: AKB48 N-(5-fluoropentyl) analog, 5F-AKB48, APINACA 5-fluoropentyl analog, 5F-APINACA);
- (23) N-adamantyl-1-fluoropentylindole-3-Carboxamide, and geometric isomers, salts, and salts of isomers (Other names: STS-135, 5F-APICA; 5-fluoro-APICA);
- (24) Naphthalen-1-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate, and geometric isomers, salts, and salts of isomers (Other names: NM2201);
- (25) N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide, and geometric isomers, salts, and salts of isomers (Other names: MAB-CHMINACA and ADB-CHMINACA);
- (26) Methyl 2-[1-(5-fluoropentyl)-1H-indazole-3-carboxamido]-3,3-dimethylbutanoate (Other names: 5F-ADB, 5-flouro-ADB, and 5F-MDMB-PINACA), its optical, positional, and geometric isomers, salts, and salts of isomers; and
- (27) 1-(4-cyanobutyl)-N-(2-phenylpropan-2-yl)indazole-3-carboxamide (CUMYL-4CN-BINACA), its optical, positional, and geometric isomers, salts, and salts of isomers; also known as SGT-78, 4-CN-CUMYL-BINACA; CUMYL-CB-PINACA; CUMYL-CYBINACA; 4-cyano CUMYL-BUTINACA.”

SECTION 2. Section 329-16, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

“(f) Immediate precursor. Unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances:

- (1) Immediate precursor to amphetamine and methamphetamine:

- (A) Phenylacetone, phenyl-2-propanone(P2P), benzyl methyl ketone, methyl benzyl ketone;
- (2) Immediate precursors to phencyclidine (PCP):
 - (A) 1-phenylcyclohexylamine; ~~and~~ or
 - (B) 1-piperidinocyclohexanecarbonitrile(PCC); or
- (3) Immediate precursor to Fentanyl:
 - (A) 4-anilino-N-phenethyl-4-piperidine (ANPP)[-]; or
 - (B) N-phenyl-N-(piperidin-4-yl)propionamide (norfentanyl).”

SECTION 3. Section 329-20, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (b) to read:

“(b) Depressants. Any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers, esters, ethers, and salts of isomers, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation, that has a degree of danger or probable danger associated with a depressant effect on the central nervous system:

- (1) Alprazolam;
- (2) Barbitol;
- (3) Bromazepam;
- (4) Butorphanol;
- (5) Camazepam;
- (6) Carisoprodol;
- (7) Chloral betaine;
- (8) Chloral hydrate;
- (9) Chlordiazepoxide;
- (10) Clobazam;
- (11) Clonazepam;
- (12) Clorazepate;
- (13) Clotiazepam;
- (14) Cloxazolam;
- (15) Delorazepam;
- (16) Dichloralphenazone (Midrin);
- (17) Diazepam;
- (18) Estazolam;
- (19) Ethchlorvynol;
- (20) Ethinamate;
- (21) Ethyl loflazepate;
- (22) Fludiazepam;
- (23) Flunitrazepam;
- (24) Flurazepam;
- (25) Fospropofol (Lusedra);
- (26) Halazepam;
- (27) Haloxazolam;
- (28) Ketazolam;
- (29) Loprazolam;
- (30) Lorazepam;
- (31) Lormetazepam;
- (32) Mebutamate;
- (33) Medazepam;
- (34) Meprobamate;
- (35) Methohexital;
- (36) Methylphenobarbital (mephobarbital);

- (37) Midazolam;
- (38) Nimetazepam;
- (39) Nitrazepam;
- (40) Nordiazepam;
- (41) Oxazepam;
- (42) Oxazolam;
- (43) Paraldehyde;
- (44) Petrichloral;
- (45) Phenobarbital;
- (46) Pinazepam;
- (47) Prazepam;
- (48) Quazepam;
- (49) Suvorexant;
- (50) Temazepam;
- (51) Tetrazepam;
- (52) Triazolam;
- (53) Zaleplon;
- (54) Zolpidem; [~~and~~]
- (55) Zopiclone (Lunesta)[-]; and
- (56) Brexanolone.”

2. By amending subsection (d) to read:

“(d) Stimulants. Unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) Cathine ((+)-norpseudoephedrine);
- (2) Diethylpropion;
- (3) Fencamfamin;
- (4) Fenproporex;
- (5) Mazindol;
- (6) Mefenorex;
- (7) Modafinil;
- (8) Phentermine;
- (9) Pemoline (including organometallic complexes and chelates thereof);
- (10) Pipradrol;
- (11) Sibutramine;
- (12) SPA (1-dimethylamino-1,2-diphenylethane, lefetamine); [~~and~~]
- (13) Lorcaserin[-]; and
- (14) Solriamfetol.”

SECTION 4. Section 329-22, Hawaii Revised Statutes, is amended to read as follows:

“**§329-22 Schedule V.** (a) The controlled substances listed in this section are included in schedule V.

(b) Narcotic drugs containing nonnarcotic active medicinal ingredients. Any compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, which also contains one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation, valuable medicinal qualities other than those possessed by the narcotic drug alone:

- (1) Not more than 200 milligrams of codeine, or any of its salts, per 100 milliliters or per 100 grams;

- (2) Not more than 100 milligrams of dihydrocodeine, or any of its salts, per 100 milliliters or per 100 grams;
- (3) Not more than 100 milligrams of ethylmorphine, or any of its salts, per 100 milliliters or per 100 grams;
- (4) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit;
- (5) Not more than 100 milligrams of opium per 100 milliliters or per 100 grams; and
- (6) Not more than 0.5 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

(c) Stimulants. Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers.

(d) Depressants. Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers:

- (1) Lacosamide [(R)-2-acetoamido-N-benzyl-3-methoxypropionamide], (Vimpat);
- (2) Pregabalin [(S)-3-(aminomethyl)-5-methylhexanoic acid]; and
- (3) Brivaracetam ((2S)-2'[(4R)-2-oxo-4-propylpyrrolidin-1-yl]butanamide) (Other names: BRV; UCB-234714; Briviact) and its salts.

~~[(e) Approved cannabidiol drugs. A drug product in finished dosage formulation that has been approved by the United States Food and Drug Administration that contains cannabidiol (2-[1R-3-methyl-6R-(1-methylethenyl)-2-cyclohexen-1-yl]-5-pentyl-1,3-benzenediol) derived from cannabis and no more than 0.1 percent³ (w/w) residual tetrahydrocannabinols.]”~~

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 July 6, 2021.)

Notes

- 1. Prior to amendment a hyphen appeared here.
- 2. Prior to amendment a dash appeared here.
- 3. Prior to amendment “per cent” appeared here.

ACT 234

S.B. NO. 1054

A Bill for an Act Relating to the Brownfields Cleanup Revolving Loan Fund.

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

SECTION 1. The brownfields cleanup revolving loan fund was capitalized with funds from a United States Environmental Protection Agency brownfields revolving loan fund grant. In 2012, the grant was closed when all grant funds had been expended for cleanup loans, and a closeout agreement was executed between the United States Environmental Protection Agency and the de-

partment of business, economic development, and tourism. Under the closeout agreement, revolving loan funds may be used for loans and sub-grants to eligible entities for brownfields site assessment activities, sampling, and related activities in addition to cleanup activities. The existing loan fund authority strictly limits use of revolving loan funds to loans and cleanup activities.

The purpose of the Act is to expand the authorized uses of the brownfields cleanup revolving loan fund to enable sub-grants for cleanups, environmental site assessments, and related activities, in conformance with the closeout agreement, which will allow for greater use of the grant funds for eligible brownfields projects and facilitate redevelopment of lands that are underutilized due to perceived or real contamination.

SECTION 2. Section 201-18, Hawaii Revised Statutes, is amended by amending subsections (b) and (c) to read as follows:

“(b) Moneys in the brownfields cleanup revolving loan fund shall be used to provide low interest loans or other authorized financial assistance to eligible public, private, and nonprofit ~~[borrowers]~~ entities for brownfields site assessments, cleanup activities of contaminated sites, and site monitoring activities necessary to determine the effectiveness of a cleanup. Moneys in the brownfields cleanup revolving loan fund may also be used to provide grants to eligible public and nonprofit entities for brownfields site assessments, cleanup activities of contaminated sites, and site monitoring activities necessary to determine the effectiveness of a cleanup.

All environmental site assessments and response activities and entities receiving funding shall be subject to the eligibility requirements of, and conducted in accordance with, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, P.L. 96-510 (42 U.S.C. §§9601-9675), as amended, and shall be consistent with the National Oil and Hazardous Substances Pollution Contingency Plan at 40 Code of Federal Regulations part 300. Moneys from the fund may be used to cover administrative and legal costs of fund management and site management associated with individual loans, to include personnel, services, materials, equipment, and travel for the purposes of this section; provided that the moneys used for these purposes shall not exceed the ~~[amounts allowed by the United States Environmental Protection Agency’s Brownfields Cleanup Revolving Loan Fund Pilot Program.]~~ lesser of ten per cent of the loan or subgrant amount or the percentage of the loan or subgrant amount set in rules adopted pursuant to this section.

(c) The fund shall be administered by the department of business, economic development, and tourism. Appropriations or authorizations from the fund shall be expended by the department. The department may award and disburse moneys from the fund in the form of grants to eligible public or nonprofit entities for brownfields site assessments, cleanup and related activities, or site monitoring activities pursuant to subsection (b). The department may contract with other public or private entities for the provision of all or a portion of the services necessary for the administration and implementation of loans under the loan fund program. The department may set fees or charges for fund management and technical site assistance provided under this section. The department may adopt rules pursuant to chapter 91 to carry out the purposes of 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.

(Approved July 6, 2021.)

ACT 235

S.B. NO. 1270

A Bill for an Act Relating to the Workforce Development Council.

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

SECTION 1. Section 202-1, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Except for the ex officio members or their designees, the council members shall be appointed by the governor for four-year staggered terms as provided for in section 26-34. The governor shall appoint the chairperson of the council. The council shall be constituted as provided by P.L. 113-128 (29 U.S.C. 3111) of the following members:

- (1) The directors of labor and industrial relations~~[- human services,]~~ and business, economic development, and tourism; the superintendent of education; and the president of the University of Hawaii or their designees, as ex officio, voting members;
- (2) The administrator of the division of vocational rehabilitation, department of human services, as an ex officio, voting member;
- ~~(2)~~ (3) The private sector chairpersons of the four county workforce development boards, or their designees from the private sector membership of their respective boards, as ex officio, voting members;
- ~~(3)~~ (4) Seventeen representatives from the private sector, including nonprofit organizations and businesses in the State, appointed from individuals nominated by state business organizations and business trade associations;
- ~~(4)~~ (5) Eight representatives from labor organizations and workforce training organizations, two or more of whom shall be representatives of labor organizations who have been nominated by state labor federations, and one of whom shall be a labor representative from a community-based native Hawaiian organization that operates workforce development programs;
- ~~(5)~~ (6) A member of each house of the legislature, for two-year terms beginning in January of odd-numbered years, appointed by the appropriate presiding officer of each house, as ex officio, voting members;
- ~~(6)~~ (7) The four mayors or their designees, as ex officio, voting members; and
- ~~(7)~~ (8) The governor or the governor’s designee.”

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 6, 2021.)

ACT 236

H.B. NO. 499

A Bill for an Act Relating to Lease Extensions on Public Land.

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

SECTION 1. The legislature finds that many of the leases for commercial, industrial, resort, mixed-use, and government properties on public land

statewide may be nearing the end of the lease term. Faced with the uncertainty of continued tenancy, lessees have little incentive to make major investments in infrastructural improvements and ensure the long-term maintenance of the facilities. As a result, the infrastructure on these properties has been deteriorating.

The legislature finds that business lessees typically sell or assign their leases that are nearing the end of the lease terms at a discount. The legislature further finds that it would be unfair to the prior assignors of the leases if the State granted extensions of leases that previously could not be extended under existing law or lease terms to the newly assigned lessees who acquired their leases at a discount due to short remaining lease terms.

The purpose of this Act is to authorize the board of land and natural resources to extend commercial, industrial, resort, mixed-use, or government leases, other than those to which the University of Hawaii is a party, that have not been sold or assigned within the last ten years, for lessees who commit to substantial improvement to the existing improvements.

SECTION 2. Chapter 171, Hawaii Revised Statutes, is amended by adding a new section to part II to be appropriately designated and to read as follows:

“§171- Commercial, industrial, resort, mixed-use, or government leases; extension of term. (a) Notwithstanding section 171-36, for leases that have not been assigned or transferred within ten years prior to receipt of an application for a lease extension submitted pursuant to this section, the board may extend the rental period of a lease of public lands for commercial use, industrial use, resort use, mixed-use, or government use upon the board’s approval of a development agreement proposed by the lessee or by the lessee and developer to make substantial improvements to the existing improvements. For the purposes of this subsection, “assigned or transferred” shall not include:

- (1) A sale or change in ownership of a lessee that is a company or entity; or
 - (2) A collateral assignment of lease or other security granted to a leasehold mortgagee in connection with leasehold financing by a lessee.
- (b) Before entering into a development agreement, the lessee or the lessee and developer shall submit to the board the plans and specifications for the total development proposed. The board shall review the plans and specifications and determine:

- (1) Whether the development proposed in the development agreement is of sufficient worth and value to justify the extension of the lease;
- (2) The estimated period of time necessary to complete the improvements and expected date of completion of the improvements; and
- (3) The minimum revised annual rent based on the fair market value of the lands to be developed, as determined by an appraiser for the board and, if deemed appropriate by an appraiser, the appropriate percentage of rent where gross receipts exceed a specified amount.

No lease extension shall be approved until the board and the lessee or the lessee and developer mutually agree to the terms and conditions of the development agreement.

(c) No construction shall commence until the lessee or the lessee and developer have filed with the board a sufficient bond conditioned upon the full and faithful performance of all the terms and conditions of the development agreement.

(d) Any extension of a lease pursuant to this section shall be based upon the substantial improvements to be made and shall be for a period no longer than forty years. No lease shall be transferable or assignable throughout the first

ten years of the extended term, except by devise, bequest, intestate succession, a collateral assignment of lease or other security granted to a leasehold mortgagee in connection with leasehold financing by a lessee, a change in direct ownership of less than fifty per cent of a lessee that is a company or entity, a change in indirect ownership of a lessee that is a company or entity, or by operation of law. The prohibition on assignments and transfer of leases shall include a prohibition on conveyances of leases. During subsequent periods of the extended term of the lease, the lease may be assigned or transferred, subject to approval by the board.

(e) The applicant for a lease extension shall pay all costs and expenses incurred by the department in connection with processing, analyzing, or negotiating any lease extension request, lease document, or development agreement under this section.

(f) As used in this section:

“Government use” means a development undertaken under a lease held by any agency or department of the State or its political subdivisions other than the University of Hawaii or any department, agency, or administratively attached entity of the University of Hawaii system.

“Mixed-use” means a development that combines two or more of the following uses in a single project: commercial use, resort use, multifamily residential use, or government use.

“Resort use” means a development that:

- (1) Provides transient accommodations as defined in section 237D-1 and related services, which may include a front desk, housekeeping, food and beverage, room service, and other services customarily associated with transient accommodations; and
- (2) Where at least seventy-five per cent of the living or sleeping quarters are used solely for transient accommodations for the term of any lease extension.

“Substantial improvements” means any renovation, rehabilitation, reconstruction, or construction of existing improvements, including minimum requirements for off-site and on-site improvements, the cost of which equals or exceeds thirty per cent of the market value of the existing improvements, that the lessee or the lessee and developer installs, constructs, and completes by the date of completion of the total development.”

SECTION 3. New statutory material is underscored.¹

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

(Became law on July 6, 2021, without the Governor’s signature, pursuant to Art. III, §16, State Constitution.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 237

H.B. NO. 485

A Bill for an Act Relating to Taxation.

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

SECTION 1. 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 \$5 a day, or any portion of a day that a rental motor vehicle is rented or leased. Beginning January 1, 2022, and each

subsequent year on January 1 until December 31, 2027, the rental motor vehicle surcharge tax shall increase by \$0.50. 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]:
 - (A) Is being repaired; ~~and~~ or
 - (B) Has been stolen and is unrecovered or will not be repaired due to a total loss of the vehicle; and
- (2) A record of the repair order, the stolen vehicle record, or total loss vehicle claim 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.

In addition to the requirements imposed by section 251-4, a lessor shall disclose, to the department, the portion of the remittance attributed to the county in which the motor vehicle was operated under rental or lease.”

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 July 6, 2021, without the Governor’s signature, pursuant to Art. III, §16, State Constitution.)

ACT 238

H.B. NO. 566

A Bill for an Act Relating to Abuse of Family or Household Members.

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

SECTION 1. Section 709-906, Hawaii Revised Statutes, is amended by amending subsection (6) to read as follows:

“(6) It shall be a petty misdemeanor for a person to intentionally or knowingly strike, shove, kick, or otherwise touch a family or household member in an offensive manner ~~[or]~~; subject the family member or household member to offensive physical contact; or exercise coercive control, as defined in section 586-1, over a family or household member and the person shall be sentenced as provided in sections 706-640 and 706-663. Upon conviction and sentencing of the defendant, the court may order that the defendant immediately be incarcerated to serve the mandatory minimum sentence imposed; provided that the defendant may be admitted to bail pending appeal pursuant to chapter 804. The court may stay the imposition of the sentence if special circumstances exist.”

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 its approval; provided that section 1 shall be repealed on June 30, 2026; provided further that section 709-906, Hawaii Revised Statutes, shall be reenacted in the form in which it read on December 31, 2020.

(Became law on July 6, 2021, without the Governor’s signature, pursuant to Art. III, §16, State Constitution.)

A Bill for an Act Relating to Sexual Assault.

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

SECTION 1. The legislature finds that mentally disabled persons need additional protection from sexual predators. Among adults who are developmentally disabled, as many as eighty-three per cent of the females and thirty-two per cent of the males are victims of sexual assault. Further, anywhere from fifteen thousand to nineteen thousand people with developmental disabilities are sexually assaulted each year in the United States. Forty per cent of people with developmental disabilities who are victims of sexual violence will experience ten or more abusive incidents.

The legislature further finds that mentally disabled persons and developmentally disabled persons have limited, if any capacity to give knowing and willing consent to sexual acts. This inability to consent closely parallels the inability of certain minors and prison inmates to consent.

In *State v. Buch*, 83 Haw. 308, 926 P.2d 599 (1996), the Hawaii supreme court, citing the Michigan supreme court in *People v. Cash*, 419 Mich. 230, 351 N.W.2d 822 (1984), stated that:

“It is well-established that the Legislature may, pursuant to its police powers, define criminal offenses without requiring proof of a specific criminal intent and so provide that the perpetrator proceed at his [or her] own peril regardless of his [or her] defense of ignorance or of an honest mistake of fact. In the case of statutory rape, such legislation, in the nature of ‘strict liability’ offenses, has been upheld as a matter of public policy because of the need to protect children[.]”

Just as the legislature in the past extended protection against sexual assault to minors under a certain age, the legislature finds a similar need to extend protection to mentally disabled persons who similarly lack the capacity to consent to sexual acts.

The purpose of this Act is to amend the offenses of sexual assault in the first and third degree perpetrated against a person who is mentally defective to provide that a perpetrator commits the offense if the perpetrator is negligent in not knowing of the mental defect of the victim.

SECTION 2. Section 707-730, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) A person commits the offense of sexual assault in the first degree if[:] the person:

- (a) [~~The person knowingly~~] Knowingly subjects another person to an act of sexual penetration by strong compulsion;
- (b) [~~The person knowingly~~] Knowingly engages in sexual penetration with [~~another~~] a person who is less than fourteen years old;
- (c) [~~The person knowingly~~] Knowingly engages in sexual penetration with a person who is at least fourteen years old but less than sixteen years old; provided that[:] the actor is:
 - (i) [~~The person is not~~] No less than five years older than the minor; and
 - (ii) [~~The person is not~~] Not legally married to the minor;
- (d) [~~The person knowingly~~] Knowingly subjects to sexual penetration [~~another~~] a person who is mentally defective; provided that the actor is negligent in not knowing of the mental defect of the victim; or

- (e) ~~[The person knowingly]~~ Knowingly subjects to sexual penetration ~~[another]~~ a person who is mentally incapacitated or physically helpless as a result of the influence of a substance that the actor knowingly caused to be administered to the other person without the other person's consent.

Paragraphs (b) and (c) shall not be construed to prohibit practitioners licensed under chapter 453 or 455 from performing any act within their respective practices.”

SECTION 3. Section 707-732, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) A person commits the offense of sexual assault in the third degree if~~[:]~~ the person:

- (a) ~~[The person recklessly]~~ Recklessly subjects another person to an act of sexual penetration by compulsion;
- (b) ~~[The person knowingly]~~ Knowingly subjects to sexual contact ~~[another]~~ a person who is less than fourteen years old or causes such a person to have sexual contact with the ~~[person;]~~ actor;
- (c) ~~[The person knowingly]~~ Knowingly engages in sexual contact with a person who is at least fourteen years old but less than sixteen years old or causes ~~[the minor]~~ such a person to have sexual contact with the ~~[person;]~~ actor; provided that[:] the actor is:
- (i) ~~[The person is not]~~ No less than five years older than the minor; and
- (ii) ~~[The person is not]~~ Not legally married to the minor;
- (d) ~~[The person knowingly]~~ Knowingly subjects to sexual contact ~~[another]~~ a person who is ~~[mentally defective,]~~ mentally incapacitated~~[:]~~ or physically helpless, or causes such a person to have sexual contact with the actor;
- (e) Knowingly subjects to sexual contact a person who is mentally defective, or causes such a person to have sexual contact with the actor; provided that the actor is negligent in not knowing of the mental defect of the victim;¹
- ~~[(e)]~~ ~~(f)~~ ~~[The person, while]~~ While employed:
- (i) In a state correctional facility;
- (ii) By a private company providing services at a correctional facility;
- (iii) By a private company providing community-based residential services to persons committed to the director of public safety and having received notice of this statute;
- (iv) By a private correctional facility operating in the State ~~[of Hawaii];~~ or
- (v) As a law enforcement officer as defined in section ~~[[~~710-1000~~]]~~, knowingly subjects to sexual contact an imprisoned person, a person confined to a detention facility, a person committed to the director of public safety, a person residing in a private correctional facility operating in the State ~~[of Hawaii]~~, or a person in custody, or causes ~~[the]~~ such a person to have sexual contact with the actor; or
- ~~[(f)]~~ ~~(g)~~ ~~[The person knowingly,]~~ Knowingly, by strong compulsion, has sexual contact with another person or causes another person to have sexual contact with the actor.

Paragraphs (b), (c), (d), ~~and~~ (e), and (f) shall not be construed to prohibit practitioners licensed under chapter 453 or 455 from performing any act within their respective practices; provided ~~further~~ that paragraph ~~(e)(v)~~ (f)(v) shall not be construed to prohibit a law enforcement officer from performing a lawful search pursuant to a warrant or an exception to the warrant clause.”

SECTION 4. Section 846E-10, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

“(a) Tier 3 offenses. A covered offender whose covered offense is any of the following offenses shall register for life and, except as provided in subsection (e), may not petition the court, in a civil proceeding, for termination of registration requirements:

- (1) Any offense set forth in section 707-730(1)(a), (b), (d), or (e)~~;~~; 707-731(1)(a) or (b)~~;~~; 707-732(1)(a), (b), or ~~(f);~~ (g); or 707-733.6;
- (2) An offense set forth in section 707-720; provided that the offense involves kidnapping of a minor by someone other than a parent;
- (3) An offense that is an attempt, criminal solicitation, or criminal conspiracy to commit any of the offenses in paragraph (1) or (2);
- (4) Any criminal offense that is comparable to one of the offenses in paragraph (1), (2), or (3); or
- (5) Any federal, military, out-of-state, tribal, or foreign offense that is comparable to one of the offenses in paragraph (1), (2), or (3).”

2. By amending subsection (d) to read:

“(d) Tier 1 offenses. A covered offender who has maintained a clean record for the previous ten years, excluding any time the offender was in custody or civilly committed, and who has substantially complied with the registration requirements of this chapter for the previous ten years, or for the portion of that ten years that this chapter has been applicable, and who is not a repeat covered offender may petition the court, in a civil proceeding, for termination of registration requirements; provided that the covered offender’s most serious covered offense is one of the following:

- (1) Any offense set forth in section 707-732(1)(d) ~~(e);~~ (e), or (f); 707-733(1)(a)~~;~~; 707-752~~;~~; 707-759~~;~~; 711-1110.9~~;~~; 712-1203(1)~~;~~; or 712-1209.1;
- (2) An offense set forth in section 707-721 or 707-722; provided that the offense involves unlawful imprisonment of a minor by someone other than a parent;
- (3) An offense set forth in section 707-757 that includes an intent to promote or facilitate the commission of another covered offense as defined in section 846E-1;
- (4) An offense that is an attempt, criminal solicitation, or criminal conspiracy to commit any of the offenses in paragraph (1), (2), or (3);
- (5) Any criminal offense that is comparable to one of the offenses in paragraph (1), (2), (3), or (4);
- (6) Any federal, military, out-of-state, tribal, or foreign offense that is comparable to one of the offenses in paragraph (1), (2), (3), or (4); or
- (7) Any other covered offense that is not specified in subsection (a) or (c) or paragraph (1), (2), (3), (4), (5), or (6).”

SECTION 5. This Act does not affect 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.

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

(Became law on July 6, 2021, without the Governor's signature, pursuant to Art. III, §16, State Constitution.)

Note

1. So in original.

SPECIAL SESSION OF 2021

**Session Laws of Hawaii
Passed By The
Thirty-First State Legislature
Special Session
2021**

ACT 1

H.B. NO. 862

A Bill for an Act Relating to State Government.

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

PART I

SECTION 1. Chapter 304A, Hawaii Revised Statutes, is amended by adding a new subpart to part VII to be appropriately designated and to read as follows:

**“SUBPART . PACIFIC INTERNATIONAL SPACE CENTER FOR
EXPLORATION SYSTEMS.**

§304A- Definitions. As used in this subpart:

“Board” means the board of directors of the Pacific international space center for exploration systems.

“Space center” means the Pacific international space center for exploration systems.

§304A- Pacific international space center for exploration systems. (a) There is established the Pacific international space center for exploration systems, to be placed within the University of Hawaii at Hilo for administrative purposes only.

(b) The space center may employ, subject to chapter 76, technical experts and officers, agents, and employees, permanent and temporary, as required. The space center may also employ officers, agents, and employees, prescribe their duties and qualifications, and fix their salaries, without regard to chapter 76, when in the determination of the board, the services to be performed by those employed are unique and essential to the execution of the functions of the space center.

§304A- Pacific international space center for exploration systems; board of directors; establishment; duties. (a) There is established the board of directors of the Pacific international space center for exploration systems, consisting of nine members, to include:

- (1) The director of business, economic development, and tourism, or the director’s designee;

- (2) The president of the University of Hawaii, or the president's designee;
- (3) The chancellor of the University of Hawaii at Hilo, or the chancellor's designee; and
- (4) Six members from government, industry, and academia, both national and international, with appropriate professional interests and backgrounds;

provided that of the members appointed under paragraph (4), two members shall be appointed by the governor from a list of nominees submitted by the president of the senate, two members shall be appointed by the governor from a list of nominees submitted by the speaker of the house of representatives, and two members shall be appointed by the governor; provided further that the members appointed pursuant to paragraph (4) shall be subject to section 26-34.

The board shall select a chairperson from among its members.

(b) Five members shall constitute a quorum, whose affirmative vote shall be necessary for all actions by the space center. The members of the board shall serve without compensation, but shall be entitled to reimbursement for necessary expenses, including travel expenses, incurred in the performance of their duties.

(c) The board shall appoint an executive director to the space center who shall be exempt from chapter 76. The board shall set the salary and duties of the executive director.

§304A- General powers. (a) The board may:

- (1) Sue and be sued;
- (2) Adopt a seal and alter the seal at its pleasure;
- (3) Make and execute contracts and other instruments necessary or convenient to the exercise of its powers; and
- (4) Adopt bylaws and rules, which shall be exempt from chapter 91, for its organization and internal management, and to carry into effect its purposes, powers, and programs.

(b) In addition to other powers conferred upon it, the board may do all things necessary and convenient to carry out the powers expressly provided in this subpart.

§304A- Powers and duties of the Pacific international space center for exploration systems executive director. In addition to any other powers and duties provided in this subpart, the executive 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 pertaining to the space center;
- (2) Establish partnerships with corporate, government, and University of Hawaii entities that can promote and enhance the State's aerospace industry; and where possible, help to generate additional revenue for the University of Hawaii and create classes and other educational opportunities for students;
- (3) Work with local universities and community colleges to facilitate internships for students with the space center and associated companies;
- (4) Continue to work with the University of Hawaii on course development, teaching, workforce development, and outreach;
- (5) Promote innovative educational and workforce development programs that will enhance public awareness of the space center and

- enable residents to pursue employment in the State's aerospace industry;
- (6) Act as the public representative of the space center;
 - (7) Monitor national and global trends in the aerospace industry and promote global awareness of the space center;
 - (8) Pursue projects in the aerospace sector that can be leveraged for improvements to the State's broadband and alternative energy capabilities;
 - (9) Serve as a clearinghouse for information on the space center and associated activities;
 - (10) Target existing businesses that can provide products or services of importance to the space center and its projects to support the expansion of these businesses in the State;
 - (11) Increase contacts and maintain liaisons with the National Aeronautics and Space Administration, related aerospace organizations, and other federal agencies and facilities;
 - (12) Maintain and expand liaisons with local business and citizen groups;
 - (13) Adopt, amend, and repeal rules pursuant to chapter 91 necessary to carry out this subpart;
 - (14) Contract for services as may be necessary for the purposes of this subpart; and
 - (15) Do all other things necessary or proper to carry out the purposes of this subpart.

§304A- Pacific international space center for exploration systems special fund. (a) There is established in the state treasury the Pacific international space center for exploration systems special fund, into which shall be deposited:

- (1) Revenues, moneys, and fees from services, rentals, publications, royalties, and patents generated under this subpart;
- (2) Gifts, donations, and grants received by the space center; and
- (3) Proceeds from revenue bonds issued by the director of finance.

(b) Moneys in the special fund shall be used by the space center for the operation, maintenance, and management of its projects, facilities, services, and publications and for the design and construction of new facilities and the renovation of or addition to existing facilities.

(c) All moneys remaining in the Pacific international space center for exploration systems special fund at the close of each fiscal year that are deemed by the director of finance to be in excess of the moneys necessary to carry out the purposes of this section in the next fiscal year shall lapse to the credit of the general fund."

SECTION 2. Chapter 201, part V, Hawaii Revised Statutes, is repealed.

SECTION 3. On July 1, 2021, any remaining unencumbered balance in the Pacific international space center for exploration systems special fund established by section 201-80.2, Hawaii Revised Statutes, and repealed by section 2 of this Act shall lapse to the credit of the Pacific international space center for exploration systems special fund established under section 1 of this Act.

PART II

SECTION 4. (a) The Challenger center Hawaii program shall be transferred from the office of aerospace development and placed within the department of education for administrative purposes.

(b) All rights, powers, functions, and duties of the office of aerospace development as they relate to the Challenger center Hawaii program are transferred to the department of education.

All employees who occupy civil service positions and whose functions are transferred to the department of education by this part shall retain their civil service status, whether permanent or temporary. Employees shall be transferred without loss of salary, seniority (except as prescribed by applicable collective bargaining agreements), retention points, prior service credit, any vacation and sick leave credits previously earned, and other rights, benefits, and privileges, in accordance with state personnel laws and this part; provided that the employees possess the minimum qualifications and public employment requirements for the class 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.

Any employee who, prior to this Act, is exempt from civil service and is transferred as a consequence of this Act may retain the employee's exempt status, but shall not be appointed to a civil service position as a consequence of this Act. An exempt employee who is transferred by this Act shall not suffer any loss of prior service credit, vacation or sick leave credits previously earned, or other employee benefits or privileges as a consequence of this Act; provided that the employees possess legal and public employment requirements for the position to which transferred or appointed, as applicable; provided further that subsequent changes in status may be made pursuant to applicable employment and compensation laws. The superintendent of the department of education may prescribe the duties and qualifications of these employees and fix their salaries without regard to chapter 76, Hawaii Revised Statutes.

(c) All appropriations, records, equipment, machines, files, supplies, contracts, books, papers, documents, maps, and other personal property heretofore made, used, acquired, or held by the office of aerospace development for the Challenger center Hawaii program shall be transferred to the department of education with the functions to which they relate.

SECTION 5. On July 1, 2021, the budget of the office of aerospace development that is specifically allocated to the Challenger center Hawaii program shall be transferred to the department of education.

PART III

SECTION 6. Chapter 46, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§46- County transient accommodations tax. Each county may establish a transient accommodations tax not to exceed the maximum rate set forth in section 237D- . The county transient accommodations tax shall be in addition to any state transient accommodations tax. A county electing to establish a transient accommodations tax pursuant to this section shall do so by ordinance.”

SECTION 7. Chapter 237D, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§237D- County transient accommodations tax; administration. (a) The county transient accommodations tax, upon the adoption of a county ordinance and in accordance with the requirements of section 46- , shall be levied, assessed, and collected as provided in this section on all gross rental, gross rental proceeds, and fair market rental value taxable under this chapter. No county

shall set its transient accommodations tax at a rate greater than three per cent of all gross rental, gross rental proceeds, and fair market rental value taxable under this chapter. With respect to the county transient accommodations tax, the applicable county director of finance shall have all the rights and powers of the director of taxation provided under this chapter.

(b) The county transient accommodations tax, if adopted, shall be imposed on the gross rental, gross rental proceeds, and fair market rental value of all written contracts that require the passing on of the taxes imposed under this chapter; provided that if the gross rental, gross rental proceeds, and fair market rental value are received as payments beginning in the taxable year in which the taxes become effective, on contracts entered into prior to the adoption of the ordinance pursuant to section 46- , and the written contracts do not provide for the passing on of increased rates of taxes, the county transient accommodations tax shall not be imposed on the gross rental, gross rental proceeds, and fair market rental value covered under the written contracts. The county transient accommodations tax shall be imposed on the gross rental, gross rental proceeds, and fair market rental value from all contracts entered into on or after the adoption of the ordinance pursuant to section 46- , regardless of whether the contract allows for the passing on of any tax or any tax increases.

(c) No county transient accommodations tax shall be established on any form of accommodation that is exempt from the taxes imposed by this chapter pursuant to section 237D-3.”

PART IV

SECTION 8. Section 87A-42, Hawaii Revised Statutes, is amended to read as follows:

“§87A-42 Other post-employment benefits trust. (a) Notwithstanding sections 87A-31 and 87A-31.5, the board, upon terms and conditions set by the board, shall establish and administer a separate trust fund for the purpose of receiving employer contributions that will prefund other post-employment health and other benefit plan costs for retirees and their beneficiaries. The separate trust fund shall meet the requirements of the Governmental Accounting Standards Board regarding other post-employment benefits trusts. The board shall establish and maintain a separate account for each public employer within the separate trust fund to accept and account for each public employer’s contributions. Employer contributions to the separate trust fund shall be irrevocable, all assets of the fund shall be dedicated exclusively to providing health and other benefits to retirees and their beneficiaries, and assets of the fund shall not be subject to appropriation for any other purpose and shall not be subject to claims by creditors of the employers or the board or plan administrator. The board’s powers under section 87A-24 shall also apply to the fund established pursuant to this section.

(b) Public employer contributions shall be paid into the fund in each fiscal year, and commencing with the 2018-2019 fiscal year, the amount of the annual public employer contribution shall be equal to the amount of the annual required contribution, as determined by an actuary retained by the board.

(c) In any fiscal year subsequent to the 2017-2018 fiscal year in which the state public employer’s contributions into the fund are less than the amount of the annual required contribution, the amount that represents the excess of the annual required contribution over the state public employer’s contributions shall be deposited into the appropriate account of the separate trust fund from a portion of all general excise tax revenues collected by the department of taxation under section 237-31.

If any general excise tax revenues are deposited into the separate trust fund in any fiscal year as a result of this subsection, the director of finance shall notify the legislature and governor whether the general fund expenditure ceiling for that fiscal year would have been exceeded if those revenues had been legislatively appropriated instead of deposited without appropriation into the trust fund. The notification shall be submitted within thirty days following the end of the applicable fiscal year.

~~[(d) In any fiscal year subsequent to the 2017-2018 fiscal year in which a county public employer's contributions into the fund are less than the amount of the annual required contribution, the amount that represents the excess of the annual required contribution over the county public employer's contributions shall be deposited into the fund from a portion of all transient accommodations tax revenues collected by the department of taxation under section 237D-6.5(b)(4). The director of finance shall deduct the amount necessary to meet the county public employer's annual required contribution from the revenues derived under section 237D-6.5(b)(4) and transfer the amount to the board for deposit into the appropriate account of the separate trust fund.~~

~~(e)] (d) In any fiscal year subsequent to fiscal year 2017-2018 in which a public employer's contributions into the fund are less than the amount of the annual required contribution [and the public employer is not entitled to transient accommodations tax revenues sufficient to satisfy the total amount of the annual required contribution], the public employer's contributions shall be deposited into the fund from portions of any other revenues collected on behalf of the public employer or held by the State. The director of finance shall deduct the amount necessary to meet the public employer's annual required contribution from any revenues collected on behalf of the public employer held by the State, except the tax revenues deposited into the mass transit special fund pursuant to section 237D-2(e)(1), and transfer the amount to the board for deposit into the appropriate account of the separate trust fund.~~

~~[(f)] (e) For the purposes of this section, "annual required contribution" means a public employer's required contribution to the trust fund established in this section that is sufficient to cover:~~

- ~~(1) The normal cost, which is the cost of other post-employment benefits attributable to the current year of service; and~~
- ~~(2) An amortization payment, which is a catch-up payment for past service costs to fund the unfunded actuarial accrued liability over the next thirty years."~~

SECTION 9. Section 171-19, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

~~"(a) There is created in the department a special fund to be designated as the "special land and development fund". Subject to the Hawaiian Homes Commission Act of 1920, as amended, and section 5(f) of the Admission Act of 1959, all proceeds of sale of public lands, including interest on deferred payments; all moneys collected under section 171-58 for mineral and water rights; all rents from leases, licenses, and permits derived from public lands; all moneys collected from lessees of public lands within industrial parks; all fees, fines, and other administrative charges collected under this chapter and chapter 183C; a portion of the highway fuel tax collected under chapter 243; all moneys collected by the department for the commercial use of public trails and trail accesses under the jurisdiction of the department; [transient accommodations tax revenues collected pursuant to section 237D-6.5(b)(5);] and private contributions for the management, maintenance, and development of trails and accesses shall be set~~

apart in the fund and shall be used only as authorized by the legislature for the following purposes:

- (1) To reimburse the general fund of the State for advances made that are required to be reimbursed from the proceeds derived from sales, leases, licenses, or permits of public lands;
- (2) For the planning, development, management, operations, or maintenance of all lands and improvements under the control and management of the board pursuant to title 12, including but not limited to permanent or temporary staff positions who may be appointed without regard to chapter 76; ~~[provided that transient accommodations tax revenues allocated to the fund shall be expended as provided in section 237D-6.5(b)(5);]~~
- (3) To repurchase any land, including improvements, in the exercise by the board of any right of repurchase specifically reserved in any patent, deed, lease, or other documents or as provided by law;
- (4) For the payment of all appraisal fees; provided that all fees reimbursed to the board shall be deposited in the fund;
- (5) For the payment of publication notices as required under this chapter; provided that all or a portion of the expenditures may be charged to the purchaser or lessee of public lands or any interest therein under rules adopted by the board;
- (6) For the management, maintenance, and development of trails and trail accesses under the jurisdiction of the department;
- (7) For the payment to private land developers who have contracted with the board for development of public lands under section 171-60;
- (8) For the payment of debt service on revenue bonds issued by the department, and the establishment of debt service and other reserves deemed necessary by the board;
- (9) To reimburse the general fund for debt service on general obligation bonds issued to finance departmental projects, where the bonds are designated to be reimbursed from the special land and development fund;
- (10) For the protection, planning, management, and regulation of water resources under chapter 174C; and
- (11) For other purposes of this chapter.”

SECTION 10. Section 184-3.4, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(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~~ 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].”~~

SECTION 11. Section 198D-2, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (b) to read:

“(b) The trail and access program shall use funding for the management, maintenance, and development of trails and trail accesses under the jurisdiction of the department from the following sources:

- (1) A portion of the highway fuel taxes collected under chapter 243;
- (2) Federal government grants;
- (3) Private contributions; and
- (4) Fees, established pursuant to administrative rules and charged by the department for the commercial and other use of trails and trail accesses under the jurisdiction of the department[; and
- (5) ~~Transient accommodations tax revenues pursuant to section 237D-6.5].”~~

2. By amending subsection (d) to read:

“(d) The moneys specified in subsection (b)(1), (3), and (4)[, ~~and~~ (5)] shall be deposited in the special land and development fund under section 171-19 for the management, maintenance, and development of trails and trail accesses under the jurisdiction of the department[; ~~provided that the moneys specified in subsection (b)(5) shall be expended for the management, maintenance, and development of trails and access areas frequented by visitors in response to a master plan developed in coordination with the Hawaii tourism authority].”~~

SECTION 12. Section 237D-2, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) Notwithstanding the tax rates established in subsections (a)(5) and (c)(3), the tax rates levied, assessed, and collected pursuant to subsections (a) and (c) shall be 10.25 per cent for the period beginning on January 1, 2018, to December 31, 2030; provided that:

- (1) The tax revenues levied, assessed, and collected pursuant to this subsection that are in excess of the revenues realized from the levy, assessment, and collection of tax at the 9.25 per cent rate shall be deposited quarterly into the mass transit special fund established under section 248-2.7; and
- (2) If a court of competent jurisdiction determines that the amount of county surcharge on state tax revenues deducted and withheld by the State, pursuant to section 248-2.6, violates statutory or constitutional law and, as a result, awards moneys to a county with a population greater than five hundred thousand, then an amount equal to the monetary award shall be deducted and withheld from the tax revenues deposited under paragraph (1) into the mass transit special fund, and those funds shall be a general fund realization of the State.

The remaining tax revenues levied, assessed, and collected at the 9.25 per cent tax rate pursuant to subsections (a) and (c) shall be [~~distributed~~] deposited into the general fund in accordance with section 237D-6.5(b).”

PART V

SECTION 13. Section 237D-6.5, Hawaii Revised Statutes, is amended as follows:

1. By amending its title to read:
“**§237D-6.5 Remittances**[; ~~distribution to counties~~].”
2. By amending subsection (b) to read:

“(b) Except for the revenues collected pursuant to section 237D-2(e), revenues collected under this chapter shall be distributed in the following priority, with the excess revenues to be deposited into the general fund:

- (1) \$1,500,000 shall be allocated to the Turtle Bay conservation easement special fund beginning July 1, 2015, for the reimbursement to the state general fund of debt service on reimbursable general obligation bonds, including ongoing expenses related to the issuance of the bonds, the proceeds of which were used to acquire the conservation easement and other real property interests in Turtle Bay, Oahu, for the protection, preservation, and enhancement of natural resources important to the State, until the bonds are fully amortized;
- (2) ~~[\$16,500,000]~~ \$11,000,000 shall be allocated to the convention center enterprise special fund established under section 201B-8;
- (3) ~~[\$79,000,000 shall be allocated to the tourism special fund established under section 201B-11; provided that:~~
 - (A) ~~Beginning on July 1, 2012, and ending on June 30, 2015, \$2,000,000 shall be expended from the tourism special fund for development and implementation of initiatives to take advantage of expanded visa programs and increased travel opportunities for international visitors to Hawaii;~~
 - (B) ~~Of the \$79,000,000 allocated:~~
 - (i) ~~\$1,000,000 shall be allocated for the operation of a Hawaiian center and the museum of Hawaiian music and dance; and~~
 - (ii) ~~0.5 per cent of the \$79,000,000 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; and~~
 - (C) ~~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] An allocation shall be deposited into the tourism emergency special fund, established in section 201B-10, in a manner sufficient to maintain a fund balance of \$5,000,000 in the tourism emergency special fund; and~~
- ~~[(4) \$103,000,000 shall be allocated 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; provided that commencing with fiscal year 2018-2019, a sum that represents the difference between a county public employer's annual required contribution for the separate trust fund established under section 87A-42 and the amount of the county public employer's contributions into that trust fund shall be retained by the state director of finance and deposited to the credit of the county public employer's annual required contribution into that trust fund in each fiscal year, as provided in section 87A-42, if the respective county fails to remit the total amount of the county's required annual contributions, as required under section 87A-43; and~~
- ~~(5)]~~ (4) \$3,000,000 shall be allocated to the special land and development fund established under section 171-19; provided that the al-

location shall be expended in accordance with the Hawaii tourism authority strategic plan for:

- (A) The protection, preservation, maintenance, and enhancement of natural resources, including beaches, important to the visitor industry;
- (B) Planning, construction, and repair of facilities; and
- (C) Operation and maintenance costs of public lands, including beaches, connected with enhancing the visitor experience.

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.

As used in this subsection, "fiscal year" means the twelve-month period beginning on July 1 of a calendar year and ending on June 30 of the following calendar year."

PART VI

SECTION 14. Section 201B-11, Hawaii Revised Statutes, is amended as follows:

1. By amending the title of part II to read:

"PART II. ~~[TOURISM SPECIAL FUND;] EXEMPTIONS; REPORTS"~~

2. By repealing section 201B-11, Hawaii Revised Statutes.

PART VII

SECTION 15. Section 36-27, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) 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)~~ (4) Convention center enterprise special fund under section 201B-8;
- ~~[(6)~~ (5) Special funds established by section 206E-6;
- ~~[(7)~~ (6) Aloha Tower fund created by section 206J-17;
- ~~[(8)~~ (7) Funds of the employees' retirement system created by section 88-109;
- ~~[(9)~~ (8) Hawaii hurricane relief fund established under chapter 431P;
- ~~[(10)~~ (9) Hawaii health systems corporation special funds and the sub-accounts of its regional system boards;
- ~~[(11) Tourism special fund established under section 201B-11;~~
- ~~(12)~~ (10) Universal service fund established under section 269-42;
- ~~[(13)~~ (11) Emergency and budget reserve fund under section 328L-3;
- ~~[(14)~~ (12) Public schools special fees and charges fund under section 302A-1130;
- ~~[(15)~~ (13) Sport fish special fund under section 187A-9.5;
- ~~[(16)]~~ (14) Neurotrauma special fund under section 321H-4;
- ~~[(17)]~~ (15) Glass advance disposal fee established by section 342G-82;
- ~~[(18)]~~ (16) Center for nursing special fund under section 304A-2163;

- [(19)] (17) Passenger facility charge special fund established by section 261-5.5;
- [(20)] (18) Solicitation of funds for charitable purposes special fund established by section 467B-15;
- [(21)] (19) Land conservation fund established by section 173A-5;
- [(22)] (20) Court interpreting services revolving fund under section 607-1.5;
- [(23)] (21) Trauma system special fund under section 321-22.5;
- [(24)] (22) Hawaii cancer research special fund;
- [(25)] (23) Community health centers special fund;
- [(26)] (24) Emergency medical services special fund;
- [(27)] (25) Rental motor vehicle customer facility charge special fund established under section 261-5.6;
- [(28)] (26) Shared services technology special fund under section 27-43;
- [(29)] (27) Automated victim information and notification system special fund established under section 353-136;
- [(30)] (28) Deposit beverage container deposit special fund under section 342G-104;
- [(31)] (29) Hospital sustainability program special fund under []section 346G-4[];
- [(32)] (30) Nursing facility sustainability program special fund under []section 346F-4[];
- [(33)] (31) Hawaii 3R's school improvement fund under section 302A-1502.4;
- [(34)] (32) After-school plus program revolving fund under section 302A-1149.5; and
- [(35)] (33) Civil monetary penalty special fund under section 321-30.2,

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

- “(a) Each special fund, 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)] (4) Special funds established by section 206E-6;
 - [(6)] (5) Aloha Tower fund created by section 206J-17;
 - [(7)] (6) Funds of the employees' retirement system created by section 88-109;
 - [(8)] (7) Hawaii hurricane relief fund established under chapter 431P;
 - [(9)] (8) Convention center enterprise special fund established under section 201B-8;

~~[(10)]~~ (9) Hawaii health systems corporation special funds and the sub-accounts of its regional system boards;
~~[(11)]~~ ~~Tourism special fund established under section 201B-11;~~
~~[(12)]~~ (10) Universal service fund established under section 269-42;
~~[(13)]~~ (11) Emergency and budget reserve fund under section 328L-3;
~~[(14)]~~ (12) Public schools special fees and charges fund under section 302A-1130;
~~[(15)]~~ (13) Sport fish special fund under section 187A-9.5;
~~[(16)]~~ (14) Neurotrauma special fund under section 321H-4;
~~[(17)]~~ (15) Center for nursing special fund under section 304A-2163;
~~[(18)]~~ (16) Passenger facility charge special fund established by section 261-5.5;
~~[(19)]~~ (17) Court interpreting services revolving fund under section 607-1.5;
~~[(20)]~~ (18) Trauma system special fund under section 321-22.5;
~~[(21)]~~ (19) Hawaii cancer research special fund;
~~[(22)]~~ (20) Community health centers special fund;
~~[(23)]~~ (21) Emergency medical services special fund;
~~[(24)]~~ (22) Rental motor vehicle customer facility charge special fund established under section 261-5.6;
~~[(25)]~~ (23) Shared services technology special fund under section 27-43;
~~[(26)]~~ (24) Nursing facility sustainability program special fund established pursuant to ~~[[~~section 346F-4~~]]~~;
~~[(27)]~~ (25) Automated victim information and notification system special fund established under section 353-136;
~~[(28)]~~ (26) Hospital sustainability program special fund under ~~[[~~section 346G-4~~]]~~; and
~~[(29)]~~ (27) Civil monetary penalty special fund under section 321-30.2, 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 17. Section 171-172, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) Upon reimbursement to the state general fund of all debt service on reimbursable general obligation bonds issued to acquire the conservation easement in Turtle Bay, Oahu, any unencumbered and unexpended moneys in the Turtle Bay conservation easement special fund shall be transferred to the ~~[tourism special fund established under section 201B-11.]~~ general fund.”

SECTION 18. Section 201B-2, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

“(f) The board shall appoint one person to serve as president and chief executive officer, exempt from chapters 76 and 88 who shall oversee the authority staff; ~~[provided that the compensation package, including salary, shall not exceed fifteen per cent of the 3.5 per cent authorized for administrative expenses under section 201B-11(e); and]~~ provided further that the compensation package shall not include private sector moneys or other contributions. The board shall set the president and chief executive officer’s duties, responsibilities, holidays, vacations, leaves, hours of work, and working conditions. It may grant other benefits as it deems necessary.”

SECTION 19. 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 its pleasure;
 - (3) Through its president and chief executive officer, 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 president and chief executive officer, represent the authority in communications with the governor and the legislature;
 - (7) Through its president and chief executive officer, provide for the appointment of officers, agents, a sports coordinator, 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 president and chief executive officer, purchase supplies, equipment, or furniture;
 - (9) Through its president and chief executive officer, allocate the space or spaces that are to be occupied by the authority and appropriate staff;
 - (10) Through its president and chief executive officer, engage the services of qualified persons to implement the State’s tourism marketing plan or portions thereof as determined by the authority;
 - (11) Through its president and chief executive officer, 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 amounts and from 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;
 - (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, Hawaii’s natural environment, and areas frequented by visitors;
 - (15) Have a permanent, strong focus on Hawaii brand management;
 - ~~(16) Conduct market development-related research as necessary;~~
 - ~~(17)~~ (16) Coordinate all agencies and advise the private sector in the development of tourism-related activities and resources;
 - ~~(18)~~ (17) Work to eliminate or reduce barriers to travel to provide a positive and competitive business environment, including coordinating with the department of transportation on issues affecting airlines and air route development;
 - ~~(19)~~ (18) Market and promote sports-related activities and events;

- [20] (19) Coordinate the development of new products with the counties and other persons in the public sector and private sector, including the development of sports, culture, health and wellness, education, technology, agriculture, and nature tourism;
- [21] (20) Establish a public information and educational program to inform the public of tourism and tourism-related problems;
- [22] (21) Encourage the development of tourism educational, training, and career counseling programs;
- [23] (22) 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] (23) Develop and implement emergency measures to respond to any adverse effects on the tourism industry, pursuant to section 201B-9;
- [25] (24) 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;
- [26] (25) Notwithstanding 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
- [27] (26) 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 20. Section 201B-8, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There is established the convention center enterprise special fund, into which shall be deposited:

- (1) A portion of the revenues from the transient accommodations tax, as provided by section 237D-6.5;
- (2) All revenues or moneys derived from the operations of the convention center to include all revenues from the food and beverage service, all revenues from the parking facilities or from any concession, and all revenues from the sale of souvenirs, logo items, or any other items offered for purchase at the convention center;
- (3) Private contributions, interest, compensation, gross or net revenues, proceeds, or other moneys derived from any source or for any purpose arising from the use of the convention center facility; and
- (4) Appropriations by the legislature [~~including any transfers from the tourism special fund established under section 201B-11~~] for marketing the facility pursuant to section 201B-7(a)(7).”

SECTION 21. Section 201B-10, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There is established outside the state treasury a tourism emergency special fund to be administered by the board, into which shall be deposited the revenues prescribed by section 237D-6.5(b) [~~–AH~~] and all investment earnings [~~from moneys in the special fund shall be credited to the tourism special fund established pursuant to section 201B-11.~~] credited to the assets of the fund.”

PART VIII

SECTION 22. Section 201B-12, Hawaii Revised Statutes, is amended to read as follows:

~~“[§201B-12]~~ **Exemption of authority from taxation and Hawaii public procurement code.** [(a)] All revenues and receipts derived by the authority from any project or a project agreement or other agreement pertaining thereto shall be exempt from all state taxation. Any right, title, and interest of the authority in any project shall also be exempt from all state taxation. Except as otherwise provided by law, the interest of a qualified person or other user of a project or a project agreement or other agreements related to a project shall not be exempt from taxation to a greater extent than it would be if the costs of the project were directly financed by the qualified person or user.

~~[(b) The authority shall not be subject to chapter 103D and any and all other requirements of law for competitive bidding for project agreements, construction contracts, lease and sublease agreements, or other contracts unless a project agreement with respect to a project otherwise shall require.]”~~

PART IX

SECTION 23. There is appropriated out of the funds received by the State from the American Rescue Plan Act, Public Law 117-2, Section 9901, the sum of \$60,000,000 or so much thereof as may be necessary for fiscal year 2021-2022 for the Hawaii tourism authority.

The sum appropriated shall be expended by the department of business, economic development, and tourism for the purposes of this part.

PART X

SECTION 24. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.²

SECTION 25. This Act shall take effect on July 1, 2021; provided that parts VI and VII of this Act shall take effect on January 1, 2022.

(Vetoed by Governor and veto overridden by Legislature on July 6, 2021.)

Notes

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

ACT 2

S.B. NO. 263

A Bill for an Act Relating to Economic Development.

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

SECTION 1. Chapter 201, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§201- “Hawaii Made” program for manufactured products oversight; “Hawaii Made” trademark. (a) The department of business, economic development, and tourism shall administer and oversee a “Hawaii Made” program

for manufactured products and shall hold ownership of the “Hawaii Made” trademark.

(b) For purposes of this section, the department of business, economic development, and tourism shall:

- (1) Promote consumer demand for “Hawaii Made” products;
- (2) Coordinate manufacturing of “Hawaii Made” products;
- (3) Coordinate and promote distribution channels for “Hawaii Made” products;
- (4) Ensure that appropriate patents and copyrights are acquired for “Hawaii Made” products; and
- (5) Identify new funding opportunities to promote the expansion of “Hawaii Made” products.

(c) No person shall:

- (1) Keep, offer, display or expose for sale, or solicit for the sale of any item, product, souvenir, or other merchandise that:
 - (A) Is labeled “Hawaii Made”; or
 - (B) By any other means, represents the origin of the item as being from any place within the State; or

(2) Use the phrase “Hawaii Made” as an advertising or media tool, for any item that has not been manufactured, assembled, fabricated, or produced within the State and that has not had at least fifty-one per cent of its wholesale value added by manufacture, assembly, fabrication, or production within the State, including Hawaii-sourced goods, services, and intellectual property.”

SECTION 2. There is appropriated out of the funds received by the State of Hawaii from the American Rescue Plan Act of 2021, Public Law 117-2 (Section 9901), the sum of \$150,000 or so much thereof as may be necessary for fiscal year 2021-2022 to be used for the oversight and administration of the “Hawaii Made” program for manufactured products and for the department of business, economic development, and tourism to promote the “Hawaii Made” brand.

The sum appropriated shall be expended by the department of business, economic development, and tourism for the purposes of section 1 of this Act.

SECTION 3. New statutory material is underscored.¹

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

(Vetoed by Governor and veto overridden by Legislature on July 6, 2021.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 3

S.B. NO. 404

A Bill for an Act Relating to Electioneering Communications.

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

SECTION 1. Section 11-341, Hawaii Revised Statutes, is amended as follows:

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

“(a) Each person who makes an expenditure for electioneering communications in an aggregate amount of more than ~~[\$2,000]~~ \$1,000 during any calendar year shall file with the commission a statement of information within twenty-four hours of each disclosure date provided in this section.

(b) Each statement of information shall contain the following:

- (1) The name of the person making the expenditure, name of any person or entity sharing or exercising discretion or control over the person, and the custodian of the books and accounts of the person making the expenditure;
- (2) The names and titles of the executives or board of directors who authorized the expenditure, if the expenditure was made by a non-candidate committee, business entity, or an organization;
- (3) The state of incorporation or formation and principal address of the noncandidate committee, business entity, or organization or for an individual, the name, address, occupation, and employer of the individual making the expenditure;
- (4) The amount of each expenditure during the period covered by the statement and the identification of the person to whom the expenditure was made;
- (5) The elections to which the electioneering communications pertain and the names of any clearly identifiable candidates and whether those candidates are supported or opposed;
- (6) If the expenditures were made by a ~~[candidate committee or]~~ non-candidate committee, the names and addresses of all persons who contributed to the ~~[candidate committee or]~~ noncandidate committee for the purpose of publishing or broadcasting the electioneering communications;
- (7) If the expenditures were made by an organization other than a ~~[candidate committee or]~~ noncandidate committee, the names and addresses of all persons who contributed to the organization for the purpose of publishing or broadcasting the electioneering communications;
- (8) Whether ~~[or not]~~ any electioneering communication is made in coordination, cooperation, or concert with or at the request or suggestion of any candidate, candidate committee, or noncandidate committee, or agent of any candidate if any, and if so, the identification of the candidate, candidate committee, or noncandidate committee, or agent involved; and
- (9) The three top contributors as required under section 11-393, if applicable.”

2. By amending subsection (d) to read:

“(d) For purposes of this section:

“Disclosure date” means, for every calendar year, the first date by which a person has made expenditures during that same year of more than ~~[\$2,000]~~ \$1,000 in the aggregate for electioneering communications~~[-, and the date of any subsequent expenditures by that person for electioneering communications].~~

“Electioneering communication” means any advertisement that is broadcast from a cable, satellite, television, or radio broadcast station; published in any periodical or newspaper or by electronic means; or sent by mail ~~[at a bulk rate]~~, and that:

- (1) Refers to a clearly identifiable candidate;
- (2) Is made, or scheduled to be made, either within thirty days ~~[prior to]~~ before a primary or initial special election or within sixty days ~~[prior to]~~ before a general or special election; and

- (3) Is not susceptible to any reasonable interpretation other than as an appeal to vote for or against a specific candidate.

“Electioneering communication” shall not include communications:

- (1) In a news story or editorial disseminated by any broadcast station or publisher of periodicals or newspapers, unless the facilities are owned or controlled by a candidate, candidate committee, or non-candidate committee;
- (2) That constitute actual expenditures by the expending organization;
- (3) In house bulletins; or
- (4) That constitute a candidate debate or forum, or solely promote a debate or forum and are made by or on behalf of the person sponsoring the debate or forum.

“Person” shall not include a candidate or candidate committee.”

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 its approval; provided that it shall apply beginning with the 2022 primary election.

(Vetoed by Governor and veto overridden by Legislature on July 6, 2021.)

ACT 4

S.B. NO. 811

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

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

SECTION 1. (a) The department of education shall publish a weekly report on schools that have a student, staff member, or affiliated individual who has tested positive for coronavirus disease 2019 (COVID-19). The report shall include:

- (1) The school’s name;
- (2) The date the COVID-19 positive test result was reported to the school; and
- (3) The date that the positively tested individual was last on the school campus.

(b) The report shall be published weekly commencing after July 1, 2021, on the department of education’s website.

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

(Vetoed by Governor and veto overridden by Legislature on July 6, 2021.)

ACT 5

S.B. NO. 1387

A Bill for an Act Relating to Microchip Identification.

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

SECTION 1. The legislature finds that one in three pets will become lost during its lifetime. Sadly, ninety per cent of these pets will not return home unless the pet is equipped with some sort of identification. Across the nation,

1,500,000 stray animals are euthanized by animal shelters and animal control contractors. Microchip identification can save the lives of these pets.

Today, national microchip registration companies provide a more affordable and effective alternative for pet owners looking for their lost pets. The legislature further finds that microchip identification is the single most effective way of returning lost pets to their owners. A microchip is about the size of a grain of rice and implanted beneath the pet's skin between the shoulders. It contains a unique number used to identify animals, which can be scanned and then used to find the owner's contact information in a registry. Found pets can be taken to a veterinary office, rescue organization or shelter, or even a pet store to have the pet checked for a microchip.

With support from social media, individuals with personal scanners are available in every community and can respond to found pet alerts posted on pet pages. National registries, such as the nonprofit Found Animals organization, then send a voicemail, text message, and electronic mail alert to owners when their pet is found. The pet owner is then provided with the contact information of the rescuer or finder. These support networks allow finders to directly return lost pets to their owners in the communities in which they live, since lost pets are most often found within a mile of their home.

The legislature also finds that this streamlined process effectively bypasses the need for animal control, saves taxpayer money by eliminating the cost of intake and boarding, and avoids the delays and additional stress on the pet from sitting alone in a kennel waiting for its owner.

Therefore, the purpose of this Act is to save pets' lives by requiring dog and cat owners to microchip their pets.

SECTION 2. Chapter 143, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§143- Microchip identification. (a) An owner shall have a microchip implanted in the owner's dog or cat, and the owner shall register the microchip number and the owner's contact information with a microchip registration company.

(b) When the contact information of the owner of a dog or cat changes, the owner shall provide the new contact information to the applicable microchip registration company no later than thirty days after the change in contact information occurs.

(c) When the owner of a dog or cat transfers ownership to another owner:

- (1) The former owner shall inform the new owner of the microchip registration company with which the dog's or cat's microchip is registered; and
- (2) The new owner shall provide the microchip registration company with the new owner's contact information no later than thirty days after the transfer of ownership occurs.

(d) Each animal control contractor or nonprofit animal rescue organization shall implant a microchip in all stray dogs and cats in its custody that do not have a microchip.

(e) All animal control contractors shall activate the microchip registration company's found pet alerts to notify owners whose pets' microchips are registered with that company if the pet is found and the owner is not present.

(f) Veterinary clinics, animal shelters, and other animal rescue organizations that scan found pets for microchips shall release only the chip identification number to the finder upon request.

(g) Nothing in this section shall be construed to apply to animals being cared for as part of a designated population management program.

(h) As used in this section, “owner” means any person owning, harboring, or keeping a dog or cat; providing care or sustenance for a dog or cat; or having custody of a dog or cat, whether temporarily or permanently. “Owner” does not include the animal quarantine branch or plant quarantine branch of the department of agriculture.”

SECTION 3. Section 143-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““Microchip” or “microchip identification” means a device that is implanted under the skin of an animal and that contains contact information for the owner of the animal.”

SECTION 4. Section 143-2, Hawaii Revised Statutes, is amended to read as follows:

“§143-2 License or microchip required. It shall be unlawful for any person to own or harbor a [dog]:

- (1) Dog unless the dog is licensed and has been implanted with a microchip identification as provided by this chapter[-]; provided that the [legislative bodies of the several] counties may, by ordinance, dispense with or modify the licensing requirements of this chapter[-. This]; provided further that this chapter shall not apply to dogs under the age of three months [which do not run at large, dogs in quarantine and] or dogs brought into the State exclusively for the purpose of entering them in a dog show or [dog] exhibition and not allowed to run at large[-]; or
- (2) Cat unless the cat has been implanted with a microchip identification as provided by this chapter; provided that this chapter shall not apply to cats under the age of three months or cats brought into the State exclusively for the purpose of entering them in a cat show or exhibition and not allowed to run at large.”¹

SECTION 5. This Act does not affect 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.²

SECTION 7. This Act shall take effect on January 1, 2022.

(Vetoed by Governor and veto overridden by Legislature on July 6, 2021.)

Notes

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

ACT 6

H.B. NO. 54

A Bill for an Act Relating to the State Budget.

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

PART I

SECTION 1. There is appropriated out of the general revenues of the State of Hawaii the sum of \$250,000,000 or so much thereof as may be necessary

for fiscal year 2020-2021 to be deposited into the emergency and budget reserve fund established pursuant to section 328L-3, Hawaii Revised Statutes.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$390,000,000 or so much thereof as may be necessary for fiscal year 2020-2021 to provide the actuarially required contribution for other post-employment benefits.

The sum appropriated shall be expended by the department of budget and finance for the purposes of this Act.

PART II

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$238,944,470 or so much thereof as may be necessary for fiscal year 2021-2022 and the sum of \$257,446,927 or so much thereof as may be necessary for fiscal year 2022-2023 for debt service payments - state (BUF721); provided that of the general fund appropriation for debt service under this section for fiscal biennium 2021-2023, balances that are unrequired for debt service payments may be used to pay for expenses incurred pursuant to section 39-14, Hawaii Revised Statutes, and for costs of bond issuance, or may be transferred to retirement benefits payments (BUF741-BUF748) and health premium payments (BUF761-BUF768); provided further that the funds shall not be expended for any other purpose; and provided further that any unexpended funds shall lapse to the credit of the general fund at the end of the respective fiscal year for which the appropriation was made.

The sums appropriated shall be expended by the department of budget and finance for the purposes of this section.

PART III

SECTION 4. Provided that, notwithstanding any law to the contrary, appropriations in sections 2 and 3 that are deemed necessary for the operations of a program, the appropriations may be transferred with the approval of the governor to the General Appropriations Act of 2021 (House Bill No. 200, H.D. 1, S.D. 1, C.D. 1,¹ as enacted) or the Supplemental Appropriations Act of 2022 for program execution and expenditure; provided further that the transferred appropriations shall be expended for the purposes indicated in this Act and shall be subject to the provisions of the General Appropriations Act of 2021 and the Supplemental Appropriations Act of 2022; and provided further that the transferred appropriations shall be incorporated into all budgetary details of the General Appropriations Act of 2021 and the Supplemental Appropriations Act of 2022, as applicable.

SECTION 5. This Act shall take effect upon its approval; provided that sections 1 and 2 shall take effect retroactively on June 30, 2021.

(Amended by Legislature to meet Governor's objections. Approved July 8, 2021.)

Note

1. Act 88.

ACT 7

H.B. NO. 53

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 article VII, section 13, of the Hawaii 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, of the Hawaii State Constitution also provides that in determining the power of the State to issue general obligation bonds, certain bonds are excludable, including “[r]eimbursable 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 those bonds does not exceed seven per cent of the principal amount of outstanding general obligation bonds not otherwise excluded under article VII, section 13, of the Hawaii State Constitution.
- (2) Actual and estimated debt limits. The limit on principal and interest of general obligation bonds issued by the State, actual for fiscal year 2020-2021 and estimated for each fiscal year from 2021-2022 to 2024-2025, is as follows:

<u>Fiscal Year</u>	<u>Net General Fund Revenues</u>	<u>Debt Limit</u>
2017-2018	\$7,656,001,540	
2018-2019	7,910,649,595	
2019-2020	7,631,208,089	
2020-2021	8,058,234,000	\$1,430,534,652
2021-2022	7,479,503,000	1,455,338,987
2022-2023	7,767,188,000	1,428,751,614
2023-2024	8,065,417,000	1,437,137,042
2024-2025	(not applicable)	1,437,579,993

For fiscal years 2020-2021, 2021-2022, 2022-2023, 2023-2024, and 2024-2025, 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 2017-2018, 2018-2019, and 2019-2020 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, 2020, dated November 19, 2020. The net general fund revenues for fiscal years 2020-2021 to 2023-2024 are estimates, based on general fund revenue estimates made as of March 8, 2021, by the council on revenues, the body assigned by article VII, section 7, of the Hawaii State Constitution to make these 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 Hawaii State Constitution, for determining the power of the State to issue general obligation bonds within the debt limit as of April 1, 2021, is as follows for fiscal year 2021-2022 to fiscal year 2027-2028:

Fiscal Year	Principal and Interest
2021-2022	\$942,978,733
2022-2023	905,460,017
2023-2024	890,840,266
2024-2025	850,362,631
2025-2026	903,170,962
2026-2027	704,256,367
2027-2028	676,904,175

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 2028-2029 to fiscal year 2040-2041 when the final installment of \$102,695,623 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 \$233,500,000, 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 Hawaii 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 February 28, 2021, adjusted for:
 - (i) Appropriations to be funded by general obligation bonds or reimbursable general obligation bonds as provided in

- House Bill No. 200, H.D. 1, S.D. 1, C.D. 1¹ (the General Appropriations Act of 2021);
- (ii) Lapses as provided in House Bill No. 200, H.D. 1, S.D. 1, C.D. 1¹ (the General Appropriations Act of 2021);
 - (iii) Appropriations to be funded by general obligation bonds or reimbursable general obligation bonds as provided in House Bill No. 185, H.D. 1, S.D. 2, C.D. 1² (the Judiciary Appropriations Act of 2021);
 - (iv) Lapses as provided in House Bill No. 185, H.D. 1, S.D. 2, C.D. 1² (the Judiciary Appropriations Act of 2021);
 - (v) Appropriations to be funded by general obligation bonds or reimbursable general obligation bonds as provided in House Bill No. 54, H.D. 1, S.D. 1, C.D. 1³; and
 - (vi) Lapses as provided in House Bill No. 54, H.D. 1, S.D. 1, C.D. 1³;
- the total amount of authorized but unissued general obligation bonds is \$3,227,451,750. The total amount of general obligation bonds authorized in this Act is \$1,291,787,000. The total amount of general obligation bonds previously authorized and unissued, as adjusted, and the general obligation bonds authorized in this Act is \$4,519,238,750.
- (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 \$233,500,000, 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 Hawaii State Constitution.
- (5) Proposed general obligation bond issuance. As reported therein for the fiscal years 2020-2021, 2021-2022, 2022-2023, 2023-2024, and 2024-2025, the State proposes to issue \$525,000,000 in general obligation bonds during the second half of fiscal year 2020-2021, and \$500,000,000 in general obligation bonds semi-annually during fiscal years 2021-2022, 2022-2023, 2023-2024, and 2024-2025. The State anticipates issuing a combination of twenty-year serial bonds with principal repayments beginning the fifth year and ten-year serial bonds with principal repayments beginning the first year, 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 2020-2021 to 2023-2024 is \$3,525,000,000. An additional \$1,000,000,000 is proposed to be issued in fiscal year 2024-2025. The total amount of \$3,525,000,000 that is proposed to be issued through fiscal year 2023-2024 is sufficient to meet the requirements of the authorized and unissued bonds, as adjusted, the total amount of which is \$4,519,238,750 reported in paragraph (4), except for \$994,238,750. It is assumed that the appropriations to which an additional \$994,238,750 in bond is-

suance needs to be applied will have been encumbered as of June 30, 2024. The \$1,000,000,000 that is proposed to be issued in fiscal year 2024-2025 will be sufficient to meet the requirements of the June 30, 2024 encumbrances in the amount of \$994,238,750. The amount of assumed encumbrances as of June 30, 2024, 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, 2024, and the amount of June 30, 2024, encumbrances versus the amount of bonds proposed to be issued in fiscal year 2024-2025, 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 that is excludable each year from the calculation against the debt limit is 0.58 per cent for approximately ten years from fiscal year 2021-2022 to fiscal year 2030-2031. For the purpose of this declaration, the assumption is made that 0.50 per cent of each bond issue will be excludable from the debt limit, an assumption that the legislature finds to be reasonable and conservative.

- (B) Bonds constituting instruments of indebtedness under which the State incurs a contingent liability as a guarantor can be excluded, but only to the extent the principal amount of those 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 (7); and provided that the State shall establish and maintain a reserve in an amount in reasonable proportion to the outstanding loans guaranteed by the State as provided by law. According to the department of budget and finance and the assumptions presented herein, the total principal amount of outstanding general obligation bonds and general obligation bonds proposed to be issued, which are not otherwise excluded under article VII, section 13, of the Hawaii State Constitution for the fiscal

years 2020-2021, 2021-2022, 2022-2023, 2023-2024, and 2024-2025 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>
2020-2021	\$ 8,928,593,064
2021-2022	10,123,593,064
2022-2023	11,118,593,064
2023-2024	12,113,593,064
2024-2025	13,108,593,064

Based on the foregoing and based on the assumption that the full amount of a guaranty is immediately due and payable when the 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 will have been established as heretofore provided, can be excluded in determining the power of the State to issue general obligation bonds. As it is not possible to predict with a reasonable degree of certainty when a guaranty will change from a contingent liability to an actual liability, it is assumed in conformity with fiscal conservatism and prudence, that all guaranties not otherwise excluded pursuant to article VII, section 13, of the Hawaii State Constitution will become due and payable in the same fiscal year in which the greatest amount of principal and interest on general obligation bonds, after exclusions, occurs. Thus, based on these assumptions and on the determination in paragraph (8), all of the outstanding guaranties can 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 not to exceed 5.75 per cent in fiscal years 2021 through 2025, it can be determined from the following schedule that the bonds that 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 the bond 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>
2nd half FY 2020-2021 \$522,375,000	1,430,534,652	994,966,602 (2021-2022)
1st half FY 2021-2022 \$497,500,000	1,455,338,987	1,022,488,072 (2025-2026)
2nd half FY 2021-2022 \$497,500,000	1,455,338,987	1,066,369,709 (2025-2026)
1st half FY 2022-2023 \$497,500,000	1,428,751,614	1,109,762,541 (2025-2026)

2nd half FY 2022-2023			
\$497,500,000	1,428,751,614	1,153,646,566	(2025-2026)
1st half FY 2023-2024			
\$497,500,000	1,437,137,042	1,197,065,047	(2025-2026)
2nd half FY 2023-2024			
\$497,500,000	1,437,137,042	1,240,947,984	(2025-2026)
1st half FY 2024-2025			
\$497,500,000	1,437,579,993	1,284,390,078	(2025-2026)
2nd half FY 2024-2025			
\$497,500,00 ⁴	1,437,579,993	1,328,271,328	(2025-2026)

(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 are reasonable. The assumptions set forth in this Act with respect to the principal amount of general obligation bonds that will be issued, the amount of principal and interest on reimbursable general obligation bonds that 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 these matters shall remain subject to substantial flexibility.

SECTION 3. Authorization for issuance of general obligation bonds. General obligation bonds may be issued as provided by law in an amount that may be necessary to finance projects authorized in House Bill No. 200, H.D. 1, S.D. 1, C.D. 1¹ (the General Appropriations Act of 2021), House Bill No. 185, H.D. 1, S.D. 2, C.D. 1² (the Judiciary Appropriations Act of 2021), and House Bill No. 54, H.D. 1, S.D. 1, C.D. 1;³ passed by the legislature during this regular session of 2021 and designated to be financed from the general obligation bond fund and from the general obligation bond fund with debt service cost to be paid from special funds; provided that the sum total of general obligation bonds so issued shall not exceed \$1,291,787,000.

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 a 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.
(Vetoed by Governor and veto overridden by Legislature on July 8, 2021.)

Notes

1. Act 88.
2. Act 127.
3. House Bill No. 54, HD1, SD1, CD1, AD1 became Act 6, Special Session of 2021.
4. So in original.

ACT 8

S.B. NO. 589

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

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

PART I

SECTION 1. The legislature finds that the University of Hawaii cancer center reduces the burden of cancer through research, education, patient care, and community outreach. The University of Hawaii cancer center is the only National Cancer Institute-designated cancer center in Hawaii and the Pacific region. The University of Hawaii cancer center is a member of the Hawaii Cancer Consortium, which includes five hospital groups and the University of Hawaii John A. Burns school of medicine.

The University of Hawaii John A. Burns school of medicine educates and trains health care professionals, including physicians, biomedical scientists, and allied health workers. The University of Hawaii John A. Burns school of medicine also conducts fundamental medical research and translates discoveries into delivery practices. Because the University of Hawaii John A. Burns school of medicine is a community-based medical school without its own university hospital, it partners with private hospitals in the community to achieve its educational mission.

The legislature further finds that public funds and other resources the State has made available to the University of Hawaii John A. Burns school of medicine and University of Hawaii cancer center have been substantial. The magnitude of state funds and other resources provided to the University of Hawaii, the distinction of the University being the sole public institution of higher education in the State, and the University of Hawaii cancer center being the only National Cancer Institute-designated cancer center in Hawaii underscore the importance of establishing complementary strategic priorities and coordinating the management and deployment of state resources appropriated to the University of Hawaii John A. Burns school of medicine and University of Hawaii cancer center.

It is in the public's interest that State resources be efficiently and effectively managed to optimize the public benefits. Just as co-locating the physical facilities for the University of Hawaii John A. Burns school of medicine and University of Hawaii cancer center on adjoining sites in Kakaako promotes synergistic efforts, the legislature determines that it is a statewide concern to ensure that the management of public resources provided to the University of Hawaii John A. Burns school of medicine and University of Hawaii cancer center be integrated, coordinated, and focused on common priorities to avoid unnecessary duplication of administrative expenses or conflicting priorities. Maximized efficiencies will benefit the University of Hawaii cancer center, University of Hawaii John A. Burns school of medicine, University of Hawaii at Manoa, and the State by reducing or eliminating unnecessary expenditures and optimizing operations.

Accordingly, the purpose of this part is to:

- (1) Establish the University of Hawaii cancer center in statute as the cancer research center of Hawaii; and
- (2) Require the cancer research center of Hawaii to be administratively affiliated with the University of Hawaii John A. Burns school of medicine and possibly merge the administrative services and infrastructure teams of both entities to offer greater efficiency.

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

“ . **Cancer Research Center of Hawaii**

§304A- Cancer research center of Hawaii. (a) There is established an organized research unit, hereinafter known as the cancer research center of Hawaii, to conduct cancer research. The cancer research center of Hawaii shall be administered by a director to be appointed in accordance with board of regents policy.

(b) The cancer research center of Hawaii shall be administratively affiliated with the University of Hawaii John A. Burns school of medicine. The administrative services and infrastructure teams of the cancer research center of Hawaii and the University of Hawaii John A. Burns school of medicine may be merged to achieve greater efficiency.

(c) The provost of the University of Hawaii at Manoa shall have authority to direct and achieve efficiencies at the University of Hawaii John A. Burns school of medicine and cancer research center of Hawaii.

(d) The programs of the University of Hawaii John A. Burns school of medicine and cancer research center of Hawaii, and the University of Hawaii at Manoa shall identify opportunities to:

- (1) Capitalize on collaboration between the programs; and
- (2) Maximize operational efficiencies between the University of Hawaii John A. Burns school of medicine and cancer research center of Hawaii,

including but not limited to shared services and personnel whenever feasible and utilization of centralized services available through the University of Hawaii at Manoa whenever appropriate.

(e) The cancer research center of Hawaii's research agenda shall focus on research, education, patient care, and community outreach and reflect an understanding of the ethnic, cultural, and environmental characteristics of the State and the Pacific region.

(f) The cancer research center of Hawaii may:

- (1) Engage in international research collaborations;
- (2) Undertake research studies and clinical trials; and
- (3) Participate in projects and programs of the National Cancer Institute.”

PART II

SECTION 3. The purpose of this part is to further efforts to ensure the efficient and effective management of public resources provided to the University of Hawaii John A. Burns school of medicine and cancer research center of Hawaii to optimize public benefits.

SECTION 4. (a) The University of Hawaii shall develop and implement a plan for the University of Hawaii John A. Burns school of medicine and cancer research center of Hawaii to achieve greater operational efficiencies, reduce duplication of services, and share administrative functions to the maximum extent practicable.

(b) The president of the University of Hawaii shall submit a report on the progress of the development and implementation of the plan as provided under this part to the legislature no later than twenty days prior to the convening of the regular session of 2023.

PART III

SECTION 5. The purpose of this part is to allow the University of Hawaii to continue its contribution to research commercialization and economic development by extending the sunset date of Act 38, Session Laws of Hawaii 2017, for two years, until June 30, 2024, while promoting accountability and transparency.

SECTION 6. Section 84-10, Hawaii Revised Statutes, is amended to read as follows:

~~“[H]§84-10~~ **University of Hawaii; technology transfer activities; exemption.** (a) Sections 84-12, 84-13, 84-14 to 84-16, and 84-18 shall not apply to technology transfer activities sponsored by the University of Hawaii; provided that the technology transfer activities comply with the regulatory framework and research compliance program and policies approved by the board of regents of the University of Hawaii ~~[board of regents]~~.

(b) Notwithstanding subsection (a), the University of Hawaii shall not sponsor, enter into, or continue to engage in technology transfer activities with a private person in which an employee of the University of Hawaii has a conflict of interest as provided in section 84-14, including a financial interest, irrespective of whether the State benefits from the technology transfer activities; provided that the prohibition under this subsection shall not apply if:

- (1) The technology transfer activities with the private person promote the timely and efficient commercialization of intellectual property created by basic and applied research at the University of Hawaii;
- (2) The State stands to benefit from the technology transfer activities with the private person;
- (3) The technology transfer activities with the private person comply with the regulatory framework and research compliance program and policies approved by the board of regents of the University of Hawaii;
- (4) The employee's conflict of interest is disclosed at the time of the proposal, and the proposals and binding agreements for each of the technology transfer activities with the private person are reviewed by the state ethics commission to assure compliance with ethics laws;
- (5) Any changes to the terms and conditions of the technology transfer activities are reported to the state ethics commission;
- (6) The employee with the conflict of interest does not:
 - (A) Take official action affecting the technology transfer activities with the private person; or
 - (B) Directly or indirectly supervise an employee when that employee takes official action affecting the technology transfer activities with the private person; and
- (7) During the term of the technology transfer activities with the private person, the following employees file annually with the state ethics commission a disclosure of financial interests pursuant to section 84-17:
 - (A) Employees who have a conflict of interest as provided in section 84-14, including a financial interest, in the private person;
 - (B) Employees who take official action affecting the technology transfer activities with the private person; and

(C) Employees who directly or indirectly supervise an employee who takes official action affecting the technology transfer activities with the private person.

(c) Notwithstanding subsection (a), any technology transfer activities sponsored by, entered into, or engaged in by the University of Hawaii in violation of subsection (b) is voidable under section 84-16; provided that this subsection shall not apply to contracts for technology transfer activities entered into or extended by the University of Hawaii prior to January 1, 2022.

(d) The University of Hawaii shall file annually with the state ethics commission a disclosure, including its conflict of interest management plan, of any conflict of interest of any employee relating to its technology transfer activities.

~~[(b)]~~ (e) As used in this section~~[-“technology”]~~:

“Person” means any individual, firm, association, organization, sole proprietorship, partnership, company, corporation, joint venture, trust, or any other form of business or legal entity or group of individuals.

“Technology transfer activities” means the process of transferring scientific findings from the public sector to the private sector for the purpose of commercial development and application for personal or financial gain. “Technology transfer activities” may include creating joint ventures, limited partnerships, or other corporate forms; allocating equity shares, partnership interests, or other forms of participation; identifying new technologies; protecting technologies through patents and copyrights; forming development and commercialization strategies, arrangements, or projects; and other related activities.”

SECTION 7. Section 304A-121, Hawaii Revised Statutes, is amended to read as follows:

~~[[§304A-121]]~~ **Technology transfer; reporting.** The board of regents of the University of Hawaii shall submit a written report to the legislature no later than twenty days prior to the convening of each regular session regarding:

- (1) The development ~~[and]~~, implementation, and enforcement of its regulatory framework and research compliance program to reflect ethical research principles and technology transfer regulations used by the federal government; ~~[and]~~
- (2) The technology transfer activities of the University of Hawaii, as defined in section 84-10, and the status of such activities~~[-]; and~~
- (3) A disclosure, including the University of Hawaii’s conflict of interest management plan, of any conflict of interest of any employee of the University of Hawaii relating to its technology transfer activities.”

SECTION 8. Act 38, Session Laws of Hawaii 2017, is amended by amending section 5 to read as follows:

“SECTION 5. This Act shall take effect upon its approval; provided that this Act shall be repealed on June 30, ~~[2022.]~~ 2024.”

PART IV

SECTION 9. The legislature finds that pursuant to the repeal and reenactment provisions of Act 39, Session Laws of Hawaii 2017, chapter 304A, part IV, subpart P, Hawaii Revised Statutes, regarding the University of Hawaii innovation and commercialization initiative program, was repealed on June 30, 2021. The purpose of this part is to reenact part IV, subpart P, for three years to allow the University of Hawaii to continue the innovation and commercializa-

tion initiative program and include additional provisions that promote accountability and transparency.

SECTION 10. Chapter 304A, Hawaii Revised Statutes, is amended by adding a new subpart to be appropriately designated and to read as follows:

“ . **Innovation and Commercialization Initiative Program**

§304A- Innovation and commercialization initiative program; establishment. There is established within the University of Hawaii an innovation and commercialization initiative program under the direction of the vice president for research and innovation.

§304A- Innovation and commercialization initiative program; implementation. In implementing the innovation and commercialization initiative program, the University of Hawaii may promote, sponsor, and participate in the transformation of the products of its research and instructional activities into viable economic enterprises and may create, finance, and participate in organizations that contribute to the economic development and workforce diversification of the State using university research and personnel. The university, without limitation, may:

- (1) Adopt policies and management procedures to carry out the purposes of the program;
- (2) Contribute equity, loan funds, or participate directly or indirectly to finance concepts or proposals that are likely to lead to viable businesses, economic development, or workforce opportunities based on university research;
- (3) Enter into contracts and other appropriate arrangements with start-up ventures to provide loans, initial and expansion capital, and other forms of financial assistance;
- (4) Solicit, evaluate, and assist in the preparation, drafting, and refinement of business plans and proposals;
- (5) Provide advice, instruction, training, and technical and marketing assistance to support and promote the enterprises in which the university invests;
- (6) Develop, coordinate, and deliver instruction, training, and outreach programs to build and maintain the capacity to sustain these economic enterprises;
- (7) Implement specialized programs designed to encourage the development of new products, businesses, and markets;
- (8) Prepare, publish, and distribute technical studies, reports, bulletins, and other materials consistent with customary standards of university publication, subject to the maintenance and respect for confidentiality of client proprietary information;
- (9) Organize, sponsor, and participate in conferences, workshops, seminars, and other educational activities relating to the formation and financial viability of businesses that use university research products or university personnel;
- (10) Provide and pay for advisory or consulting services and technical, managerial, and marketing assistance, support, and promotion to carry out the purposes of this subpart;
- (11) Acquire, hold, and sell qualified securities;
- (12) Consent, subject to the provisions of any contract with noteholders or bondholders, whenever the university deems it necessary or desirable in the fulfillment of the purposes of this subpart, to the modification, with respect to rate of interest, time of payment of

- any installment of principal or interest, or any other terms, of any contract or agreement of any kind to which the university is a party;
- (13) With the assistance of an appropriate foundation or development entity, accept donations, grants, bequests, and devises of money, property, service, or other things of value that may be received from the United States or any agency thereof, any governmental agency, or any public or private institution, person, firm, or corporation, to be held, used, or applied for any or all of the purposes in support of this program;
 - (14) Invest any funds held in reserves or sinking funds, or any funds not required for immediate disbursement, in such investments as may be lawful for fiduciaries in the State;
 - (15) Acquire real property, or an interest therein, by purchase or foreclosure, where that acquisition is necessary or appropriate to protect or secure any investment or loan in which the university has an interest; sell, transfer, and convey the property to a buyer and, if the sale, transfer, or conveyance cannot be effected with reasonable promptness or at a reasonable price, to lease the property;
 - (16) Consistent with the purposes of the program, acquire, own, hold, dispose of, and encumber personal property of any nature, or any interest therein, either directly or through intermediate entities formed or established specifically for the program's purposes;
 - (17) Enter into agreements or other transactions with any federal, state, or county agency to implement the purposes of this subpart;
 - (18) Contract with other entities, public or private, for the provision of all or a portion of the services necessary for the management and operation of the program. The university may use all appropriations, grants, contractual reimbursements, and all other funds made available for the purposes of the program to pay for the proper general expenses of the program;
 - (19) Appear on its own behalf before state, county, or federal agencies on matters relating to the program;
 - (20) Establish a risk management program appropriate to the activities of the program, which may include, among other components, the purchase of insurance, participation in the State's risk management program, or retention and management of risks;
 - (21) Appoint advisory committees as deemed necessary; and
 - (22) Exercise any other powers of a corporation organized under the laws of the State not inconsistent with the purpose and intent of the program.

§304A- University innovation and commercialization initiative special fund. (a) There is established the university innovation and commercialization initiative special fund into which shall be deposited, and shall not be considered part of the general fund, all funds consistent with the purposes of this subpart that are:

- (1) Appropriated by the legislature;
- (2) Received as repayments of loans;
- (3) Earned on investments;
- (4) Received pursuant to a venture agreement;
- (5) Received as royalties;
- (6) Received as premiums or fees charged by the university; or
- (7) Otherwise received by the program.

(b) Revenues deposited into the special fund may be expended by the University of Hawaii for all costs and expenses associated with the operation of the innovation and commercialization initiative program without regard to chapters 76, 78, 89, 102, 103, and 103D. Revenues not expended as provided in this section may be transferred to other university funds to be expended for the general benefit of the university.

§304A- Confidentiality of trade secrets; disclosure of financial information. Any documents or data made or received by the University of Hawaii under this subpart, to the extent that the material or data consist of trade secrets or confidential commercial or financial information that may be withheld from public disclosure under chapter 92F, shall not be publicly disclosed; provided that if the university purchases a qualified security, the nonconfidential commercial and financial information regarding that security shall be a public record of the university. The board of regents, or any subcommittee of the board, may hold an executive session as provided in section 92-4 to discuss trade secrets or confidential commercial or financial information that may be withheld under chapter 92F.

§304A- Limitation on liability. (a) The University of Hawaii shall not assume or otherwise promise to answer for the debt, contract, or liability of any other person or private entity involved with the innovation and commercialization initiative program.

(b) Notwithstanding chapters 661 and 662, or any other law to the contrary, nothing in this subpart shall create an obligation, debt, claim, cause of action, claim for relief, charge, or any other liability of any kind whatsoever in favor of any person or entity, without regard to whether that person or entity receives any benefits under this subpart, against the State or its officers and employees. The State and its officers and employees shall not be liable for the results of any investment, purchase of securities, loan, or other assistance provided pursuant to this subpart. Nothing in this subpart shall be construed as authorizing any claim against the University of Hawaii in excess of any note, loan, or other specific indebtedness incurred by the university or in excess of any insurance policy acquired for the university or its employees.

§304A- Preservation of governmental immunity; full faith and credit. No contract, agreement, or statement made by the University of Hawaii pursuant to this subpart shall constitute an express or implied waiver by the university of its governmental or sovereign immunity as a public agency of the State, nor shall the contracts, agreements, or statements constitute an express or implied acceptance of liabilities in excess of liabilities allowable under applicable governmental immunity laws. No activity conducted by the university or agreement entered into pursuant to this subpart shall be deemed a pledge of the full faith and credit of the State.

§304A- Cooperation with the University of Hawaii by state agencies. Every state agency may render services to the University of Hawaii upon the university's request for any purpose related to this subpart.

§304A- Construction of subpart. (a) Other state laws, including without limitation the state code of ethics, shall be applied and construed on balance in recognition of the public benefits created and state interests advanced by the activities conducted by the University of Hawaii pursuant to this subpart.

(b) Notwithstanding subsection (a), the University of Hawaii shall not sponsor, enter into, or continue to engage in activities conducted pursuant to this subpart with a private person in which an employee of the University of Hawaii has a conflict of interest as provided in section 84-14, including a financial interest, irrespective of whether the State benefits from the activities; provided that the prohibition under this subsection shall not apply if:

- (1) The activities with the private person transform the products of the University of Hawaii's research and instructional activities into viable economic enterprises;
- (2) The State stands to benefit from the activities with the private person;
- (3) The activities with the private person comply with the regulatory framework and research compliance program and policies approved by the board of regents of the University of Hawaii;
- (4) The employee's conflict of interest is disclosed at the time of the proposal, and the proposals and binding agreements for each of the activities with the private person are reviewed by the state ethics commission to assure compliance with ethics laws;
- (5) Any changes to the terms and conditions of the activities are reported to the state ethics commission;
- (6) The employee with the conflict of interest does not:
 - (A) Take official action affecting the activities with the private person; or
 - (B) Directly or indirectly supervise an employee who takes official action affecting the activities with the private person; and
- (7) During the term of the activities with the private person, the following employees file annually with the state ethics commission a disclosure of financial interests pursuant to section 84-17:
 - (A) Employees who have a conflict of interest as provided in section 84-14, including a financial interest, in the private person;
 - (B) Employees who takes official action affecting the activities with the private person; and
 - (C) Employees who directly or indirectly supervise an employee who takes official action affecting the activities with the private person.

(c) Notwithstanding subsection (a), any activities conducted by the University of Hawaii pursuant to this subpart in violation of subsection (b) is voidable under section 84-16; provided that this subsection and subsection (b) shall not apply to contracts entered into or extended by the University of Hawaii prior to January 1, 2022, for activities conducted by the University of Hawaii pursuant to this subpart.

(d) The University of Hawaii shall file annually with the state ethics commission a disclosure, including its conflict of interest management plan, of any conflict of interest of any employee relating to its activities conducted pursuant to this subpart.

(e) As used in this section, "person" means any individual, firm, association, organization, sole proprietorship, partnership, company, corporation, joint venture, trust, or any other form of business or legal entity or group of individuals.

§304A- Biennial report. No later than twenty days prior to the convening of the regular session of each odd-numbered year, the University of Hawaii shall submit a report to the legislature concerning:

- (1) All funds deposited into the university innovation and commercialization initiative special fund and a detailed description of the use of those funds;
- (2) Coordinated efforts between the innovation and commercialization initiative program and other state agencies, including the Hawaii technology development corporation, the Hawaii strategic development corporation, and the Hawaii state energy office, to move the State's innovation goals forward, and to more efficiently and effectively utilize resources to achieve these outcomes; and
- (3) A disclosure, including its conflict of interest management plan, of all conflicts of interest of any employee relating to its activities conducted pursuant to this subpart.”

PART V

SECTION 11. The legislature finds that on June 30, 2021, the provisions of Act 42, Session Laws of Hawaii 2018, were repealed. The purpose of this part is to temporarily reenact provisions amended by Act 42, Session Laws of Hawaii 2018, for the purpose of extending, for three years, the authority of the president of the University of Hawaii to act as the University of Hawaii's chief procurement officer for all procurement contracts under chapter 103D, Hawaii Revised Statutes.

SECTION 12. Section 103D-203, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The chief procurement officer for each of the following state entities shall be:

- (1) The judiciary—the administrative director of the courts;
- (2) The senate—the president of the senate;
- (3) The house of representatives—the speaker of the house of representatives;
- (4) The office of Hawaiian affairs—the chairperson of the board;
- (5) The University of Hawaii—the president of the University of Hawaii; [~~provided that, except as specified in section 304A-2672(2), for contracts for construction and professional services furnished by licensees under chapter 464, the administrator of the state procurement office of the department of accounting and general services shall serve as the chief procurement officer;~~]
- (6) The department of education, excluding the Hawaii public library system—the superintendent of education;
- (7) The Hawaii health systems corporation—the chief executive officer of the Hawaii health systems corporation; and
- (8) The remaining departments of the executive branch of the State and all governmental bodies administratively attached to them—the administrator of the state procurement office of the department of accounting and general services.”

SECTION 13. Section 304A-2672, Hawaii Revised Statutes, is amended to read as follows:

“**§304A-2672 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; [~~provided that all procurements for professional services furnished by licensees under chapter 464 for construction projects shall be coordinated with the department of accounting and general services on behalf of the board; provided further that the department of accounting and general services shall not be responsible for procurements determined by both the University of Hawaii and the department of accounting and general services to be professional services furnished by licensees under chapter 464 for repair and maintenance;~~]
- (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-2681;
- (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.”

SECTION 14. The University of Hawaii shall submit an annual report to the legislature detailing a list of all capital improvement projects approved by the board of regents, prioritized by each campus, no later than twenty days prior to the convening of each regular session.

PART VI

SECTION 15. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 16. This Act shall take effect upon its approval; provided that:

- (1) Parts IV and V of this Act shall apply retroactively to any actions taken after June 30, 2021, by the University of Hawaii pursuant to the sections of law amended by those parts;

- (2) Section 10 shall be repealed on June 30, 2024; and
- (3) Sections 12, 13, and 14 shall be repealed on June 30, 2024, and sections 103D-203(a) and 304A-2672, Hawaii Revised Statutes, shall be reenacted in the form in which they read on June 11, 2018.

(Amended by Legislature to meet Governor's objections. Approved July 20, 2021.)

ACT 9

H.B. NO. 1299

A Bill for an Act Relating to Non-General Funds.

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

PART I. INTRODUCTION

SECTION 1. The coronavirus disease 2019 pandemic has swept across the nation and many parts of the world with unanticipated force and brought with it enormous challenges for governments at all levels. These challenges provide opportunities to restructure.

The legislature finds that, fundamentally, non-general funds must be reviewed and scrutinized just as much as general funds to determine if resources are being deployed effectively and efficiently.

The purpose of this Act is to trigger a full accounting of various non-general funded program objectives, performance, and results by repealing or abolishing those non-general funds and transferring any unencumbered balances to the general fund.

PART II. DEPARTMENT OF AGRICULTURE

SECTION 2. Section 145-38, Hawaii Revised Statutes, is amended to read as follows:

~~“§145-38~~ **Civil penalty.** Any person who violates any provision of this part or rule adopted pursuant to section 145-39 shall be subject to a civil penalty in an amount not to exceed \$1,000 per violation. In determining the amount of any civil penalty, the board of agriculture shall give due consideration to:

- (1) The history of the person's previous violations;
- (2) The seriousness of the violation; and
- (3) The demonstrated good faith of the person charged in attempting to achieve compliance with this part after being notified of the violation.

The penalty shall be collected by the department, and the proceeds shall be deposited into the ~~[agricultural development and food security special fund established pursuant to section 141-10.]~~ general fund.”

SECTION 3. Section 155-4, Hawaii Revised Statutes, is amended to read as follows:

§155-4 Powers and duties of the department. The department of agriculture shall have the following powers:

- (1) Employ a secretary, who may be exempt from chapter 76, and other full-time and part-time employees, subject to chapter 76, as are necessary to effectuate the purposes of this chapter~~[- subject further to the limitation of funds in the agricultural loan reserve fund];~~

- (2) Designate agents throughout the State as may be necessary for property appraisal, the consideration of loan applications, and the supervision of farming operations of borrowers. The agents may be compensated for their services at rates the department in its discretion may fix;
- (3) Initiate and carry on a continuing research and education program, utilizing and coordinating the services and facilities of other government agencies and private lenders to the maximum, to inform qualified farmers concerning procedures for obtaining loans and to inform private lenders concerning the advantages of making loans to qualified farmers;
- (4) Cooperate with private and federal government farm loan sources to increase the amount of loan funds available to qualified farmers in the State;
- (5) Assist individual qualified farmers in obtaining loans from other sources. Insofar as available funds and staff permit, counsel and assist individual farmers in establishing and maintaining proper records to prove their farming ability for loan purposes;
- (6) Insure loans made to qualified farmers and food manufacturers by private lenders under section 155-5;
- (7) Participate in loans made to qualified farmers and food manufacturers by private lenders under section 155-6;
- (8) Make direct loans to qualified farmers and food manufacturers under section 155-8;
- (9) Borrow money for loan purposes;
- (10) Assign and sell mortgages;
- (11) Hold title to, maintain, use, manage, operate, sell, lease, or otherwise dispose of personal and real property acquired by way of foreclosure, voluntary surrender, or otherwise, to recover moneys loaned;
- (12) Sue and be sued in the name of the "State of Hawaii";
- (13) Exercise incidental powers as are deemed necessary or requisite to fulfill its duty in carrying out the purposes of this chapter;
- (14) Delegate authority to its chairperson to approve loans, where the requested amount plus any principal balance on existing loans to the applicant, does not exceed \$25,000 of state funds; and
- (15) Adopt rules pursuant to chapter 91 necessary for the purpose of this chapter."

SECTION 4. Section 155-14, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

~~"(b) [All interest and fees collected by the department shall be deposited in the agricultural loan reserve fund to the extent needed to carry on the operations of the department including payments for consultative services that would strengthen the agriculture loan program; any moneys surplus to these needs shall be transferred to the agricultural loan revolving fund at the discretion of the department.] All payments received on account of principal shall be credited to the agricultural loan revolving fund."~~

SECTION 5. Section 155-31, Hawaii Revised Statutes, is amended by deleting the definition of "water infrastructure special fund".

~~[""Water infrastructure special fund" means the special fund created pursuant to section 155-34."]~~

SECTION 6. Section 155-33, Hawaii Revised Statutes, is amended to read as follows:

“**§155-33 Powers of the department.** The department shall have the following powers:

- (1) Make loans and expend funds to finance the purchase or installation of water infrastructure equipment for dams, reservoirs, hydroelectric pumping, storm water reclamation, ditch maintenance, spillways, wells, water ducts, water distribution systems, and water tanks;
- ~~[(2) Hold and invest moneys in the water infrastructure special fund in investments as permitted by law;~~
- ~~[(3)]~~ (2) Hire employees necessary to perform its duties;
- ~~[(4)]~~ (3) Enter into contracts for the service of consultants for rendering professional and technical assistance and advice, and any other contracts that are necessary and proper for the implementation of the loan program;
- ~~[(5)]~~ (4) Enter into contracts for the administration of the loan program, in accordance with chapter 103D;
- ~~[(6)]~~ (5) Establish loan program guidelines to carry out the purposes of this part;
- ~~[(7)]~~ (6) Perform all functions necessary to effectuate the purposes of this part;
- ~~[(8)]~~ (7) Delegate authority to the chairperson of the board of agriculture to approve loans where the requested amount plus any principal balance on existing loans to the applicant does not exceed \$25,000 of state funds; and
- ~~[(9)]~~ (8) Adopt rules pursuant to chapter 91 necessary for the purpose of this part.”

SECTION 7. Section 243-3.5, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) In addition to any other taxes provided by law, subject to the exemptions set forth in section 243-7, there is hereby imposed a state environmental response, energy, and food security tax on each barrel or fractional part of a barrel of petroleum product sold by a distributor to any retail dealer or end user of petroleum product, other than a refiner. The tax shall be \$1.05 on each barrel or fractional part of a barrel of petroleum product that is not aviation fuel; provided that of the tax collected pursuant to this subsection:

- (1) 5 cents of the tax on each barrel shall be deposited into the environmental response revolving fund established under section 128D-2;
- (2) 5 cents of the tax on each barrel shall be deposited into the energy security special fund established under section 201-12.8; and
- (3) 10 cents of the tax on each barrel shall be deposited into the energy systems development special fund established under section 304A-2169.1; and
- ~~(4) 15 cents of the tax on each barrel shall be deposited into the agricultural development and food security special fund established under section 141-10].~~

The tax imposed by this subsection shall be paid by the distributor of the petroleum product.

(b) In addition to subsection (a), the tax shall also be imposed on each one million British thermal units of fossil fuel sold by a distributor to any retail dealer or end user, other than a refiner, of fossil fuel. The tax shall be 19 cents

on each one million British thermal units of fossil fuel; provided that of the tax collected pursuant to this subsection:

- (1) 4.8 per cent of the tax on each one million British thermal units shall be deposited into the environmental response revolving fund established under section 128D-2;
- (2) 14.3 per cent of the tax on each one million British thermal units shall be deposited into the energy security special fund established under section 201-12.8; and
- (3) 9.5 per cent of the tax on each one million British thermal units shall be deposited into the energy systems development special fund established under section 304A-2169.1[~~]; and~~
- (4) ~~14.3 per cent of the tax on each one million British thermal units shall be deposited into the agricultural development and food security special fund established under section 141-10].~~

The tax imposed by this subsection shall be paid by the distributor of the fossil fuel.”

SECTION 8. Section 141-10, Hawaii Revised Statutes, is repealed.

SECTION 9. Section 155-34, Hawaii Revised Statutes, is repealed.

SECTION 10. Section 155-6.5(a), Hawaii Revised Statutes, is amended by substituting the words “general fund” or similar term wherever the words “agricultural loan reserve fund” or similar term appears, as the context requires.

SECTION 11. The following funds (account code) are abolished:

- (1) Measurement standards (S-309-A);
- (2) Biosecurity program (S-312-A);
- (3) General administration for agriculture (S-319-A);
- (4) Agr dev/food security - add (S-321-A);
- (5) Agr dev/food security - pi (S-333-A);
- (6) Agr dev/food security - arm (S-335-A);
- (7) Agribusiness development & research (S-337-A); and
- (8) Agricultural dev & food security spec fd (S-352-A),

and any unencumbered balances shall lapse to the credit of the general fund.

PART III. DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES

SECTION 12. The Leeward coast homeless project fund, account code S-335M, is abolished and any unencumbered balance shall lapse to the credit of the general fund.

PART IV. DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM

SECTION 13. The hydrogen investment capital special fund, account code S-308-B, is abolished and any unencumbered balance shall lapse to the credit of the general fund.

PART V. DEPARTMENT OF EDUCATION

SECTION 14. Section 302A-425, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

“(f) Fees collected pursuant to this section shall be deposited into the [~~private trade, vocational, and technical school licensure special~~] general fund.”

SECTION 15. Section 302A-425.5, Hawaii Revised Statutes, is repealed.

SECTION 16. The Hawaii teacher standards board special fund, account code S-321-E, is abolished and any unencumbered balance shall lapse to the credit of the general fund.

PART VI. DEPARTMENT OF HEALTH

SECTION 17. Section 448B-10, Hawaii Revised Statutes, is repealed.

PART VII. DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS

SECTION 18. Section 396-20, Hawaii Revised Statutes, is repealed.

PART VIII. DEPARTMENT OF LAND AND NATURAL RESOURCES

SECTION 19. The iucn - sldf fund, account code S-371-C, is abolished and any unencumbered balance shall lapse to the credit of the general fund.

PART IX. DEPARTMENT OF PUBLIC SAFETY

SECTION 20. The drug law enforcement equipment procurement fund, account code T-905-V1, is abolished and any unencumbered balance shall lapse to the credit of the general fund.

PART X. AUDITOR'S REPORT NO. 20-01, DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM

SECTION 21. The purpose of this part is to reclassify, repeal, or abolish various non-general funds, including accounts of the department of business, economic development, and tourism pursuant to the recommendations made by the auditor in auditor's report no. 20-01 and to transfer the unencumbered balances to the general fund.

SECTION 22. Section 206E-6, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (e) to read:

“(e) The authority shall adopt rules pursuant to chapter 91, and may amend the rules from time to time, providing for the method of undertaking and financing public facilities in an assessment area or an entire community development district. The rules adopted pursuant to this section shall include, but are not limited to, the following: methods by which the authority shall establish assessment areas; the method of assessment of real properties specially benefited; the costs to be borne by the authority, the county in which the public facilities are situated, and the property owners; the procedures before the authority relating to the creation of the assessment areas by the owners of real property therein, including provisions for petitions, bids, contracts, bonds, and notices; provisions relating to assessments; provisions relating to financing, such as bonds, [~~revolving~~] special funds, advances from available funds, special funds for payment of bonds, payment of principal and interest, and sale and use of bonds; provisions

relating to funds and refunding of outstanding debts; and provisions relating to limitations on time to sue, and other related provisions.”

2. By amending subsection (g) to read:

“(g) All sums collected under this section shall be deposited in the Hawaii community development ~~[revolving]~~ special fund established by section 206E-16; except that notwithstanding section 206E-16, all moneys collected on account of assessments and interest thereon for any specific public facilities financed by the issuance of bonds shall be set apart in a separate special fund and applied solely to the payment of the principal and interest on these bonds, the cost of administering, operating, and maintaining the program, the establishment of reserves, and other purposes as may be authorized in the proceedings providing for the issuance of the bonds. If any surplus remains in any special fund after the payment of the bonds chargeable against ~~[such]~~ that fund, it shall be credited to and become a part of the Hawaii community development ~~[revolving]~~ special fund. Moneys in the Hawaii community development ~~[revolving]~~ special fund may be used to make up any deficiencies in the special fund.”

SECTION 23. Section 206E-16, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§206E-16]]~~ **Hawaii community development ~~[revolving]~~ special fund.** There is created the Hawaii community development ~~[revolving]~~ special fund into which all receipts and revenues of the authority shall be deposited. Proceeds from the fund shall be used for the purposes of this chapter.”

SECTION 24. Section 206E-16.5, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§206E-16.5]]~~ **Expenditures of ~~[revolving]~~ special funds under the authority exempt from appropriation and allotment.** Except as to administrative expenditures, and except as otherwise provided by law, expenditures from any ~~[revolving]~~ special fund administered by the authority may be made by the authority without appropriation or allotment of the legislature; provided that no expenditure shall be made from and no obligation shall be incurred against any ~~[revolving]~~ special fund in excess of the amount standing to the credit of the fund or for any purpose for which the fund may not lawfully be expended. Nothing in sections 37-31 to 37-41 shall require the proceeds of any ~~[revolving]~~ special fund administered by the authority to be reappropriated annually.”

SECTION 25. Section 206E-184, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) In addition to the conditions and terms set forth in this part, any special facility lease entered into by the authority shall at least contain provisions obligating the other person to the special facility lease:

- (1) To pay to the authority during the initial term of the special facility lease, whether the special facility is capable of being used or occupied or is being used or occupied by the other person, a rental or rentals at the time or times and in the amount or amounts that will be sufficient:
 - (A) To pay the principal and interest on all special facility revenue bonds issued for the special facility;
 - (B) To establish or maintain any reserves for these payments; and
 - (C) To pay all fees and expenses of the trustees, paying agents, transfer agents, and other fiscal agents for the special facility revenue bonds issued for the special facility;
- (2) To pay to the authority:

- (A) A ground rental, as determined by the authority, if the land on which the special facility is located was not acquired from the proceeds of the special facility revenue bonds; or
 - (B) A properly allocable share of the administrative costs of the authority in carrying out the special facility lease and administering the special facility revenue bonds issued for the special facility, if the land was acquired from the proceeds of the special facility revenue bonds;
- (3) To either operate, maintain, and repair the special facility and pay the costs thereof or to pay to the authority all costs of operation, maintenance, and repair of the special facility;
- (4) To:
- (A) Insure, or cause to be insured, the special facility under builder's risk insurance (or similar insurance) in the amount of the cost of construction of the special facility to be financed from the proceeds of the special facility revenue bonds;
 - (B) Procure and maintain, or cause to be procured or maintained, to the extent commercially available, a comprehensive insurance policy providing protection and insuring the authority and its officers, agents, servants, and employees (and so long as special facility revenue bonds are outstanding, the trustee) against all direct or contingent loss or liability for damages for personal injury or death or damage to property, including loss of use thereof, occurring on or in any way related to the special facility or occasioned by reason of occupancy by and the operations of the other person upon, in, and around the special facility;
 - (C) Provide all risk casualty insurance, including insurance against loss or damage by fire, lightning, flood, earthquake, typhoon, or hurricane, with standard extended coverage and standard vandalism and other malicious mischief endorsements; and
 - (D) Provide insurance for workers' compensation and employer's liability for personal injury or death or damage to property (the other party may self-insure for workers' compensation if permitted by law);
- provided that all policies with respect to loss or damage of property including fire or other casualty and extended coverage and builder's risk shall provide for payments of the losses to the authority, the other person, or the trustee as their respective interests may appear; and provided further that the insurance may be procured and maintained as part of or in conjunction with other policies carried by the other person; and provided further that the insurance shall name the authority, and so long as any special facility revenue bonds are outstanding, the trustee, as additional insured; and
- (5) To indemnify, save, and hold the authority, the trustee and their respective agents, officers, members, and employees harmless from and against all claims and actions and all costs and expenses incidental to the investigation and defense thereof, by or on behalf of any person, firm, or corporation, based upon or arising out of the special facility or the other person's use and occupancy thereof, including, without limitation, from and against all claims and actions based upon and arising from any:
- (A) Condition of the special facility;

- (B) Breach or default on the part of the other person in the performance of any of the person's obligations under the special facility lease;
- (C) Fault or act of negligence of the other person or the person's agents, contractors, servants, employees, or licensees; or
- (D) Accident to, or injury or death of, any person or loss of, or damage to any property occurring in or about the special facility, including any claims or actions based upon or arising by reason of the negligence or any act of the other person.

Any moneys received by the authority pursuant to paragraphs (2) and (3) shall be paid into the Hawaii community development [~~revolving~~] special fund and shall not be nor be deemed to be revenues of the special facility."

SECTION 26. Section 206E-185, Hawaii Revised Statutes, is amended to read as follows:

"§206E-185 Special facility revenue bonds. All special facility revenue bonds authorized to be issued in principal amounts not to exceed the total amount of bonds authorized by the legislature shall be issued pursuant to part III of chapter 39, except as follows:

- (1) No revenue bonds shall be issued unless at the time of issuance the authority shall have entered into a special facility lease with respect to the special facility for which the revenue bonds are to be issued;
- (2) The revenue bonds shall be issued in the name of the authority, and not in the name of the State;
- (3) The revenue bonds shall be payable solely from and secured solely by the revenues derived by the authority from the special facility for which they are issued;
- (4) The final maturity date of the revenue bonds shall not be later than either the estimated life of the special facility for which they are issued or the initial term of the special facility lease;
- (5) If deemed necessary or advisable by the authority, or to permit the obligations of the other person to the special facility lease to be registered under the U.S. Securities Act of 1933, the authority, with the approval of the director of finance, may appoint a national or state bank within or without the State to serve as trustee for the holders of the revenue bonds and may enter into a trust indenture or trust agreement with the trustee. The trustee may be authorized by the authority to collect, hold, and administer the revenues derived from the special facility for which the revenue bonds are issued and to apply the revenues to the payment of the principal and interest on the revenue bonds. If any trustee shall be appointed, any trust indenture or agreement entered into by the authority with the trustee may contain the covenants and provisions authorized by part III of chapter 39 to be inserted in a resolution adopted or certificate issued, as though the words "resolution" or "certificate" as used in that part read "trust indenture or agreement". The covenants and provisions shall not be required to be included in the resolution or certificate authorizing the issuance of the revenue bonds if included in the trust agreement or indenture. Any resolution or certificate, trust indenture, or trust agreement adopted, issued, or entered into by the authority pursuant to this part may also contain any provisions required for the qualification thereof under the U.S. Trust Indenture Act of 1939. The authority may pledge and assign to the

- trustee the special facility lease and the rights of the authority including the revenues thereunder;
- (6) If the authority, with the approval of the director of finance, shall have appointed or shall appoint a trustee for the holders of the revenue bonds, then notwithstanding the provisions of the second sentence of section 39-68, the director of finance may elect not to serve as fiscal agent for the payment of the principal and interest, and for the purchase, registration, transfer, exchange, and redemption, of the revenue bonds, or may elect to limit the functions the director of finance shall perform as the fiscal agent. The authority, with the approval of the director of finance, may appoint the trustee to serve as the fiscal agent, and may authorize and empower the trustee to perform the functions with respect to payment, purchase, registration, transfer, exchange, and redemption, that the authority may deem necessary, advisable, or expedient, including, without limitation, the holding of the revenue bonds and coupons which have been paid and the supervision and conduction of the destruction thereof in accordance with sections 40-10 and 40-11. Nothing in this paragraph shall be a limitation upon or construed as a limitation upon the powers granted in the preceding paragraph to the authority, with the approval of the director of finance, to appoint the trustee, or granted in sections 36-3 and 39-13 and the third sentence of section 39-68 to the director of finance to appoint the trustee or others, as fiscal agents, paying agents, and registrars for the revenue bonds or to authorize and empower the fiscal agents, paying agents, and registrars to perform the functions referred to in that paragraph and sections, it being the intent of this paragraph to confirm that the director of finance as aforesaid may elect not to serve as fiscal agent for the revenue bonds or may elect to limit the functions the director of finance shall perform as the fiscal agent, that the director of finance may deem necessary, advisable, or expedient;
 - (7) The authority may sell the revenue bonds either at public or private sale;
 - (8) If no trustee shall be appointed to collect, hold, and administer the revenues derived from the special facility for which the revenue bonds are issued, the revenues shall be held in a separate account in the treasury of the State, separate and apart from the Hawaii community development [~~revolving~~] special fund, to be applied solely to the carrying out of the resolution, certificate, trust indenture, or trust agreement authorizing or securing the revenue bonds;
 - (9) If the resolution, certificate, trust indenture, or trust agreement shall provide that no revenue bonds issued thereunder shall be valid or obligatory for any purpose unless certified or authenticated by the trustee for the holders of the revenue bonds, signatures of the officers of the State upon the bonds required by section 39-56 may be facsimiles of their signatures;
 - (10) Proceeds of the revenue bonds may be used and applied by the authority to reimburse the other person to the special facility lease for all preliminary costs and expenses, including architectural and legal costs; and
 - (11) If the special facility lease shall require the other person to operate, maintain, and repair the special facility which is the subject of the lease, at the other person's expense, the requirement shall constitute compliance by the authority with section 39-61(a)(2), and none of

the revenues derived by the authority from the special facility shall be required to be applied to the purposes of section 39-62(2). Sections 39-62(4), 39-62(5), and 39-62(6) shall not apply to the revenues derived from a special facility lease.”

SECTION 27. Section 206E-195, Hawaii Revised Statutes, is amended by amending its title and subsections (a) and (b) to read as follows:

“~~§206E-195~~ **Kalaeloa community development [revolving] special fund.**

(a) There is established in the state treasury the Kalaeloa community development ~~[revolving] special~~ fund, into which shall be deposited:

- (1) All revenues, income, and receipts of the authority for the Kalaeloa community development district, notwithstanding any other law to the contrary, including section 206E-16;
- (2) Moneys directed, allocated, or disbursed to the Kalaeloa community development district from government agencies or private individuals or organizations, including grants, gifts, awards, donations, and assessments of landowners for costs to administer and operate the Kalaeloa community development district; and
- (3) Moneys appropriated to the fund by the legislature.

(b) Moneys in the Kalaeloa community development ~~[revolving] special~~ fund shall be used for the purposes of this part.”

SECTION 28. Section 206E-201, Hawaii Revised Statutes, is amended by amending the definition of “fund” to read as follows:

““Fund” means the Heeia community development ~~[revolving] special~~ fund.”

SECTION 29. Section 206E-204, Hawaii Revised Statutes, is amended by amending its title and subsection (a) to read as follows:

“~~§206E-204~~ **Heeia community development [revolving] special fund.**

(a) There is established in the state treasury the Heeia community development ~~[revolving] special~~ fund, into which shall be deposited:

- (1) All revenues, income, and receipts of the authority for the district, notwithstanding any other law to the contrary, including section 206E-16;
- (2) Moneys directed, allocated, or disbursed to the district from government agencies or private individuals or organizations, including grants, gifts, awards, donations, and assessments of landowners for costs to administer and operate the district; and
- (3) Moneys appropriated to the fund by the legislature.”

SECTION 30. Section 206M-15.2, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Subject to available funds, the research and development program shall:

- (1) Apply ~~[the research and development special fund]~~ funds to support product development, technology transfer, and commercialization;
- (2) Provide capital to support accelerated commercialization activities for qualified Hawaii-based small businesses;
- (3) Provide capital to sustain high-potential infrastructure development to assist qualified Hawaii-based small businesses towards commercial success;
- (4) Promote efforts that reverse the loss of qualified workers to other states by providing jobs to retain existing Hawaii technology em-

- ployees and enable highly qualified scientists and engineers to return to living-wage jobs in Hawaii;
- (5) Promote efforts that keep technology companies in Hawaii by limiting the need to seek out-of-state venture capital, which dilutes local ownership and increases the probability of high-potential technology companies moving from Hawaii; and
 - (6) Provide grants of up to \$300,000 for critical product development that enables a qualified Hawaii-based small business to achieve significant product development and technical milestones.”

SECTION 31. Section 210D-4, Hawaii Revised Statutes, is amended to read as follows:

“§210D-4 Hawaii community-based economic development [revolving] special fund; established. There is established a [revolving] special fund to be known as the Hawaii community-based economic development [revolving] special fund from which moneys shall be loaned or granted by the department under this chapter. All moneys appropriated to the fund by the legislature, received as repayments of loans, payments of interest or fees, and all other moneys received by the fund from any other source shall be deposited into the [revolving] special fund and used for the purposes of this chapter. The department may deposit moneys it receives from the repayments of loans and payments of interest or fees from the Hawaii capital loan program established by chapter 210, the Hawaii large fishing vessel purchase, construction, renovation, maintenance, and repair loan program established by part II of chapter 189, and the Hawaii small fishing vessel loan program established by part IV of chapter 189, into the Hawaii community-based economic development [revolving] special fund to be used for the purposes of this chapter. The department may use all appropriations and other moneys in the [revolving] special fund not appropriated for a designated purpose to make grants or loans.”

SECTION 32. Section 210D-8, Hawaii Revised Statutes, is amended to read as follows:

“§210D-8 Powers and duties. The department shall have the necessary powers to carry out the purposes of this chapter, including the following:

- (1) With advice from the council, prescribe the qualifications for eligibility of applicants for loans and grants;
- (2) With advice from the council, establish preferences and priorities in determining eligibility for financial assistance;
- (3) Establish the conditions, consistent with the purpose of this chapter, for the awarding of financial assistance;
- (4) Provide for inspection at reasonable hours of facilities, books, and records of a community-based organization that has applied for or has been awarded financial assistance and require the submission of progress and final reports;
- (5) Provide loans and grants for community-based economic development activities and community-based enterprises for purposes consistent with this chapter;
- (6) Determine the necessity for and the extent of security required in a loan;
- (7) Prescribe and provide appropriate management counseling and monitoring of business activities;
- (8) Administer the Hawaii community-based economic development [revolving] special fund;

- (9) Include in its budget for subsequent fiscal periods amounts necessary to effectuate the purposes of this chapter;
- (10) Participate in loans made to qualified persons by private lenders;
- (11) Establish interest rates chargeable by the State for direct and participation loans; and
- (12) Adopt rules pursuant to chapter 91 to implement this chapter.”

SECTION 33. Section 206M-15.3, Hawaii Revised Statutes, is repealed.

SECTION 34. Section 206M-15.6, Hawaii Revised Statutes, is repealed.

SECTION 35. The Kalaeloa facilities trust account administratively established in 2018 is reclassified as a special fund.

SECTION 36. The energy audits - recipients’ share of cost trust account administratively established in 2012 is abolished and any unencumbered balance shall lapse to the credit of the general fund.

PART XI. AUDITOR’S REPORT NO. 20-18, DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

SECTION 37. The purpose of this part is to abolish or reclassify various non-general funds pursuant to the recommendations by the auditor in auditor’s report no. 20-18 and to transfer the unencumbered balances to other appropriate non-general funds.

SECTION 38. The compliance resolution fund—appraisal management registration program special fund administratively established in 2017 is abolished and any remaining unencumbered balance shall lapse to the credit of the compliance resolution fund established pursuant to section 26-9(o), Hawaii Revised Statutes.

SECTION 39. The electrical vehicle charging system rebate program special fund administratively established in 2019 is abolished and any remaining unencumbered balance shall lapse to the credit of the public utilities commission special fund established pursuant to section 269-33, Hawaii Revised Statutes.

SECTION 40. The service contract provider’s financial security deposit trust account is reclassified as a trust fund.

PART XII. AUDITOR’S REPORT NO. 20-17, JUDICIARY

SECTION 41. The purpose of this part is to repeal the probation services special fund as recommended by the auditor in auditor report no. 20-17.

SECTION 42. Section 353B-6, Hawaii Revised Statutes, is amended to read as follows:

“**§353B-6 Interstate transfer fee.** The judiciary may assess a fee not to exceed \$200 for each application made by a parolee or probationer for a transfer out of the State[; ~~provided that the fees collected shall be deposited into the probation services special fund established in section 706-649].”~~”

SECTION 43. Section 706-648, Hawaii Revised Statutes, is amended by amending subsection (4) to read as follows:

“(4) The defendant shall pay the fee to the clerk of the court. [~~The fee shall be deposited with the director of finance who shall transmit the fee to the probation services special fund pursuant to section 706-649.~~]”

SECTION 44. Section 706-649, Hawaii Revised Statutes, is repealed.

PART XIII. AUDITOR’S REPORT NO. 20-03, UNIVERSITY OF HAWAII

SECTION 45. The purpose of this part is to repeal or reclassify certain non-general funds of the University of Hawaii pursuant to the recommendations of the auditor in auditor’s report no. 20-03.

SECTION 46. Chapter 304A, Hawaii Revised Statutes, is amended by adding a new section to part V, subpart D, to be appropriately designated and to read as follows:

“§304A- Community colleges revolving fund. (a) Section 304A-2003 notwithstanding, there is established a community colleges revolving fund to receive, disburse, and account for funds of programs and activities of the community colleges, including but not limited to off-campus programs, summer session programs, overseas programs, evening sessions, study abroad, exchange programs, cultural enrichment programs, and consultative services that help make available the resources of the community colleges to the communities they serve.

(b) The revolving fund may include deposits from:

- (1) The University of Hawaii tuition and fees special fund established in section 304A-2153;
- (2) Tuition, fees, and charges for affiliated instructional, training, and public service courses and programs; and
- (3) Fees, fines, and other money collected for:
 - (A) Student health;
 - (B) Transcript and diploma;
 - (C) Library;
 - (D) Facility use;
 - (E) Child care;
 - (F) Auxiliary enterprises;
 - (G) Alumni; and
 - (H) Other related activities.”

SECTION 47. Section 304A-2156, Hawaii Revised Statutes, is repealed.

SECTION 48. Section 304A-2162, Hawaii Revised Statutes, is repealed.

SECTION 49. Section 304A-2277, Hawaii Revised Statutes, is repealed.

SECTION 50. Any unencumbered balance remaining in the community colleges special fund repealed by this part shall lapse to the credit of the community colleges revolving fund established pursuant to this part.

SECTION 51. The university system bond and interest sinking fund revolving fund administratively established in 2002 is reclassified as a trust account.

PART XIV. AUDITOR'S REPORT NO. 19-16, DEPARTMENT OF THE ATTORNEY GENERAL

SECTION 52. The purpose of this part is to reclassify or abolish certain non-general funds of the department of the attorney general pursuant to the recommendations by the auditor in auditor's report no. 19-16 and, for any abolished accounts, transfer the remaining unencumbered balances to the general fund.

SECTION 53. Section 28-16, Hawaii Revised Statutes, is amended to read as follows:

~~“[H]§28-16~~ **Litigation deposits trust ~~[fund.]~~ account.** (a) There is created in the state treasury the litigation deposits trust ~~[fund.]~~ account. There shall be deposited into this ~~[fund]~~ account all moneys received through any civil action in which the State is a party where the settlement amount is \$100,000 or higher, except for those actions involving departments able to procure their own legal services as provided for by section 28-8.3 and where no other state statute or court order specifically provides for the deposit of moneys received through the action.

(b) The ~~[fund]~~ account shall be administered by the department of the attorney general. The department shall maintain accounting records of ~~[fund]~~ account moneys, including subsidiary records of individual litigation deposits and disbursements thereof. Moneys in the ~~[fund]~~ account may be separated into subsidiary accounts; provided that one subsidiary account shall not be commingled with moneys from another subsidiary account except for deposit or investment purposes under subsection (d).

(c) Disbursements from each subsidiary account maintained under subsection (b) may include attorney's fees and other necessary expenses that the department determines to be reasonable and directly related to prosecution of the civil action for which the subsidiary account is maintained; provided that in the case of moneys deposited as a result of recoveries by an agency to which a non-general fund applies, the moneys shall be held and disbursed intact for deposit to the credit of the non-general fund. Money deposited in the ~~[fund]~~ litigation deposits trust account pursuant to an order of the court shall be disbursed in accordance with the order of the court. Any residual funds remaining in ~~[an]~~ a subsidiary account shall be transferred to the respective non-general or general fund with which the civil action is associated no later than thirty days after the civil action for which the subsidiary account is maintained is closed and all costs of that civil action have been paid, unless otherwise provided for by statute.

(d) Moneys in the ~~[fund]~~ litigation deposits trust account may be invested by the department in securities as provided by section 36-21. Investment earnings shall be deposited in the general fund.

(e) The department shall submit a report to the legislature no later than twenty days prior to the convening of each regular session on:

- (1) The transactions, by subsidiary account, that take place in the ~~[fund]~~ litigation deposits trust account for each fiscal year; and
- (2) A summary of the collections made in any amount on behalf of other departments and agencies specifying the appropriate number of transactions and amount collected for each department and agency.”

SECTION 54. Section 456-9, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) The moneys collected by the attorney general pursuant to this section shall be deposited into the notaries public ~~[revolving]~~ special fund estab-

lished by section 456-9.5, except that if that fund is terminated, the moneys shall thereafter be deposited with the director of finance to the credit of the general fund.”

SECTION 55. Section 456-9.5, Hawaii Revised Statutes, is amended to read as follows:

“**§456-9.5 Notaries public [revolving] special fund.** (a) There is established in the state treasury the notaries public [revolving] special fund into which shall be deposited:

- (1) All fees, administrative fines, charges, or other payments received pursuant to section 456-9;
- (2) Penalties and fines for violations of section 456-3 or 456-7;
- (3) Appropriations made for deposit into the notaries public [revolving] special fund; and
- (4) Interest earned on money in the notaries public [revolving] special fund.

(b) The notaries public [revolving] special fund shall be administered by the department of the attorney general. Notwithstanding any law to the contrary, moneys in the notaries public [revolving] special fund shall be used for personnel costs, the acquisition of equipment, and operating and administrative costs deemed necessary by the department of the attorney general to administer this chapter. The moneys in the fund may also be used to train personnel as the attorney general deems necessary, and for any other activity related to notaries public.”

SECTION 56. Section 456-18, Hawaii Revised Statutes, is amended to read as follows:

“**§456-18 Notaries in government service.** Except as otherwise provided for by law, the head of every department (which term as used in this chapter includes any department, board, commission, bureau, or establishment of the United States, or of the State, or any political subdivision thereof) may designate one or more of the head of every department’s subordinates to be a notary public who, upon duly qualifying and receiving a commission as a notary public in government service, shall perform, without charge, the services of a notary public in all matters of business pertaining to the State, any political subdivision thereof, or the United States.

Any provision of this chapter to the contrary notwithstanding, a subordinate so designated and thus qualified and commissioned as a notary public in government service shall:

- (1) Be authorized to perform the duties of a notary public in one or more of the judicial circuits of the State as the attorney general shall designate;
- (2) Not be required to:
 - (A) Pay any fee to the clerk of any circuit court for filing a copy of the notary’s commission;
 - (B) Pay any fee to the attorney general for the issuance of the notary’s commission or the renewal thereof; or
 - (C) Furnish and file an official bond unless that bond is required by the head of the department in which the notary is a subordinate, in which event, the expense of furnishing any such bond shall be borne by the department concerned; and
- (3) Not demand or receive any fee for the notary’s service as a notary public; provided that where the occasion, in the judgment of the head of the department, is deemed one of urgent necessity and con-

venience, the notary may, but shall not be compelled to, administer oaths or take acknowledgments in nongovernmental matters, for which services the prescribed fees shall be demanded and received as governmental realizations and covered into the notaries public [~~revolving~~] special fund established by section 456-9.5, except that if that fund is terminated, the fees shall thereafter be deposited into the general fund of the State; provided further that with the prior written approval of the attorney general, the notary public, upon paying the fees prescribed by law and upon executing, depositing, and filing at the notary's own expense, the required official bond, may demand or receive the fees prescribed by law for services rendered by the notary in matters not pertaining to such public business."

SECTION 57. Section 712A-16, Hawaii Revised Statutes, is amended by amending subsection (4) to read as follows:

"(4) There is established in the department of the attorney general a [~~revolving~~] special fund to be known as the criminal forfeiture fund, hereinafter referred to as the "fund" in which shall be deposited one-half of the proceeds of a forfeiture and any penalties paid pursuant to section 712A-10(6). All moneys in the fund shall be expended by the attorney general and are appropriated for the following purposes:

- (a) The payment of any expenses necessary to seize, detain, appraise, inventory, safeguard, maintain, advertise, or sell property seized, detained, or forfeited pursuant to this chapter or of any other necessary expenses incident to the seizure, detention, or forfeiture of such property and such contract services and payments to reimburse any federal, state, or county agency for any expenditures made to perform the foregoing functions;
- (b) The payment of awards for information or assistance leading to a civil or criminal proceeding;
- (c) The payment of supplemental sums to state and county agencies for law enforcement purposes;
- (d) The payment of expenses arising in connection with programs for training and education of law enforcement officers;
- (e) The payment of expenses arising in connection with enforcement pursuant to the drug nuisance abatement unit in the department of the attorney general; and
- (f) The payment of expenses arising in connection with the law enforcement officer independent review board in the department of the attorney general."

SECTION 58. The Hawaii criminal justice commission trust account established in 1985 pursuant to the authority granted by section 28-10.6(a)(5), Hawaii Revised Statutes, is abolished and any remaining unencumbered balance shall lapse to the credit of the general fund.

PART XV. AUDITOR'S REPORT NO. 19-05, DEPARTMENT OF TRANSPORTATION

SECTION 59. The purpose and intent of this part is to repeal or reclassify certain non-general funds and accounts of the department of transportation pursuant to the recommendations or commentary by the auditor in auditor's

report no. 19-05 and the accompanying summary and to transfer the unencumbered balances to the general fund.

SECTION 60. Section 264-16, Hawaii Revised Statutes, is amended to read as follows:

~~“[H]§264-16~~ **State highway clearing accounts.** The director of transportation may with the prior approval of the director of finance and comptroller establish the state highway payroll clearing account, employee benefits clearing account, construction administration clearing trust account, and any other necessary clearing account or clearing trust account to effectively account for program costs and appropriations.

The director of transportation may, from time to time, make advances to the clearing accounts or clearing trust accounts from the state highway fund or from any moneys appropriated or otherwise made available to the department. The advances shall be in such amounts as may be required to meet the obligations of the department which are authorized by the legislature.

As soon as practicable after an expenditure from a clearing account~~[.]~~ or clearing trust account, a determination shall be made of the proper fund or appropriation to which the expenditure should be charged. The fund or account from which funds are advanced shall thereupon be reimbursed out of the proper fund or appropriation.”

SECTION 61. Section 291C-3, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

~~“(d) [The director of transportation, through the safe routes to school program coordinator and in consultation with county safe routes to school program coordinators, shall develop a mechanism to provide funds to county safe routes to school programs from the safe routes to school program special fund established under section 291C-4] The legislature shall appropriate funds from the safe routes to school program special fund to the counties to be used for the implementation of county safe routes to school program projects. No later than twenty days prior to the convening of each regular session, each county shall submit to the legislature an annual report on the status and progress of its county safe routes to school program, including an accounting of all grants provided through the program and a timeline for future grant awards.”~~

SECTION 62. Section 291C-4, Hawaii Revised Statutes, is amended to read as follows:

~~“[H]§291C-4~~ **Safe routes to school program special fund; establishment.** [(a)] There is established in the state treasury the safe routes to school program special fund, into which shall be deposited:

- (1) Assessments collected for speeding in a school zone, pursuant to section 291C-104; and
- (2) Safe routes to school program surcharges collected in accordance with sections 291-16 and 291C-5.

~~[Moneys in the fund shall be distributed by the director of transportation to the respective counties to expend.~~

~~(b) The director of transportation shall adopt rules pursuant to chapter 91 to implement this section. The rules shall establish a formula by which the moneys in the fund shall be distributed to each county and provide how the county shall expend the moneys for the purposes under [section] 291C-3 in public school zones.]”~~

SECTION 63. Section 264-19, Hawaii Revised Statutes, is repealed.

SECTION 64. The following revolving funds of the department of transportation airports division are reclassified as trust accounts:

- (1) The airport sinking fund for retire term bond revolving fund administratively created in 1969;
- (2) The airport system debt service reserve account revolving fund administratively created in 1969;
- (3) The airport system interest account revolving fund administratively created in 1969;
- (4) The airport system major maintenance, renewal, and replacement account revolving fund administratively created in 1969;
- (5) The airport system serial bond principal account revolving fund administratively created in 1969;
- (6) The debt service funded coverage revolving fund administratively created in 1994;
- (7) The reserve for airline rate mitigation revolving fund administratively created in 1994; and
- (8) The reserve for operating and maintenance expenses revolving fund administratively created in 1994.

SECTION 65. The following revolving funds of the department of transportation harbors division are reclassified as trust accounts:

- (1) The 1997 certificate - harbor interest account revolving fund administratively created in 1997;
- (2) The 1997 certificate - harbor principal account revolving fund administratively created in 1997;
- (3) The 7th supplemental certificate 2010A debt service reserve fund principal revolving fund administratively created in 2010; and
- (4) The harbor extraordinary renewal/replacement reserve account revolving fund administratively created in 1997.

SECTION 66. The risk management fire and casualty losses - harbors trust fund administratively created in 2006 is abolished and any remaining unencumbered balance shall lapse to the credit of the general fund.

SECTION 67. The following revolving funds of the department of transportation highways division are reclassified as trust accounts:

- (1) The highway senior interest account revolving fund administratively created in 1994;
- (2) The highway senior principal account revolving fund administratively created in 1994; and
- (3) The highways accrued payroll overhead revolving fund administratively created in 1983.

SECTION 68. The special deposits - highways trust account administratively created in 1979 is reclassified as a trust fund.

SECTION 69. Any unencumbered balance in the highway senior debt service reserve account revolving fund administratively created in 1994 shall be transferred to the credit of the state highway fund established by section 248-8, Hawaii Revised Statutes.

SECTION 70. Any unencumbered balance remaining in the transportation improvement special fund repealed by this part shall be transferred to the

credit of the state highway fund established by section 248-8, Hawaii Revised Statutes.

PART XVI. AUDITOR'S REPORT NO. 21-02, DEPARTMENT OF HUMAN SERVICES

SECTION 71. The purpose of this part is to repeal or reclassify certain non-general funds of the department of human services pursuant to the recommendations of the auditor in auditor report no. 21-02.

SECTION 72. The donations for social services trust account, a trust account that was administratively established and is administered by the department of human services, is reclassified as a trust fund.

SECTION 73. The Kahikolu Ohana O Waianae project, a trust fund that was administratively established in 2007 and is administered by the department of human services, is abolished and any unencumbered balance remaining shall be lapse to the credit of the general fund.

PART XVII. AUDITOR'S REPORT NO. 21-02, HAWAII PUBLIC HOUSING AUTHORITY

SECTION 74. The purpose of this part is to repeal or reclassify certain non-general funds of the Hawaii public housing authority pursuant to the recommendations of the auditor in auditor report no. 21-02.

SECTION 75. Section 356D-11, Hawaii Revised Statutes, is amended by amending subsection (h) to read as follows:

“(h) In connection with the development of any public housing dwelling units under this chapter, the authority may also develop commercial and industrial properties and sell or lease other properties if it determines that the uses will be an integral part of the public housing development or a benefit to the community in which the properties are situated. The authority may designate any portions of the public housing development for commercial, industrial, or other use and shall have all the powers granted under this chapter with respect thereto. The authority may use any funding authorized under this chapter to implement this subsection.

The net proceeds of all sales or leases, less costs to the authority, shall be deposited in the public housing ~~[revolving]~~ special fund established by section 356D-28.”

SECTION 76. Section 356D-28, Hawaii Revised Statutes, is amended to read as follows:

“**§356D-28 Public housing ~~[revolving]~~ special fund.** (a) There is established the public housing ~~[revolving]~~ special fund to be administered by the authority. Notwithstanding section 36-21, the proceeds in the fund shall be used for long-term and other special financings of the authority and for necessary expenses in administering this chapter.

(b) All moneys received and collected by the authority, not otherwise pledged, obligated, or required by law to be placed in any other special fund, shall be deposited into the public housing ~~[revolving]~~ special fund.”

SECTION 77. The financial assistance for housing special fund, a special fund that was administratively established in 2001 and administered by the

Hawaii public housing authority, is abolished and any unencumbered balance remaining shall lapse to the credit of the general fund.

SECTION 78. The HPHA administration revolving fund, administratively established in 1982 and administered by the Hawaii public housing authority, is abolished and any unencumbered balance remaining shall lapse to the credit of the general fund.

PART XVIII. MISCELLANEOUS PROVISIONS

SECTION 79. Except as otherwise provided in this Act, all unencumbered balances in the funds repealed by this Act shall lapse to the credit of the general fund.

SECTION 80. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 81. This Act shall take effect on July 1, 2021; provided that the amendments made to section 712A-16, Hawaii Revised Statutes, in section 57 of this Act shall not be repealed when that section is repealed and reenacted on June 30, 2022, by Act 161, Session Laws of Hawaii 2016.

(Amended by Legislature to meet Governor's objections. Approved July 20, 2021.)

Note

1. Edited pursuant to HRS §23G-16.5.

COMMITTEE REPORTS ON BILLS ENACTED



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² See also Floor Amendment 3.

³ See also Floor Amendment 4.

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⁴ See also Floor Amendment 1.

TABLES SHOWING EFFECT OF ACTS

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Key: Am = Amended _____ = Part or section number
 N = New to be assigned in
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 Sp = Special Session

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