

SCRep. No. 360 Health on H. B. No. 1508

The purpose of this bill is to obtain the registration of all newborn children with congenital defects so that appropriate course of action may be availed for their welfare.

Your Committee on Health is in accord with the intent and purpose of **H. B. No. 1508** and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. No. 361 Health on H. B. No. 1087

The purpose of this bill is to regulate the operation of detoxification centers through the Department of Health, which shall license and oversee such facilities.

Your Committee on Health is in accord with the intent and purpose of **H. B. No. 1087** and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. No. 362 Health on H. B. No. 1769

The purpose of this bill is to permit the board of agriculture to require foreign foods not meeting federal pesticide residue requirements to be adequately labeled.

Your Committee on Health is in accord with the intent and purpose of **H. B. No. 1769** and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. No. 363 Health on H. B. No. 1326

The purpose of this bill is to permit the Department of Health to coordinate a comprehensive statewide emergency medical services program.

Your Committee heard testimonies from representatives of both the Department of Health and the Department of Transportation, who are united in their support of this

bill. Upon such testimony, your Committee has effected certain technical changes jointly supplied by such departments.

Your Committee on Health is in accord with the intent and purpose of **H. B. No. 1326**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 1326, H. D. 1** and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. No. 364 Health on H. B. No. 645

The purpose of this bill is to define the confines of liability for rescue teams and emergency teams.

The Legislative Committee of the Hawaii Medical Association has opposed this bill indicating that it will defeat "the purpose of the Good Samaritan Act which was intended to allow **volunteers** to render aid in emergency situations without fear of suit." This is a mistaken notion of the existing law.

Your committee notes that the Good Samaritan Act is, and was, not intended to be a "carte blanche" for persons responding to emergencies to be free to do anything and in any way they saw fit. The existing law clearly indicates that the cloak of "emergency" will not excuse "gross negligence or wanton acts."

As your Committee sees it, this bill merely clarifies the existing law by providing more specific and comprehensive language.

Your Committee on Health is in accord with the intent and purpose of **H. B. No. 645** and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. No. 365 (Majority) Health on H. B. No. 544

The purpose of this bill is to permit the department of health to regulate the construction of hospital and medical facilities.

Your Committee on Health is in accord

with the intent and purpose of **H. B. No. 544** and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

Representatives Sakima and Roehrig did not concur.

SCRep. No. 366 Higher Education on H. B. No. 1346

The purpose of this bill is to educate and train Model Neighborhood Area residents to become qualified as professional community planners where strong local input is advantageous by providing for the continuation of those aspects of the Resident Planning Interns project deemed to be effective and appropriate for assumption by the University of Hawaii beyond the federally funded demonstration period ending June 30, 1973.

Intern Center Description

Barbara Kim, Project Coordinator, Research Planning Center in Urban Studies at the University of Hawaii Manoa, described the Resident Planning Intern project. It began in May, 1970, in conjunction with the Resident Research and Planning Centers in Kalihi-Palama and Waianae-Nanakuli. This project makes University planning and planning related courses as well as field work experience available to residents of the Model Neighborhood Areas, so that they may be better qualified to fill community planning and related positions which deal with the problems of these and other communities in the State.

Presently, there are 19 students involved in the program, doing field work in the Department of Planning and Economic Development, Dillingham Corporation, Department of Transportation Long-Range Planning, Buddy System, Welfare Recipients' Advisory Council, and Hawaii Environmental Simulation Laboratory.

The academic component of the project is divided into two phases: a lower division course of study at Leeward Community College leading to the Associate of Arts Degree; and an upper division coursework at the University of Hawaii, Manoa, culminating in the baccalaureate degree.

Current Intern Situation

Currently sixteen of the nineteen interns have upper division standing at the University, and the remaining three interns at Leeward Community College will be eligible for transfer to Manoa in Summer, 1973.

The projected graduation dates for the present interns are as follows:

June, 1973	2
Summer, 1973	1
Fall, 1973	1
Spring, 1973	5
*Summer, 1974	8
*Fall, 1974	2

*Funding requested is for these ten interns.

The success of the Planning Intern Work Study Program became evident as Dr. Shelley M. Mark, Director of the Department of Planning and Economic Development; Mr. Robert T. Guard, Manager of Civic Affairs for Dillingham Corporation; and Patricia K. Putman, Associate Dean School of Medicine, University of Hawaii, have expressed overwhelming satisfaction with their Planning Interns in letters submitted to your Committee. If the program is continued, all stated they would welcome working with another intern.

Interns' Testimony

Student interns, Richard Hoke, a junior at the University of Hawaii, residing in the Kalihi-Palama area; Muriam Ohata, a junior at the University residing in the Kalihi-Palama area; Solomon Kaahoaiana, a full-time student at the University of Hawaii, from the Waianae Coast; and Linda Luat, a full-time student at the University of Hawaii, a resident of the Waianae Coast, testified about their experiences in the Resident Planning Intern Program. Ms. Luat, a college dropout, completed the program and was able to acquire special skills as well as obtain a formal education through it. She is presently planning an urban studies course for the next quarter at Waianae Intermediate School. All interns agreed that there are mutual advantages to both the student and the workstation (public or private) which make this program valuable for all involved.

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tor of the Honolulu Committee on Aging, speaking for the County Executives on Aging, added that in our 20th century nuclear family, there is a gradual loss of the role of senior citizens within their family structure. Grace M. Teranella of the American Association of Retired Persons also urged establishment of this Institute of Gerontology and pointed out that a similar Institute exists in Southern California. She added that research and education in the field of the aged would help discredit the myths and stereotypes of aging which "downgrade the ability and potential of older persons as members of society".

Dr. Anthony Lenzer, Associate Professor of Public Health and Human Development and Chairman of the University Gerontology Planning Committee, spoke on behalf of Manoa campus Chancellor Wytze Gorter in favor of the bill. He outlined specific functions of the Institute. It would serve as a system-wide coordinating and planning resource center for state and community agencies and individual citizens. Much of the work presently going on is fragmented and uncoordinated. He also pointed out that the University has been involved in gerontology since 1965 when the State Commission on Aging aided in the study of activities in Gerontology and in the developing of curriculum for students interested in working with the aging. Since then, student and faculty interest has been growing as exemplified by the growth and interest in courses dealing with the aged. Many papers and projects from students concerning the aged have also ensued.

Two major facilities of the University now serve the aged. They are the Hawaii State Senior Center which is affiliated with Honolulu Community College, and Leahi Hospital. The Institute of Gerontology would thus become a third facility and would be geared to research and career training, functions not performed by these other two facilities.

According to Dr. Lenzer, the amount of \$75,000 requested by the bill would be used to employ a small central staff to help faculty and students on all campuses with course development, resource materials, and special projects. The staff would also help train workers serving older people throughout the State. The \$75,000 requested would not cover the cost of a

university-wide program, but existing personnel would do most of the teaching, research and community service in this field. The University is exploring other supplementary funding from Federal and private sources.

Your Committee recommends that an Institute of Gerontology be created to enable the University to stimulate and coordinate research, education, and service programs on aging at all campuses.

Your Committee also recommends that the Institute, once established, consider itself as a potentially valuable resource center for those interested in Hawaii's unique ethnic and cultural history. Older citizens can provide much oral history about this heritage.

Your Committee on Higher Education is in accord with the intent and purpose of **H. B. No. 1547**, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. No. 368 Higher Education on H. B. No. 1516

The purpose of this bill is to appropriate additional funds for the construction of a Campus Center at Honolulu Community College, by amending Section 4.1.C 124 of Act 68, Session Laws of Hawaii, Regular Session 1971, to add a performing arts stage.

Clyde K. Yoshioka, Provost at Honolulu Community College, provided your Committee with background information about the need for additional funds in order that the construction of the Campus Center building be completed. He said that the original plan included a lecture room/auditorium complete with a performing arts stage. However, rising building costs have resulted in the deletion of the stage from the original amount of \$1,400 appropriated for construction in 1971-72. This bill (**H. B. No. 1516**) requests a supplemental appropriation of \$500 for fiscal year 1971-72 and \$500 for fiscal year 1972-73, making the total for the 1971-73 biennium \$2,050.

Your Committee also heard testimony from Karen Lee dela Cruz, a student at

Honolulu Community College and Treasurer for the Associated Student Government. She stated that the students need a larger area to hold assemblies, convocations, lectures, plays, film series, etc. Only the present cafetorium — with inadequate performing and seating areas, kitchen odors, distracting noises, insufficient lighting, and poor acoustics — is available for major group activities.

Takeshi Uyesugi, President of Kalihi-Palama Community Council, emphasized that the Campus Center will not only be utilized by students but by the residents of the Kalihi-Palama community. He also said that only dual purpose school cafeterias were available in Kalihi-Palama for public use. He agreed that the present facilities are poor and impose restrictions, limiting beneficial programming for the area.

Mr. Walter McGoldrick, Chairman of the Humanities Department at the College, also emphasized the benefits accrued by the community, but he focused mainly on moving Honolulu Community College toward becoming a "comprehensive" community college. This is in accord with the official goals enunciated by the University of Hawaii.

Mr. McGoldrick further stated that the Western Association of Schools and Colleges accreditation team observed the lack of overall comprehensiveness, specifically mentioning the lack of a Fine Arts Program. Furthermore, theatre and music were singled out as areas in which the College is expected to improve its offerings before the next accreditation visit of April, 1974. Mr. McGoldrick informed your Committee that Honolulu Community College is progressing in these areas, but is stymied particularly by the lack of a performing arts stage.

Your Committee recognizes that the performing arts stage and lecture room/auditorium will enhance the versatility of the Honolulu Campus Center and amplify the benefits to the students and residents of Kalihi-Palama.

Your Committee further suggests that Honolulu Community College look into the possibility of working with the Honolulu Youth Theatre to build a stage if the \$2,050 funding recommended for this biennium is jeopardized.

Your Committee on Higher Education is in accord with the intent and purpose of **H. B. No. 1516**, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. No. 369 Higher Education on H. B. No. 1341

The purpose of this bill is to develop career packages, training and education to continue those aspects of the Comprehensive Training Program deemed to be effective and appropriate for assumption by the University of Hawaii beyond the federally funded demonstration period ending June 30, 1973.

Your Committee heard testimony from John Connell on behalf of Irene Fujimoto, the Executive Director of the Resident Participation Organization of the Model Cities Program. Speaking in favor of the bill, Mr. Connell stated that the Comprehensive Training Program "provides an opportunity for people to get college credit for certain work experience. Programs of study are developed to help them qualify for particular occupational objectives. Courses are set up designed to meet their needs, at times and places convenient for them. Students may enroll without having to pass a comprehensive entrance examination, since the major emphasis is upon motivation and the requirements of a particular occupation. These courses may also lead to a degree."

Your Committee also heard testimony from Frederick Mayer, the Acting Dean of the College of Continuing Education at the University of Hawaii. Mr. Mayer stated that "available evidence indicates that the Comprehensive Training Program has developed and tested new approaches which are successful and, therefore, deserve wider implementation and continued evaluation."

Your Committee was further informed by Mr. Connell about the monetary amount requested. He said that the Kalihi-Palama and Waianae people have requested \$222,000 for a one-year period. This figure includes the cost of instructors, staff, books, and materials. Mr. Connell also said that if the program was contracted through the University of Hawaii,

rather than through Central Michigan University as it is now conducted, the cost could be negotiated to a lower figure. Your Committee realizes that this figure is only an estimate and that it is only for a one-year period, but we offer this for consideration to your Committee on Finance.

Your Committee on Higher Education is in accord with the intent and purpose of **H. B. No. 1341**, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. No. 370 Parks, Fish and Game Management on H. B. No. 1189

The purpose of this bill is to provide the conceptual planning and coordination of a statewide trail and access system.

Upon testimonies received, your Committee is informed of the profound benefits an expertly planned and coordinated trail and access system would have for the people of Hawaii. Of particular benefit would be the opening up of areas that would serve as open laboratories for children and visitors respecting ancient historical and archeological sites, as well as sites of natural and biological phenomena such as unique inland ponds connected to the open sea by makahas (water circulation channels) and preserves for snorkling, etc.

Such testimony indicated also the problems of hikers who have trouble obtaining permission to enter private lands. A trail and access system will obviate such difficulty and encourage a healthful physical endeavor.

Your Committee is also mindful of the fact that the emphasis throughout our nation for concern for the environment that has grown throughout the last decade, promises to gain greater impetus in the following decades. Such concern, in conjunction with increased leisure hours of the people will, in all probability, veer substantial interest in the direction of investigating nature and enjoying its benefits.

As such, the interests of our people, as well as that of visitors to this State will be best served if the unique beauty of our Hawaii was made more intimately acces-

sible. The statewide trail and access system will, in fact, convert "show places" that are presently somewhat difficult of access, while ensuring systematic preservation of our environmental wealth in that regard.

Your Committee recognizes that "planning and coordination" have become cliches in some bureaucratic circles. To ensure that this vital project will have factual results, your Committee has amended the original bill to designate an initial project for immediate commencement. Accordingly, in coordination with the wide range trail management control system, your Committee has provided for appropriation of \$50,000 for the more specific Ala Kahakai (Trail by the Sea) Project.

Your Committee on Parks, Fish and Game Management is in accord with the intent and purpose of **H. B. No. 1189**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 1189, H. D. 1** and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. No. 371 Parks, Fish and Game Management on H. B. No. 1635

The purpose of this bill is to appropriate \$65,000 to provide for a research management study of the population of the green sea turtle in Hawaiian waters and to provide for preliminary feasibility studies which may lead to means of halting or reversing the decline of these valuable and threatened animals.

Your Committee recognizes the potential of the green sea turtle as an important food item for the people of Hawaii. It appreciates the fact that although the plight and worth of this animal is widely known and efforts to learn more about them and slow their decline are in progress everywhere else, little effort has been undertaken to preserve this specie and to investigate its potential in this state.

Your Committee on Parks, Fish and Game Management is in accord with the intent and purpose of **H. B. No. 1635** and recommends that it pass Second Reading and be referred to the Committee on Water, Land Use and Development.

Signed by all members of the Committee.

SCRep. No. 372 Parks, Fish and Game Management on **H. B. No. 1915**

The purpose of this bill is to appropriate funds for statewide planning and development of off-road motorcycling areas and trails.

Your Committee has amended the original bill by specifying the amount to be appropriated as \$50,000, for restroom facilities.

Your Committee on Parks, Fish and Game Management is in accord with the intent and purpose of **H. B. No. 1915**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 1915, H. D. 1** and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. No. 373 Parks, Fish and Game Management on **H. B. No. 103**

The purpose of this bill is to authorize the Department of Land and Natural Resources to establish, maintain, manage, and operate marine reserves, refuges and public fishing grounds.

Your Committee has effected changes which will

(1) extend the coverage of the bill to "freshwater life";

(2) permit acquisitions of Konohikis (private fisheries); and

(3) permit the department to regulate entry onto marine reserves, refuges, and public fishing grounds, by way of issuing permits.

Your Committee on Parks, Fish and Game Management is in accord with the intent and purpose of **H. B. No. 103**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 103, H. D. 1** and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. No. 374 Parks, Fish and Game Management on **H. B. No. 636**

The purpose of this bill is to provide more effective regulation of the catching and selling of sea mullets.

Your Committee recognizes the importance of sea and pond mullets as food items in Hawaii, and their acceptance as delicacies by various segments of the population of Hawaii.

Your Committee on Parks, Fish and Game Management is in accord with the intent and purpose of **H. B. No. 636** and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. No. 375 (Majority) Labor and Employment on **H. B. No. 577**

The purpose of this bill is to amend the third party liability section of the workmen's compensation law, Section 386-8, to require an employer or his insurance carrier to pay a proportionate share of the attorney's fees and costs on sums recovered by an injured employee from a third party which are reimbursable to the employer or his carrier.

Section 386-8 provides that a worker who is injured in an industrial accident where someone other than his employer or fellow employee is at fault may claim compensation and also recover damages from the third party whose negligence caused the injury. The employer or his insurance carrier, however, is entitled to the reimbursement of any compensation it may have paid the employee from the amount recovered from the third party. Said section also provides for the payment of attorney's fees and costs in third party actions. It specifically provides that where "the action is prosecuted by the employee alone, the employee shall be entitled to apply out of the amount of the judgment for damages, or settlement in case the action is compromised before judgment, the reasonable litigation expenses incurred in preparation and prosecution of such action, together with a reasonable attorney's fee which shall be based solely upon the services rendered by the employee's attorney in effecting recovery both for

the benefit of the employee and the employer." This provision which was enacted in 1970 was intended to provide for the sharing of attorney's fees and costs by the employee and the employer. While this intent was expressed in the committee reports accompanying the legislation, **Senate Stand. Com. Rep. No. 255-70**, **Senate Stand. Com. Rep. No. 287-70**, **House Stand. Com. Rep. No. 638-70**, and **House Stand. Com. Rep. No. 695-70**, it has been held by a court that this intent is not expressed in the statutory provision involved. The pertinent portion of **House Stand. Com. Rep. No. 638-70** from the Committee on Labor reads as follows:

"Your Committee also agrees that it would be equitable that where the employer effectuates a third party recovery he should be able to deduct his costs and attorney's fees, as well as his compensation outlays, from the proceeds before he turns the excess over to the employee; **that where the employee effectuates a third party recovery he should be able to first deduct his costs and attorney's fees before he pays over the employer's reimbursement for his compensation outlays over to him, and that the employer should reasonably share in the costs and attorney's fees;** and that where both employee and employer effectuate the recovery their costs and attorney's fees should be a first charge on the proceeds before distribution respectively to the employer and employee (underscoring added)."

This bill proposes to explicitly re-state the intent of the legislature to require an employer or insurance carrier to share in the payment of attorney's fees and costs in cases where an injured employee brings a third party action and there is a recovery from a third person which benefits both the employee and the employer. The court's interpretation which created a windfall for the employer was not intended by the legislature and legislation to explicitly provide a sharing of attorney's fees and costs is presently required.

Your Committee on Labor and Employment is in accord with the intent and purpose of **H. B. No. 577** and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

Representative Ajifu did not concur.

SCRep. No. 376 (Majority) Labor and Employment on **H. B. No. 656**

The purpose of this bill is to amend Chapter 378, Hawaii Revised Statutes, to prohibit discriminatory employment practices based upon a person's arrest or court records.

Chapter 378 presently prohibits a number of employment practices on the part of employers, labor unions, employment agencies, and others if the practices discriminate against a person because of his race, sex, age, religion, color, or ancestry.

This bill proposes to amend said chapter to also prohibit discriminatory employment practices based upon a person's arrest or court record. In a case where the arrest or court records bear a substantial relationship to the functions and responsibilities of the employment, however, a refusal of employment or discharge would not be prohibited by the bill.

Your Committee agrees that discrimination in employment because a person has been arrested or involved in court proceedings should not be permitted, unless the arrest or court proceeding bears a relationship to the continued or future performance of the job involved. The director of labor and industrial relations in his testimony supporting the bill suggested that it be clarified in several respects. He suggested a clarification of the definition of the term "arrest or court records" and an amendment of Section 378-2(1) to protect those already employed, as well as prospective employees. Your Committee has therefore amended **H. B. No. 656** by defining "arrest and court records" to include records of "trials and convictions". It has also amended Section 378-2(1) to extend the intended protection of this bill to those already employed, as well as prospective employees.

Your Committee on Labor and Employment is in accord with the intent and purpose of **H. B. No. 656**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 656, H. D. 1**, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

Representative Ajifu did not concur.

**SCRep. No. 377 Labor and Employment
on H. B. No. 218**

The purpose of this bill is to amend the Workmen's Compensation Law by amending the sections covering "temporary partial disability" and "payment after death".

Section 386-32(b) now provides that an injured worker who is temporarily partially disabled is entitled to receive benefits equivalent to 66-2/3% of the difference between his average weekly wages before the injury and the weekly wages he is "capable of earning" during the temporary disability period, up to \$50 per week. The bill proposes to amend section 386-32(b) so that a temporarily partially disabled worker would be entitled to receive benefits equivalent to 70% of the difference between his average weekly wages before the injury and his "earnings" during the temporary disability period. The proposed language change is intended to provide an easily ascertainable base for computing his temporary partial disability compensation as the present language is difficult to apply. What an injured worker is "capable of earning" is difficult to determine in most cases and is subject to much conjecture.

Section 386-34 now provides that in a case where an injured worker is awarded permanent partial or permanent total disability benefits and subsequently dies from another cause before he collects his full award, the unpaid balance of the award, to the extent of his employer's liability, shall be paid to his dependents. As Act 42, Session Laws 1972, removed the limitation to an employer's maximum aggregate liability for compensation benefits, the balance of an award for total disability which should be paid to his dependents cannot now be ascertained. This bill proposes to set the maximum amount of an employer's liability for the purpose of determining the balance of a permanent total disability at that amount specified in section 386-32(a) for non-scheduled disabilities, which is presently \$35,100. This proposal does not affect the benefit rights of any other claimants and is only intended to provide a basis for determining the balance of an injured worker's award for permanent total disability in case the claimant dies from another cause and the balance must be paid to his dependents.

Your Committee agrees with the director of labor and industrial relations that the proposed language changes would improve the administration of the Workmen's Compensation Law. It is of the opinion, however, that the proposal to raise the compensation rate for temporary partial disability from 66-2/3% to 70% would make section 386-32(b) inconsistent with other sections of the law. The compensation rates for temporary total, permanent partial, and permanent total disability are presently 66-2/3% of a claimant's average weekly wages. This consistency should be maintained in the law. Your Committee therefore recommends that **H. B. No. 218** be amended by deleting the proposal to raise the compensation rate for temporary partial disability to 70% and by retaining the present 66-2/3% rate. The bill has been amended in accordance with the foregoing recommendation.

Your Committee on Labor and Employment is in accord with the intent and purpose of **H. B. No. 218**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 218, H. D. 1** and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. No. 378 Labor and Employment
on H. B. No. 230**

The purpose of this bill is to amend the Hawaii Occupational Safety and Health Law to bring it into conformity with standards expressed in the Federal Occupational Safety and Health Act.

Public Law 91-596, the Federal Occupational Safety and Health Act, prescribes standards on occupational safety and health that are applicable throughout the country. However, it allows a state to administer and enforce occupational safety and health standards under its own law if it is deemed as "as effective" as the federal law. Act 57, Session Laws of 1972, was enacted in an attempt to retain state authority in the area. The Office of the Assistant Secretary of Labor for Occupational Safety and Health has now reviewed Act 57 and has suggested several amendments to make it "as effective" as P. L. 91-596 and these suggestions are embodied in **H. B. No. 230**.

Section 1 of the bill proposes to amend the definition of "employee" to include any person who is "permitted or suffered" to work, as well as any person who is "required or directed" to work.

Section 2 proposes to add a provision to require periodic reports from the department of labor and industrial relations to the Secretary of Labor. It would also amend the enforcement provisions of the law to make it mandatory, rather than discretionary, for the director to issue orders to remedy unsafe working conditions. The enforcement section would be further amended to provide specific penalties for violations of the law or rules and regulations adopted pursuant thereto.

Section 3 proposes to make employer responsibility for the safety of each of his employees explicit. It would also require employers to submit reports to the Secretary of Labor.

Section 4 proposes to add a provision to require the withholding of names of complainants and witnesses from employers, except in discharge or suspension cases where the names are obviously known to employers.

Section 5 proposes express mandatory penalties for violations. It would also make each day a violation continues a separate violation and would add civil penalties for posting violations.

Section 6 proposes to give employees and their representatives a right to participate in all hearings on appeal.

Subsequent to the introduction of **H. B. No. 230**, the Assistant Secretary of Labor has directed the attention of the director of labor and industrial relations to another section of the law where conformity with the federal standards may be doubtful. His position is that an employer must be responsible for providing a safe working environment and therefore sanctions may not be imposed against his employees for unsafe conditions. Act 57 now allows the application of sanctions against employees in limited situations while the Federal law contains no such provisions. In the Assistant Secretary's opinion the state law should likewise apply no sanctions against employees. Your Committee has therefore amended Act 57 by removing the questionable language relating to sanctions

against employees. Your Committee has been assured by the director of labor and industrial relations that **H. B. No. 230**, as amended herein, should make the Hawaii Occupational Safety and Health Law as effective as P. L. 91-596, the Federal Occupational Safety and Health Law.

Your Committee on Labor and Employment is in accord with the intent and purpose of **H. B. No. 230**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 230, H. D. 1**, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. No. 379 Labor and Employment on **H. B. No. 1668**

The purpose of this bill is to make an appropriation to continue the effective aspects of the Waianae Employment Services project beyond June 30, 1973 when its federal funding terminates.

The Waianae Employment Services project is a federally funded Model Cities project which is assisting Waianae Model Neighborhood area residents in obtaining job training and jobs. The federal funding of the project is expected to terminate on June 30, 1973. This bill proposes the continuation of the effective aspects of the project under the state Progressive Neighborhoods Program.

Your Committee agrees that the effective aspects of Waianae Employment Services project should be continued under the Progressive Neighborhoods Program. It is of the opinion that the sum of \$68,000.00 should be appropriated for the 1973-75 fiscal biennium and **H. B. No. 1668** has been amended by inserting the foregoing amount in the bill.

Your Committee on Labor and Employment is in accord with the intent and purpose of **H. B. No. 1668**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 1668, H. D. 1**, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. No. 380 Labor and Employment

on **H. B. No. 2026**

The purpose of this bill is to amend Chapter 433 by adding a new section which would apply to union mutual benefit societies.

Chapter 433 presently provides for the regulation and supervision of mutual and fraternal benefit societies by the insurance commissioner. While there is no clear intent expressed that said chapter applies to union mutual benefit societies subject to regulation under the Federal Welfare and Pension Plans Disclosure Act, labor union mutual and fraternal benefit plans face the possibility of being subjected to the onerous burden of meeting the different reporting requirements under federal and state laws.

This bill proposes to vest the insurance commissioner with discretion to waive any specific requirement of Chapter 433 for labor union mutual and fraternal benefit societies if he determines that the waiver will not adversely affect members and their dependents. It will also require a labor union mutual or fraternal benefit society to submit a copy of the report filed with federal authorities and a complete financial report prepared by a certified public accountant to the insurance commissioner. This will furnish the insurance commissioner with comprehensive information on the benefit plans.

Your Committee agrees that where the purpose and policy of a state law is being adequately met through federal regulation, the parties subject to the state law could be relieved of part of the onerous burden of double regulation and double reporting if no one is harmed thereby.

Your Committee is in accord with the intent and purpose of **H. B. No. 2026** and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. No. 381 Labor and Employment on **H. B. No. 1002**

The purpose of this bill is to amend Chapter 347 which covers sheltered workshops for the blind and other handicapped persons to:

1. Make wages payable to persons working in sheltered workshops subject to the minimum wages under the Hawaii Wage and Hour Law;

2. Make persons employed in the workshops eligible to receive unemployment compensation benefits; and

3. Permit persons employed in the workshops to join an appropriate collective bargaining unit under Chapter 89 and bargain collectively with the department of social services.

A sheltered workshop is a facility which provides work experience in a sheltered or protective setting for handicapped persons who are not employable in an open and competitive labor market. Chapter 347 now permits the department of social services to aid blind and visually handicapped persons and others to become self-supporting by employing them in workshops at such compensation as the department determines their services warrant and by furnishing them with materials and other help and facilities.

The proposals of **H. B. No. 1002** would further aid persons employed in sheltered workshops and are worthy of consideration. At the hearing on the bill, however, a number of considerations against the passage of the bill, including financial considerations, were raised by the department of social services. Your Committee agrees in principle with the bill but is of the opinion that further consideration should be given to the objections raised by the department of social services by the Committee on Finance.

Your Committee has also corrected the incorrect reference to the minimum wage section of the Wage and Hour Law in section 1 of the bill. The minimum wage section is section 387-2, rather than 387-4 as stated in the original draft of the bill.

Your Committee on Labor and Employment is in accord with the intent and purpose of **H. B. No. 1002**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 1002, H. D. 1**, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. No. 382 Labor and Employment on H. B. No. 861

The purpose of this bill is to amend the unemployment compensation law in order to cover all employment in agriculture.

Chapter 383, the Hawaii Employment Security Law, presently excludes employment in agriculture unless it is performed for an employer who had at least twenty employees in any calendar week in the current and preceding calendar years and who had agricultural labor performed by its employees in at least twenty weeks in each of the current and preceding calendar years.

The bill as introduced proposes to repeal the foregoing exclusion and thereby make all agricultural employers and employees subject to coverage under the law. This will make it possible for all unemployed agricultural workers to claim unemployment compensation benefits on the same basis as all other unemployed workers.

Upon consideration of the bill, your Committee is of the opinion that the total repeal of the present agricultural exclusion would work an undue hardship on small farmers with only few employees. It recommends that an exclusion from coverage under the law be retained for agricultural employers with fewer than ten employees. **H. B. No. 861** has therefore been amended in accordance with the foregoing recommendation. Agricultural employers who had ten or more employees and who had agricultural labor performed in twenty or more weeks would be covered by the law and their employees would be entitled to benefits under the bill as amended.

Your Committee on Labor and Employment is in accord with the intent and purpose of **H. B. No. 861**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 861, H. D. 1**, and be referred to the Committee on Agriculture.

Signed by all members of the Committee.

SCRep. 383 (Majority) Labor and Employment on H. B. No. 575

The purpose of this bill is to amend the Hawaii Wage and Hour Law by deleting language which exempts employees of

agricultural employers with fewer than 20 employees from coverage under the law.

The definition of "employee" in Section 387-1 of the Wage and Hour Law does not include "any individual employed in agriculture for any workweek in which the employer employs less than twenty employees or in agriculture for any workweek in which the individual is engaged in coffee harvesting". The effect of this exclusion is to deprive an agricultural worker who works for an employer with fewer than 20 employees of any protection under the law. He can be paid below the minimum wage level and his employer does not have to pay him an overtime premium for work beyond a normal workweek of 40 hours.

This bill proposes to extend the law's coverage to include all agricultural workers except those engaged in coffee harvesting. Your Committee agrees that the Wage and Hour Law's protection should be extended to workers wherever possible.

Upon consideration of the bill, however, it is of the opinion that the proposal would work an undue hardship on a number of small farmers who employ only a few employees. Your Committee therefore recommends that an exemption from coverage under the Wage and Hour Law be retained for employees of agricultural employers with fewer than ten employees and **H. B. No. 575** has been amended accordingly.

Your Committee on Labor and Employment is in accord with the intent and purpose of **H. B. No. 575**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 575, H. D. 1**, and be referred to the Committee on Agriculture.

Signed by all members of the Committee.

Representative Ajifu did not concur.

SCRep. No. 384 Labor and Employment on H. B. No. 478

The purpose of this bill is to amend the law regulating commercial employment agencies by:

1. Deleting language which now prohibits the referral of a minor or female job

applicant for employment without a prior investigation of the nature of the employment or the reputation of the prospective employer; and

2. Deleting the words "female" and "minor" from the subsection which prohibits the referral of female or minor job applicants for employment of an immoral nature.

Section 373-11(5) presently states that no employment agency shall refer any minor or female applicant for employment without investigating the nature of the prospective employment and the reputation of the employer. It further provides that no agency shall wilfully or knowingly refer any female or minor applicant to employment of an immoral nature.

The bill as introduced proposes to amend Section 373-11(5) by removing the first prohibition and by deleting the words "female" and "minor" from the second. The effect of the first proposed amendment would be to make female and minor applicants subject to referral for employment in the same manner as adult male applicants are. The second proposed amendment would result in a prohibition against the wilful or knowing referral of any applicant, rather than just female or minor applicants, to employment of an immoral nature.

Your Committee agrees that section 373-11(b) presently contains discriminatory features which should be removed from the law. To subject female job applicants to conditions not required of males is discriminatory. It is of the opinion, however, that minor applicants should still be referred for employment only after an investigation of the nature of the offered employment and the reputation of the prospective employer. It has therefore amended the bill to delete only the reference to female applicants from the first sentence of section 373-11(5), retaining the reference therein to minors. Your Committee also agrees that the law would be strengthened by making it illegal to refer anyone to employment of an immoral nature.

Your Committee on Labor and Employment is in accord with the intent and purpose of **H. B. No. 478**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B.**

No. 478, H. D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 385 Education on H. B. No. 1343

The purpose of this bill is to appropriate out of the general revenues of the State of Hawaii a certain sum for the continuation of those aspects of the "Quick Kokua Program".

The "Quick Kokua" program has provided drop-outs with a comprehensive program of educational employment and counseling which has reduced student alienation. This demonstration program was federally funded and terminates June 30, 1973.

Your Committee on Education is in accord with the intent and purpose of **H. B. No. 1343** and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. No. 386 Education on H. B. No. 1348

The purpose of this bill is to appropriate out of the general revenues a certain sum for the continuation of those aspects of the Kalihi-Palama Culture and Arts project. Funds are to be expended by the State Foundation on Culture and Arts.

Your Committee on Education is in accord with the intent and purpose of **H. B. No. 1348** and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. No. 387 Education on H. B. No. 1154

The purpose of this bill is to amend the Hawaii Revised Statutes by requiring the State to make adequate provisions to provide insurance protection to the Junior Police Officers in the course of their performance of duties and when participating in sanctioned activities. The policy will provide maximum benefits of \$20,000 for medical and hospitalization; \$5,000 for death; \$1,500 for funeral and \$100,000 for

liability.

Your Committee believes that the Junior Police Officers and their legal guardians or parents should be protected and afforded these benefits for their services.

Your Committee on Education is in accord with the intent and purpose of **H. B. No. 1154** and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. No. 388 Select Committee of Kauai Representatives on **H. B. No. 526**

The purpose of this bill is to delete \$10,000 to Kauai Veterans Hospital appropriated by Act 155, SLH 1969 for extension of parking areas. It further deletes \$115,000, same Act, for plans and construction of an intensive care unit.

This bill also deletes \$20,000, same Act, for purchase and installation of 150KW emergency power plant, and substitutes in lieu thereof: "Planning, construction, equipment, fixtures, and furnishings. \$145,000."

Your Select Committee of Kauai Representatives is in accord with the intent and purpose of **H. B. No. 526** and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. No. 389 Select Committee of Kauai Representatives on **H. B. No. 523**

The purpose of this bill is to appropriate \$40,000 to Department of Health for a grant-in-aid to continue operations at Hale Hauoli, on grounds of former Hanamaulu school.

Your Select Committee of Kauai Representatives is in accord with the intent and purpose of **H. B. No. 523** and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. No. 390 Select Committee of Kauai

Representatives on **H. B. No. 675**

The purpose of this bill is to place the small boat launching ramps at Kapaa, Waipouli and Hanalei under Department of Transportation jurisdiction. It provides for a 60-day time limit for transfer of equipment, machinery, motor vehicles, etc. from County to Department of Transportation; no reimbursement; no compliance requirement with disposal procedures; County to prepare inventories. Property disputes to be determined by director of Department of Transportation.

This bill does not require transfer of County real property or improvements unless these are "related and necessary . . ."

Your Select Committee of Kauai Representatives is in accord with the intent and purpose of **H. B. No. 675** and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. No. 391 Public Welfare and Assistance on **H. B. No. 2004**

The purpose of this bill is to establish branch offices of the public welfare division of the Department of Social Services and Housing throughout the State.

Your Committee on Public Welfare and Assistance is in accord with the intent and purpose of **H. B. No. 2004** and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. No. 392 Public Welfare and Assistance on **H. B. No. 1669**

The purpose of this bill is to provide for the continuation of those aspects of the Waianae Group Homes project deemed to be effective and appropriate for assumption by the Department of Social Services and Housing beyond the federally funded demonstration period ending June 30, 1973.

Your Committee on Public Welfare and Assistance is in accord with the intent and purpose of **H. B. No. 1669** and recommends that it pass Second Reading and

be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. No. 393 Public Welfare and Assistance on H. B. No. 1893

The purpose of this bill is to establish a commission for the blind. The three-member commission would serve in an advisory capacity to the director of social services and housing and would be responsible for coordinating all public programs and services for the blind and visually handicapped.

Your Committee on Public Welfare and Assistance is in accord with the intent and purpose of **H. B. No. 1893** and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. No. 394 Agriculture on H. B. No. 1770

The purpose of this bill is to require labeling of pork products as to their geographical origin.

Your Committee has changed the original form of the bill to exclude "meat" products because such geographical labeling is not necessary for meat products.

Your Committee on Agriculture is in accord with the intent and purpose of **H. B. No. 1770**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 1770, H. D. 1** and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. No. 395 Transportation on H. B. No. 1813

The purpose of this bill is to make an appropriation for capital improvements at Kalanianaʻole Highway.

Your Committee on Transportation is in accord with the intent and purpose of **H. B. No. 1813** and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. No. 396 Public Employment on H. B. No. 525

The purpose of this bill is to grant civil service status to the hospital administrator of the Kauai Veterans Memorial Hospital with all the rights, benefits, and privileges attributable thereto and without reduction in pay.

Your Committee on Public Employment is in accord with the intent and purpose of **H. B. No. 525** and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. No. 397 Health on H. B. No. 619

The purpose of this bill is to clarify the concept of the words, "person totally disabled" as found in Section 235-1, Hawaii Revised Statutes, so that persons afflicted with conditions that make a person unable to pursue his occupation may qualify for income and real property tax exemptions.

Your Committee has effected two changes to the original form of the bill. The first is a change of the word "taxpayer" to "person" so that a person who is not a taxpayer by virtue of the fact that his income situation is such that he is not in a "payor" category, may nonetheless be able to obtain the benefits of such exemptions.

The second is based on the indication that the governing of this area by rules and regulations was not a feasible approach. Your Committee has accordingly deleted Section 3 of the original bill.

Your Committee on Health is in accord with the intent and purpose of **H. B. No. 619**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 619, H. D. 1** and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 398 (Majority) Health on H. B. No. 1890

The purpose of this bill is to provide the promotion of a comprehensive integrated Statewide program that will provide adequate labeling of perishable and semi-perishable items.

Your Committee on Health is in accord with the intent and purpose of **H. B. No. 1890**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 1890, H. D. 1** and be referred to the Committee on Finance.

Signed by all members of the Committee.

Representatives Amaral, Kondo, Roehrig and Saiki did not concur.

SCRep. No. 399 Health on H. B. No. 1898

The purpose of this bill is to transfer the regulation of the practice of podiatry from the Department of Health to the Department of Regulatory Agencies.

Your Committee understands that there is only a handful of practicing podiatrists in this state. It is felt that it would be impractical and uneconomical to establish a separate "Board of Podiatric Examiners" as sought by the original bill.

However, your Committee is in agreement that the transfer from the Department of Health to the Department of Regulatory Agencies is desirable. Accordingly, your Committee effected changes to the original form of the bill to provide for such transfer but to the Board of Medical Examiners.

Your Committee on Health is in accord with the intent and purpose of **H. B. No. 1898**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 1898, H. D. 1** and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. No. 400 Health on S. B. No. 121

The purpose of this bill is to delete the one-year residency requirement for the practice of optometry following a recent United States District Court decision.

Your Committee on Health is in accord with the intent and purpose of **S. B. No. 121** and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. No. 401 Health on S. B. No. 5

The purpose of this bill is to allow the holding of annual senior citizens fairs in the various counties.

Your Committee feels that our elder citizens — many of whom have struggled through tougher times than we of a more subsequent generation — deserve a break. We think that a Senior Citizen's Fair will recognize their years of contribution to make this world a little better place. This is a wonderful idea and we extend our best wishes by this report.

Your Committee would suggest however, that such fairs should coincide with Senior Citizen's Month and that the rich reservoir of talent in our numerous Senior Citizen's Clubs be adequately tapped to ensure that it will be their fair — where their accomplishments will be recognized; their strength displayed; and their happiness served.

Your Committee on Health is in accord with the intent and purpose of **S. B. No. 5, S. D. 1** and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. No. 402 Select Committee of Hawaii Representatives on H. B. Nos. 536, 802, 803, 804, 805, 895, 896, 897, 898, 942, 943, 985, 986, 987, 988, 1014, 1040, 1041, 1044, 1231, 1232, 1233, 1265, 1491, 1644, 1662, 1665, 1676, 1775, 1862, 1863, 1864, 1865, 1866, 1867, 1879, 2043

The purposes of these bills are to appropriate sums of moneys to fund the various projects stated in the titles.

Your Select Committee of Hawaii Representatives is in accord with the intent and purpose of **H. B. Nos. 536, 802, 803, 804, 805, 895, 896, 897, 898, 942, 943, 985, 986, 987, 988, 1014, 1040, 1041, 1044, 1231,**

1232, 1233, 1265, 1491, 1644, 1662, 1665, 1676, 1775, 1862, 1863, 1864, 1865, 1866, 1867, 1879, 2043, and recommends that they pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. No. 403 Finance on H. B. No. 75

The purpose of this bill, as amended heretofore, is to provide for the waiver of tuition fees at any University of Hawaii campus as to dependents (including spouses) of prisoners of war, persons missing in action, and persons killed in action.

As amended herein, your Committee has effected certain further modifications to the bill, essentially technical, including the title hereof, as amended, in order that the bill in the form hereby recommended for passage conform to (a) the provisions of House Rule 24(2), and (b) the statutory style and language of existing statutory provision to which it relates.

Reference being to **Stand. Com. Rep. No. 61** from your Committee on Higher Education, and the bill, as thereunder amended and thereto attached, your Committee on Finance, having received somewhat the same testimony thereupon reaches somewhat the same fundamental findings: That "the number of possible recipients is small and probably will not exceed five persons at any one time. The university supports the general spirit of this measure." Notwithstanding whatever may be our individually registered sentiments concerning other university formulated policies, upon this measure your Committee is given to concede its support, unanimously, also.

The amendments hereby recommended, therefore, do not detract from the substantive import of the bill. However:

(1) Because "existing" law is not being amended, the brackets, bracketed material and underscoring have been deleted from (a) the title, and from (b) the provisions of proposed Sec. 304—(a)(4), (b) and (c), as appropriate.

(2) The amendatory introduction to section 1 of the bill has been amended to reflect that chapter 304 (which relates to the University of Hawaii, vice chapter 204

which is entitled "State Fairs") is wherein the new section hereby proposed is to be added.

(3) The heading of Sec. 304—, "Tuition waivers", has been underscored.

(4) In conformity with the provisions of Sec. 304—(a)(4) and (b), defining "killed in action" and providing for tuition waivers for dependents of such persons, respectively, the definition of "dependent" in Sec. 304—(a)(1), being a child or spouse of any prisoner of war or person missing in action, was expanded to include dependents of persons killed in action by adding the phrase "or killed" following "missing" throughout. This is also in conformity with the amended title.

(5) While retaining the directive that the board of regents "shall...waive entirely the tuition fee" as contained in Sec. 304—(b), conceiving of the case where one entitled may nonetheless desire to pay his own way, the mandate has been modified to apply "at the request of any qualified dependent...."

(6) The language of Sec. 304—(c), to the effect that tuition waivers "herein awarded" shall not be counted as part of the "allocation" of "tuition waivers, scholarships or grants-in-aid already granted at any campus of the University of Hawaii", has been amended by deleting the quoted passages and substituting therefore the phrases "hereby authorized", "number and allocation", and "units of financial aid prescribed in section 304-17", respectively. These terms are extracted from the statutes, all as amended, relating to university scholarships (Sec. 304-15) and tuition waivers (Sec. 304-4) as defined therein and as limited by the "number and allocation" statute (Sec. 304-17) into which they are incorporated. [Note, however, that the Hawaii Revised Statutes is typographically inaccurate: Sec. 304-17, defining "financial aid" refers to "tuition waivers authorized in section 304-5", whereas the same are, in fact, the subject of Sec. 304-4, as amended.]

(7) As heretofore stated, since this bill does not amend an existing section of law and House Rule 24(2), therefore, does not apply, its redrafting required deletion of section 2 of the bill reciting use of the Ramseyer method.

(8) Finally, for the purpose of consistency, section 3 has been renumbered section 2.

Your Committee on Finance is in accord with the intent and purpose of **H. B. No. 75, H. D. 1**, as amended herein, and recommends that it pass third reading in the form attached hereto as **H. B. No. 75, H. D. 2**.

Signed by all members of the Committee.

SCRep. No. 404 Finance on H. B. No. 318

The purpose of this bill is to provide for the use by the Hawaii public broadcasting authority of certain real property at the university of Hawaii which is presently occupied by the authority and being used for public broadcasting, including television production and administration.

The bill provides that the board of land and natural resources shall lease for a period not to exceed 25 years from the university of Hawaii, for the use of the Hawaii public broadcasting authority, department of regulatory agencies, certain real property used by the university of Hawaii, division of educational television, as the educational and public television production center. The lease shall be subject to the approval of the director of regulatory agencies.

Under Act 199, Session Laws of Hawaii 1972, the board of the public broadcasting authority, thereby established, was required by Sec. _____-11 to submit to the Seventh State Legislature such proposals as were deemed necessary to effect the transfer of real property, personal property and personnel from the university of Hawaii to the newly created public broadcasting authority. This bill is in response to that requirement regarding real property, and reflects the recommendations of the former state council on educational television, acting in the absence of a new board which was only recently appointed. (See also **H. B. Nos. 316, H. D. 1**, and **315, H. D. 1**, relating to the transfer of personal property and personnel, respectively).

According to testimony before your Committee from the department of regulatory agencies, this bill, basically, attempts to meet three objectives: (a) max-

imum flexibility, both short and long term, for the public broadcasting authority in meeting its production and broadcast activities; (b) satisfying legitimate concerns of the University of Hawaii with regard to the strategic location of the present building and land used by the public broadcasting authority; and (c) a simple mechanism for the continued use of the presently occupied real property. Additionally, by leasing this real property, Hawaii public television can take advantage of the lower electricity rates, the flexibility of choosing among two or more alternatives for maintenance, security, and parking facilities for the public. It was submitted that this bill meets those objectives while safeguarding the legitimate concerns of the several parties involved.

It was also reported that preliminary discussions between the University of Hawaii and the department of land and natural resources indicate that there should be no problems in negotiating a satisfactory lease. The anticipated lease rental, it is expected, will be \$1 per year.

The bill was amended in your Committee by deleting all of the underscoring from the statutory language in section 2 (except the heading) because the bill proposes new law and does not purport to amend an existing section. Accordingly, section 3 was deleted, and for the purpose of consistency, section 4 was renumbered section 3.

Your Committee on Finance is in accord with the intent and purpose of **H. B. No. 318**, as amended herein, and recommends that it pass second reading in the form attached hereto as **H. B. No. 318, H. D. 1**, and be placed on the calendar for third reading.

Signed by all members of the Committee.

SCRep. No. 405 Finance on H. B. No. 315

The purpose of this bill is to provide for the transfer of personnel from the University of Hawaii, division of educational television, to the Hawaii public broadcasting authority. As introduced, the bill also provided for a "compensation plan" for such employees; as amended herein, it provides for a "means to compensate" them.

Under Act 199, Session Laws of Hawaii 1972, the board of the public broadcasting authority, thereby established, was required by Sec. _____-11 to submit to the Seventh State Legislature such proposals as were deemed necessary to effect the transfer of real property, personal property and personnel from the University of Hawaii to the newly created public broadcasting authority and to submit a "compensation plan" for its employees. This bill is in response to that requirement regarding personnel and their compensation, and reflects the recommendations of the former State council on educational television, acting in the absence of a new Board which was only recently appointed. (See also H. B. Nos. 318, H. D. 1, and 316, H. D. 1, relating to the transfer of real property and personal property, respectively).

The bill, as introduced, consisted of adding five (5) new sections to chapter 314 (enacted as Act 199, *supra*). Basically, these provisions proposed to (1) effect the transfer, preserving salary and other benefits, (2) create three personnel categories, (3) designate employment status in each category, (4) prescribe compensation for the respective categories, and (5) establish a salary classification schedule (annexed to the bill).

Your Committee was informed in testimony from the department of regulatory agencies, within which the public broadcasting authority is placed for administrative purposes, that the former State council on educational television recommended the salary classification schedule "after consultation" with the department of personnel services, which is required of the executive director of the board of public broadcasting in determining salaries of employees by him hired under Sec. 314-10. As justification therefore, it was submitted that the compensation plan proposed "recognizes the peculiarities of an operational television activity within the machinery of a state government."

However, at the hearing hereof, the director of personnel services had several recommendations for changes which would "reflect the requirements of Act 199, maintain merit principle philosophy, and provide reasonable flexibility in the realm of personnel management." In accordance with those recommendations, your Committee has effected the following

amendments to the bill:

(1) Under section 2 of the bill, as amended, Sec. 314-10 of the statute relating to the executive director and staff has been amended by deleting the last sentence to the effect that in determining the salaries of employees hired by the director, he shall consult with the department of personnel services and follow closely its recommendations. As will become evident subsequently, this requirement becomes unnecessary under several provisions of the bill, as amended herein, which prescribes that employment and placement of employees shall be "subject to review and approval by the director of personnel services."

(2) Under section 3 of the amended bill, statutory Sec. 314-11 relating to transfer provisions is repealed. The directive therein that the board submit to the 1973 legislature (1) proposals to effect the transfer, as aforesaid, (2) a budget for the ensuing biennium, (3) a compensation plan, as aforesaid, and (4) other related matters, have all been accomplished.

(3) The "transfer of personnel" provisions under section 2 of the bill, before amendment, are substantially intact under section 4 of the bill, as amended, except:

(a) In the first paragraph, the parenthetically enclosed phrase "(except for clerical employees employed under the provisions of chapters 76 and 77)" is deleted.

(b) In the second paragraph which preserves salary and other benefits, a requirement of employment "prior to the effective date of this Act and still so employed upon transfer of functions by this chapter" has been added, and that "subsequent changes in status may be made pursuant to applicable personnel laws."

(c) The third paragraph, to the effect that "clerical employees" hired under chapters 76 and 77 shall continue subject thereto without loss of seniority and other benefits, because it is redundant as to the provisions of the preceding paragraph covering "employees" generally, has been deleted.

(4) The "personnel categories" created under section 2 of the bill, as introduced, remain three in number; however, the scope of each has been altered substan-

tially, and placement of employees thereinto is made "subject to review and approval by the director of personnel services." As amended, the categories are:

Category (a) — Clerical, non-professional, and non-technical;

Category (b) — Professional and technical; and

Category (c) — Student help.

According to his testimony, the director of personnel services agrees that clerical positions in Category (a) shall be subject to chapters 76 and 77, but recommended that this Category be expanded to encompass all non-technical and non-professional positions. He further recommended that part-time clerical positions in Category (c) should also be subject to the previously mentioned chapters since it appears that there is no material difference in job content, except for the factor of total hours of work.

The director further stated that "other full-time employees" (positions), a "catch-all" definition noted in Category (b) is too broad, and should be further defined as full-time technical and professional positions. He suggested that the determination that existing and any new positions are in fact technical or professional be subject to the review and approval of the director of personnel services. Moreover, he did agree that all technical and professional positions included in Category (b) of this proposal should be exempt from chapters 76 and 77 at this time, which is possible under statute. The basis for his concurrence is the current lack of accurate and comprehensive information concerning the program due to its "newness" and the legislative mandate for program development and redirection.

(5) The "employment status" provisions of the bill have been amended to conform with the foregoing changes to personnel categories, and in addition:

(a) In Category (a), non-professional and non-technical employees (except those in Category (c)) hired prior to the effective date of this Act receive civil service status without examination.

(b) In Category (b), the provision for employment exempt from chapters 76 and

77 is made "subject to review by the director of personnel services to determine priority and continued exemption...", which is to be accomplished by December 31, 1973. The provision that employees in this category shall be hired on annual contract and be eligible for retirement and other benefits remains intact.

(c) In Category (c), student help is exempt from chapters 76 and 77, and employment is subject to review by the director of personnel services.

(6) As to the provision for (and headed) "compensation" under section 4 of the bill, as amended:

(a) In Category (a), as in the bill, as introduced, employees are compensated in accordance with chapter 77.

(b) In Category (b), all references to the salary classification schedule and placement therewithin by the executive director with approval of the board are deleted. Substituted therefore is the provision that: "All employees in this category shall be compensated in accordance with the university of Hawaii APT salary schedule until such time that an appropriate means of compensation is approved by the legislature. A proposal for an appropriate compensation plan shall be developed by the director of personnel services and submitted to the 1974 session of the legislature for approval."

(c) In Category (c), as amended, employees are to be compensated in accordance with student help wage rates.

In his testimony before your Committee, the director of personnel services stated:

"Concerning the matter of salaries for professional and technical employees (Category (b) as redefined, above) we originally suggested that the board develop a compensation plan, as mandated by Act 199. However, a formal compensation plan appears premature at this time because of the "newness" of the program, the need for flexibility, and the uncertainties surrounding its development and modification. We, therefore, recommend that need for such a compensation plan be reassessed at a later date. Rather, we would recommend that due to the likelihood of changes in staffing requirements as the program develops

that employees be hired for the time being on a fee-for-service basis, subject to the standard review and approval of such actions by the director of personnel services. Under such circumstances, we would also suggest that positions exempted by this proposal or by Act 199 be excluded from appropriate bargaining units.

"We would also recommend that the salary schedule proposed in **HB 315** be omitted, [as] the schedule includes rates virtually equivalent to the maximum salary permitted for the executive director of the Hawaii public broadcasting authority, and is in conflict with the intent of chapter 78-18.... Furthermore, if the employees are to be hired in accordance with the standard procedures concerning exempt, fee-for-service hires, subject to the review and approval of the director of personnel services, such a formal separate salary schedule is not required nor desirable."

On that basis, the provisions under the heading "salary compensation schedule" and the schedule itself have been deleted from the bill. Compensation, therefore, in all categories is paid in accordance with the proposed statutory provisions bearing that heading under section 4 of the bill, as amended.

Your Committee on Finance is in accord with the intent and purpose of **H. B. No. 315**, as amended herein, and recommends that it pass second reading in the form attached hereto as **H. B. No. 315, H. D. 1**, and be placed on the calendar for third reading.

Signed by all members of the Committee.

SCRep. No. 406 Finance on H. B. No. 316

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

The bill prescribes that all records, equipment, files, supplies, contracts, books, papers, documents, maps, and other personal property heretofore made, used, ac-

quired, or held by the University of Hawaii for the production and transmission of educational television programs by the division of educational television shall be transferred to the department of regulatory agencies without cost or reimbursement and without compliance with any disposal procedures or requirements, any law to the contrary notwithstanding. By amendment hereto, your Committee directed that the same shall occur within 90 days from the effective date hereof, compliance with which we are informed presents no prospective problem as the transfer already has begun.

Under Act 199, Session Laws of Hawaii 1972, the board of the public broadcasting authority, thereby established, was required by Sec. _____-11 to submit to the Seventh State Legislature such proposals as were deemed necessary to effect the transfer of real property, personal property and personnel from the university of Hawaii to the newly created Public Broadcasting Authority. This bill is in response to that requirement regarding personal property, and reflects the recommendations of the former State council on educational television, acting in the absence of a new board which was only recently appointed. (See also **H. B. Nos. 318, H. D. 1**, and **315, H. D. 1**, relating to the transfer of real property and personnel, respectively.)

To accomplish the transfer of personal property, there are no costs expected except for man-hours to complete a thorough inventory; otherwise no problems are anticipated.

Your Committee on Finance is in accord with the intent and purpose of **H. B. No. 316**, as amended herein, and recommends that it pass second reading in the form attached hereto as **H. B. No. 316, H. D. 1**, and be placed on the calendar for third reading.

Signed by all members of the Committee.

SCRep. No. 407 Water, Land Use and Development on H. B. No. 1333

The purpose of this bill is to extend by one year, from 1972 to 1973, the date for the selection of a site or sites for the proposed international marine exposition in Hawaii.

Act 131 of the 1972 Legislature provided for the establishment of a Hawaii Bicentennial International Marine Exposition Commission to have charge of all arrangements for an international marine exposition in Hawaii to coincide with the bicentennial commemoration of the discovery of Hawaii by Captain James Cook. That act specified that the commission was to choose a site or sites for the exposition prior to the end of the calendar year 1972.

Your Committee heard testimony indicating that the commission members were not sworn in until January 16, 1973, which was after the deadline for selecting the exposition site. To meet the legal requirements and to allow time for study of sites, the deadline for site selection needs to be amended as is provided for in this bill.

Your Committee on Water, Land Use and Development is in accord with the intent and purpose of **H. B. No. 1333** and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. No. 408 Water, Land Use and Development on **H. C. R. No. 68**

The purpose of this concurrent resolution urges the Hawaii Congressional Delegation to study and consider land claims of Hawaii natives in view of possible legislation as it has been historically accurate that with the Hawaiian Annexation of 1898, the United States government acquired certain amounts of land where no provision was made for its payment.

In a public hearing before your Committee, it was maintained that the Alaska Native Claims Settlement Act which achieved settlement for aboriginal land claims secured its justification by stating that the United States government did not acquire these lands legally, neither by purchase nor by conquest. A substantial amount of evidence exists to indicate that parallels could be sustained to proceed with similar Hawaiian aboriginal land claims.

In further public testimony before your Committee, sentiment prevailed for the endorsement of this concurrent resolution that significant study toward legislation

could provide an equitable solution to contested and disputed land claims.

Your Committee believes that this Concurrent Resolution is deserving of endorsement and support for reasons of achieving a fair and just settlement of all claims by native and native groups in Hawaii.

Your Committee on Water, Land Use and Development concurs with the intent and purpose of **H. C. R. No. 68** and recommends its adoption.

Signed by all members of the Committee.

SCRep. No. 409 Transportation on **H. B. No. 1091**

The purpose of this bill is to provide uniform land marking standards and regulations throughout the State.

Presently, streets and highways are marked in accordance with the provisions of the Manual on Uniform Traffic Control Devices (MUTCD) published by the Federal Highway Administration. MUTCD's standards are applicable throughout the United States. In Hawaii the meanings, prohibitions, and restrictions of MUTCD are not established in a Statewide Traffic Code and county codes are obsolete. To provide uniformity the provisions of the bill should be enacted.

Your Committee on Transportation is in accord with the intent and purpose of **H. B. No. 1091** and recommends that it pass Second Reading and that it be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. No. 410 Transportation on **H. B. No. 1875**

The purpose of this bill is to broaden the power of the Director of Transportation so he can confer the power of police officers upon agents and representatives of the department as well as employees to aid in the enforcement of aeronautics laws.

Federal regulations requires each operator of an airport to provide law enforcement officers where passengers are screened. The requirement is being met at present by the use of regular police of-

ficers since such persons under the federal law must have powers of arrest. The proposed bill will permit the department to contract for guard services to meet the federal requirements.

Your Committee on Transportation is in accord with the intent and purpose of **H. B. No. 1875** and recommends that it pass Second Reading and that it be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. No. 411 Education on H. B. No. 1521

The purpose of this bill is to repeal section 296-47, Hawaii Revised Statutes, and in its stead amend Chapter 286, Hawaii Revised Statutes, by adding a new section that incorporates the requirements of Federal Highway Safety Standard 17.

The Highway Safety Act of 1966 requires that each state have a highway safety program in accordance with federal standards, and federal funding of the state's highway safety program is dependent on compliance with federal requirements. The provisions of the bill do meet federal standards.

Your Committee on Education agrees that the new section should be inserted under Chapter 286 which relates to highway safety instead of Chapter 296 which relates to the functions of the Department of Education.

Your Committee on Education is in accord with the intent and purpose of **H. B. No. 1521** and recommends that it pass second reading and be placed on the calendar for third reading.

Signed by all members of the Committee.

SCRep. No. 412 Higher Education on H. B. No. 1197

The purpose of this bill is to repeal the Session Laws of Hawaii, 1968, Act 40, item 20, subsection E relating to improvements at the University of Hawaii which appropriate monies for parking structures on the Manoa campus.

According to Walter Muraoka, Director

of Physical Planning and Construction, this item authorizes the University to issue revenue bonds for the incremental development specifically that of multi-deck parking facilities. Although Mr. Muraoka stated that the number of spaces provided by the repeal above would still not meet University needs, your Committee believes that immediate measures need to be taken to alleviate parking difficulties now presently experienced on the campus.

The Manoa campus has long had a problem of parking and pedestrian traffic flow. While the parking program activities, issues, and alternatives are adequately considered in Mr. Muraoka's testimony, the increase in parking fees from \$50 to approximately \$100 a year now contemplated, warrants consideration of the benefits the users of these structures might accrue. We are thus submitting the educational benefit argument to substantiate funding of these multi-level parking structures, acknowledging at the same time, the University commitment to an overall vehicular and pedestrian traffic plan.

We leave to your Committee on Finance the considerations of revenue bonds and necessary income accrued by the State general fund.

Your Committee on Higher Education is in accord with the intent and purpose of **H. B. No. 1197**, and recommends that it pass Second Reading and be referred to your Committee on Finance.

Signed by all members of the Committee.

Representative Nakama did not concur.

SCRep. No. 413 Higher Education on H. B. No. 1351

The purpose of this bill is to provide funding for those aspects of the Kalihi-Palama and Waianae Education Centers for the continuation of the functions and aspects deemed to be effective and appropriate for assumption by the University of Hawaii beyond the federally funded demonstration period which ends June 30, 1973.

Presently, adult residents 16 and older upgrade themselves through the educational activities of these centers which include courses in self-improvement, reading,

sewing, mathematics, and various high school diploma skills. Many of the adults who have benefitted from the program were high school dropouts, and these two centers in these two neighborhoods provide the major means whereby they might continue their education.

Testimony presented before your Committee included statements from the University of Hawaii, directors and planners of these Model Cities programs, run by the City and County of Honolulu and federally funded through the Department of Housing and Urban Development, directors and teachers at the two centers affected by this bill, and former students and community residents in the two areas affected.

Honolulu Community College operates the Kalihi-Palama Adult Education Center, and Leeward Community College operates a similar center in Waiānae-Nanakuli. These programs were originally under the direction of the Department of Education, but were transferred to the University of Hawaii in December, 1971. At the time of this action, the Governor stated clearly that he was approving this action only upon the condition that no State funds be used to continue the programs, if the programs should be terminated. According to Vice President for Community Colleges Brett Melendy, there is no indication from the Governor at the present time that his position has changed.

The University, therefore, while supportive of the educational purposes of the two Centers, does not believe the bill merits State appropriations. The University's budget does not have funds to continue these centers, Dr. Melendy stated. The Centers are doing an "excellent job" of "meeting the needs of the community," he said. If funds were available, Leeward and Honolulu community colleges should be the institutions performing the services these centers offer, he concluded.

Your Committee notes that although these two centers perform similar kinds of adult education functions, both exist in different kinds of neighborhood areas. While the clientele remains essentially the same, the Waiānae Center operates in a rural area where there have traditionally been few adult education opportunities. The Kalihi-Palama Center, on the other hand, operates in an urban area which has

had adult education for many years. If the problems of the availability of State funds through the University and gubernatorial indications are placed aside, distinctions between the Centers, as emerges from testimony, may be drawn.

Kalihi-Palama Center at Honolulu Community College

Jay Jacobe, chairman of the Advisory Committee for the Kalihi-Palama Education Center, stated that the Center provides certain ways of education which are basically different from other adult education programs: outreach workers go into communities; services are offered on a year-round basis and may begin at any point in time; classes have no minimum enrollment; translators are available for those with language problems; individualized counseling is offered; free tutoring is available; most instructors and staff are from the impacted area.

According to Chairman Jacobe, the Center served over 1,142 residents in 1972 through classes, the learning laboratory, counseling and information giving sessions, and a Samoan Demonstration program.

There were two major sources of funding in 1972: \$128,722 from Model Cities funds; \$89,859 for salaries (6 full-time, 5 half-time positions, 12 hourly positions); \$23,536 for current expenses; \$2,986 for equipment; \$1,995 for renovating a new building; \$10,319 for administrative overhead.

At present there is a Health Education Welfare grant of \$39,400 to continue the Samoan Demonstration program until June 30, 1973. For the next fiscal year, the "4th Action Year,"* according to Mr. Jacobe, the center will need **\$144,000**. This increase, he stated, reflects an increase in rental and staff salaries.

Other testifying persons for the Kalihi-Palama Center included Reverend Iofi, head minister of Aldersgate United Methodist Church, who has worked closely with the Center; Martha Almon, worker with the resident groups who was a member of the Human Services Task Force instrumental in initiating the development of the Center; and Pearl Botelho, a former student of the center.

*Action Year — period includes carryover

of funding period.

**Waianae-Nanakuli Education Center,
Leeward Community College**

Your Committee heard testimony from Kay Allen, a former evaluator for the Waianae-Nanakuli Center, who said that since November, 1970, there have been 247 courses offered with participation by 8,685 students. There were 2,419 who participated in interest courses, and 714 who participated in the general education or civil service study program. Of the latter, 80 received high school diplomas. Of this figure, 64 have found employment. Ms. Allen attested to the need for continuing the center particularly in the Waianae-Nanakuli areas.

James H. Sonobe, Outreach Counselor at Nanakuli High and Intermediate School, also spoke favorably of his four and one-half year experience with the program. He stated that the Center affords a viable alternative to earning the high-school diploma. Specific forms of learning and motivation are provided especially to recent immigrant groups, such as the Samoans, and this is especially important to molding the student academically and socially. Often, these students cannot function in the public school system, and the happiness and success at the Center, according to Sonobe, behooves Committee consideration of funding.

Your Committee also heard from Ms. Rose Jackman, Education Task Force Chairman of the Waianae Model Cities board. She stated the Center had been particularly helpful to the district which has been traditionally identified as being educationally non-involved and having many low educational achievers. Nearly 35 percent, according to Ms. Jackman, of the adults 25 years or older have an eighth grade education. This figure compares unfavorably with the rest of the population.

Ms. Jackman's statement about the goals and aims of the Waianae-Nanakuli Center and the success of their achievement was reinforced by eight former and ongoing students in the program. All urged

that the Center be continued.

Your Committee finds from testimony submitted by Irene Fujimoto, Executive Director of the Kalihi-Palama Model City Resident Participation Organization, that both centers warrant educational consideration. Model Cities, according to Ms. Fujimoto, was never intended to be a long-range continuing program in and of itself. It was designed as a short-term (five years or less) demonstration project which would identify new approaches to old problems. Ms. Fujimoto stressed the action-nature of the center, that is, the fact that workers go into the community as for example the outreach program.

Your Committee realizes that these newer approaches to adult education merit consideration. However, the present bill calls for State funding of a program which essentially was intended to be short-term, and on a demonstration basis. The transfer from the Department of Education to the University of Hawaii — again a temporary measure — seems to indicate that larger issues about the nature, kind, and method of delivering adult education in the State are involved. Various State agencies including the Department of Education and University of Hawaii have been studying areas of articulation and coordination. However, no general State guidelines exist, and as human services programs overlap, there is need for clarification of the range and scope of services offered by these agencies.

We recommend, therefore, that your Committee on Finance consider this as it deliberates the State commitment for funds. We hope that our reporting of this bill will be construed as an endorsement of the educational substance the Kalihi-Palama and Waianae-Nanakuli Centers offer rather than any kind of fiscal recommendation.*

*However, according to Horace MacLaren, Planning and Coordinating Division, Model Cities Project, these fiscal year figures are available:

	December 1971-72	FY 1972-73	Estimates FY 1973-74
1. Kalihi-Palama Center	\$149,418	\$164,527	\$172,800
2. Waianae-Nanakuli Center	\$ 98,249	\$165,773	\$186,400

Your Committee on Higher Education provides these figures for further consideration by the Committee on Finance.

Your Committee on Higher Education is in accord with the intent and purpose of **H. B. No. 1351**, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. No. 414 Higher Education on H. B. No. 1880

The purpose of this bill is to increase productivity and labor efficiency of the pineapple industry by appropriating out of the general revenues of the State of Hawaii the sum of \$600,000 to be expended by the Hawaii Agricultural Experiment Station (HAES), College of Tropical Agriculture, University of Hawaii.

Your Committee heard favorable testimony from Leslie Swindale, Associate Director of HAES; Fred Erskine, Chairman of the Board of Agriculture; and Ronald M. Terry, Agricultural Research and Service Superintendent for the Maui Land and Pineapple Company. All stressed the need to continue pineapple research. Despite the growing concern by the agencies they represent, the outlook for pineapple research appears bleak. A program for assistance to the industry for the protection of private pineapple growers and encouragement of new private growers is urgent.

Mr. Terry stated that "pineapple research for more than fifty years has been carried out by the Pineapple Research Institute (PRI) of Hawaii, an industry financed program. For a number of years the industry contributed more than \$1,000,000 per year into this basic research program. Throughout the years PRI has made repeated contributions that have enabled the pineapple industry to survive in Hawaii."

Director Swindale also added that the economic ills which the pineapple industry suffers from was outlined in a seminar under the leadership of Lt. Governor George Ariyoshi.* The Pineapple Growers Association later announced that the PRI will close down effective June 1, 1973. With pineapple being grown on only

63,000 acres, or 1.7 percent of the total land area, the processed value of this fruit for Hawaii was \$137 million. A work force of 6,200 year-round workers earned \$42 million in annual wages and another 12,000 seasonal workers earned \$10 million per year. These figures established pineapple as the State's second largest agricultural industry.

Pineapple remains an essential commodity of Hawaii's economy and should remain competitive in Mainland markets when priced and matched with foreign competition. The PRI also gained worldwide status for the two outstanding departments contained within, Plant Pathology (plant diseases) and Nematology (plant worm parasites). However, these goals cannot be reached or continued without further research or study.

For these reasons, your Committee endorses continued study in the pineapple industry and recommends the transfer of necessary equipment, supplies and staff from PRI to the University.

The PRI was once a strong arm of viable research of four major companies with a staff of 34 professionals. It has since been cut to four professionals supported by only two major companies, Del Monte Corporation and Maui Land and Pineapple Company. Dole Company presently conducts their own private research and Libby has ceased pineapple production in Hawaii.

A Pineapple Task Force composed of University and Industry members acts in an advisory capacity to the Director of HAES. O.V. Holtzman, heads its seventeen members whose specialties include research, extension and instruction. They have identified the following areas of research priority for immediate action:

1. Pesticides: clearance and studies of environmental fate of pesticides in plants and the soil.

*A report was released entitled "The Impact of Foreign Pineapple Production on the Hawaiian Pineapple Industry," Prepared by the Hawaii State Department of Agriculture, December, 1972, the many problems of, along with helpful recommendations for the industry were cited.

2. Waste management: Use of mill waste products for feed as well as agronomic management of crop residues.

3. Flower and fruit initiation: basic studies on biochemistry and morphology.

4. Post-harvest physiology and processing: studies on endogenous brown spot, etc.

5. Market development: studies on market development and consumer acceptance.

6. Plant-soil-water relations: study of movement of water and nutrients in soil, water quality, and efficiency of water use. To complement pesticide studies.

7. Plant nutrition, soil fertility, and mineral toxicity: to include role of minor elements in plants.

8. Control of plant pests: monitor industry for new insects, insect, nematode and plant disease control.

9. Develop models to maximize production: studies necessary to aid the smaller growers where extrapolation may not be possible from large plantation operation to smaller units of production. Information is not available at the present.

Other research areas were identified for inclusion in a long-term program of research on pineapple by HAES.

Extension

1. Consumer services and choice: to

complement and implement market development studies.

2. Production, economics, and management: develop models which allow estimates to be made for maximum productivity (see #9 on preceding page).

For 1972, PRI expended \$143,324 in its final year of existence before being dissolved. These monies covered departmental costs only, namely Nematology and Plant Pathology. The College of Tropical Agriculture (CTA) estimate future costs to run around \$100,000. But CTA requests \$250,000 in additional funds to be added to the present allocation of \$100,000 for a \$350,000 annual total. This amount is to be expended for this five-year program of research. The attached appendix reflects current and future costs.

Your Committee realizes the importance of continuing research in pineapple to enhance the State's economy. Should abatement of this industry occur at too fast a pace, the financial status of Hawaii would be seriously jeopardized. Your Committee hereby recommends a \$700,000 allocation to the College of Tropical Agriculture for the 1973-75 biennium.

Your Committee on Higher Education is in accord with the intent and purpose of **H. B. No. 1880**, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

Appendix

Cost Estimates:	Current and Continuing CTA Input		New Funds Requested			
	FTE	Support	First Year		Continuing Budget	
			73-74 Budget		Second through Fifth Year	
			FTE	Support	FTE	Support
1. Professional						
Researcher (R-3) – Maui	2.2	\$ 45,223.00	1.0	\$ 11,232.00	1.0	\$ 11,676.00
Specialist (S-3) – Maui			1.0	11,232.00	1.0	11,676.00
			2.0	22,464.00	2.0	23,352.00
2. Technical Assistants	1.0	9,805.00	4.0	38,400.00	4.0	39,936.00
Temporary Assistants (BOR & APT)	1.5	16,882.00				
Student Help		550.00				

Cost Estimates:	Current and Continuing CTA Input		New Funds Requested			
	FTE	Support	First Year		Continuing Budget Second through	
			73-74 Budget Support	FTE	Fifth Year Support	FTE
3. Agricultural Technicians	1.45	11,830.00				
Maui			1.0	7,344.00	1.0	7,716.00
Oahu			1.0	7,344.00	1.0	7,716.00
			2.0	14,688.00	2.0	15,432.00
4. Equipment						
Mulch, fumigant, and fertilizer tractor (used)				2,500.00		
Spray boom (used)				2,500.00		
2 Growth chambers				5,000.00		
Misc. equipment (shakers, rotators, glove boxes, etc.)				3,000.00		
				13,000.00		
5. Land Rental				2,500.00		2,500.00
6. Department & Branch Station Operations		12,723.00		30,000.00		30,000.00
7. Miscellaneous Costs—including development of new plot area		5,987.00		35,000.00		2,000.00
8. Travel Costs				1,500.00		1,500.00
Total Requirement		103,000.00		157,552.00		114,720.00*

*Total requirement 2nd through 5th year calculated in "constant" dollars.

**SCRep. No. 415 Higher Education on
H. B. No. 1342**

The purpose of this bill is to encourage and facilitate sound urban planning at the community level by providing for the continuation of those aspects of Resident Research and Planning Center deemed to be effective and appropriate for assumption by the University.

Your Committee heard testimony from C. Peairs Wilson, the Dean of the College of Tropical Agriculture, who stated that "some of the objectives of these centers are consistent with the role played by community development personnel of the Cooperative Extension Service. The functions of providing objective knowledge for the use of individuals and groups for their consideration in decision-making are completely consistent with the objectives of the Extension Service and of the University of Hawaii."

Your Committee also heard testimony from Bob Freitag on behalf of Dewey Allen, the Acting Deputy Director of the Of-

fice of Social Resources. Mr. Freitag spoke in favor of this bill saying that "the Center (Kalihi-Palama Resident Research and Planning Center) was established to provide residents with the necessary resources to research community problems and to develop and to implement strategies and plans designed to improve the environment of the Kalihi-Palama Model Neighborhood Area." Mr. Freitag further stated that the "Center's work has been evaluated by the City Demonstration Agency as being satisfactory both in terms of quality and quantity, and has accomplished all of the objectives set forth by the Agency."

Mr. Freitag reported to your Committee that if the University took over the program, it would cost \$50,000 per year, as compared to \$80,000 per year if the program remains under the auspices of the City and County of Honolulu. After considering the value and success of this program, your Committee recommends that an appropriation out of the general revenues of the State of Hawaii of \$100,000, or so much thereof as may be necessary, for the fiscal biennium 1973 to

1975 be made.

Your Committee on Higher Education is in accord with the intent and purpose of **H. B. No. 1342**, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. No. 416 Higher Education on H. B. No. 1549

The purpose of this bill is to appropriate monies from the State general fund for securing compliance with federal, State, County, and University laws and rules and regulations necessary to protect health and safety of faculty, staff, and students at the University of Hawaii, Manoa campus. The sums to be expended by the Board of Regents of the University of Hawaii.

Health and Occupational Safety

Dr. Donald F.B. Char, Director of Student Health Service and Coordinator of Health and Safety Program, testified that

a recent inspection by the State Department of Labor revealed that the University of Hawaii, Manoa is grossly deficient in many areas of industrial safety. **Senate Bill 147** will invoke the federal standards of Occupational Safety and Health Act which will subject the University of Hawaii, Manoa to punishment and fines.

Currently, Dr. Char and his staff can only monitor the radiologic health protection area with a staff member assisted by a student. Safety officers are being appointed within the faculty or staff for each unit or department on campus, and first aid training programs are being planned for these individuals. However, these efforts are inadequate and many laboratory workshops have serious health hazards. Lacking a skilled staff to educate and assist the community in this area of basic health protection, these hazards and defects will persist.

Dr. Char, therefore, requests an **additional** appropriation of \$84,938 for the biennium of fiscal years 1973-1975, the monies to be budgeted in the following manner:

	FY 73-74	FY 74-75
Occupational Safety and Health Officer	\$11,232	\$11,606
Steno III	6,048	6,348
Student Help	8,704	9,000
Other Current Expenses	12,000	12,000
Equipment	<u>6,000</u>	<u>2,000</u>
Total	\$43,984	\$40,954

This would bring the total expenditure for a minimal environmental health program to a total of \$137,780.

	FY 73-74	FY 74-75	FY 73-75
*Assistant Director of Environmental Health	\$13,656	\$14,208	
*Radiologic Health Officer	11,232	11,676	
Occupational Safety and Health Officer	11,232	11,676	
Steno III	6,048	6,348	
Student Help	8,704	9,000	
Operational Funds	12,000	12,000	
Equipment	<u>6,000</u>	<u>4,000</u>	
Total	\$68,872	\$68,908	<u>\$137,780</u>

*Current Services

Campus Security

Joseph Gordon, Director of Campus Security, said that campus security is charged with providing protection and security for persons and property at the Manoa campus on a 24-hour, seven day-a-week basis. This activity is presently staffed and funded as follows:

6 Regular, 2 frozen = 4 – General Funds
 5 Contract – Indirect Overhead
 6 Public Employment Program – Federal Funds
 15+ 2 frozen positions.

Beginning July 1, 1973, there will be no funds to continue the five contract positions. This will leave a staff of twelve, assuming that two of the six regular positions are unfrozen and the six Public Employment Program positions are continued, to adequately render security services.

Mr. Gordon informed us that without the contract positions, each security shift would be manned by two to three persons to patrol 250 structures, 226 acres of landscape, and unimproved land, and seven miles of roadways and various other off-campus facilities which would not be sufficient to meet the need for minimum security.

Mr. Gordon, therefore, recommends additional funds of \$82,000 for the biennium 1973-75 in order to continue the contract positions.

Thus, your Committee recommends an appropriation from the State general funds amounting to the sum of \$166,938, of which \$84,938 will be used for environmental safety needs and \$82,000 for campus security.

Your Committee on Higher Education is in accord with the intent and purpose of **H. B. No. 1549**, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. No. 417 Water, Land Use and Development on **H. B. No. 1754**

The purpose of this bill is to expand appeal procedures regarding special permits within agricultural and rural land use

districts.

At present, petitions for special permits are considered by the County Planning Commission, and if approved by the county, then are considered by the State Land Use Commission. If the County Planning Commission denies the petition, the matter stops there and is not forwarded to the State Land Use Commission. The petitioner may appeal to Circuit Court a denial by either the county or the State Land Use Commission.

This bill provided for establishment of a three-member land appeal board to be appointed by the governor, and specified procedures for this additional board to hear appeals. From testimony presented at a hearing on this bill, your Committee concluded establishing a new three-member appeal board is not the best solution and has amended the bill to delete those provisions. Your Committee thinks a better procedure is to have petitions denied by the County Planning Commission be appealable to the State Land Use Commission instead of stopping at the county level. This gives the petitioner the option of one additional appeal without resorting to court action. Your Committee has amended the bill accordingly to add the sentence, "A denial by the county agency is appealable to the commission." The existing statute provisions for appealing to circuit court a denial by either the county or the commission are retained.

The language of the bill as introduced was based on the law prior to amendments made by Act 136, SLH 1970. Your Committee has amended the bill so that the language conforms with the current statute. The title of the bill also was amended to reflect the expanded appeal procedure.

Your Committee on Water, Land Use and Development is in accord with the intent and purpose of **H. B. No. 1754**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 1754, H. D. 1** and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. No. 418 (Majority) Higher Education on **H. B. No. 1198**

The purpose of this bill is to repeal the Session Laws of Hawaii 1970, Act 187, Item 39, subheaded Institutional Support, subsection E, relating to the construction of a multi-story parking facility at the University of Hawaii Manoa campus.

According to Walter Muraoka, Director of Physical Planning and Construction, this item authorizes the University to issue revenue bonds for the incremental development specifically that of multi-deck parking facilities. Although Mr. Muraoka stated that the number of spaces provided by the repeal above would still not meet University needs, your Committee believes that immediate measures need to be taken to alleviate parking difficulties now presently experienced on the campus.

The Manoa campus has long had a problem of parking and pedestrian traffic flow. While the parking program activities, issues, and alternatives are adequately considered in Mr. Muraoka's testimony, the increase in parking fees from \$50 to approximately \$100 a year now contemplated warrants consideration of the benefits the users of these structures might accrue. We are thus submitting the educational benefit argument to substantiate funding of these multi-level parking structures, acknowledging at the same time the University commitment to an overall vehicular and pedestrian traffic plan.

We leave to your Committee on Finance the considerations of revenue bonds and necessary income accrued by the State general fund.

Your Committee on Higher Education is in accord with the intent and purpose of **H. B. No. 1198**, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

Representative Nakama did not concur.

SCRep. No. 419 Consumer Protection on **H. B. No. 310**

The purpose of this bill is to update the provisions of Chapter 466, Hawaii Revised Statutes, relating to public accountancy, by upgrading the educational requirements for licensing and certification of public accountants.

The bill amends existing law in six major respects as follows:

(1) The definition of public accountancy contained in the existing law has been deleted from the proposed bill. Under the existing law, the emphasis is placed on the performance concept, that is, a public accountant is defined on the basis of the type of work he performs for the public. In contrast, under the proposed bill, the emphasis is placed on a representation concept; that is, a public accountant is defined on the basis of the representation that he makes in holding out to the public as to his title and his professional knowledge.

(2) Under the proposed bill, all seven members of the Board will have full voice and vote on all matters to come before the Board. Under the existing law, the two Public Accountant members have voice but no vote on matters relating to Certified Public Accountants.

(3) The proposed bill is consonant with the current thinking on citizenship, residency, and age. Accordingly, it removes from the existing law the requirements of the United States citizenship and the State of Hawaii residency to become a Certified Public Accountant. It also lowers the age of an applicant for CPA examinations to 18 years from 21 years, as contained in the present law.

(4) The upgrading of educational requirements to sit for the examinations to become a Certified Public Accountant is proposed to be done in two steps under **House Bill No. 310**. Any CPA candidate, who files his application within five years following the enactment of **House Bill No. 310** will be processed under the conditions existing at the present time; that is, the only educational requirement to sit for the CPA examination is a baccalaureate degree. After the five-year period, any CPA candidate in applying for CPA examination must possess a baccalaureate degree and must have completed 30 semester hours of study in accounting.

(5) A new concept has been introduced in the proposed bill in requiring each Certified Public Accountant or a Public Accountant in public practice to obtain a permit in addition to renewing his CPA certificate of his PA registration, both to be done on an annual basis. Under the

existing law, the only requirement is that of renewing the CPA certificate or the PA registration, with a payment of a renewal fee of \$15.00. If the proposed bill is enacted into law, any CPA or any PA, who holds out to be in public practice, will be required to pay a sum of \$30.00; \$15.00 for his certificate or registration renewal and \$15.00 for a permit to practice.

(6) The proposed bill introduces another new concept, which has no counterpart in the existing law. This relates to the CPA or PA, who holds a permit to practice, to maintain a continuing education study as a condition for the annual renewal of his permit to practice.

The bill was endorsed by Representatives of the Hawaii Association of Public Accountants, Hawaii Society of Certified Accountants, Board of Accountancy and the Chamber of Commerce of Hawaii.

Your Committee on Consumer Protection is in accord with the intent and purpose of **H. B. No. 310** and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. No. 420 (Majority) Consumer Protection on **H. B. No. 483**

The purpose of this bill is to eliminate the four year high school education requirement for cosmetology licensure by amending Section 439-10 of the Hawaii Revised Statutes. The high school education requirement will be replaced by appropriate qualifications established by the Board of Cosmetology. This bill will also raise the age of apprentices and students from 16 to 18 years of age as a prerequisite to registration.

Your Committee on Consumer Protection is in accord with the intent and purpose of **H. B. No. 483** and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

Representative Medeiros did not concur.

SCRep. No. 421 Human Rights on **H. B. No. 395**

The purposes of this bill are to amend section 536-11, Hawaii Revised Statutes, and to repeal section 536-12, Hawaii Revised Statutes.

At present section 536-11, Hawaii Revised Statutes, provides for the revocation of a will whenever a testator dies after making the will and either has a child born to him or adopts a child and the will does not provide for such contingency.

On the other hand, section 536-12, Hawaii Revised Statutes, provides for the revocation of a woman's will upon her marriage subsequent to execution of the will and also states that her husband's death does not revive the will. Thus, the effect of sections 536-11 and 536-12, Hawaii Revised Statutes, is to discriminate unreasonably against women.

Under the amendment to section 536-11, Hawaii Revised Statutes, whenever a person marries after making a will which does not provide for such contingency, the will is revoked by operation of law and is not revived by the death of his spouse. The amendment deletes birth or adoption of a child as part of the contingency. The intent of the amendment is to apply the same condition, to wit, marriage, to both male and female. In view of the amendment to section 536-11, Hawaii Revised Statutes, section 536-12, Hawaii Revised Statutes, is not necessary.

Your Committee on Human Rights is in accord with the intent and purposes of **H. B. No. 395** and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 422

Legislative Management informing the House that **House Resolution Nos. 378 to 384**, **House Concurrent Resolution Nos. 96 and 97**, **Standing Committee Report No. 21**, and **Standing Committee Report Nos. 423 to 452**, have been printed and distributed.

Signed by all members of the Committee.

SCRep. 423 Education on **H. B. No. 831**

The purpose of this bill is to appropriate out of the general revenues of the State of Hawaii a certain sum for the establishment of a special education program for the retarded and emotionally disturbed children.

Your Committee on Education is in accord with the intent and purpose of **H. B. No. 831** and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 424 Education on H. B. No. 511

The purpose of the bill is to appropriate out of the general revenues of the State of Hawaii a certain sum for the hiring of speech therapists in recommended proportions to the number of students at the Hawaii School for the Deaf and Blind.

Your Committee on Education is in accord with the intent and purpose of **H. B. No. 511** and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 425 Labor and Employment on H. R. No. 80

The purpose of this resolution is to authorize the House Public Employment Committee to conduct public hearings to determine:

1. The dimensions of military-generated employment in Hawaii;
2. The fluctuations of military-generated employment in Hawaii over the past ten years;
3. The number of Hawaii residents involved in military-generated employment in Hawaii; and
4. The effects of the Vietnam peace on employment in Hawaii.

Your Committee agrees that the dimensions of military-generated employment have not been precisely determined and that it is in the best interests of the people of Hawaii that they be aware of and pre-

pared for the wide fluctuations which appear inevitable in such employment.

Your Committee is of the opinion, however, that a problem of this magnitude is deserving of more than a few public hearings and should be the subject of a full-scale study. It has therefore amended the resolution and its title to request an interim study on the dimensions of and the problems related to military-generated employment in Hawaii.

Your Committee on Labor and Employment concurs with the intent and purpose of **H. R. No. 80**, as amended herein, and recommends that it be referred to the Committee on Public Employment in the form attached hereto as **H. R. No. 80, H. D. 1.**

Signed by all members of the Committee.

SCRep. 426 Public Welfare and Assistance on H. C. R. No. 23

The purpose of this Resolution is to request the United States Congress to support the recommendation of the Intergovernmental Relations Committee of the National Legislative Conference that the federal government assume on a phased basis the total cost of welfare cash assistance programs for families, the aged, the blind, the disabled and the present general assistance programs in the states.

Your Committee on Public Welfare and Assistance concurs with the intent and purpose of **H. C. R. No. 23** and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 427 Public Welfare and Assistance on H. C. R. No. 40

The purpose of this Concurrent Resolution is to request the Department of Social Services and Housing to conduct a study of entitlement of middle-income individuals to medical and general welfare benefits.

Middle-income individuals who suffer long-term disability frequently exhaust their public and private insurance benefits both as to income maintenance and medical costs and are still not eligible to claim

benefits from the Department of Social Services and Housing. This Concurrent Resolution seeks to revise eligibility standards so that an individual's contribution to the welfare and medical assistance programs relate to his qualifications for benefits.

Your Committee on Public Welfare and Assistance concurs with the intent and purpose of **H. C. R. No. 40** and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 428 Public Employment on H. B. No. 89

The purpose of this Bill is to amend Chapter 88 of the retirement law to include the widower in the survivor's benefits, where presently only the widow is specified.

Presently, if a member of the retirement system is killed in an accident while in the actual performance of duty, his designated beneficiary will receive the return of his accumulated contributions while his widow will receive a pension of one-half of the member's average final compensation until she remarries. This Bill would include the widower in the survivor's benefit if the member who dies happens to be a woman. Your Committee has made non-substantive changes for purposes of clarity.

Your Committee on Public Employment is in accord with the intent and purpose of **H. B. No. 89**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 89, H. D. 1** and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 429 Consumer Protection on H. B. No. 917

The purpose of this bill is to re-define the practice of barbering by prohibiting the use of chemicals by barbers unless they are properly trained.

Under the existing law barbers are permitted to wave the hair of customers. Permanent waving, however, is prohibited

as the practice entails the use of chemicals and completion of more sophisticated training. In the past such differentiation excluding permanent waving was adequate. With the change of hairstyling for men the standard is no longer appropriate since the use of chemicals for other purposes are being requested more frequently by customers. Your Committee believes that chemicals should be applied only by properly trained persons.

Your Committee on Consumer Protection is in accord with the intent and purpose of **H. B. No. 917**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 917, H. D. 1** and that it be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 430 Parks, Fish and Game Management on H. B. No. 1116

The purpose of this bill is to regulate the catching and selling of female crabs.

Your Committee recognizes that the prohibition of catching and selling female crabs as a management measure has been applied with success in many parts of the world, and that the desirability of such measure has been demonstrated by better yields where it has been tried.

Your Committee on Parks, Fish and Game Management is in accord with the intent and purpose of **H. B. No. 1116** and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 431 Human Rights on H. B. No. 118

The purpose of this bill is to repeal section 577-17, Hawaii Revised Statutes, which prohibits unmarried females under age sixteen from loitering on the streets of Honolulu or Hilo between the hours of 8 p.m. and 4 a.m.

Section 577-17, Hawaii Revised Statutes, unreasonably discriminates against women.

Your Committee on Human Rights is in accord with the intent and purpose of **H. B. No. 118** and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 432 Health on H. B. No. 154

The purpose of this bill is to authorize preparation of new birth certificates where corrections are required. At the present time, errors are lined through in red ink and the revised name or sex typed over it. As certified photostatic copies are prepared directly from the corrected records, they remain potential sources of embarrassment—particularly in the case of changed father's name, previously incorrectly designated sex, etc.

Your Committee has corrected an error requesting the surname to be used when none is specified. This is obviously a clerical error and the change requires the use of the mother's surname "unless the decree or request provides otherwise."

Your Committee on Health is in accord with the intent and purpose of **H. B. No. 154** as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 154, H. D. 1** and placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 433 Health on H. B. No. 1896

The purpose of this bill is to require examination of all persons over 10 years old and entering the United States through Hawaii as a permanent resident to undergo examination for tuberculosis and leprosy.

Your Committee on Health is in accord with the intent and purpose of **H. B. No. 1896** and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 434 Health on H. B. No. 47

The purpose of this bill is to authorize

the Department of Health to publish a public warning when unwholesomeness in food drugs and cosmetics is in contravention of law, and constitutes a hazardous condition. The bill also contemplates that a similar publication should be made when the condition has been conducted.

Your Committee on Health is in accord with the intent and purpose of **H. B. No. 47** and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 435 Judiciary on S. B. No. 141

The purpose of this bill is to specifically spell out the duties of the coroner's physician and the responsibility of the person responsible for disposition of human remains.

Your Committee finds that there is some confusion on the neighbor islands as to who is responsible for completing of death section of the death certificate of a person whose death comes under the coroner's jurisdiction. This has resulted in prolonged delay in completing the filing of the death certificate and the preparation and issuing of certified copies. These and other changes will make the coroner's law consonant with provisions of Chapter 338 of the Hawaii Revised Statutes.

Your Committee further finds that, pursuant to Act 9, L. 1972, Chapter 715 has been recodified as Chapter 741 effective January 1, 1973.

Your Committee on Judiciary is in accord with the intent and purpose of **S. B. No. 141** and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 436 Judiciary on H. B. No. 996

The purpose of this bill is to reduce the residential requirement for obtaining a divorce from one year to six months.

Your Committee makes a legislative finding that, for the purpose of public safety, health and general welfare, the

Legislature is mandated to it certain tasks, including the establishment of the residential requirement referred to above. Your Committee feels that the residential requirement for obtaining a divorce is necessary for the purposes specified above but believes that the one year requirement is too long and that six months is a more reasonable period of time.

Your Committee finds that the present law requires that a person must be physically present in the State for three months in order to file an application for divorce. However, no absolute divorce can be obtained unless that person has been physically present in the State for at least one year. Your Committee believes that for the protection of the public health, safety and welfare, the residency requirement of six months is not unreasonable and that this requirement is necessary in order to eliminate, inter alia, the possibility of fraudulent practices, establishment of a divorce haven, and so forth.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 996** and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 437 Judiciary on H. B. No. 168

The purpose of this bill is to amend the existing law to allow a police officer to arrest a driver under the influence of alcohol and to examination for blood or alcoholic content.

Presently, no arrest can be made unless one has committed a misdemeanor. But there are certain constitutional safeguards that must be provided for in making such an arrest.

Your Committee has amended this bill so that if a police officer has "reasonable grounds to believe" the person "found" driving or in actual physical control is under the influence of alcohol, that person may be arrested. Further, only if the person voluntarily and knowingly consents, can a blood test be given. Note, however, that if he refuses such test, under section 286-155, his driver's license may be subject to revocation.

The problem with this and other similar measures attempting to allow a police officer power to arrest for a misdemeanor is that constitutional safeguards must be retained. The common law rule, absent a statute, is that the police officer may arrest without a warrant one who has committed a misdemeanor in his "presence", thus requiring "found" be inserted. Many states have held as constitutional statutes which call for an arrest where an officer has "reasonable cause to believe" (equating same to "probable cause") that a misdemeanor is being committed in his presence.

It is your Committee's intent that by passing this measure it will act as a deterrent to those in the habit of overindulging or imbibing in intoxicating liquor to drive upon our streets and highways in order to reduce the number of traffic fatalities and for the protection of our citizens' health, safety and welfare.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 168**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 168, H. D. 1** and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 438 Judiciary on H. B. No. 82

The purpose of this bill is to provide a comprehensive law regarding unclaimed property.

The present law provides that once unclaimed property escheats (when property reverts to the state, normally for want of someone competent to inherit) to the state, the right of the owner is foreclosed and title to the property passes to the state. This Act provides that the state takes custody and remains the custodian in perpetuity but, the owner's right is not cut off. The owner, under this Act, may at a later time present his claim to the state and recover his property. By this Act, unclaimed property held by banks, financial institutions, business organizations, life insurance companies, utilities, courts, public agencies, and the like are covered.

This Act further establishes procedures such as reporting of unclaimed property,

the giving of notice to owners, payment into the custody of the state, and how the owner may present his claim.

Some of the advantages of this Act are that it would serve to protect the interests of owners, relieve holders from annoyance, expense, and liability, precludes multiple liability, and gives the state the use of some funds of money that would otherwise, in effect, become a windfall to the holders.

Your Committee has made several amendments to this bill. In sections -12(a) and -17(b), the amendments require that publication be made in "a" newspaper of general circulation. On page 25, all reference to sections 634-41 and 634-48 (relating to interpleader) has been bracketed and appropriate language substituted therefore. Similarly, "pursuant to section 634-41" appearing at page 27, line 3, has been bracketed. This is done since the interpleader sections were repealed by Act 89, L. 1972, and interpleader is now covered by the rules of court.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 82**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 82**, **H. D. 1** and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 439 Housing on H. B. No. 1877

The purpose of this bill is to curb speculation in today's residential real estate market by giving owner-occupants first priority in the purchase of new residential real estate units.

This bill will affect all new developments of residential real estate with a few minor exceptions. Under its provisions, the developer or his sales agent will be required to place a conspicuous notice in a newspaper of general circulation notifying the public at large that the development will go on sale at a certain time. In addition, the bill provides that owner-occupants will be given first preference for 90 days in the purchase of residential units.

Your Committee heard testimony on the necessity for this type of legislation from the Office of Consumer Protection. The

office testified concerning the extremely high prices of real estate in Hawaii and the extent to which such prices are caused by speculation. It was pointed out to your Committee that because of the extreme housing shortage in Hawaii, knowledgeable individuals buy residential real estate as an investment fully intending to turn around and resell it at huge profits. The practice has proven so profitable that it is fair to make a general statement that today almost all residential real estate in Hawaii is treated as an investment rather than as a place to live. The unhappy result of this speculation has been a staggering increase in the price of residential real estate such that the potential owner-occupant is priced out of the market.

This bill is designed to reduce the impact of the investor on Hawaii's real estate market. This result is achieved by giving the prospective owner-occupant first priority in the purchase of newly marketed residential real estate and ample notice that such real estate is in fact coming on the market.

In its testimony, the Office of Consumer Protection suggested minor amendments to this bill. This Committee agrees with these proposed amendments and, in addition, suggests a new definition entitled "Application." These amendments are as follows:

1. In Section 484A-1, a new definition entitled "Application" should be added. It reads as follows:

"'Application' means a request to purchase an interest in residential real estate whether by an application form, real estate contract (D.R.O.A.) or otherwise."

2. In the definition of "Development" in Section 484A-1, the word "residential" should be inserted between the word "in" and the word "real estate."

3. In the first and second lines of Section 484A-3, the words "subdivided lands or the transaction" should be deleted, and the word "development" should be substituted therefore.

4. In Section 484A-4, on page 4 on the fourth line, the word "in" should be deleted, and the word "on" should be substituted therefore.

5. In Section 484A-5, on the second line, the word "residential" should be inserted between the word "all" and the word "interests", and the phrase "in residential real estate" should be deleted.

6. On the seventh line of the same section, the words "one full month" should be deleted, and the words "90 calendar days" should be substituted therefore.

7. On the thirteenth line of the same section, the word "calendar" should be inserted between the number "30" and the word "days".

8. A new section numbered 484A-10 entitled "Severability" is inserted after Section 484A-9. This section reads as follows:

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

Your Committee on Housing is in accord with the intent and purpose of **H. B. No. 1877**, as amended herein, and recommends that it pass Second Reading and be referred to the Committee on Judiciary in the form attached hereto as **H. B. No. 1877, H. D. 1**.

Signed by all members of the Committee.

SCRep. 440 Judiciary on H. B. No. 1340

The purpose of this bill is to appropriate funds to continue a demonstration project aimed at altering the behavior of school dropouts and law violators in the Kalihi-Palama and Waianae areas.

Your Committee held a hearing on this measure and heard testimony urging the continuation of this program.

Your Committee finds that the continuation and support of this program will help those communities involved. This request is made because of the uncertainty surrounding the H.U.D. funds for this program and State funds for both this and other Judiciary programs and the projected cost of the program for the 1973-

1975 biennium is \$287,548.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 1340**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. 1340, H. D. 1**, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 441 Judiciary on H. B. No. 1802

The purpose of this bill is to appropriate funds to provide for the continuation of the legal aid program.

Your Committee finds that because of uncertainty surrounding the availability of federal funds for the continuation of the Hawaii Legal Service Project of the Legal Aid Society of Hawaii through June 30, 1974, an appropriation is needed to maintain the program until the federal funds arrive. It is provided in this Act that, upon receipt of such federal funds the State shall be reimbursed any amount of the appropriation expended in excess of \$58,515.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 1802** and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 442 Judiciary on H. B. No. 1386

The purpose of this bill is to establish the independence of the Judiciary Branch of government in the matter of budget control and from the Executive Branch. This bill retains legislative security of such budget.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 1386** and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 443 Judiciary on H. B. No. 2028

The purpose of this bill is to authorize

the Department of Education and the University of Hawaii to enter into agreements with their employees to withhold portions of their salaries for purpose of their exclusion from the state income tax.

The effect of this bill will permit such employees to take full advantage of the exclusion allowance provided under the Internal Revenue Code. It will also encourage such employees to formulate their own plans toward retirement, and will thereby promote sound domestic economy.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 2028** and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 444 Judiciary on H. B. No. 2027

The purpose of this bill is to defer from state income tax annuity premiums withheld or paid by employees of the Department of Education and the University of Hawaii to the same extent as permitted by the Internal Revenue Code.

Your Committee notes that the effect of this bill would enable a teacher or employee of the Department of Education and the University of Hawaii to receive a deferral in that portion of his salary used by his employer to purchase a retirement annuity. Such deferment of the tax effect will encourage such employees to formulate the future financial course of their lives and this will have a salutary effect.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 2027** and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 445 Judiciary on H. B. No. 1490

The purpose of this bill is to amend Chapters, 11, 12, 15 and 16 of the Hawaii Revised Statutes to classify all workers in an election as "precinct officials".

There presently exists little distinction in terms of performance required between

an election inspector and an election clerk. They generally perform the same type of work. However, under our statutes, an election inspector is paid \$35 while an election clerk is paid \$30. As a result, animosity and friction is created.

In order to eliminate this classification this bill proposes to consolidate inspectors and clerks into one category, "precinct officials". Your Committee has amended this section further to reduce the compensation to \$32.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 1490**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 1490, H. D. 1** and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 446 Judiciary on H. B. No. 1349

The purpose of this bill is to make appropriation to extend legal representation to Model Neighborhood Area residents and groups beyond the federally funded demonstration period ending June 30, 1973.

Your Committee has amended the original form of the bill to provide the specific amount of \$30,000.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 1349**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 1349, H. D. 1** and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 447 Judiciary on H. B. No. 1173

The purpose of this bill is to provide two law clerks for the Chief Justice of the Supreme Court of the State of Hawaii.

Your Committee notes that widened responsibility has been placed in the course of recent years upon the Chief Justice — most particularly, in conjunction with the activities of the Judicial Council. It is recognized that without adequate support

in the area of legal research the Judicial Council would be greatly handicapped.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 1173** and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 448 Judiciary on H. B. No. 476

The purpose of this bill is to permit the courts to waive court costs in the case of persons represented by court appointed counsel.

Your Committee recognizes the plight of indigent persons. The courts presumably would not appoint court appointed counsel if the person in question was not in financial difficulty. To remove the obstacle of court costs for such persons appears to this Committee to be a simple matter of common sense.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 476** and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 449 Judiciary on H. B. No. 15

The purpose of this bill is to revise section 657-38 to impose an added restriction upon those claiming title by adverse possession.

Because of the importance of **H. B. No. 15**, and a companion measure which would completely abolish title by adverse possession, your Committee held two hearings on this bill.

Some of the justifications for the continued maintenance of adverse possession are that it serves as a stimulant to full utilization of land, that it protects the expectations of both the possessor and the community, that it aids in cutting off stale claims apt to be invested with fraud or perjury, and more often than not, it is a device which continually clears up errors in prior conveyances and thus supports the integrity of the title system. It is the

latter that perhaps is the mainstay for the retention of adverse possession.

It has been stated that the purpose of adverse possession is not to take property away from someone who is entitled to it, but rather to perfect the title of the person who is in possession and for all practical purposes the owner so as to permit the sale or mortgage or development thereof. It has also been stated that the acquiring of title by adverse possession is primarily to quiet title for the person in long possession, not to penalize an owner who has slept on his rights. Discarding the niceties and looking at the situation realistically, the legal effect, no matter how it is phrased, is to effectively cut off the true owner's right, title and interest to the property claimed.

The acquisition of title by adverse possession has a common law root, the doctrine of disseisin — if a true owner was ousted (another took possession claiming a freehold interest) the disseisor was considered the owner subject only to the disseisor's cause of action and right of self-help, which were not assignable and could only pass by descent.

In Hawaii, a modified version of this concept is embodied in various sections of the Hawaii Revised Statutes, specifically chapters 501, 657 and 669. Section 669-1(b) provides that any person may bring an action to establish title who has been in possession of the real property for not less than ten years. Section 657-31 bars any person from recovering possession of any lands unless he has brought the action within ten years after the right to bring the action first accrued. Section 657-38 deals merely with what constitutes possession.

Realizing the modern day justifications for the retention of adverse possession, your Committee recognizes both the beneficial aspects of its retention and also the detrimental effect it does have as to the true owner of the real property.

Your Committee has amended this bill as to section 657-38 so as to require that one claiming title by adverse possession must show that, in addition to having been in continuous open and peaceable possession, at the time he gained possession he was acting in "good faith". The requirement of "good faith", though it has been variously defined by different courts and there seems to be no general consensus

among the authorities, it is intended by this bill to require that the person claiming title must believe that he has some claim of right, title, or interest in or to the lands, and that something must exist upon which such belief of claim is based. Good faith will be presumed until the contrary is shown.

Your Committee has amended this bill as to section 665-3, which deals with real property which escheats to the state by law, by modifying the present requirement to include "good faith".

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 15**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 15**, **H. D. 1** and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 450 Judiciary on **H. B. No. 1094**

The purpose of this bill is to update section 471-4, Hawaii Revised Statutes.

Your Committee held a hearing on this measure and received testimony from the Board of Veterinary Examiners.

This bill is primarily a housekeeping measure designed to delete language no longer applicable and establish conformity with present practices of the Department of Regulatory Agencies. The proposed amendments provide for the selection of a chairman and a secretary. The treasurer has been deleted since this office has been abolished. It further provides for an executive secretary, assigned by the Department of Regulatory Agencies, to have charge of books and records required to be kept by the board.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 1094**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 1094**, **H. D. 1**, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 451 (Majority) Transportation on

H. B. No. 12

The purpose of this bill is to prohibit the dangerous practice of displaying movable signs to attract the attention of the motoring public along our highways.

As stated in **Standing Committee Report No. 111**, your Committee purportedly amended the original bill so its provisions will clearly proscribe only such sign holding activities which attempt to distract motorists. It was, however, brought to your Committee's attention that the language of **H. B. No. 12**, **H. D. 1**, contrary to the intention of your Committee, will affect other well established activities such as picketing in labor disputes which are not only protected by, but also subject to the rigid controls of other prevailing law.

Your Committee, therefore, has abandoned its attempt to draft a general law designed to outlaw all sign holding activities that distract motorists. It believes that the matter should be carefully considered on a case by case basis. The intent is to review each activity separately and either regulate or prohibit a specific activity if it is found to be unreasonable.

Consonant with the rationale expounded, your Committee has amended **H. B. No. 12**, **H. D. 1** by making its provisions applicable only to campaign activities. Although the language of the original bill permitted consideration of other sign holding activities, all testimony were directed to sign holders engaged in political campaigning, and based on the evidence adduced the Committee's recommendation is unequivocally justified.

Finally, your Committee believes that its proposal is not without precedent. In 1957, campaign activities on the streets and other areas were prohibited within 300 feet of the polling place. The distance was increased to 1,000 feet in 1965. In 1966, placements of fixed or immobile campaign signs within 660 feet of a state highway were outlawed. From a public health and safety standpoint, it appears the use of **movable** signs as recommended herein deserves equal, if not more urgent, consideration by the Legislature.

Your Committee on Transportation is in accord with the intent and purpose of **H. B. No. 12**, **H. D. 1**, as amended herein, and recommends that it pass Third Read-

ing in the form attached hereto as **H. B. No. 12, H. D. 2.**

Signed by all members of the Committee.

Representatives Hapai and Wong did not concur.

SCRep. 452 Judiciary on H. B. No. 1005

The purpose of this bill is to amend provisions of Chapter 437, Hawaii Revised Statutes, to improve certain features in the regulation of the motor vehicle industry.

Your Committee has heard the supporting testimonies of Deputy Attorney General Tany Hong and of Mr. Clinton K. L. Ching, counsel for Hawaii Auto Dealers Association and the National Auto Dealers Association. We understand that this bill is a product of considerable research and conferences by industry and governmental representatives, and that the Department of Regulatory Agencies concurs with this bill.

One feature of the bill is directed to the relationship between the manufacturers and dealers, with emphasis on the concept that the manufacturers shall not coerce a dealer to perform matters that are not within the "reasonable requirements of the franchise."

Another feature provides that the compensation due the dealer upon improper cancellation or failure to review a franchise shall include the going value of the business.

The bill also amends Section 437-39, to make it clear that the board may enforce the law in this area by seeking injunctive relief. However, this amendment is not intended to deprive aggrieved parties from seeking similar judicial relief as may be available to him.

Finally, the bill provides for more effective protection of the public by permitting the licensing agency to act *ex parte* to prevent fraud or immediate threat to personal safety.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 1005** and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. No. 453

Legislative Management informing the House that **House Resolution Nos. 385 to 396**, and **Standing Committee Report Nos. 454 to 465**, have been printed and distributed.

Signed by all members of the Committee.

SCRep. No. 454 Judiciary on H. B. No. 20

The purpose of this bill is to prohibit the sale of "handguns" and replicas of firearms.

Your Committee has redrafted this bill and reworded the purpose clause to reflect the intent of your Committee. Your Committee has also amended the title of the bill to read: "A BILL FOR AN ACT RELATING TO SALES OF HANDGUNS, AND OF REPLICAS OF FIREARMS".

The law presently prohibits the sale or acquisition of machine guns, submachine guns, rifles with barrel length less than 16 inches, shotguns less than 18 inches, cannons, and so forth.

First, this bill is designed to also prohibit the sale or acquisition of "handguns". These handguns, often referred to as "Saturday night specials", are small-caliber handguns priced at very low prices so that anyone may purchase them. The problem with these handguns is that they are reportedly unreliable and unsafe, being made or manufactured of cheap or crude material. It has been stated that these "Saturday night specials" have been used by a great number of criminals in committing crimes because of their low-price and ready availability. It is the intent of your Committee, by passing this legislation, to curb the availability of these handguns. Of the five recent homicides on Oahu, four involved the use of firearm, and one of which, was reportedly a handgun. It should be noted that the various gun clubs testifying before your Committee were in favor of a handgun control measure.

Second, this bill is designed to prohibit the sale of replicas of firearms. It has been brought to the attention of your Com-

mittee that because of the near or exact likeness of these replicas to a firearm it is almost impossible for a victim of a crime, at the time of its commission, to determine the true nature of the instrumentality. Looking down the barrel of a gun or replica by a person who reasonably believes it in fact to be a gun, may cause serious emotional and other psychological problems. Your Committee feels that for the protection of the public health, safety and welfare, the sale of these replicas should be prohibited.

Your Committee recognizes the need to define what is meant by a "replica of a firearm". Borrowing in part language found in chapter 481A, Hawaii Revised Statutes (Unfair Deceptive Trade Practices Act), your Committee has provided a definition which will, in its operational effect, permit adequate distinction between an undeniable "replica" and an obvious "toy". The thrust of the definition is focused on whether or not the item in question is "so nearly in appearance as to tend to cause likelihood of its confusion with a firearm". In the event of prosecution for sale of a replica, it is intended that both the prosecution and defense should have a fair crack at proving or disproving this element as a factual question to be decided by the trier or triers of fact.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 20**, as amended herein, and recommends that it pass Second Reading in the form attached as **H. B. No. 20, H. D. 1** and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. No. 455 Judiciary on H. B. No. 880

The purpose of this bill is to establish a time limit within which medical malpractice actions may be brought.

Under present law there is no real limitation on the time within which a medical malpractice action must be initiated. That is, the cause of action in these cases does not accrue until the injured person discovers, or through reasonable diligence should have discovered, the injury. At one time malpractice actions were held to the same two year statute of limitations as any other tort action. The cause of action

accrued upon the date of the accident, or in malpractice cases, the date of the alleged operation. This meant that unless the action was initiated within two years from the date of the injury, the claimant would be barred from bringing such an action.

However, some years ago the supreme court held that in these malpractice cases an exception should be made. Many times it would be impossible for the injured person to discover the alleged malpractice until some time after the usual two year statute of limitations. This being so, until he discovers that a wrong has been committed against him, he should not be held to the same strict tort statute of limitations.

The practical effect of this decision was to increase the cost of malpractice insurance. This was necessitated by the fact that insurers were required to hold in reserve funds for an indeterminable period of time. With the increase in premiums, costs to patients reportedly increased.

This bill proposes to limit the time within which the action may be initiated to six years after the date of the operation or two years after the injured person discovers the injury, whichever occurs sooner. Testimony presented indicated that this would have a tendency of lowering the cost to doctors of maintaining malpractice insurance in that insurers could hold their reserves for a fixed period of time. It should not be inferred, however, that this will cause a decrease in costs to patients. However, it is a possibility.

Your Committee believes that the six year limitation wherein a medical malpractice action may be brought is reasonable. It was also brought to your Committee's attention that oftentimes, because of passage of a great number of years, records are either destroyed or lost, people pass away and the question of proof becomes difficult if not impossible. Six years should provide the person allegedly injured sufficient time to discover whether he has suffered any injury at all, and while memories are still fresh, records still available and reasonable means of proof still exist.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 880** and recommends that it pass Second Reading and be placed on the

calendar for Third Reading.

Signed by all members of the Committee.

SCRep. No. 456 Labor and Employment on H. R. No. 161

The purpose of this resolution is to request the Cost of Living Council to promptly consider and render decisions on petitions for approval of wage increases negotiated in Hawaii's construction industry.

The wages of construction workers have been subject to control under President Nixon's Economic Stabilization Program since 1971 and under Phase III of said program negotiated wage increases in the industry are still subject to approval by the Cost of Living Council before they can be paid.

Your Committee has been informed that there are construction workers in Hawaii whose petitions for approval of wage increases negotiated in 1971 and 1972 are still pending before the Cost of Living Council. These delays have caused undue hardship for both workers and employers in the construction industry and prompt decisions should be made on these long-pending petitions.

Your Committee on Labor and Employment concurs with the intent and purpose of H. R. No. 161 and recommends its adoption.

Signed by all members of the Committee.

SCRep. No. 457 Housing on H. R. No. 307

The purpose of this resolution is to insure that residents displaced by the redevelopment of Chinatown will be able to return and afford to live in newly-constructed units in the Pauahi District, which is the site of the first increment in the redevelopment of Chinatown. Moreover, this resolution intends to avoid the reoccurrence of redevelopment projects that have demolished the units of poor and elderly persons without providing substitute units for them.

Your Committee recommends an amendment for the purpose of specifying the need for a written guarantee of the return of the Chinatown residents to the

Pauahi District no later than three months after completion of suitable housing units and of indicating that the prices of these units shall be no more than twenty-five per cent of the gross income of the occupant(s).

Your Committee on Housing is in accord with the intent and purpose of H. R. No. 307 as amended herein and recommends its referral to the Oahu Select Committee in the form attached hereto as H. R. No. 307, H. D. 1.

Signed by all members of the Committee.

SCRep. No. 458 Higher Education on H. B. No. 1320

The purpose of this bill is to enable senior citizens, sixty years of age and older, to enroll in credit and non-credit courses at the University of Hawaii and its Community Colleges without payment of tuition, required textbooks or fees. The sum of \$50,000 to be appropriated out of the general funds of the State of Hawaii is requested for this program. These funds shall be expended by the University of Hawaii.

Further Provisions

Under this bill, senior citizens who enroll in these classes shall be accepted in any credit or non-credit class if space is available. No special senior citizen classes or sections may be established. The instructor shall have sole authority to determine whether or not senior citizens have the prerequisites necessary for enrollment in the class. To be eligible for coverage under this bill, an individual must be sixty years of age on or before the month of registration for the class or classes in which he wishes to enroll.

The provisions of this bill are the result of the Hawaii Post-White House Conference on Aging held in October, 1972. They have been given highest priority for support by the State Commission on Aging, according to its Director Renji Goto.

Mr. Goto stated that this bill would allow senior citizens to engage in meaningful activity not possible now. Many are barred from higher education because of limited or fixed incomes and are unable to pay tuition, textbook costs, and fees. There is

a need, moreover, to find ways in which these older people can use their leisure time creatively and constructively. Mr. Goto said that the State of Hawaii has increased numbers of healthy, capable older people. Their past contributions to the development of the State warrant State funding of their present educational opportunities.

Mr. Goto's testimony was confirmed by other officials working with senior citizens who pointed out the need for expanding higher education to this specific clientele.

Needs and Rationale

George V. Moorhead, President of the Hawaii Public Health Association, stated that the physical and mental well-being of our senior citizens should have a high priority within our value system. University and Community College experience can do much to increase the quality of life for our senior citizens. Intellectual updating coupled with their years of experience makes them extremely valuable consultants to the community.

Cecil K. Dotts from the Hawaii State Retired Teachers Association added that not only would educational experiences enable senior citizens to feel more useful in our society, but they would be less of a financial burden as well. Their education might open unforeseen employment opportunities.

Grace M. Terranella, American Association of Retired Persons; Dr. Anthony Lenzer, Associate Professor of Public Health and Human Development at the University of Hawaii and Chairman of the University Gerontology Planning Committee; and Christian S. Nakama, Executive Director of the Honolulu Committee on Aging, concurred with these statements.

Harry Takara, also a member of the State Commission on Aging, personalized the desire senior citizens have for higher education. He said that the elderly, many of whom are retired, have fixed incomes and cannot afford the additional expense of higher education. Some provisions for free tuition, books, and expenses, therefore, become urgent.

Although your Committee sees the need for providing the elderly with more educational experiences, we also recognize the

enrollment crunch being felt on all of the University of Hawaii campuses. There are, moreover, qualifications that ought to be made with respect to University tuition policies. We base our recommendations primarily on testimony by Dean of Students at the University A.L. Ellingson.

Qualifications About Tuition

Dean Ellingson said that the University anticipates no difficulty in accommodating senior citizens who wish to avail themselves of the opportunity provided by this bill. However, the University recommends that for regular programs of the University of Hawaii at Manoa, Hilo College, and the community colleges, tuition waivers rather than direct grants should be provided since the former are credited to the general State fund. Tuition waivers are foregone income while grants simply transfer money from one general fund account to another. As such, tuition waivers ought not to be counted as part of established campus quotas. Dean Ellingson further stated that in self-supporting programs as Summer Sessions and Continuing Education, the tuition charged for qualified senior citizens would be received from the \$50,000 fund appropriated in this bill.

Estimates on Enrollment and Costs

At present, Ellingson elaborated, the University cannot accurately estimate the total cost of grants for Summer Sessions and Continuing Education tuition and for textbooks and activity fees. Continuing Education, probably the most expensive, would range from \$75 to \$225 per semester depending on credit hour load. The University roughly estimates on an anticipated 500 course enrollment at an average cost of \$75 or total cost of \$37,500. However, the University suggests that the appropriation be set at \$50,000 for 1973-74 in case of underestimated numbers. The "foregone income" of tuition waivers is estimated at less than \$11,000. Costs for administering this program primarily associated with verification of eligibility and the billing process for textbooks and activity fees as well as the tuition billings for Summer Session and Continuing Education are roughly estimated at \$3 per course, or a total of \$1,500.

Amendments

Your Committee upon consideration of

this bill recommends the following amendments as suggested by the University:

1. Section one of the bill relating to eligibility be amended to provide a restriction to those senior citizens who are classified as residents by the University.

2. Section two of the bill under the definition of texts, should be amended to allow for non-exemption of rental fees for required equipment.

Ellingson informed your Committee of the University's intentions to submit, at a later date, a detailed report listing specific costs and projected enrollment figures for this program.

Anticipated Problems

Your Committee is aware of peripheral problems that may have to be dealt with especially in student services. For example, adjustments in the present stringent admissions policies may have to be considered as interested senior citizens may not meet present admissions standards.

Your Committee on Higher Education is in accord with the intent and purpose of **H. B. No. 1320**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 1320, H. D. 1** and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. No. 459 (Majority) Higher Education on H. B. No. 1523

The purpose of this bill is to create a non-profit corporation for the construction and maintenance of an observatory on Mauna Kea on the Island of Hawaii. The object for which this corporation is organized is to increase our knowledge and understanding of the universe by researching and studying the celestial bodies that surround the Earth.

Your Committee heard testimony from the president of the University of Hawaii, Harlan Cleveland, and Deputy Attorney General Thomas Wood about the proposed non-profit corporation.

The three agencies in the corporation shall be the Centre National De La Re-

cherche Scientifique of France, the National Research Council of Canada, and the University of Hawaii. On February 20, and 21, 1973, meetings were held with the three agencies, and the outcome of these meetings was a draft of a Memorandum of Understanding. The three agencies have agreed to the Memorandum, subject to the approval of their respective governments.

The Memorandum of Understanding contains, in summary:

1. The description of the optical telescope, laboratories, equipment and installations necessary;

2. The projected total capital cost is estimated on February 1, 1973, at 91 million francs;

3. The French and Canadian agents shall make available assets and sums necessary for the completion of the construction of the telescope, its basic instrumentation, its dome and associated buildings;

4. The University shall make available the land, roads and such ancillary services as may be agreed upon by the three agencies as being necessary for the operation of the project;

5. After completion of construction, the three agencies shall contribute annually funds up to the value of five million francs in the proportion of the French 42.5 percent, the Canadians 42.5 percent, and the University 15 percent;

6. Before the end of the construction phase, some costs may be incurred, and these costs will be shared in the same proportions; however, in consideration of the other operating contributions made by the University, no contributions will be expected from the University before July 1, 1975;

7. In consideration of their respective contributions, the three agencies shall receive equitable interest in the Corporation as follows: France — 42.5 percent, Canada — 42.5 percent, University of Hawaii — 15 percent;

8. In order to commence the construction of the telescope and its ancillary installations as soon as possible, the agencies agree to establish an interim organization

composed of an interim Board of Directors, an interim Advisory Council on Science and Technology, a Project Officer and an Associate Project Officer;

9. Maximum use shall be made of French and Canadian industrial capacity in the design and construction of the telescope, its basic instrumentation, its dome and associated buildings;

10. With regard to customs, duties and taxes, the three agencies shall ask their governments to assist to the extent possible in facilitating the realization of the project;

11. Each agency will request its government to facilitate the free movement and residence of persons who are participating in the project, as well as their families and effects;

12. Until the establishment of the Corporation, each of the agencies agrees to meet the travel and maintenance cost of its representatives engaged in activities associated with the project;

13. Their respective contributions entitle the agencies to averaged observation time in the following proportions: France — 42.5 percent, Canada — 42.5 percent, University of Hawaii — 15 percent.

Your Committee heard testimony from Deputy Attorney Thomas Wood concerning the legal aspects of this bill. Mr. Wood offered some amendments to the bill to insure that the State's interest in developing international cooperation in scientific undertakings of this nature will be fulfilled. Your Committee recommends that Mr. Wood's amendments be incorporated into **H. B. No. 1523** as follows:

1. Add to Section 1 a subsection reading as such: a) Notwithstanding any other law to the contrary, the director of regulatory agencies shall grant a charter of incorporation to the Centre National de la Recherche Scientifique of France, the National Research Council of Canada, and the University of Hawaii to be known as the France-Canada-Hawaii Telescope Corporation, upon their filing a petition in conformity with section 416-20 for the establishment and conduct of a private non-profit corporation to design, construct, install, and operate an optical telescope on Mauna Kea on the Island of Hawaii, in-

cluding the performance of services ancillary thereto; provided that the Corporation shall be under the general management and control of the board of directors which:

a) Shall consist of not less than five directors who shall be named by the members of the corporation in the manner provided for by the bylaws, provided at least one of the directors is named by the University of Hawaii;

b) Shall exercise all the powers of the corporation except such as are conferred by law or by the bylaws of the corporation upon the members of the corporation;

c) Shall have the power to function whenever there are sufficient directors present to form a quorum as may be provided for in the bylaws;

d) Shall make its decisions in the manner provided for by the bylaws, provided at least one of the directors named by each of the members of the corporation joins in that majority.

2. Delete the substance of Section 2 and replace it with: Any provision of the Charter or the bylaws of the corporation inconsistent with the foregoing provisions shall be of no effect.

3. Delete the substance of Section 3 and replace it with: Except as hereinabove provided, the corporation created under the authority of this section shall be subject to all general laws enacted in regard to non-profit corporations.

4. Add a Section 4 to read as follows: This Act shall take effect at such time as the above-named entities shall name their representatives who will serve on the Board of Directors of the corporation which is to be created by this Act.

Your Committee on Higher Education is in accord with the intent and purpose of **H. B. No. 1523**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 1523, H. D. 1** and be referred to the Committee on Finance.

Signed by all members of the Committee.

Representative Carroll did not concur.

SCRep. No. 460 Water, Land Use and Development on **H. B. No. 1321**

The purpose of this bill amends Section 213(b) of the Hawaiian Homes Commission Act, 1920, by increasing the maximum the Department of Hawaiian Home Lands may guarantee the repayment of or otherwise underwrite an authorized loan from \$20,000 to \$25,000.

It has been found by the Department of Hawaiian Home Lands that keeping within the \$20,000 maximum in guaranteeing or underwriting loans has been virtually impossible with present 4 bedroom units priced at \$18,500, not including an average cost of at least \$1,000 for cesspool requirements and an additional 10 percent cost for an inflationary compensation.

After consideration of this bill, your Committee feels that an urgent need exists for an increase in the maximum ceiling to provide homes commensurate to family size in an economic climate of increasing construction cost.

Your Committee on Water, Land Use and Development is in accord with the intent and purpose of **H. B. No. 1321** and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. No. 461 Housing on **H. B. No. 1104**

The purpose of this Act is to amend Section 359G-11.1, Hawaii Revised Statutes, to allow community associations incorporated as nonprofit corporations under Chapter 416 to apply for interim construction loans from HHA for low and moderate income housing projects.

Chapter 359G has heretofore not allowed the Housing Authority to extend loans to nonprofit community associations from the proceeds of bond sales. As a result community organizations like the Hawaii Council for Housing Action have not been able to become effective alternatives to State-sponsorship of private developments. The ability of private, nonprofit development corporations to obtain low interest construction loans from the State should serve as a stimulant to the production of

units that will be priced at cost rather than at fair market value.

Your Committee on Housing is in accord with the intent and purpose of **H. B. No. 1104** and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. No. 462 Housing on **H. R. No. 230**

The purpose of this Resolution is to request the Hawaii Housing Authority to consider the implementation of an elderly housing project to be located adjacent to the sixty lot subdivision now being developed by the Department of Land and Natural Resources. Because of the changes in the economic structure of the Kohala community, your Committee feels that it is necessary for the State to make housing assistance available to the elderly in an effort to avoid the relocation presently threatening them. Thus, the objective of the housing project is twofold: the alleviation of a housing shortage for the elderly and the retention of familiar community surroundings for these households.

During the hearings, your Committee heard testimony to the effect that the federal suspension of funding of low rent public housing means that no new units will be developed in Hawaii until the freeze is lifted. Your Committee wishes to urge the Hawaii Housing Authority to utilize all its powers and resources, including those of Act 105 of the 1970 Session Laws of Hawaii, to proceed with the development of low-rent public housing using State resources in place of federal funding. Your Committee encourages the Authority to report back to the 1974 Regular Session of the Legislature any problems it encounters in using State resources in place of federal funds and to recommend appropriate action to resolve all such problems.

Your Committee is in accord with the intent and purpose of **H. R. No. 230**, and recommends its referral to the Committee on Finance.

Signed by all members of the Committee.

SCRep. No. 463 Housing on **H. R. No. 231**

The purpose of this Resolution is to request the counties of the State to require that all future subdivisions include 10 to 20 per cent of their total units for the elderly and low and moderate income households.

Your Committee recognizes that current market conditions tend to isolate and segregate households of different socio-economic groups to the detriment of low and moderate income families who are forced to live in old and dilapidated housing. Furthermore, your Committee feels that this socio-economic segregation also has negative ramifications for the community as a whole. This is due to the concentration of these households in specific areas without access to decent shelter. The provision of housing for these people in safe and adequate living quarters and the insurance of a more harmonious community, could, in part be met by the counties through use of their zoning powers. Your Committee believes that this method of expanding the housing inventory for low and moderate income households will relieve the pressure for huge capital outlays that direct State involvement in housing development would entail.

Your Committee on Housing is in accord with the intent and purpose of **H. R. No. 231** and recommends its referral to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. No. 464 Housing on H. R. No. 232

The purpose of this Resolution is to request the Committee on Housing to examine ways in which the expansion or retention of housing units priced for households with incomes under \$20,000 can be achieved. The Resolution further requests that the Committee submit a report of its findings, conclusions, and recommendations to the Legislature twenty days prior to the opening of the 1974 Regular Session.

Your Committee is cognizant of the many factors which contribute to the disqualification of households from effective participation in the housing market. They include: (a) the general inflation which affects both prices and rentals of housing units; (b) the inability of incomes to match the inflationary trends of the housing market, especially those incomes which are fixed; (c) the demolition of old and dilapi-

dated units to make way for high-income housing units or commercial and other development. Because these dilapidated units make up a large portion of the housing inventory that is within the financial means of low and moderate income households, the razing of these units only intensifies the competition for lower priced units, while simultaneously dislocating many households.

Because of the factors which continually decrease the housing stock that is available for households under \$20,000 in income, the Committee sees the necessity of investigating all methods which will allow such households continuing and improved access to the housing market.

Your Committee on Housing is in accord with the intent and purpose of **H. R. No. 232**, and recommends its referral to the Committee on Finance.

Signed by all members of the Committee.

SCRep. No. 465 Housing on H. R. No. 331

The purpose of this Resolution is to encourage the private market participants in the housing industry, including developers, brokers, and financial institutions, to prevent the speculation that is occurring on the sale and resale of housing units. Brokers and developers are urged to give prospective owner-occupants first preference in the sale of units, while banks and other lending institutions are encouraged to give priority to mortgagors who will be owning and occupying their units.

Given the fact that housing is a basic necessity, current market speculation effectively limits the eligibility of many households to attain decent shelter. The profits gained by speculators have to be borne by the general community in the form of highly inflated housing prices. Your Committee recognizes the urgent need to discourage the use of housing units for investment purposes and to encourage its use for occupancy.

Your Committee on Housing is in accord with the intent and purpose of **H. R. No. 331** and recommends its adoption.

Signed by all members of the Committee.

SCRep. 466

Legislative Management informing the House that **House Resolution Nos. 397 to 405, House Concurrent Resolution Nos. 98 to 100, and Standing Committee Report Nos. 467 to 479**, have been printed and distributed.

Signed by all members of the Committee.

SCRep. 467 Finance on H. B. No. 185

The purpose of this bill is to establish a fee of \$5.00 for the initial issuance and renewal of a branch office license of an escrow depository, and a fee of \$3.00 for the reissuance of a license or endorsement of the change of business address on an escrow depository license.

Under Sec. 449-14, Hawaii Revised Statutes, which this bill amends, no provision is presently made for any fee for a branch office license nor is there a requirement for the reissuance of a license when a business changes the address of its office. The only fees assessed escrow depositories are (1) for filing and investigation of an application (\$40) and (2) for initial issuance and annual renewal of a license (\$25).

Your Committee feels that these fees are reasonable, and requiring the obtaining of a license for the establishment of a branch office of an escrow depository is not unreasonable. Further, without these additional requirements for payment of the fees prescribed, performance by the State of these services costs the general fund, not the licensee. Although in number the affected licensees may be few and the total of fees small, the bill also has the effect of tightening regulation of this form of business, to the benefit of the public generally.

Your Committee on Finance is in accord with the intent and purpose of **H. B. No. 185, H. D. 1**, and recommends that it pass third reading.

Signed by all members of the Committee.

SCRep. 468 Water, Land Use and Development on H. B. No. 1337

The purpose of this bill is to require each county to develop an urban design plan for

the county as an amendment to its general plan to facilitate quality design in future development, both public and private.

There are indications that urban environment in the State requires better planning. This bill is aimed at improving urban planning. The development and implementation of the design plans would be the responsibility of the county. Each county would make an annual report in September to the State Department of Planning and Economic Development.

Testimony presented at a hearing on this bill indicated that the urban design plan should not be considered an amendment to the county general plan. Rather, it should be regarded as part of the county's general plan implementation program. Accordingly, your Committee has amended the bill to delete the phrase "as an amendment to its general plan".

There are indications that the counties may need financial help in preparing the urban design plans. Your Committee amended the bill to provide a new section as follows: "Section 4. Funding. Appropriate State and Federal funds, as available, may be used to match county funds to prepare the urban design plans."

One further amendment in the bill is renumbering the original Section 4 as Section 5. Effective date.

Your Committee on Water, Land Use and Development is in accord with the intent and purpose of **H. B. No. 1337**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 1337, H. D. 1** and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 469 Housing on H. R. No. 257

The purpose of this Resolution is to encourage the development of elderly housing in the Kohala district of the County of Hawaii. This development would be directed both at the alleviation of the shortage of elderly housing in Kohala and the retention of familiar community surroundings for the elderly in that area.

During the hearings your Committee heard testimony to the effect that the fed-

eral suspension of funding of low rent public housing means that no new units will be developed in Hawaii until the freeze is lifted. Your Committee wishes to urge the Hawaii Housing Authority to utilize all its powers and resources, including Act 105, Session Laws Hawaii 1970, to proceed with development of low rent public housing using State resources in place of federal funding. Your Committee encourages the Authority to report back to the 1974 Regular Session of the Legislature any problems it encounters in using State resources in place of federal funds and to recommend action to resolve all such problems.

Your Committee on Housing is in accord with the intent and purpose of **H. R. No. 257**, and recommends its referral to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 470 Public Employment on H. C. R. No. 2

The purpose of this concurrent resolution is to request all State and county agencies to make a comprehensive review of all records and files they maintain and report to the Legislature which records and files the public has access to and which records and files the public is not allowed access to; who made the determination which prevents public access to any record or file to which the public is not allowed access; the reasons and on what authority such determination was made; and the reasons why any record or file to which the public does not now have access should remain inaccessible.

Chapter 92, Hawaii Revised Statutes, provides that records of the government shall be public, but the definition contained therein is vague and does not present guidelines for determination of which records should be public and which records should be withheld from the public. This resolution is an initial step to correct this situation.

Your Committee on Public Employment concurs with the intent and purpose of **H. C. R. No. 2** and recommends that it be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 471 Labor and Employment on H. B. No. 1088

The purpose of this bill is to amend the Workmen's Compensation Law to make the funeral and burial expenses for a deceased worker payable directly to the surviving spouse or the decedent's estate in the event he was a member of a pre-paid funeral and burial plan.

Section 386-41 presently makes the funeral expenses, up to \$1,000, of a worker who dies as a result of an industrial injury payable directly to the mortician selected by his family. Burial expenses not exceeding \$500 are payable directly to the cemetery selected by his family.

This bill proposes to amend section 386-41 to cover situations where deceased workers have pre-paid their funeral and burial expenses through membership in pre-paid funeral and burial plans. It proposes that payments of funeral and burial expenses, not to exceed the limits prescribed in section 386-41, be made to the surviving spouse, or to the decedent's estate where there is no surviving spouse, if the deceased worker had a pre-paid funeral and benefit plan.

Employers and insurance carriers are relieved of paying funeral and burial expenses where they have been pre-paid by the deceased worker through membership in a plan. This bill proposes to eliminate this windfall and to provide a reimbursement of expenses which have in effect been paid by the deceased worker.

Your Committee agrees that the intent of the law to make employers and insurance carriers liable for the funeral and burial expenses of a worker killed in an industrial accident is being circumvented in this situation where a pre-paid plan assumes the funeral and burial expenses. The payment of a sum equivalent to the expenses involved to the surviving spouse or to the decedent's estate would be consonant with the purpose and policy of the Workmen's Compensation Law.

Your Committee on Labor and Employment is in accord with the intent and purpose of **H. B. No. 1088** and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

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**SCRep. 472 Labor and Employment on
H. B. No. 1336**

The purpose of this bill is to amend the Workmen's Compensation Law by adding a new section which would:

1. Permit the adjustment of allowances for attendant services for totally disabled workers when the maximum allowable for such services is changed by law; and

2. Permit the adjustment of allowances for attendant services for totally disabled workers who are presently receiving less than the maximum allowable under section 386-23.

Section 386-23 presently allows the director of labor and industrial relations to award injured employees up to \$300 per month for procurement of the services of attendants where the services are constantly necessary. This provision was enacted in 1945 and from 1945 to 1955 the maximum allowed for the services was \$50 per month. Between 1955 and 1971 the maximum was \$150 per month. In 1971 the allowable amount was raised to the present maximum of \$300 per month. Prior to 1963 the liability for attendant services was assumed by the Workmen's Compensation Special Fund. Since 1963 this obligation has been placed upon employers and their insurance carriers.

The director of labor and industrial relations has informed your Committee that there are presently 10 totally disabled claimants who have been found to require the services of attendants. Five of them are receiving \$50 per month pursuant to the effective maximum at the times of their injuries and four are receiving \$150 per month pursuant to the effective maximum on their injury dates.

This bill proposes to permit the director of labor and industrial relations to adjust the allowances for attendant services upon application of the claimants whenever the statutory maximum is changed and to permit the director to adjust the allowances of those claimants who are now receiving less than the present maximum of \$300 per month. The adjustments would not be automatic but payable only upon application to the director and his finding that the adjustments are necessary for the

procurement of adequate attendant services. The supplemental adjustments would be payable from the Workmen's Compensation Special Fund.

Your Committee agrees with the director of labor and industrial relations that the \$50 and \$150 payments now being received by nine of ten totally disabled employees now receiving allowances for attendant services are clearly insufficient for the procurement of adequate services. It also agrees that upward adjustments to reflect higher wages payable to attendants when the maximum is raised are in order.

Your Committee on Labor and Employment is in accord with the intent and purpose of H. B. No. 1336 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 473 Labor and Employment on
H. B. No. 1159**

The purpose of this bill is to amend the Workmen's Compensation Law to alleviate the economic plight of long term totally disabled workers and dependents of deceased workers who are or will be receiving low weekly compensation benefits based on old maximum benefit rates. Many long term beneficiaries are vainly attempting to subsist on awards made earlier when benefit levels were far below that which is provided under present statutes.

This bill provides for benefit rate adjustments for such beneficiaries whenever the statutory maximum is changed. The language does not provide that all long term beneficiaries shall receive the present maximum benefit but only those who received the maximum when the award was made. For example, if the maximum weekly benefit was earlier \$75 and a beneficiary was then awarded \$75, his award would now be adjusted to the current maximum of \$112.50. In cases where a long term beneficiary was earlier awarded less than the then established maximum, his benefits would be proportionately increased according to a formula. For example, if a long term beneficiary earlier received weekly benefit award of \$50 when the maximum was \$75, his award would now be adjusted in view of the

current maximum of \$112.50 as follows:

$$\frac{\$50 \text{ (earlier award)}}{\$75 \text{ (earlier maximum)}} \times \$112.50 \text{ (current maximum)} = \$75$$

The additional \$25 would be payable from the special compensation fund administered by the director of labor and industrial relations.

Such provisions had earlier been recommended by the Council on State Governments and is supported by the director of labor and industrial relations.

Your Committee on Labor and Employment is in accord with the intent and purpose of **H. B. No. 1159**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 1159, H. D. 1** and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 474 Labor and Employment on H. B. No. 1883

The purpose of this bill is to amend the Workmen's Compensation Law by requiring the director of labor and industrial relations to annually appoint a certified public accountant to audit all books and records of the special compensation fund.

The special compensation fund is financed primarily through levies against employers or their insurance carriers. Over the years the coverage of the fund has increased and the fund currently assumes the obligations for previous disabilities in subsequent injury cases, for life pensions, for permanently disabled employees, for the liability of defaulting employers, for allowances for services of attendants for totally disabled workers, for weekly income benefits where a worker is in concurrent employment, etc. The annual disbursements from the fund currently exceed \$490,000.

The scope of the audit, however, should be expanded to include advice and recommendations on solvency; funding level, and appropriate levies and charges to adequately finance the fund's obligations. In this regard, the department of labor and industrial relations proposed:

1. The removal of the statutorily pre-

scribed rate of the levy on insurance premiums.

2. The removal of the prescribed minimum and maximum fund balances which now initiate or terminate the need for assessments against the insurance industry and self-insured employers.

3. Placing assessment rate setting responsibility under item 1 above with the director of labor and industrial relations who would necessarily rely on the advice and recommendations of the certified accountant. (The existing statutory formula under which charges against self-insurers are set by the director of regulatory agencies would remain as is).

4. Providing for a special assessment against insurance underwriters and self-insured employers during the second half of calendar year 1973 to keep the fund solvent until such time that an audit is made and financial direction obtained. The rate of the special assessment would be determined by rule of the director of labor and industrial relations, but not to exceed 1.6 times the 1972 special assessment.

Your Committee on Labor and Employment is in accord with the intent and purpose of **H. B. No. 1883**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 1883, H. D. 1**, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 475 Finance on H. B. No. 1482

The purpose of this bill was to include fresh pineapples produced by or marketed through pineapple canneries as among the agricultural commodities for which the department of planning and economic development is charged with promoting an "informational program" directed to the consuming public both in Hawaii and in the mainland United States relative to "qualities . . . and maximum utilization."

Sec. 201-3(1), Hawaii Revised Statutes, which this bill amends, expressly excludes sugar and such fresh and processed pineapple products from the "informational program" which the department is required to promote. On the other hand, other provisions of the same statute

(headed "Agricultural development") require the conduct of surveys and studies on research as to (a) **production** of all commodities, (b) **processing**, other than sugar and (all) pineapples, and (c) **marketing**, other than sugar and **processed** pineapples (only).

As introduced, the bill was drafted so as to effect removal only of the **fresh** pineapples exclusion from the informational program. However, by draft hereto, your Committee on Agriculture under **Stand. Com. Rep. No. 195** went further by amending the bill so as to (a) also remove the exclusion as to sugar and processed pineapple products from the informational program; and as to surveys and studies on research, (b) remove the exclusion of sugar and (all) pineapples as to processing, and (c) remove the exclusion of sugar and processed pineapples as to marketing (whereunder fresh pineapples are not expressly excluded).

Following a department of agriculture study entitled "The Impact of Foreign Pineapple Production on the Hawaii Pineapple Industry," the Pineapple Growers Association, sponsor of this bill and representing the remaining three pineapple companies in Hawaii, determined to develop an expanded market for the sale of fresh pineapples as a means to allow the industry to remain viable in the future. The commonly accepted concept is that as the production of Hawaiian pineapple for canning is cut back due to competitive conditions in the mainland (and foreign) **canned** fruit markets, the expanding opportunities for Hawaiian pineapple in the mainland **fresh** fruit markets can be significantly expanded; it can offset some of the acreage being taken out of production for canning. On an estimate of 50,000 tons of fresh pineapple sales for shipment to the mainland in 1973-74, and on the basis of a \$1 per ton assessment, the State's matching share of funding under the plan proposed would be \$150,000 of the \$200,000 total estimated as necessary to initiate the program.

As your Committee is merely acting upon the bill in the form referred to us for further consideration, no expression regarding the proposed formula is presently forthcoming because we do not now recommend upon the appropriation requested.

The further amendment of the bill af-

fecting hereby seeks to remedy an apparent error in drafting the initial added amendments. A comparison between the original bill and the first draft demonstrates that at page 2 the brackets were not removed on lines 3 and 4 when they were expanded to lines 2 and 6. Moreover, the opening bracket at line 2 is (obviously) improperly placed, and to accomplish the purpose expressed in **Stand. Com. Rep. No. 195, supra.**, should be situate commencing at line 3. Also, added subsentence "(c)" was not, and therefore has been, underscored.

Your Committee on Finance is in accord with the intent and purpose of **H. B. No. 1482, H. D. 1**, as amended herein, and recommends that it pass third reading in the form attached hereto as **H. B. No. 1482, H. D. 2**.

Signed by all members of the Committee.

SCRep. 476 Finance on H. C. R. No. 61

The purpose of this concurrent resolution is to "call upon" the President of the United States and Congress to reevaluate funding for social programs and, as herein amended, "to determine the effect revenue sharing will have on such programs." The Legislature hereby also declares itself "in support of the maintenance of social programs of proven success and value."

The resolution recites that "recent federal budget announcements... indicate **severe deductions** and deletions in **many** programs designed to promote the general welfare of the people of each state, including Hawaii;..." (Emphasis added). This declaration sets a somewhat overt tenor for the ensuing observations of effect that such "cuts" perpetrate upon the programs thereby affected, therein enumerated.

Because the eventual consequences cannot be accurately assessed until the full impact that revenue sharing will have upon existing social service programs in Hawaii becomes apparent, and because much of the language of the resolution purporting to measure the likely effect is drafted in terms only of probability, your Committee was not entirely amenable to endorsing the use of certain other words and phrases which, by implication at any rate, appear intended as more than merely modifiers and are even susceptible slightly

to suggesting the superlative.

In short, considering that this is a “call upon” the President and Congress, in their discretion, to, in effect, re-examine the exercise of their wisdom, retrospectively and prospectively, respectively, your Committee believes that some of the expressions anticipating the presumptive effect borne of that exercise may be so strong as to constitute a rhetorical inquiry. Furthermore, as we are addressing a republican administration, it was agreed that there ought to be a level of input from our own legislative minority adequate to offset any intimation that this resolution is otherwise purely partisan in its purpose.

Toward these ends, therefore, your Committee hereby recommends the following amendments:

(1) In the second WHEREAS clause, relating to the effects of the federal budget “cuts” upon programs designed to promote the general welfare, the word “severe” was replaced in favor of “possible”; “deductions” was replaced in favor of “reduction”; and added to the end was the phrase “the substitution thereof of a system of revenue sharing”.

(2) In the lead clause of the third WHEREAS, under which are enumerated the programs affected by the “cuts”, “deductions” was replaced with the phrase “possible reductions”; “and” was deleted; and after the word “deletions” was added “and substitution”.

(3) In the first paragraph of the third WHEREAS, relating to the Office of Economic Opportunity, including the Community Action Program, the phrase “complete dismantling” was replaced in favor of “scheduled elimination”.

(4) In the second paragraph of the third WHEREAS, relating to housing programs, the phrase “stoppage of housing” was amended to read “substitution of existing housing”.

(5) The third paragraph of the third WHEREAS, estimating the “probable loss” for Hawaii of \$9.5 to \$17.5 million for welfare programs, attributable to a 40% reduction in federal fund distributions, was deleted in its entirety.

(6) The fourth paragraph of the third

WHEREAS, describing an “undetermined allocation [to] Model Cities programs, was, because funds have been allotted since the resolution was introduced, also deleted in its entirety.

(7) In the fifth paragraph of the third WHEREAS, relating to federal funding for education aid, libraries, school construction, vocational rehabilitation, and other programs and services, the word “elimination” was replaced with the phrase “possible reduction”.

(8) In the sixth paragraph of the third WHEREAS, relating to programs for the aging, the word “possible” was added immediately before the word “reduction”.

(9) In the seventh paragraph of the third WHEREAS, relating to programs for children, the phrase “The shifting to the uncertainty of” was replaced in favor of the phrase “The substitution with the system of”, both referring to the phrase “revenue sharing”.

(10) In the eighth paragraph of the third WHEREAS, relating to rehabilitation loans, neighborhood facilities loans and urban renewal, the phrase “shifting to the uncertain fate of” was replaced in favor of the phrase “substitution with the system of”, both, again, referring to the phrase “revenue sharing”.

(11) In the ninth paragraph of the third WHEREAS, relating to water, sewer and other projects, and loans and grants therefore, the word “interim” was added immediately before the word “freezing”.

(12) In the tenth paragraph of the third WHEREAS, relating to various manpower (training) programs, the phrase “The elimination, reduction or shifting to the uncertainty of” was replaced in favor of the phrase “The substitution with the system of”, both, again, referring to the phrase “revenue sharing”.

(13) The fourth WHEREAS clause, stating, unqualifiedly, in part, that the foregoing “will have a serious social and economic effect on the State of Hawaii...,” was deleted in its entirety, substituting therefore the following: “WHEREAS, it is possible that the proposed revenue sharing system will nullify any detrimental social or economic effect on the State of Hawaii that the above

federal cutbacks may have; now, therefore.”

(14) In the BE IT RESOLVED clause, calling for the reevaluation of funding for social programs, the phrase “restore monies proposed to be deleted” was replaced in favor of the phrase “to determine the effect revenue sharing will have on such programs”.

(15) Because of the immediate foregoing, the title of the resolution required amendment by substituting for the phrase “RESTORE FUNDS” the phrase “RE-EVALUATE FUNDING.”

The principal purpose of these amendments is to emphasize that the Legislature desires and needs from the President and Congress information as to the effect revenue sharing is intended to have and will have upon Hawaii’s social service programs, rather than simply requesting the restoration of funds. Of course, implicit herein remains that request in the event the effect of revenue sharing proves inadequate to compensate for the budgetary “reductions and deletions” announced, and the enumeration diminutions, among others, are thereby perpetrated; then as to those programs adversely affected, to the degree of any differential, it is our request that those funds be restored.

Your Committee on Finance concurs with the intent and purpose of **H. C. R. No. 61**, as amended herein, and recommends its adoption in the form attached hereto as **H. C. R. No. 61, H. D. 1**.

Signed by all members of the Committee.

SCRep. 477 Finance on H. R. No. 116

The purpose of this resolution, as amended, is to request data about the status of women, including students, at the University of Hawaii and each Community College, including the proportion of women students enrolled in each graduate and undergraduate discipline or major and the percentage of women applicants in comparison with men applicants to these disciplines or majors and other appropriate data with respect to student financial aids and graduate student employment. The President of the University and Chancellors and Provosts of all campuses are requested to submit a report to the House of

Representatives no later than twenty days before the Regular Session of 1974.

Section 304-1 of the Hawaii Revised Statutes provides that no person shall be deprived of the privileges of the University of Hawaii because of sex, color, or nationality. It is submitted (in some quarters) that it is likely that individuals are deprived of the privileges of the University because of sex as a consequence of a subtle, rather than overt, discrimination.

At the hearing hereof, your Committee on Finance received essentially the same testimonies as are summarized in **Stand. Com. Rep. No. 95** from your Committee on Higher Education reporting hereupon. The same presents an exhaustive analysis of the purported problem, and without repeating the substance thereof hereat, we commend its reading to those concerned. Its findings and recommendations are hereby incorporated herein, **except** that your Committee was unable to conclude from the testimonies that “it is **likely** that individuals may be deprived . . . because of sex,” as stated in the resolution, which is the very matter about which this measure requests a study and report in order to establish. Therefore, in the second WHEREAS clause, the word “likely” has been replaced with the word “submitted”.

Other minor amendments were made, essentially technical, including removal of the brackets and bracketed material from the word “STUDENTS” in the title, that deletion being previously effected. (See **Stand. Com. Rep. No. 95, supra**.)

Your Committee on Finance concurs with the intent and purpose of **H. R. No. 116, H. D. 1**, as amended herein, and recommends its adoption in the form attached hereto as **H. R. No. 116, H. D. 2**.

Signed by all members of the Committee.

SCRep. 478 Finance on H. R. No. 157

The purpose of this resolution, as heretofore amended, is to request the director of the department of health to establish and assess fees for agricultural burning permits that are based solely upon the costs incurred to administer the issuance of such permits “and to supervise the agricultural burning.”

However, since this measure was reported upon by your Committee on Agriculture in **Stand. Com. Rep. No. 161**, the departments of health and agriculture collaborated with the office of environmental quality control to construct a fee schedule which would defray the "actual costs". The testimonies of which we are in receipt indicate that the resolution requires amendment in two major respects as a result of the determination to limit use of filing fees for "actual costs of issuing the permit" and **not** to cover costs of "monitoring and surveillance to ensure compliance." Therefore,

(1) References to use of fees (a) "to administer the agricultural burning program" (in the title) and (b) "to supervise the agricultural burning" (in the "resolved" provisions, as also quoted hereinabove) were replaced (as in (a)) or stricken (as in (b)); and

(2) The fee schedule was amended, essentially as follows:

(a) Up to and including 10 acres — \$5 (was \$2).

(b) 10 to 100 acres — \$20 (unchanged).

(c) More than 100 acres — \$50 (was \$40).

We are informed by the chairman of the board of agriculture that the fee schedule, which has been submitted for approval by the governor, was arrived at in discussions with representatives of the farming community, and that the same will remain subject to continuing review.

Coupled with several essentially technical alterations as to language and style, your Committee has effected further amendments to the resolution, as follows:

(3) In the absence of testimony affirming that, in fact, "farmers have increasingly become a neglected segment of the Hawaiian community," the opening "whereas" provision was deleted.

(4) The phrase "controlled open" is added to precede "burning", following which concern that "upon which increasing constraints are imposed by the expanded commitment to environmental protection" is expressed.

(5) The substance of the second "re-

solved" paragraph relating to the "filing fee" is merged into the first "resolved" paragraph and expanded upon by prescribing that such fees be maintained at levels "distributively proportionate" to the current aggregate of actual costs... which are those incurred to administer the issuance of permits, which is the sole basis upon which fees are to be established. The term "distributively proportionate" becomes more connotatively specific relative to the initially prescribed (suggested) fee schedule set out in the resolution and hereinabove amended, as a differential between the length of permit validity and the total acreage designated to be burned (the latter of which it is anticipated will also be specified in the permit). Based thereupon, the sum of fees assessed should be more or less exactly adequate to defray the exact cost of issuing permits.

(6) Finally, in order to reflect the textual amendments, the title was amended to read: "HOUSE RESOLUTION REQUESTING THE DEPARTMENT OF HEALTH TO ESTABLISH AND ASSESS FEES FOR AGRICULTURAL BURNING PERMITS BASED SOLELY UPON AND DISTRIBUTIVELY PROPORTIONATE TO THE AGGREGATE OF ACTUAL COSTS INCURRED TO ADMINISTER ISSUING OF SUCH PERMITS."

Industry generally, including the sugar and pineapple associations, expressed favor for the resolution, even as the fee schedule is herein amended.

Your Committee on Finance concurs with the intent and purpose of **H. R. No. 157, H. D. 1**, as amended herein, and recommends its adoption in the form attached hereto as **H. R. No. 157, H. D. 2**.

Signed by all members of the Committee.

SCRep. 479 Finance on H. R. No. 52

The purpose of this resolution, as amended, is to request the Department of Planning and Economic Development and the 50th State Fair Company to conduct a study to determine the feasibility of a permanent site for the 50th State Fair, the location of such a site including the costs, and to report those findings 20 days prior to the convening of the 1974 legislative session.

At a public hearing on this resolution, your Committee was told a similar study was prepared by the State and submitted to the Legislature in 1961. The Department of Planning and Economic Development indicated that that study could be updated and that there is a need to evaluate the concept of government agencies sponsoring fairs. The cost estimate was at \$30,000.

However, the 50th State Fair Company, a joint venture of the Honolulu Jaycees and the Hawaii Farm Bureau Federation, volunteered assistance in the study. The company spokesman, citing the group's three decades of experience in conducting annual fairs, indicated government money could be saved by a cooperative effort in conducting the study. He stated that it would be done "for free".

Your Committee on Water, Land Use and Development heretofore amended the resolution under **Stand. Com. Rep. No. 158** to provide that the study be a cooperative effort of the Department of Planning and Economic Development and the 50th State Fair Company.

Your Committee on Finance concurs with the intent and purpose of **H. R. No. 52, H. D. 1**, and recommends its adoption.

Signed by all members of the Committee.

SCRep. No. 480

Legislative Management informing the House that **House Resolution Nos. 406 to 412, House Concurrent Resolution No. 101, and Standing Committee Report Nos. 481 to 517**, have been printed and distributed.

Signed by all members of the Committee.

SCRep. No. 481 Parks, Fish and Game Management on H. R. No. 281

The purpose of this Resolution is to request the University of Hawaii in conjunction with the Department of Land and Natural Resources to conduct surveys that will aid in developing workable regulatory programs to enhance recreational fishing along Hawaii's coastline.

Your Committee is reminded that the

ancient Hawaiians practiced a system of regulatory fishing along the coast to ensure and enhance productivity of fish. We are mindful of the vast number, especially young people, who enjoy the thrills of fishing as a pastime. Legislators too, were once little boys (and a little lady in the case of Representative King) with little fishing poles in more carefree times.

We are mindful too that with the growth in human population, fishing has become less rewarding, in Hawaii, while the experiment at Hanauma Bay shows us that a few years of careful management (prohibition, actually) can do to restore a bountiful population of fishes.

Your Committee is encouraged that an effort has been started to hopefully restore someday bountiful fishing as in the old days. It is recognized that the increased population of this state may well require a somewhat stringent regulatory program if the very many fishermen are to all share in this recreation.

Your Committee on Parks, Fish and Game Management concurs with the intent and purpose of **H. R. No. 281** and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. No. 482 Parks, Fish and Game Management on H. R. No. 332

The purpose of this resolution is to request the Department of Land and Natural Resources to conduct a study to determine the feasibility of converting Kawaihae Lighthouse area into a park.

Your Committee notes that the region of Kawaihae has been the object of recent development. The usual history of the development of most regions of this State has been the lack of imaginative planning and foresight. Accordingly, a study of the Kawaihae Lighthouse area now, rather than when it is too late, lends a healthy attitude toward preventing the repetition of past errors.

Your Committee on Parks, Fish and Game Management concurs with the intent and purpose of **H. R. No. 332** and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. No. 483 Parks, Fish and Game Management on H. R. No. 170

The purpose of this resolution is to request the Department of Land and Natural Resources to submit a report on the problem of feral sheep on the slopes of Mauna Kea.

As the devastation that the increasing population of feral sheep has brought to the slopes of Mauna Kea is well known, and as such devastation threatens the extinction of some endemic bird life such as the "Palila", your Committee sees the great need for resolving this problem.

Your Committee on Parks, Fish and Game Management concurs with the intent and purpose of H. R. No. 170 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. No. 484 Parks, Fish and Game Management on H. R. No. 38

The purpose of this Resolution is to request the Department of Land and Natural Resources to develop a program of obtaining public access to hunting areas in the Islands.

Your Committee recognizes the increasing demand for public outdoor recreation, not the least of such recreation being hunting. Within the confines of good conservation practice and game management, the resources of the state should be equally accessible to all of Hawaii's people. Where such resources are accessible only to those who are fortunate to own land contiguous with specific portions of state land, access thereto becomes unequal and produces situation of special and unearned privileges for a few. Accordingly, your Committee feels that it is only right that the Department of Land and Natural Resources should make every effort to eradicate any such inequity that may exist by embarking upon a vigorous program of ensuring public access.

Your Committee on Parks, Fish and Game Management concurs with the intent and purpose of H. R. No. 38 and rec-

ommends that it be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. No. 485 Consumer Protection on H. B. No. 1937

The purpose of this bill is to require any merchant who accepts the return of goods or agrees to refund payment for any service to refund the full amount in cash.

The refund is applicable when the purchaser has paid for the good or services in cash, check or with a credit card other than the merchant's own credit system. According to testimony presented the measure is especially appropriate when consumers make purchases at stores which they do not normally patronize and, thus, would have no reason to go back there for any other item. Without the bill's proposal the purchaser will be forced to buy some other item and your Committee believes the practice should be discouraged.

Your Committee upon consideration of the bill, however, has amended the bill to protect the merchant from crooked purchasers. Instead of requiring refunds be made in cash in all cases, the provision was changed so the merchant would make such refund in the same mode used by the purchaser to pay for the goods.

Your Committee on Consumer Protection is in accord with the intent and purpose of H. B. No. 1937, as amended herein, and recommends that it pass Second Reading and be referred to the Committee on Judiciary in the form attached hereto as H. B. No. 1937, H. D. 1.

Signed by all members of the Committee.

SCRep. No. 486 Consumer Protection on H. B. No. 310

The purpose of this bill is to update the provisions of Chapter 466, Hawaii Revised Statutes, relating to public accountancy, by upgrading the educational requirements for licensing and certification of public accountants.

The bill amends existing law in six major respects as follows:

(1) The definition of public accountancy contained in the existing law has been deleted from the proposed bill. Under the existing law, the emphasis is placed on the performance concept, that is, a public accountant is defined on the basis of the type of work he performs for the public. In contrast, under the proposed bill, the emphasis is placed on a representation concept; that is, a public accountant is defined on the basis of the representation that he makes in holding out to the public as to his title and his professional knowledge.

(2) Under the proposed bill, all seven members of the Board will have full voice and vote on all matters to come before the Board. Under the existing law, the two Public Accountant members have voice but no vote on matters relating to Certified Public Accountants.

(3) The proposed bill is consonant with the current thinking on citizenship, residency, and age. Accordingly, it removes from the existing law the requirements of the United States citizenship and the State of Hawaii residency to become a Certified Public Accountant. It also lowers the age of an applicant for CPA examinations to 18 years from 21 years, as contained in the present law.

(4) The upgrading of educational requirements to sit for the examinations to become a Certified Public Accountant is proposed to be done in two steps under **House Bill No. 310**. Any CPA candidate, who files his application within five years following the enactment of **House Bill No. 310** will be processed under the conditions existing at the present time; that is, the only educational requirement to sit for the CPA examination is a baccalaureate degree. After the five-year period, any CPA candidate in applying for CPA examination must possess a baccalaureate degree and must have completed 30 semester hours of study in accounting.

(5) A new concept has been introduced in the proposed bill in requiring each Certified Public Accountant or a Public Accountant in public practice to obtain a permit in addition to renewing his CPA certificate of his PA registration, both to be done on an annual basis. Under the existing law, the only requirement is that of renewing the CPA certificate or the PA registration, with a payment of a renewal fee of \$15.00. If the proposed bill is en-

acted into law, any CPA or any PA, who holds out to be in public practice, will be required to pay a sum of \$30.00; \$15.00 for his certificate or registration renewal and \$15.00 for a permit to practice.

(6) The proposed bill introduces another new concept, which has no counterpart in the existing law. This relates to the CPA or PA, who holds a permit to practice, to maintain a continuing education study as a condition for the annual renewal of his permit to practice.

This bill was endorsed by Representatives of the Hawaii Association of Public Accountants, Hawaii Society of Certified Accountants, Board of Accountancy and the Chamber of Commerce of Hawaii.

Your Committee on Consumer Protection is in accord with the intent and purpose of **H. B. No. 310** and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. No. 487 Consumer Protection on H. B. No. 1965

The purpose of the bill is to require a merchant who orally or in writing offers a free gift to notify a consumer that a sales presentation will accompany the free gift.

According to testimony presented at the hearing such merchandising is considered unethical and should be curbed. Your Committee upon consideration of the bill believes that provisions relating to oral offers of free gifts as proposed in the first sentence of the new subsection of section 481B-1 are adequately covered by sections 468-4 and 445-184 and the matter was therefore deleted. Your Committee also re-arranged the subsections so the unlawful practices added shall also be subject to the penalty provided in the existing section.

Your Committee on Consumer Protection is in accord with the intent and purpose of **H. B. No. 1965**, as amended herein, and recommends that it pass Second Reading and be referred to the Committee on Judiciary in the form attached hereto as **H. B. No. 1965, H. D. 1.**

Signed by all members of the Committee.

SCRep. No. 488 Consumer Protection on H. B. No. 189

The purpose of this bill is to increase the limits required under the financial responsibility law from 10/20 to 20/40 for bodily injury liability.

The present limits for bodily injury were set in 1963. The trend nationwide is to raise the limits to reflect the increased costs of medical expenses, high wages and other losses incurred by accident victims. Your Committee believes that the limits fixed in 1963 should be raised as proposed in the bill.

Your Committee on Consumer Protection is in accord with the intent and purpose of **H. B. No. 189** and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. No. 489 Consumer Protection on H. B. No. 188

The purpose of this bill is to specify by law the procedures and circumstances which must exist before an automobile policy may be cancelled or not renewed by an insurer.

A. Renewal. Under existing law an insurer is required to give thirty day notice to the insured that a liability policy will not be renewed. The law has no application to coverages other than liability and the insurer is not required to give its reasons for not renewing the policy.

The bill amends existing law by requiring the thirty day notice to be given for all coverages, and requires the insurer to give its reason for not renewing. It also adds a new feature which requires an insurer to renew a policy except for reasons stated in the law.

B. Cancellation. There is no existing law governing the cancellation of insurance policies. Cancellations are subject to the provisions contained in the policies and in general varies with the type of persons insured.

The bill proposes to make uniform the cancellation of all types of insureds. It prohibits cancellation except for statutory reasons, and upon notice of cancellation, the insurer is required to specify the reason for the cancellation.

Automobile policies to date have been arbitrarily cancelled or not renewed by insurers without being told why the action was necessary. Your Committee feels that the policy holders have a right to know why the insurers have taken the action. By adopting the provisions of this bill, it is believed that the cancellations and non-renewals on arbitrary basis will be minimized.

To avoid any controversy as to whether a notice has been mailed to an insured, your Committee has amended the bill by requiring such notice to be sent by registered mail.

Your Committee on Consumer Protection is in accord with the intent and purpose of **H. B. No. 188**, as amended herein, and recommends that it pass Second Reading and be referred to the Committee on Judiciary in the form attached hereto as **H. B. No. 188, H. D. 1**

Signed by all members of the Committee.

SCRep. No. 490 Judiciary on H. B. No. 1145

The purpose of this bill is to expand the scope of the services of legal counsel to be availed to indigents.

This bill will conform Hawaii's statutory law to the recent United States Supreme Court decision of **Argersinger v. Hamlin**.

Your Committee has deleted specific reference to detailed services provided under the original form of this bill.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 1145**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 1145, H. D. 1** and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. No. 491 Judiciary on H. B. No. 1552

The purpose of this Bill is to update the Hawaii Revised Statutes so that appropriate designation of statute numbers may be made to Section 351-32 of the Hawaii Revised Statutes.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 1552** and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. No. 492 Judiciary on H. B. No. 28

The purpose of this bill is to amend the Hawaii Revised Statutes to disallow any person who feloniously commits an act and during the commission of such act is injured to recover from the criminal injuries compensation fund.

Your Committee finds under the present statute (Section 351-31) the commission is mandated to consider the behavior of the victim and whether because of provocation or otherwise, he bears a share of the responsibility for his injuries and the compensation to him is reduced in proportion to the amount attributable thereto. The amendment provides that if the commission finds that the victim contributed to, whether directly or indirectly, the criminal act which gave rise to his injury or death, no compensation is to be made to him. Your Committee has amended this bill to require that the criminal activities attributable to the injury thus precluding recovery shall be limited to those felonious in nature.

This bill also amends Section 351-51 to indicate that where a private citizen incurs injury or property damage in preventing the commission of a crime, he may recover from the criminal injuries compensation fund if he does not share any of the responsibility for the crime that caused his injury or damage.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 28**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 28, H. D. 1** and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. No. 493 Judiciary on H. B. No. 452

The purpose of this bill is to provide that every public building and facility shall comply with the American Standard Specifications for Making Buildings and Facilities Accessible to and Usable by the Physically Handicapped.

Your Committee has heard the testimony of many persons supporting this bill. Upon such testimony, your Committee is concerned that our public facilities have not always been sufficiently accessible to handicapped persons and such lack of access has magnified the plight of these persons and prevented society from utilizing their talents as fully as might be possible. This is a great loss and source of inefficiency, and your Committee, accordingly, recognizes the real merit of this bill.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 452** and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. No. 494 Housing on H. B. No. 463

The purpose of this bill is to authorize the creation of a nonprofit corporation for housing development within the state government to (1) attract private investment in the low and moderate income housing market; (2) construct low and moderate income housing; (3) aid low and moderate income persons in acquiring home ownership; and (4) encourage others to construct housing for low and moderate income persons.

The nonprofit corporation will have a Board of Directors consisting of 18 members, of whom 12 shall be appointed from the public sector and 6 shall be appointed from the private sector. The general purposes of the corporation are:

(a) Construction, development, acquisition, or rehabilitation of low and moderate income housing;

(b) Purchase, lease, or acquisition of properties for development or rehabilitation;

(c) Encouragement of private construction, development, and rehabilitation of low and moderate income housing;

(d) Performance of all other acts which the corporation deems necessary and advisable to promote the development of adequate, safe, and sanitary housing for low and moderate income persons.

Sec. -12 enumerates the powers of the corporation. Sec. -15 provides for the insurance of loans to landlords and to residents of low and moderate income housing. Sec. -16 empowers the corporation to lend money to landlords, residents of low and moderate income housing, and purchasers of multi-family housing in a housing project who agree to reside in the house. The bill provides that the Board of Directors shall specify the interest rates on loans; however, the interest rate will not exceed 6% per year.

The nonprofit corporation hereby created, therefore, can do all things necessary to create low and moderate income housing in the community.

Your Committee feels the creation of this nonprofit corporation can also be used to encourage the formation of other nonprofit entities on other islands and to assist them with technical expertise.

Your Committee amended Section 1 of the bill by deleting from proposed Sec. -15, entitled "Insurance of loans; participants" the word "Insurance", substituting the word "Insurance" therefore.

Your Committee on Housing is in accord with the intent and purpose of **H. B. No. 463**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 463**, **H. D. 1** and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. No. 495 Housing on H. B. No. 91

The purpose of this bill is to control rentals of housing accommodations in the State.

Hawaii presently experiences a housing crisis. There is a serious public emergency in the housing of a considerable number of persons within the State. Residential construction in the last decade in Hawaii has not kept pace with population increases. Thus, an inadequate supply of housing has forced the price of houses to a point where vast numbers of people are unable to purchase housing.

These people have been forced into the rental market. More than 60% of the households in Hawaii are occupied by renters. The vacancy rate of rental units in Hawaii is substantially lower than that for the entire nation. Moreover, there has been a substantial decline in the construction of multiple-family units. Therefore, the prevailing conditions pertaining to rental of housing in the State permit landlords to exact from tenants whatever the market will bear. Consequently, tenants have had to allocate greater portions of their income to rentals of housing accommodations, leaving them with little financial resources to obtain other necessities. Since federal decontrol of rental stabilization in January, 1972, many landlords in Hawaii have made arbitrary, speculative, and abnormal increases in rentals of housing accommodations. In many cases, rentals have increased from 30% to 50%.

Unless residential rents are regulated, disruptive conditions in the rental market will continue to produce grave threats to the public health, safety, and general welfare. Your Committee thinks that preventive action of the legislature is imperative in order to preclude exactions of inequitable, unreasonable, and oppressive rents.

The significant features of this bill are as follows:

(a) Sec. -2 establishes maximum-rent ceilings and minimum-service standards for housing accommodations in the State. This section freezes rents and services at the levels which existed on January 1, 1971.

(b) Sec. -3 provides for the registration of rental housing accommodations in the State. Landlords must register a housing accommodation with the mayor of the county in which the accommodation is located.

(c) Sec. -5 empowers the mayors of the several counties to administer and enforce

rent control of housing accommodations within their respective counties. Under this section, the mayors may initiate proceedings.

(d) Sec. -6, Sec. -7, and Sec. -8 relate to the procedures and powers of the respective mayors.

(e) Sec. -11 provides a vehicle for landlords or tenants to petition the appropriate mayors for adjustments of rents. A prominent feature of this section is that after January 1, 1975, a mayor may increase the maximum-rent ceiling for a housing accommodation which a landlord rented or offered for rent for a continuous period of 12 months immediately preceding a petition for adjustment; however, such increase may not exceed 10% of the gross rentals which the landlord realized for the housing accommodation for the 12-month period immediately preceding his petition.

(f) Sec. -12 contains certain prohibitions to enhance compliance with the provisions of this bill.

(g) Sec. -15 provides for judicial review by the Supreme Court.

(h) Sec. -17 provides for a civil penalty to be assessed against persons who violate the provisions of this bill.

(i) Sec. -18 provides for private remedies against persons who violate the provisions of this bill.

(j) Sec. -19 provides for a criminal penalty for persons who violate the provisions of this bill.

Your Committee finds that rent control should be a temporary measure to meet the present emergency; therefore, your Committee has provided that the authority to enforce control of rents charged for housing units under section 2 of the Act shall expire within two years from the effective date of the Act.

Your Committee on Housing is in accord with the intent and purpose of H. B. No. 91, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H. B. No. 91, H. D. 1 and be referred to the Committee on Finance.

Signed by all members of the Commit-

tee.

SCRep. No. 496 Housing on H. B. No. 92

The purpose of this Bill is to improve certain laws dealing with the Hawaii Housing Authority, the Department of Labor and Industrial Relations, County redevelopment agencies, and the Department of Social Services and Housing in order that these agencies may more effectively cope with the housing problems facing the State.

Your Committee considered a large number of measures designed to improve the effectiveness of these agencies in providing more housing and the bill in the form attached hereto incorporates provisions from many of these measures.

Sections 2 through 10 deal with the powers and duties of the Hawaii Housing Authority. These sections provide for the following:

(1) Sections 2 and 3 enlarge the number of commissioners from six to eight and allows the commissioners to elect a chairman rather than having the Governor's Special Assistant for Housing designated by law as the chairman.

(2) Section 4 authorizes the Authority to acquire land not presently needed for housing if the land will be needed in the foreseeable future. This will allow the Authority to purchase land at more favorable prices and make possible a land bank for future housing needs. This Section also removes the limit on the price the Authority can pay for a dwelling as established by the federal 235 program. These limits are presently \$31,500 for a three bedroom home and \$36,000 for a four bedroom home. There are few, if any, homes available on the market at such prices and these limits have severely limited the Authority in purchasing housing units.

(3) Section 5 enables the Authority to issue short term project notes in addition to general obligation bonds as presently authorized. This will allow needed flexibility of different financing methods and the different interest rates paid on short term notes would help in lowering housing costs.

(4) Section 6 strengthens the buy back provisions for Authority housing projects

by increasing the term of the buy back provisions from ten to twenty years and providing that the buy back price shall be no more than the price originally paid by the purchaser plus cost of improvements made by the purchaser adjusted to the appreciation or depreciation of the dollar. The stronger buy back provisions will discourage speculation in Authority housing projects.

(5) Section 7 amends Section 359G-11.1 to add non-profit community associations to those eligible to borrow interim construction money from the State.

(6) Section 8 limits the sale of residential dwelling units developed by private developers with the aid of State or County funds. The restrictions are that no person can purchase more than one unit; no person or unmarried minor child whose spouse or parent has a unit can purchase any unit; no person whose income, including the income of a spouse, exceeds low or middle income standards as determined by the Hawaii Housing Authority, can purchase a unit; no person who owns land suitable for residential use can purchase a unit. This measure would help to insure that housing units in State or County assisted developments will not be sold for speculative purposes.

(7) Section 9 is designed to provide a means whereby people whose incomes are too high for government subsidy programs but too low for conventional mortgages can purchase homes. This measure would allow the State to loan funds to prospective home buyers which would assist them in qualifying for a conventional mortgage. The Authority would be able to make payments on behalf of the buyers of up to \$50.00 a month to help reduce monthly mortgage payments. This \$50.00 would have the effect of saying the buyer had an additional \$200.00 a month in income, and therefore would induce the lending institution to approve the mortgage loan, when it normally would reject it. The \$50.00 payments would be made directly to the lending institution and would continue for five years. At the end of 10 years, or whenever the house is sold, whichever is sooner, the buyer would pay the Authority back the amount it had loaned plus interest. In order to discourage speculation by those utilizing this provision to purchase a home, the measure contains a twenty year buy back provision in favor

of the Authority. If the property is offered for sale during this period, the Authority has the right of first refusal at a price not to exceed the original price paid by the borrower plus the cost of any improvements adjusted to the value of the dollar. The effect of this Section would be to allow many residents, who cannot now buy a home, to be able to purchase a home.

(8) Section 10 would allow the Authority to enter into a joint development with a private developer even after the developer has initiated a project on his own if at least fifty per cent of the units in the project are suitable for purchase by persons of low income. If the Authority enters into an agreement with a developer under this measure, the sales of the units would include a buy back provision and thus discourage speculation.

Section 11 relates to the approval of the Director of the Hawaii State Department of Labor and Industrial Relations for the installation of factory built homes in the State. It gives added flexibility to the Director by allowing him to approve factory built homes upon certification by the manufacturer that such homes meet certain standards and the manufacturer posts a \$50,000 bond conditioned on the requirement that the homes meet such standards.

Section 12 gives more flexibility to the County redevelopment agencies by removing the prohibition against such agencies erecting new structures on its property and allowing purchase of land other than undeveloped vacant land for redevelopment projects. This Section also amends Section 53-38 to provide for real property tax exemptions for redevelopment projects only when at least fifty per cent of the project includes low and moderate income housing. Present law does not have the fifty per cent low-moderate income housing requirement.

Section 13 provides for the establishment of a housing location unit in the Department of Social Services and Housing to locate, in cooperation with the Hawaii Housing Authority, housing for welfare recipients at the lowest possible rates.

Your Committee on Housing is in accord with the intent and purpose of H. B. No. 92, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H. B. No. 92, H. D. 1

and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. No. 497 (Majority) Housing on H. B. No. 1026

The purpose of this bill is to increase the notice period for the termination of a month to month tenancy of a residential dwelling unit. Section 521-71 presently provides for the landlord or tenant to give twenty-eight days advance notice of termination of a month to month tenancy. The bill increases this to sixty days notice. Your committee believes that twenty-eight days is too short a time for a tenant to find substitute housing and that sixty days would be a more reasonable period for a tenant to find new housing accommodations.

Your Committee on Housing is in accord with the intent and purpose of **H. B. No. 1026**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 1026, H. D. 1** and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

Representatives Aki and Amaral did not concur.

SCRep. No. 498 (Majority) Housing on H. B. No. 605

The purpose of this bill was to increase the amount of new housing units priced for the low and moderate income families in the State while discouraging excessive speculation in the housing market and minimizing the adverse consequences to persons forced to relocate their homes to make way for new developments. Upon consideration of this bill, your Committee finds that the slow pace in the production of new housing units is in large measure related to delays caused by bureaucracy in the review and approvals of plans and specifications and related documents of housing projects. It is believed that a significant increase in the amount of new housing units for low and middle income families can be achieved in accordance with the purpose of this bill if temporary emergency measures were provided to

overcome delays caused by statutory time-tables in the review and approval of plans and specifications and related documents for housing projects by governmental agencies. Your Committee has amended the bill so that the increase in the amount of new housing units for low and middle income families can be realized in a more effective way.

The bill as amended provides temporary emergency measures which will allow for expeditious development and construction of safe and decent housing projects for families of low and middle incomes. These measures are deemed necessary in order to alleviate the existing critical housing demand which continues to become more severe with delays in the development and construction of housing projects caused by bureaucracy in the review and approval of plans and specifications and related documents for housing projects. The adjustments necessary to carry out these emergency measures require prompt judgments and actions by the executive branch of the government. Accordingly, the governor has been conferred the authority to implement promptly and effectively the program authorized under the bill.

Under the bill, as amended, the governor is authorized to make a determination of a critical housing shortage area after he shall have held a public hearing therefore. The governor is further authorized to issue approval of plans and specifications and related documents for a housing project within the critical housing shortage area for low and middle income families, and upon such approval, the housing project shall be exempt from all laws relating to all requirements and standards for subdivision, developments, and improvements of land and the construction and sale, lease or rental of dwelling units and appurtenances thereon. The final plan and specifications for the housing project approved by the governor shall constitute the required standards which shall be deemed to comply with any laws governing the subdivision, developments, and improvements of land and the construction and sale, lease and rental of dwelling units and appurtenances thereon.

This bill, as amended, is intended to provide temporary emergency measures. To this end the bill provides that the authority to issue and enforce the ap-

provals and standards thereunder shall expire at midnight of the date which shall be two years after the effective date of the Act.

Your Committee on Housing is in accord with the intent and purpose of **H. B. No. 605**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 605, H. D. 1**, and be referred to your Committee on Judiciary.

Signed by all members of the Committee.

Representatives Aki and Amaral did not concur.

SCRep. No. 499 Housing on H. B. No. 1846

The purpose of this Act is to clarify sections of the occupational licensing law pertaining to electricians and plumbers. The definition of "journeyman electrician" is expanded to specify the nature and content of tasks considered to be electrical work.

Section 448E-9, Hawaii Revised Statutes, is amended to define in detail the kinds of unlicensed activities prohibited.

Upon consideration of the bill, your Committee has amended **H. B. No. 1846** in several respects.

Section 1 has been amended by changing the words and numerals "Section 448E-(2)" to read "Subsection 448E-1 (2)", to clarify the part of the Hawaii Revised Statutes being amended. In the same section the quotation marks (") preceding 'Journeyman electrician' have been deleted and new quotation marks inserted before (2). The proposed definition of "electrical work" to be covered in Chapter 448E has been amended to specifically exclude work which is already subject to regulation by Chapter 448H relating to elevator mechanics.

Section 2 of the bill has been amended to conform to the Ramseyer method of amending bills required by the rules of the House. The amendment involves inserting the wording of the existing Section 448E-9 ahead of the new wording being added to that section.

Section 3 of the bill has been deleted and sections 4 and 5 renumbered 3 and 4, respectively. The reason for deleting Section 3 is that your Committee believes that restricting the number of apprentice electricians and plumbers who may be employed on a construction project will limit entry to these occupations and may contribute to the movement of many of our youth and young adults to areas other than Hawaii in their search for jobs.

Your Committee on Housing is in accord with the intent and purpose of **H. B. No. 1846**, as amended herein, and recommends that it pass second reading and be referred to the Committee on Judiciary in the form attached hereto as **H. B. No. 1846, H. D. 1**.

Signed by all members of the Committee.

SCRep. No. 500 Water, Land Use and Development on H. R. No. 359

The purpose of this resolution is to request a study to determine the feasibility of establishing a State composting operation.

There are indications of a market for readily available compost at reasonable prices. The problems of solid waste disposal are well-known. The study proposed in this resolution would determine if it is feasible to make compost from solid waste in Hawaii.

The resolution requested that the study be made by the Department of Planning and Economic Development. Your Committee heard testimony indicating that the Department of Agriculture and the University of Hawaii Agricultural Experiment Station should be participants in the study. Therefore, your Committee has amended the resolution to add the Department of Agriculture and the University of Hawaii Agricultural Experiment Station.

Your Committee on Water, Land Use and Development concurs with the intent and purpose of **H. R. No. 359** as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as **H. R. No. 359, H. D. 1**.

Signed by all members of the Committee.

SCRep. No. 501 Judiciary on H. B. No.

1096

The purpose of this bill is to amend Section 444-16 by extending the time within which a license application for a contractors license need be granted from 75 to 120 days.

Under present law applications must be approved or denied within 75 days after the completed application is submitted to the contractors license board. Your Committee finds that this is less than ample time for a complete investigation into the applicant's background.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 1096** and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. No. 502 Judiciary on H. B. No. 1254

The purpose of this bill is to expand the coverage of motion picture operators to include 16 mm film or larger and video tape.

Your Committee finds that commercial operators are presently using 16 mm in place of the larger millimeter films and projectors. There are approximately to date five theaters in Honolulu utilizing 16 mm film. It is believed, according to testimony presented to your Committee, that in the future almost all film will be replaced by video tape machinery. For the protection of the public commercial operators as well as 35 mm operators should be licensed.

After consideration your Committee believes that this chapter should apply only in those instances where the operation of the motion picture is for commercial purposes to a theater or audience and is not intended to apply in those instances not operated for purely commercial purposes. For example, a movie projector operator who operates the film projector solely for educational purposes or in an educational institution as part of its program even when admission is charged would not come within the purview of this chapter.

Your Committee on Judiciary is in ac-

cord with the intent and purpose of **H. B. No. 1254**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 1254, H. D. 1** and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. No. 503 Judiciary on H. B. No. 1847

The purpose of this bill is to repeal the law relating to execution of sale of real property by district courts.

The present law provides that before any sale of property pursuant to an execution issued by a district judge, it must first be reviewed and approved by the circuit court.

Your Committee feels that this requirement is no longer necessary in that the district courts are now courts of record. In the event any party is aggrieved from any decision of the district court an appeal shall lie as a matter of right to the supreme court.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 1847** and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. No. 504 Judiciary on H. B. No. 1097

The purpose of this bill is to include within the powers and duties of the contractors license board, the power to administer exams.

Your Committee finds that the power to administer an examination by the board is not specifically provided for in section 444-4. However, since 1961 the board has been administering an examination under the auspices of section 444-4(2). Your Committee believes that under the board's power to promulgate rules and regulations, it was then and is now proper to administer such examinations.

Your Committee is also in accord with the license board that this power to administer an examination should be specif-

ically provided for in order to avert any possible questions that may arise testing the board's right to administer such an examination and that this proposed amendment will satisfy this requirement.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 1097** and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. No. 505 Judiciary on H. B. No. 688

The purpose of this bill is to revise that portion of the Hawaii Penal Code relating to the procedure on sentencing of convicted defendants.

Your Committee has effected two changes. The first is with reference to section 706-669. It is your Committee's intent that the court determine in each instance whether it shall in every case establish the minimum term of imprisonment.

The other change concerns the access to pre-sentence diagnosis and other reports by the defendant. Your Committee intends that again the court should bear the responsibility of ascertaining whether or not the identity of persons providing essential facts in such diagnosis and reports should be kept confidential. In this connection your Committee feels that unless such protection is afforded, reprisals will be taken against persons providing such facts. The amendments effected by your Committee in this regard adopts the language of the Model Penal Code.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 688**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 688, H. D. 1**, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. No. 506 Judiciary on H. B. No. 2029

The purpose of this bill is to amend the

Hawaii Revised Statutes relating to the powers and duties of the elevator mechanics licensing board.

First, this bill seeks to update the statutes. Chapter 376, Hawaii Revised Statutes, was repealed and enacted into law in its place was the "Hawaii Occupational Safety and Health Act" (Chapter 396), pursuant to Act 57, L. 1972.

Second, this bill would require that the elevator mechanics licensing board notify the department of labor and industrial relations of any fact or situation that the board believes is in violation of Chapter 396 or of any rule or regulation promulgated thereunder.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 2029** and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. No. 507 Judiciary on H. B. No. 997

The purpose of this bill is to update the statutes removing inconsistencies and conforming amendments made pursuant to certain acts passed by this Legislature in 1972.

Justice Rhoda V. Lewis testified on this measure before your Committee and pertinent part of her testimony is made a part of this report as follows:

Section 1 amends section 333-26, relating to Waimano Training School and Hospital, conforming it to chapter 603, Hawaii Revised Statutes, as amended effective July 1, 1973 by Act 88, S.L. 1972. Another amendment places jurisdiction over commitments entirely in the family court, including adults. This is based on section 571-14(6), which places jurisdiction over guardianship of the person of an adult exclusively in the family court, as well as guardianship of a minor pursuant to section 571-11(3). Similarly, sections 334-81 to 334-86 make no distinction between adults and minors in the matter of patients in psychiatric facilities.

Other sections amended by section 1 of the bill are 333-27, 333-30, 333-31, 333-35

and 333-35.5, which are conformed to the terminology of the county charters and to changes made in chapters 603, 634, and 641 by Acts 88 and 89, S.L. 1972, effective July 1, 1973.

Throughout, where the family court is meant the term "family court" or "court" is used, instead of "circuit court", "circuit judge", or "judge", but the only effect on jurisdiction is that noted in connection with section 333-26.

Section 2 amends section 334-83, relating to patients in psychiatric facilities. The words "at any place within the circuit" are eliminated, because under section 571-3 a family court has all the powers of a circuit court, being a division of the circuit court. The deleted words are unnecessary and in fact limiting. Under section 603-14 as amended by Act 88, S.L. 1972, effective July 1, 1973, the court may conduct proceedings outside the circuit upon consent of all parties who have appeared, and may always proceed anywhere in the circuit, there being no jury.

Your Committee has added to section 2 of this bill section 334-1, Hawaii Revised Statutes for the purpose of clarifying the term "licensed physician". The amendment proposed would enable any duly licensed physician or surgeon to participate in the State's mental health program.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 997**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 997, H. D. 1** and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. No. 508 Judiciary on H. B. No. 1170

The purpose of this bill is to amend section 286-156, Hawaii Revised Statutes, to allow more time for a hearing and to clarify the application of this section.

Under present law, the district courts are mandated to conduct hearings to determine the truth and correctness of the affidavit submitted by a police officer pursuant to section 286-155 where a person refuses to take a breath or blood test. Such

a hearing must be conducted within ten days. This requirement reportedly has created administration problems, therefore the request for the extended time.

Further, section 286-102 makes it unlawful to operate a motor vehicle without a duly issued license. It is not clear whether such requirement applies to public as well as private highways. The deletion of "public" from section 286-156 would make it clear such to apply to any highway.

Your Committee has consolidated **H. B. No. 1170** and **H. B. No. 1171** into **H. B. No. 1170** since they both deal with the same section. Your Committee has further amended this section by bracketing "magistrate" and inserting "district judge" wherever magistrate appears.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 1170**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 1170, H. D. 1** and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. No. 509 Judiciary on H. B. No. 1313

The purpose of this bill is to clarify section 663-31, Hawaii Revised Statutes.

The general rule applicable in negligence actions is that contributory negligence is a complete bar to recovery, that is, if the plaintiff has himself been negligent and such negligence contributed to or gave rise to the injuries of which he complains, he is precluded from recovering. However, Hawaii, and a few other enlightened states, have adopted the "comparative negligence" doctrine. This doctrine allows the injured person to recover if he was less negligent. The problem arises where both are equally negligent. This amendment serves to make clear that only if the negligence of the injured person is **greater than** the negligence of the person against whom recovery is sought will he be barred from recovery.

Your Committee has made some typographical corrections.

Your Committee on Judiciary is in ac-

cord with the intent and purpose of **H. B. No. 1313**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 1313, H. D. 1** and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. No. 510 Judiciary on **H. B. No. 1178**

The purpose of this bill is to amend section 443-9 to require collection agencies to obtain more bond coverage.

Under present law, collection agencies are required to have a \$5,000 bond for its main office plus \$3,000 bond for each branch office. Under this proposed bill the bond required would be increased to \$25,000 for the main office and \$5,000 for each branch office. This request is made in recognition of the fact that a licensee may handle substantial sums of money in excess of the present bond requirement.

Your Committee has amended this bill by providing that all licensees must obtain the required coverage for his main office, and branch offices if any, within 6 months of the effective date of this Act. This is done so as not to cause undue hardship to licensees who will be required to meet these standards, since the premium of a \$25,000 bond would be approximately \$250 per annum.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 1178**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 1178, H. D. 1** and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. No. 511 Consumer Protection on **H. B. No. 970**

The purpose of this bill is to amend chapter 469 relating to undertakers, embalmers and funeral directors by adding a new section which will require a funeral establishment to furnish itemized statements of cost of the funeral at the time such arrangements are made.

At the present time there is no law which requires such statement. Therefore, in almost all instances, consumers do not know what they will be paying for until the services have been completed. Due to the substantial costs of funerals today, it is in the best interest of consumers that disclosures be made prior to the services in order to inform them of the exact costs.

Your Committee on Consumer Protection is in accord with the intent and purpose of **H. B. No. 970** and recommends that it pass Second Reading and that it be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. No. 512 Finance on **H. B. No. 876**

The purpose of this bill is to authorize the several county councils, by ordinance, to dispense with or modify the statutory requirements of chapter 143, Hawaii Revised Statutes, relating to licensing and regulation of dogs.

Your Committee invited each of the counties to register its comments respecting the enabling legislation proposed by this bill, and those replying through its director of finance, responded favorably. There was a general consensus that because the problems of dog regulation are the responsibility of local government, the authority to determine the solution most appropriate to the local situation should be relegated to the counties—and your Committee concurs. (See also **H. B. No. 877, H. D. 1**). It will be noted that the fees presently prescribed in relation to this purpose are realization of the county in which collected. (Sec. 143-3).

Amended hereby are Secs. 143-2, -3 and -8, relating to the license required, the fee therefore, and the seizure of unlicensed dogs, respectively, allowing for dispensation and providing for exceptions where dispensed.

By further amendment hereto, brought into conformity with provisions of the various Charters was use of the substituted phrases "director of finance" and "county council" in place of outmoded language, where appropriate, throughout.

Your Committee on Finance is in ac-

cord with the intent and purpose of **H. B. No. 876**, as amended herein, and recommends that it pass second reading in the form attached hereto as **H. B. No. 876**, **H. D. 1**, and be placed on the calendar for third reading.

Signed by all members of the Committee.

SCRep. No. 513 Finance on H. B. No. 1147

The purpose of this bill is to amend certain statutory fee provisions relating to horizontal property regime registration by (1) increasing from \$75 to \$250 the filing fee for notice of intention to sell condominium project offerings, and (2) establishing fees for issuance of a subsequent public report and supplementary public report at \$150 and \$75, respectively.

The filing fee which is required under Sec. 514-30 to accompany the written notification to the real estate commission before a condominium project is offered for sale as prescribed in Sec. 514-29, was established at \$50 when the law was first enacted in 1961, and administratively increased to \$75 pursuant to Sec. 92-28 in 1964. Increasing this filing fee to \$250, as proposed hereby, entitles the developer to issuance of a public report, whether preliminary or final, such as described in Secs. 514-34, also amended hereby, and 514-35.

Presently, these provisions on public reports do not provide for the payment of fees for their issuance by the commission; and even by the proposed amendment this remains so as to the "initial" report (the cost of which, however, is reflected in the proposed increase of the notice of intention filing fee). In this regard, use of the term "initial" in place of "first" as it modifies the "public report" for which it is provided that no fee shall be imposed in part of the amendatory addition to Sec. 514-34, represents a further (and the only) alteration of the bill recommended by your Committee. Lexicographically, this selection is a preferred antonym of the terms "subsequent" and "supplementary" as descriptive of the public reports for which the proposed amendment provides fees for issuance of \$150 and \$75, respectively.

The current annual revenue derived from condominium filings is approximately \$4,500; the operating expenditure of the

condominium program amounts to some \$31,250. Based on statistics of fiscal year 1971-72 (65 initial public reports, 43 subsequent public reports and 16 supplementary reports issued) the revenue under the proposed bill will be raised to \$23,900. This amount, however, although it still falls short of the costs for conducting the condominium program, should be considered together with the intended purpose of **H. B. No. 317**, **H. D. 1**, increasing the license fees paid by real estate brokers and salesmen, a principal consideration for which, in **Stand. Com. Rep. No. 63**, your Committee stated was "so that, eventually, additional personnel may be hired to relieve the present staff in the professional and vocational licensing division to enable them to keep up with the demand for services from applicants, licensees and consumers." The net effect of that bill, which, as amended, has passed third reading and has been transmitted to the Senate, it was estimated, will increase the real estate commission's revenue contribution to the general fund by approximately \$72,250 annually.

The Hawaii Association of Real Estate Boards as representative of the industry, previously testifying in favor of the license fee increase for the reason indicated, also supported this measure "if [the developer] could be assured of a definite time by which his public report would be made available." There was a contention that it presently takes 60 to 90 days; and it was submitted at the hearing that under heavy workload situations, after 30 days from the filing, there be an option to contract for a private consultant, fees to be paid by the developer.

Your Committee invited the real estate commission to comment upon the proposed amendment, and its written reply, through the licensing administrator of the department, upon reputed discussion with all concerned agencies (including the Board of Realtors) was unfavorable because (1) the process of drafting, review, approval and certification of funds for such a contract "there will be no saving in time and effort," and (2) should additional personnel be acquired based upon the license fee increases, "within a three-month period the backlog... would be caught up and kept current within thirty days".

Until otherwise demonstrated ineffective for that purpose, we remain committed

to the findings in our report upon **H. B. No. 317, H. D. 1**, as therein and hereinabove stated; and, therefore, absent more compelling circumstances, the proffered amendment cannot be currently commended for consideration.

Your Committee on Finance is in accord with the intent and purpose of **H. B. No. 1147**, as amended herein, and recommends that it pass second reading in the form attached hereto as **H. B. No. 1147, H. D. 1**, and be placed on the calendar for third reading.

Signed by all members of the Committee.

SCRep. No. 514 Judiciary on H. B. No. 1255

The purpose of this bill is to amend Section 416-80 placing added restrictions upon the scope of the bylaws as they relate to new directorships in corporations.

The present law provides that the bylaws may include any provision for the management of its property, election and removal of its directors, regulation of its affairs and the transfer of stock, or any other purpose, so long as they are not in conflict with law or its articles of association or charter.

This amendment would restrict the applicability of the bylaws where the bylaws provide that the number of directors may be increased during the year. In the event the bylaws do provide for an increase, any such increase may be filled by the board for a term of office only until the election of directors by the stockholders. A further exception is made where the board has been elected by cumulative vote. In such case new directorships may not be filled except by a vote of the stockholders. A simple style change was made by substituting the word "bylaws" in lieu of the word "by-laws."

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 1255**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 1255, H. D. 1** and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. No. 515 Environmental Protection on H. B. No. 1783

The purpose of this bill is to bridge a vital gap in the environmental protection laws today by permitting declaratory and equitable relief to be sought by interested citizens.

An almost identical law was enacted by the State of Michigan almost three years ago. The experience of Michigan, Connecticut, Florida, Indiana, Massachusetts and Minnesota belies the fears expressed by the opponents of this bill. There has been no avalanche of frivolous suits in those states. Your Committee believes that the citizens of Hawaii would be no less responsible.

Moreover, it was pointed out by Professor Joseph L. Sax of the University of Michigan Law School, that the Attorney General of the State of Michigan and his staff are wholeheartedly in support of this law, despite the fact that the public agencies of that state are at times made defendants in those suits.

Your Committee was particularly impressed by Professor Sax's observation that this bill would have, as it has had in Michigan, a singularly beneficial result in bridging the impasse of bureaucratic inertia. Also, even where there is a responsible and energetic staff, their recommendations may be stifled or shunted aside and this law would further provide respite in those instances for the concerned citizen.

We note that despite the Attorney General's written opposition, his deputy's response to oral inquiry elicited his concurrence with the legislative policy and necessity reflected by this bill. In the final analysis, he conceded that the thrust of this bill was desirable, but merely contended that the concepts of the bill should be more narrowly defined.

It is your Committee's view that this bill as formulated in the model of the Michigan statute, must be the first step toward obtaining effective response to our environmental protection concerns of our state. The broad scope of this bill matches the wide sweep of environmental protection problems that defy narrowed and technically defined attempts at solution. Like the laws of "negligence", "nuisance",

“due process”, “interstate commerce”, “unfair restraints of trade”, “unfair labor practices”, to name but a few, it is felt that placed in the arena of the common law, time and responsible ingenuity of our judicial process will weave, on a case by case basis, a fabric of effective and equitable justice.

Your Committee now addresses itself to the central core of the problem, which may be stated in two parts. The first is that the heart of the matter in environmental problems is that the individual common citizen whose quality of life is affected by damage to the environment shares that harm in common with all persons in the community. This is particularly true of Hawaii with its limited geography and fragile environment. The second is the frequent disparity of resources and influence between those whose actions, however unintentionally, damage the environment and those who seek redress through governmental agencies.

In connection with the first, your Committee feels that the issue of “standing to sue” must be dealt with on a case by case basis. Upon analysis, it is found that the **Association of Data Processing Service Organization, Inc. v. Camp**, 397 U.S. 150 (1970), cited by the Attorney General, does not define the issue of standing as to its application in environmental cases. Moreover, the experience of Michigan reveals that the defendants are not foreclosed from raising that issue. This is not to say that faced with the problem as discussed, your Committee is not aware of the need for effective judicial innovation in this area. This is precisely the reason it must be left to solution on a case by case basis.

With reference to the second part of the problem, your Committee noted with keen interest Professor Sax’s observation that responsible lower echelon governmental officers and similarly situated corporate employees often express relief at being required to respond to questions under the power of subpoena at trials commenced through the type of law being considered here. For such people, the protective cloak of the subpoena enables them to tell of their stifled efforts and recommendations, and sometimes of continued injurious practices maintained long after staff reports and evaluations had warned of consequent public harm.

Your Committee further noted with interest testimony to the effect that frequently simply the possibility of suit resulted in corrective action, and in other instances that agreements for corrective action were arrived at without the necessity of a completed trial.

Finally, your Committee would reiterate its conviction that this bill is the necessary first step toward permitting our state to come to grips with our environmental problems. Before any accomplishment can be expected, we must bridge the impasse often presented the ordinary citizen who, being definitely affected in the quality of his life, would, with keen and responsible determination, seek to challenge that wrong.

Your Committee on Environmental Protection is in accord with the intent and purpose of **H. B. No. 1783** and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. No. 516 Select Committee of Hawaii Representatives on **H. R. No. 283**

The purpose of this Resolution is as stated in the title. Your Committee is in accord with the concerns expressed by the people of Kona and that the demolition of the Kona Hospital should be delayed until a more thorough study as to its use is made.

Your Select Committee of Hawaii Representatives concurs with the intent and purpose of **H. R. No. 283** and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. No. 517 Water, Land Use and Development on **H. R. No. 264**

The purpose of this resolution is to request the legislative auditor to conduct a management analysis of the administration of the Department of Hawaiian Home Lands.

At a public hearing before your Committee, witness testimony supported this res-

olution for an auditor's management analysis of the department as it was felt that in February, 1968 when a financial audit was conducted by the auditor, recommendations were made benefitting the department. It is anticipated that an independent, objective, and effective review of the performance of the Department of Hawaiian Home Lands would aid the department in its function to administer to Hawaiian Home lessees.

Your Committee on Water, Land Use and Development concurs with the intent and purpose of **H. R. No. 264** and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 518

Legislative Management informing the House that **House Resolution Nos. 413 to 421, House Concurrent Resolution No. 102, and Standing Committee Report Nos. 519 to 538**, have been printed and distributed.

Signed by all members of the Committee.

SCRep. No. 519 Water, Land Use and Development on **H. R. No. 241**

The purpose of this resolution is to obtain a land use reclassification to conservation for the total Heeia Fish Pond area and the lands immediately surrounding the fish pond.

The Heeia Fish Pond is one of only four ancient Hawaiian fish ponds remaining on Oahu. It is among the largest and best maintained of the fish ponds still remaining in the State. The biological-zoological-historical-recreational value of the fish pond is so significant in Hawaii that the Department of Parks and Recreation of the City and County of Honolulu has planned its perpetuation as the "Heeia Kea Biological Garden".

The Heeia Fish Pond has been placed on the National Register of Historic Places. This recognizes its value and significance as one of the nation's natural treasures for all people as well as its importance to Ha-

waii and her people. Unfortunately, the land areas proximate to the fish pond were classified for urban use by the State Land Use Commission before the pond was placed on the National Register of Historic Places. The reclassification occurred before the community became aware of the full value of the pond and the significance of the commission's actions.

Your Committee thinks there is ample evidence to support the need for the Land Use Commission to examine the situation and reverse its previous decision on the fish pond.

Further, your Committee recognizes that Congress enacted a Coastal Zone Management Act of 1972, Public Law 92-583, which recognizes the national interest in the effective planning, management, beneficial use, protection, and development of the coastal zones of the states. As required by the Federal Coastal Zone Management Act, the State Land Use Commission has the authority to administer land and water use regulations in coastal zones, control development in order to ensure compliance with the state's management program, and resolve conflicts among competing uses in coastal zones.

Your Committee, earlier in this 1973 legislative session, approved a bill to authorize the State Department of Planning and Economic Development to prepare a plan for the management of the State's coastal zone which complies with the requirements of the Federal act and to guide the State and the counties in the exercise of their authority in coastal zones. Your Committee thinks the Heeia Fish Pond is properly a part of the coastal zone program and should be integrated in that program rather than excluded because of a land use decision made years ago under a different climate of circumstances.

Your Committee on Water, Land Use and Development concurs with the intent and purpose of **H. R. No. 241, H. D. 1** and recommends its adoption.

Signed by all members of the Committee.

SCRep. No. 520 Water, Land Use and Development on **H. R. No. 259**

The purpose of this resolution is to request the Department of Hawaiian Home

Lands to conduct an investigation and study to determine the possibility of obtaining lands to be released by the military.

It is noted from a Department of Defense study that approximately 9,500 acres of surplus military land on Oahu will be returned for civilian use. It is further noted that portions of these lands to be released are prime properties that could be used for construction of homes.

In a public hearing before your Committee, a preponderance of witness testimony supported claims for additional lands needed for a critical housing shortage on Oahu. It was felt that all efforts by the Department should be made for locating and acquiring suitable land for the construction of homes as a result of the rapid rise in the cost of housing which has made purchasing of homes prohibitive.

Upon deliberation of this resolution, your Committee feels that endorsement of this resolution would provide needed information to support claims to lands for housing.

Your Committee on Water, Land Use and Development concurs with the intent and purpose of **H. R. No. 259** and recommends its adoption.

Signed by all members of the Committee.

SCRep. No. 521 Water, Land Use and Development on **H. R. No. 360**

The purpose of this resolution is to request the Department of Land and Natural Resources to determine the feasibility of establishing public hunting areas on certain Oahu lands which have been announced as surplus by the U.S. Government.

At a hearing on this resolution, your Committee was told that the Department has already made ascertainment surveys of those lands as to their suitability for public recreation including public hunting. The East Range portion of Schofield Barracks consisting of 1,324 acres above Wahiawa appears suitable for outdoor recreation including hunting. It is contiguous to an existing public hunting area and harbors substantial populations of feral pigs which could be made available to sportsmen. Hiking trails on the northern and eastern

boundaries provide adequate access.

The Kaena-Makua Military Reservation area to be released under Project FRESH consists of 2,381 acres, 2,000 acres of which already are under the jurisdiction of the Department as a public hunting area and portions of the remaining acreage could be suitable for public hunting as well as other outdoor recreation activities.

Your Committee on Water, Land Use and Development concurs with the intent and purpose of **H. R. No. 360** and recommends its adoption.

Signed by all members of the Committee.

SCRep. No. 522 Water, Land Use and Development on **H. R. No. 10**

The purpose of this resolution is to request the House Committee on Water, Land Use and Development to review the Central Oahu Planning Study, the State of Hawaii Open Space Plan and other administrative proposals regarding land use in Hawaii. It further requests that the committee initiate legislation during the Regular Session of 1973 to implement the recommendations of the studies.

The Central Oahu Planning Study and the Hawaii Open Space Plan both involve the serious question of land use. The recommendations contained in these two reports cannot be taken lightly in view of their far-reaching effects. In addition, many questions need to be answered before legislations can be developed for legislative consideration. The constraints of a sixty-day session do not allow this Committee to fully assimilate the implications of the recommendations.

Your Committee recommends that the Speaker of the House of Representatives appoint a House Interim Committee to do an in-depth analysis of the reports in questions and has amended the resolution in total to reflect this recommendation.

Your Committee on Water, Land Use and Development is in accord with the intent and purpose of **H. R. No. 10**, as amended herein, and recommends its adoption in the form attached hereto as **H. R. No. 10, H. D. 1.**

Signed by all members of the Committee.

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SCRep. No. 523 Judiciary on H. C. R. No. 56

The purpose of this Concurrent Resolution is to request the President of the United States to reaffirm his support of the Equal Rights Amendment.

Your Committee is in full accord with the basic intent of the amendment which is to establish complete equality for all individuals regardless of sex. The House of Representatives unanimously passed a proposed amendment to the United States Constitution and the Hawaii State Constitution on this subject in the last Session of the Legislature.

For the purposes of conciseness, your Committee has amended the concurrent resolution to emphasize the fundamental importance of this proposed amendment.

Your Committee is in accord with the intent and purpose of **H. C. R. 56**, as amended herein, and recommends its adoption in the form attached hereto as **H. C. R. 56, H. D. 1**.

Signed by all members of the Committee.

SCRep. No. 524 Health on H. B. No. 342

The purpose of this bill is to authorize aviary game bird ownership through the issuance of department of health permits.

Your Committee has amended the bill in the following respect:

On line 9 between the words "food" and "or" add the words ", fighting or baiting". This is intended to exclude fighting cocks from the definition of "aviary game bird".

Your Committee amended the original form of the bill to delete the last sentence which would have exempted a permittee of the department from county zoning regulations.

Your Committee on Health is in accord with the intent and purpose of **H. B. No. 342**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 342, H. D. 1** and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. No. 525 Higher Education on H. R. No. 373

The twofold purpose of this Resolution is to request that the Board of Regents of the University of Hawaii:

1. Report to the Legislature prior to the end of the 1973 Regular Session on the current faculty workload situation, accomplishments to date based on the current audit, as well as plans for completing the implementation of recommendations;

2. Report to the Legislature by the twentieth day before the 1974 Regular Session on the complete implementation of the Auditor's recommendations, including application of faculty workload policies and procedures during the 1973 Fall Semester at the University of Hawaii.

Your Committee finds, through its deliberations at an Executive Session with the Legislative Auditor's office on March 21, 1973, and its public hearing on this resolution and related legislation of March 22, 1973, that the major thrust of the Audit is to request that the Board of Regents of the University become a more effective policy-making body with respect to faculty workload*

We wish to point out, as the Audit states that "faculty" encompasses many kinds of individuals, and the term "workload" covers many types of University-related activities. Moreover, the three major functions of the University—teaching, research, and public service—are related, and any legislative policy with respect to one function is likely to affect the other.

We also wish to stress that this Audit must be taken in the context of the presently constrained State fiscal situation. We now have before us a Program Plan—

*The Audit was requested in Senate Special Committee Report 5, 1971 Session, on the need for additional campuses. Upon investigating existing instructional resources as an alternative to further capital investment in facilities and personnel, the Committee found no data available to assess fiscal implications of current faculty practices in the University of Hawaii system.

ning and Budgeting System (Act 185, 1970 Session Laws) through which present University and State budgetary considerations have been conceived. PPBS affords us the opportunity to become more accountable in terms of inputs and outputs, not only in quantifiable and measurable terms, but also in terms of more rational and reasonable relationships between State expenditures and human resources. In other words, there is a direct connection between fiscal policy and human services, and one cannot be equated with the other.

There is a similar data base for both the Auditor's report — which assumes a specific methodology — and past University studies of "faculty workload" presented before your Committee on Higher Education on April 11, 1972. At that public hearing, Stuart M. Brown, Jr., Vice President for Academic Affairs, reported on a Fall, 1971 study, based on a questionnaire received from 1,552 University faculty members from Manoa, Hilo, and the community colleges. Dr. Brown's testimony then stressed the need for a clearly defined conception of "instruction", the means by which it is measurable (as distinct from measured) — "credit hour", and the time devoted to the teaching (as distinct from research and public service).

The Fall, 1971, data, as compiled by the University study released by Vice President Brown's office, indicated an average work week of 58 hours on the Manoa campus and 54 hours at Hilo College and the community colleges. This average work week was further specified, and Manoa faculty spent an average of nine hours a week on research, twelve in public service, and 37 in instruction. The latter included more than just the hours spent in class. Hilo College and community college faculty members, on the other hand, averaged higher credit hour loads than the Manoa faculty. This is in accord with the differentiated functions of these institutions which are primarily undergraduate and stress instruction as distinct from research. (The Community College Institutional Research Project has issued a separate report (No. 45) on faculty workload for Fall, 1972.)

The need for adequate distinctions of terms is also underscored by the current Audit. Deficiencies in current policy at the University exist. The Audit states that there is a lack of specification of a mini-

mum teaching load per semester, and a lack of definition of "teaching", "research", and "public service".

There are other findings that indicate that the University and the Audit report and recommendations are parallel considerations, rather than distinct, discreet efforts. Another finding of the latter report is that faculty resources are not being utilized efficiently or effectively to accomplish the University's objectives.

In the absence of a system-wide policy, the deans of the colleges and chairmen of the departments have formulated their own policies and practices that differ widely. According to the Audit, the specifications of maximum teaching load vary from none to twelve semester credits with no required minimum standard. Moreover, as University policy requires research and other service and administrative functions to be performed by the faculty, how adjustments are made in individual workload as to these functions is vague and unclear. Whether these functions are being performed in compliance with the University's objectives is also determined individually. Such subjective means of equating research and service activities and administrative functions to teaching activities in determining workload, can lead to inequality in the treatment of faculty members as well as inefficiency in the utilization of faculty resources.

The Audit suggests that faculty can be utilized more efficiently to cope with the problem of closed courses and sections. On page 38, the report indicates that some departments with closed courses and sections had high teaching loads as well as low teaching loads. Furthermore, departments with low teaching loads offered many sections in the same course requiring a greater number of instructors per course. The Audit suggests that a reallocation of faculty resource should be considered, as the same level of instruction can be maintained with fewer instructors in many departments.

Further examination by the Audit relating to inefficiency in one use of faculty resources reveals that the University, despite its present policy covering "overload", is permitting faculty members to engage in overload practices that detract from the maximum output of their normal teaching responsibilities and increase the

cost of instruction. Overload employment refers to services rendered within the University system by faculty members which are above and beyond their regular workload assignments and for which additional compensation is paid. However, without specific policies regulating minimum teaching loads, the report finds that some faculty members teaching less than four courses in one department were being paid overload compensation for teaching other courses in another department. Another disparity is that there are faculty whose overload exceeds their normal teaching load, and in some instances exceeds the limits prescribed by the Board of Regents.

Based on figures in the Audit (page 36), Hawaii has spent significantly more for higher education than other states, but provides for a relatively low level of participation in higher education. The major policy implication, according to the report, is that Hawaii could spend less money to educate the same number of persons currently receiving higher education or spend the same amount of money to educate more people.

According to Vice President Stuart Brown, who testified before your Committee on this resolution, the University intends to comply fully with the Auditor's recommendations and to make the two reports requested. Dr. Brown explained that at the time the Audit was made, the University had no way of "monitoring" rules and policies on workload, overloads, and stipends because there were no ways of easily and reliably ascertaining the pay and teaching assignments of everyone, everywhere in the University. Since that time, a computerized reporting procedure has been developed, so that data can be produced quarterly. The University now has the capability to fully monitor existing policies.

Dr. Brown also emphasized that the University recognizes the context of collective bargaining agreements presently being negotiated in the State. He said that the University has examined such agreements in other institutions that explicitly cover workload and specify general policies or credit hour requirements.* Hence, there seems no need for the Hawaii Legislature to mandate policy on the uses of faculty resources.

Your Committee concurs with the University position. Furthermore, your Committee foresees clearly that mandates on the number of contact or credit hours are educationally unwise and administratively unfeasible. In the State of Washington, for example, where average weekly "faculty classroom contact hours" were mandated (Chapter 275, Section 97, 1971 Session Laws), it was discovered afterward that the minimum was indeed being met at specific institutions. Furthermore, there have been difficulties in administering and accounting for minimums specified.

Other states such as Florida, Michigan, and Ohio have also established minimums through legislative mandate, according to the Carnegie Commission report, **The More Effective Use of Resources: An Imperative for Higher Education**, (June, 1972). The Commission also states that "The goal of effective use of faculty time is more likely to be accomplished through sustained attention to many facets of the problem than through any single, sweeping change." The variables the Commission mentions as worthy of consideration are:

1. Mixtures of class sizes and establishing appropriate class sizes;
2. Preventing undue course proliferation by periodic departmental review;
3. Involving faculty in developing teaching load policies, establishing standards on reasonable maximum amounts of consultation activities;
4. Maintaining reasonable policies on sabbatical leaves for all faculty; and
5. Analyzing costs of support personnel.

It should be pointed out that all of these facets of "the uses of faculty resources" are of interest to both your Committee and the University. Further, your Committee emphasizes that these uses are activities performed by human beings who make, direct, implement, and execute — as well as participate in — policy making.

*Those mentioned in his testimony are City University of New York, St. John's University, New Jersey State College, Boston State College.

We, therefore, strongly endorse participation by administrators, faculty, and students in the second report on implementation of the Audit—and thus have specified in the last “further resolved” clause in addition to the Board of Regents and the University President, the chairmen of faculty senates and student body presidents of all campuses. We hope that the scope of consultation and participation in making this second report will be comprehensive and inclusive, rather than narrow and exclusive. Only through such vision can all parties achieve mutual accommodation and understanding. Only through such doing—on all levels—can accountability become responsibility, and the planning, program, and budgeting we called for in Act 185 become a distinct and workable reality.

In view of this, your Committee amends the resolution so the first report is due before the end of this Session, but not “ten days” as in the original draft.

Your Committee on Higher Education concurs with the intent and purpose of **H. R. No. 373**, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as **H. R. No. 373, H. D. 1**.

Signed by all members of the Committee.

SCRep. 526 (Majority) Parks, Fish and Game Management on **H. R. No. 262**

The purpose of this Resolution is to request the Division of Fish and Game of the Department of Land and Natural Resources to develop a comprehensive plan to outlaw the netting of fish in all bays and harbors.

Shoreline and reef fishing as a popular pastime is threatened by people employing nets in the State's harbors and bays. Your Committee feels that the recreational resources of this State must serve to bring enjoyment to the greatest number. Accordingly, if net fishing by a few citizens threatens to destroy a pastime of a great number who enjoy shoreline and reef fishing, a workable solution must be found to prevent this imposition.

Your Committee has noted that the Resolution erroneously refers to the “Department” of Fish and Game, and has ac-

cordingly amended the original form of the Resolution to address the Resolution to the Division of Fish and Game of the Department of Land and Natural Resources.

Your Committee on Parks, Fish and Game Management concurs with the intent and purpose of **H. R. No. 262**, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as **H. R. No. 262, H. D. 1**.

Signed by all members of the Committee.

Representative King did not concur.

SCRep. No. 527 Labor and Employment on **H. B. No. 1929**

This bill is a short form bill with a stated purpose of equalizing an alleged existing disparity between employers and employees in contested workmen's compensation cases and containing five generally stated proposals. There are no specific references to applicable sections or language of the law.

Your Committee has examined the proposals and finds them to be worthy of consideration. It finds that most of them should be accorded further study before enactment as they involve major changes in the policy of the Workmen's Compensation Law. One of the proposals, however, has brought the Committee's attention to some present problems which can be remedied by an extension of present policy and without major policy changes. The problems involve:

1. The payment of attorney's fees incurred by a claimant when an employer appeals a decision and subsequently dismisses or compromises the action prior to the decision of the appellate board or supreme court.

2. The payment of expenses related to appeal proceedings which have either been brought, prosecuted or defended without reasonable ground, or have been brought by the employer and lost, or have been voluntarily dismissed or settled by the employer prior to a decision of the appellate board or supreme court.

The first problem arises because Section 386-93 presently makes a claimant's

attorney's fees payable by his employer if the employer appeals a case and loses but fails to cover a situation where the employer appeals a decision and later dismisses or compromises the appeal. The claimant in either case is placed in a situation where he must incur the expense of retaining an attorney because of the employer's appeal. Your Committee is of the opinion that attorney's fees incurred by claimants in both cases should be reimbursable to them from employers. Claimants may otherwise sustain sizeable diminutions of awards they are rightfully entitled to receive.

The second problem now arises because Section 386-93 now makes the "costs" related to appeal proceedings payable by the employer where he has brought, prosecuted, or defended the appeal without reasonable ground and where he appealed a decision and lost. The term "costs" has been interpreted to exclude expenses such as subpoena and sheriff fees, witness fees, and deposition expenses which are usually substantial. A claimant compelled to meet the expenses with his own resources because of an employer's appeal taken without reasonable ground would also sustain an unreasonable diminution of his award. He should be reimbursed for the expenses connected with the appeal under the circumstances.

Your Committee therefore recommends that the Workmen's Compensation Law be amended by adding specific language which would remedy problems discussed above. Your Committee recommends that section 386-93 be amended to specifically make the "expenses" related to an appeal payable by the employer if he prosecutes or defends an appeal without reasonable ground or files an appeal and subsequently loses or voluntarily dismisses or compromises an appeal prior to the decision. It also recommends that section 386-93 be amended to make a claimant's attorney's fees payable by his employer if the employer files an appeal and subsequently voluntarily dismisses or compromises the action. The foregoing recommendations are embodied in **H. B. No. 1929, H. D. 1.**

Your Committee on Labor and Employment is in accord with the intent and purpose of **H. B. No. 1929**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 1929, H. D. 1**, and be referred

to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. No. 528 Labor and Employment on H. B. No. 728

The purpose of this bill is to amend the Workmen's Compensation Law to provide flexible maximum and minimum weekly benefit amounts and a flexible base for determining permanent partial disability in non-schedule injuries in place of the fixed maximum and minimum amounts payable for temporary and permanent disability and in dependency benefits presently in section 386-31 and the fixed base for determining disability in non-schedule injuries presently in section 386-32.

The Workmen's Compensation Law sets the weekly benefit amount payable to disabled workers and dependents of deceased workers at 66-2/3% of the average weekly wages of the injured or deceased worker at the time of injury, subject to a maximum of \$112.50 and a minimum of \$18. It also sets a base of \$35,100 for determining compensation payable for permanent partial disability where the schedule of benefits payable for permanent partial disability in section 386-32 does not specifically mention the injury involved and the disability must therefore be rated as a percentage of total loss or impairment of the physical or mental function of the whole man. An example of the application of the foregoing provision would be an injured worker who is permanently disabled to the extent of 10% of the whole man due to a back or brain injury and is now entitled to receive 10% of \$35,100 or \$3,510.

This bill as introduced proposes to set maximum and minimum benefit amounts on the basis of average weekly wages in the state and to adjust said benefit amounts annually to changes in the state average. The state average weekly wages for this purpose would be the amount determined by the director of labor and industrial relations as the state average weekly wages under the Unemployment Compensation Law. It proposes to amend the law to increase the maximum to 200% of the state average weekly wages in four annual steps. A minimum benefit amount of 25% of the applicable maximum benefit amount is proposed. The proposals follow

recent amendments to the Federal Longshore and Harborworkers' Act.

The bill also proposes that the basis for determining permanent partial disability in cases where permanent partial disability must be rated as a percentage of total loss or impairment of the physical or mental function of the whole man be raised from \$35,100 to 312 times the effective maximum weekly benefit. The present base of \$35,100 is equivalent to \$112.50, the present maximum, multiplied by 312, the number of weeks of compensation now payable for the loss of an arm, the most highly valued member in the schedule of permanent partial disabilities. If the effective maximum pursuant to the proposed amendment is \$140 per week, for example, the base for determining disability would be raised to $\$140 \times 312$, or \$43,680. A person disabled to the extent of 10% of the whole man would then be entitled to \$4,368, rather than the present \$3,510.

Upon consideration of the bill, your Committee is of the opinion that an increase in the maximum weekly benefit amount to 200% of the state average weekly wages would probably be too costly. It agrees, however, that an increase in the benefit structure of the Workmen's Compensation Law is presently in order. The present maximum of \$112.50 per week was enacted in 1965 and many injured workers are now receiving much less than 2/3rds of the wages in compensation benefits due to the rise in wage levels. Your Committee therefore recommends that the maximum weekly benefit amount be raised to the level of the average weekly wages in the state in two steps and be maintained at that level. It has amended the bill to provide an increase in the maximum to \$125 per week on July 1, 1973, and an increase to the level of state average weekly wages on July 1, 1974 with annual adjustment to the average thereafter. The minimum would be set at \$38 on July 1, 1973, and at 25% of the applicable maximum or \$38, whichever is higher, on July 1, 1974. (The \$38 represents the actual effective minimum payable under the law now, the amendment of another section having made the \$18 figure ineffective as a minimum.) It also agrees that the base for determining permanent partial disability in non-schedule cases should be set at 312 times the applicable maximum as this would be necessary to maintain the present comparative

base for determining compensation in such cases.

Your Committee on Labor and Employment is in accord with the intent and purpose of **H. B. No. 728**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 728, H. D. 1**, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. No. 529 (Majority) Labor and Employment on H. R. No. 301

The purpose of this resolution is to register the support of the House for the adoption of a federal regulation which would retain a standard for providing assistance to families of unemployed fathers on the basis of need.

The Aid To Dependent Children (AFDC) program is a Federally aided program providing assistance to needy families of unemployed fathers. The Federal regulations which cover standards for state plans implementing the program contain a definition of "unemployed father" that Federal courts have ruled only provides an hours-of-work test for determining eligibility. This makes assistance payable to families on the basis of their father's unemployment and, in effect, on the basis of need alone. The regulations have therefore been subjected to severe criticism by the U.S. Chamber of Commerce and its affiliates because the program would incidentally help needy families of fathers who are unemployed because of labor disputes. The Administrator of the Social and Rehabilitation Service of the Department of Health, Education, and Welfare has proposed a possible amendment of the applicable Federal regulation in tentative, alternative form. One alternative would amend the definition of "unemployed father" to permit states to exclude fathers who are unemployed because of labor disputes and thereby deny aid to their families. The other alternative would retain the present hours-of-work test and thereby continue the principle of basing assistance on the principle of need. The proposal for an amendment has been made in tentative, alternative form to secure public reaction.

Support for the retention of the present hours-of-work test was expressed by the

department of social services and housing and several others. Mr. Myron Thompson, director of the department stated:

“The Department’s position is predicated by the basic public assistance principle that assistance for basic living requirements be made available to persons and their dependents who have demonstrated need. Assistance and services are determined objectively and equitably on the basis of need which the family presents rather than on judgment as to the cause of dependency.

In the instance of a strike, the Department administering a public assistance program does not concern itself with the merits of a labor dispute for it does not have that jurisdiction — public programs should maintain a neutral position in labor disputes. Assistance should not be denied otherwise eligible children solely because their fathers are involved in a strike.”

Your Committee concurs with Mr. Thompson. Needed assistance should not be denied children solely because of their fathers’ involvement in labor disputes. Your Committee has also amended the resolution to include the acting administrator of the Social and Rehabilitation Service in the list of people to whom copies of the resolution should be sent.

Your Committee on Labor and Employment is in accord with **H. R. No. 301**, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as **H. R. No. 301, H. D. 1**.

Signed by all members of the Committee.

Representative Ajifu did not concur.

SCRep. No. 530 Education on H. B. No. 1240

The purpose of this bill is to amend Section 299-1(b), Hawaii Revised Statutes, thereby allowing the Driver Education Program to be offered during regular school hours; provided that it shall neither become a substitute for any required course nor unduly interfere with the regular curriculum of the students.

As drafted the bill does not accomplish

its purpose because Section 299-1(a), Hawaii Revised Statutes, specifically mandates that driver education be conducted after school hours, on Saturdays and during the summer recess. Your Committee, therefore, amended the bill by amending Section 299-1(a) instead of Section 299-1(b) by inserting the provisions of the bill in subsection (a).

As amended the bill would especially benefit the Educable Mentally Retarded (EMR) under the Occupational Skills Program. This program prepares the EMR for employment, and their learning to drive is a vital factor in their employability. To be a proficient driver, an EMR needs more time and attention than is available under the current Driver Education Program. It was pointed out to your Committee that some EMR graduates have been driving illegally because driver training was not available to them.

Additionally, the present driver education program does not meet the National Highway Traffic Safety Standard 304. The driver education program has received approximately \$50,000 per year for the last five years from the federal government. Your Committee understands that unless the program is substantially expanded and improved to meet the federal standard, the State may lose highway safety funds and up to 10% of federal highway construction monies.

Your Committee on Education is in accord with the intent and purpose of **H. B. No. 1240**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 1240, H. D. 1** and that it be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. No. 531 Health on H. B. No. 1896

The purpose of this bill is to require examination of all persons over 10 years old and entering the United States through Hawaii as a permanent resident to undergo examination for tuberculosis and leprosy.

Your Committee changed the original form of the bill to delete the language requiring deportation and substituted therefore the requirement for reporting to

appropriate federal authorization.

Your Committee on Health is in accord with the intent and purpose of **H. B. No. 1896**, as amended herein, and recommends that it pass Third Reading in the form attached hereto as **H. B. No. 1896, H. D. 1**.

Signed by all members of the Committee.

SCRep. No. 532 Judiciary on H. B. No. 1166

The purpose of this bill is to amend the Hawaii Revised Statutes relating to the requirement that a pre-sentence report be made in all instances where a defendant under the age of 22 has been convicted of a "crime".

Your Committee finds that under this mandate requiring the court order a pre-sentence correctional diagnosis of the defendant and accord him due consideration to a written report of the diagnosis before suspending or imposing sentence is too onerous a burden upon the staff of the counseling service of the courts and serves very little purpose with regard to convictions for non-serious traffic offenses under Chapter 291C, the Statewide Traffic Code or other county ordinances regulating traffic. It should be noted that a district judge may, at his discretion, and in any case, request a pre-sentence diagnosis and report.

Your Committee has made other minor nonsubstantive changes in the form of the bill as proposed.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 1166**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 1166, H. D. 1** and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. No. 533 Judiciary on H. B. No. 115

The purpose of this bill is to permit all the counties to regulate traffic on private streets used by the general public.

Your Committee is in accord with the findings and conclusions of your Commit-

tee on Transportation with one exception. Your Committee believes that an exception is in order where private roads used primarily for agricultural purposes are concerned. Your Committee recognizes the need for traffic regulation and control over private streets but believes it may inadvertently place an undue burden and responsibility on the counties where roads used solely for agricultural purposes are concerned.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 115, H. D. 1**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 115, H. D. 2** and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. No. 534 Judiciary on H. B. No. 1526

The purpose of this bill is to amend Section 448E-1, Hawaii Revised Statutes, to redefine the term "master plumber".

Your Committee finds that, two years ago when Act 183, L. 1971, was signed into law, the definitions for "journeyman plumber" and "master plumber" were identical. Your Committee finds that in order for an applicant to be eligible to become a master plumber, he must have had at least two years experience as a registered journeyman plumber. The tests for a journeyman and a master plumber differ also. Your Committee believes that this duplication in the definition was inadvertent and that "master plumber" should be redefined.

Your Committee finds that the primary function of a master plumber is that of providing supervision and direction in the overall day-to-day activities and is responsible for the proper installation of all plumbing work. Accordingly, your Committee has redefined "master plumber" to encompass these areas. It is not the intent of your Committee that all plumbing work would require the supervision of a master plumber.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 1526**, as amended herein, and recommends that it pass Second Reading in the

form attached hereto as **H. B. No. 1526, H. D. 1** and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. No. 535 Judiciary on H. B. No. 995

The purpose of this bill is to relieve a property owner of the expense of having a vehicle towed if such vehicle was left on his property without his permission.

Under present law, it is not clear as to who is liable for towage expenses incurred when a property owner or occupant of the property requests that a vehicle be towed away. It is the practice of the police department to inform the person requesting a vehicle be removed that he would be responsible for the expense of removal if the owner of the vehicle does not pay. This bill proposes to hold only the owner of the towed vehicle liable.

Your Committee has amended this bill to provide that the unattended vehicle must be left for more than twenty-four hours on the private property without the owners consent before it may be towed away at the vehicle owner's expense. Further, unless the owner of the vehicle repossesses the vehicle within the period required by law, it may be disposed of in accordance with other provisions of this chapter for the disposition of abandoned vehicles.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 995**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 995, H. D. 1** and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. No. 536 Judiciary on H. B. No. 1169

The purpose of this bill is to clarify certain provisions of the Highway Safety Act.

Your Committee finds that Section 286-102 makes it unlawful for a person to operate a motor vehicle without having first been duly licensed. This section does

not make it clear as to when this requirement is intended to apply.

The amendments proposed by this bill attempt to clarify this situation by first defining "highway" in Section 286-2 (definitions section) and second, by inserting in Section 286-102 between "motor vehicle" and "listed below" the words "upon a highway". Your Committee recognizes the intent of this bill and has amended further this bill by inserting "upon a highway" after "shall operate". This would then make Section 286-102 read in part "it shall be unlawful to operate a motor vehicle upon a highway without having first been duly licensed."

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 1169**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 1169, H. D. 1** and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. No. 537 Judiciary on H. B. No. 809

The purpose of this bill is to amend the election laws in order to clarify deadlines and provide procedures for administering special primary and special general elections, to conform to recent legal decisions, and to provide for smoother administration of elections.

Your Committee heard on this bill and other related bills from the office of the Lieutenant Governor, the Lieutenant Governor of the State of Hawaii, and others.

Your Committee has made a change in the form of the bill to conform to present practice used in this Legislature. Minor grammatical and typographical errors have also been corrected.

Your Committee, after hearing testimony, believes that there exists no need to distinguish between an election inspector and an election clerk. They both are required to perform the same role. Therefore, throughout this bill "election official", "inspector", "election clerk", or combination thereof has been substituted with "precinct official" and no further mention will be made herein where such amendments have been made to the section un-

der discussion.

A brief summary of the bill, as amended, follows:

Sec. 11-1 has been amended to include special primary and special general elections. Other clarifying amendments have been made to clearly define the terms used.

Sec. 11-3 (an addition to the bill proposed) has been amended to allow the person reaching 18 years of age prior to any election to register to vote.

Sec. 11-14 has been amended to specify in what instances information generally required of all voters need not be recorded.

Sec. 11-15 has been amended to remove the one year residency requirement, but now requires that a person intend to make Hawaii his legal residence with all the accompanying obligations therein.

Sec. 11-17 has been amended to clarify day and time after which the clerk shall remove the name of any registered voter failing to vote. Since the deadline for receiving ballots is the closing of the polls, the postmark procedure is no longer applicable.

Sec. 11-18 has been amended to provide that no person who changes his residence from one precinct to another, may change his registration after the close of registration for election.

Sec. 11-19 has been amended to provide that a person can register at any time when he moves from one county to another.

Sec. 11-20 has been amended to establish clearly the days and times of different deadlines.

Sec. 11-22 has been amended to remove the requirement that the order of change of registration be filed and made open to the public.

Sec. 11-24 has been amended to require the closing of the register at 4:30 p.m. on the twenty-sixth day prior to the election, whether it be primary, special primary, special, general or special general. This closing of the register, however, does not preclude a person from registering for the next election.

Sec. 11-51 has been amended to provide that an aggrieved person must appeal from a decision of the board of registration not later than 4:30 p.m. on the tenth day after the decision.

Sec. 11-62 has been amended to clarify the time within which a petition for the formation of a new party must be filed. It further requires the petition to contain the names and addresses of the officers of the central committee and of the respective county committees of the new party, and be upon a form prescribed and provided by the chief election officer. Further, objection must be raised not later than 4:30 p.m. on the 10th day, otherwise deemed approved. If objections are raised, decision must be rendered not later than 4:30 p.m. on the 30th day after filing of the petition or not later than 4:30 p.m. on the 100th day prior to the primary, whichever occurs first.

Sec. 11-63 has been amended to specify the days and times party rules and amendments thereto must be filed.

Sec. 11-64 has been amended to specify days and times names of officers of party must be filed, and when objections must be raised.

Sec. 11-72 has been amended to specify the days and times political parties must submit names for precinct officials; adds a requirement that the precinct officials be able to read and write English; further, requires the chief election officer to make a list of the precinct officials of the representative districts not later than 4:30 p.m. on the 10th day prior to a primary, special primary or special election. Removes the requirement, where more qualified persons than are needed for a precinct desire to serve in that precinct, be determined by drawing.

Sec. 11-73 has been amended to specify day and time that the chief election officer or clerk (in county elections) conduct a school of instruction for prospective precinct officials of precincts. Adds new requirement that periodic recertification must be obtained.

Sec. 11-75. Appropriate amendments have been made to eliminate the distinction between election inspector and election clerk and to substitute "precinct official" in lieu thereof.

Sec. 11-76 has been deleted from this bill.

Sec. 11-77 has been amended to specify day and time political party must submit its list of watchers prior to any election. It adds a new requirement that a person who could not qualify to serve as a precinct official may not serve as a watcher. Subsection (e) provides that the chief election officer shall promulgate rules and regulations regarding the activities of the watchers.

Sec. 11-91 has been amended to specify day and time proclamations to be issued.

Sec. 11-92 has been amended to provide for special primary and special general elections and clarifies days and times.

Sec. 11-113 has been amended to specify the day and time political party must submit names of the presidential and vice-presidential candidates. Your Committee has amended this section, at page 32, by bracketing [office of the lieutenant governor] and inserting **chief election officer**, for consistency.

Sec. 11-114. Your Committee has added after "board of education" "**, except in primary elections**" to clarify that there shall be a separate school board ballot for primary elections.

Sec. 11-115 has been amended to provide for the change of terminology from the word "square" to "box".

Sec. 11-117 has been amended to clarify the day and time a candidate may withdraw.

Sec. 11-118 has been amended to clarify time within which a party may fill a vacancy. Substitution may not be later than 4:30 p.m. on the 10th day prior to the election, except in certain instances.

Sec. 11-119 has been amended to clarify day and time within which county clerk must receive absentee ballots. Your Committee could find no justification for adopting the voting by mail (chapter 15A proposed) and therefore all reference to mailing ballots has been deleted.

Sec. 11-135 has been amended to remove the requirement that at the polls the seals of the ballot containers or packages be

publicly broken and opened by the chairman but requires that the seals of the ballot containers or packages be broken and opened on election day only in the presence of at least two precinct officials not of the same party.

Sec. 11-154 has been amended to provide for the securing of the ballots as soon as they have been tabulated rather than waiting until the end of the contest period, more flexibility for retabulations and recounts, and a more reasonable time for the disposition of election records. Once a candidate has been certified, the ballots and other election records may be destroyed.

Sec. 11-158. Your Committee has deleted this proposed new section as being unnecessary since adequate safeguards exist and since there is now only one closing date, the need for vote recounts may be minimal.

Sec. 11-172 has been revised to make this section applicable generally to contests for cause placing jurisdiction in such matters in the Supreme Court. Specific provisions for contests for cause are contained in the proposed new sections.

Sec. 11-173 is repealed.

Sec. 11-174 is repealed.

Sec. 11- is a new section proposed to deal with contests for cause in primary and special primary elections.

Sec. 11- is a new section proposed to deal with contests for cause in general, special general and special elections.

Both these new sections provide for contests, hearing and judgment for the named elections.

Sec. 175 provides that the supreme court can compel attendance of witness, punish for contempt, and so forth. Further, that costs shall be as provided by supreme court rule.

Sec. 11-176 which provides for appeal from a decision of a circuit court in special elections has been repealed. The proposed new sections next preceding designed for dealing with contests for cause. As set up, the supreme court has exclusive jurisdiction and its determination is final.

Sec. 12-2. Your Committee feels that the primary election should be held on the first Saturday of October and therefore has deleted the proposed amendment thereto. Amendment makes provisions for special primary elections.

Sec. 12-3 has been amended to provide for special primary elections, clarify who may sign nomination papers; also amended to preclude conflict with section 12-4. Your Committee has amended paragraph (1) by substituting for "qualified" the phrase "their primary election ballot preference designation will allow them".

Sec. 12-6. Your Committee has deleted the proposed "60 day" period and retained the 45 day period.

Sec. 12-8 has been amended to clarify time when objection to filing of nomination papers may be made.

Sec. 12-9 has been amended to clarify time when list of candidates must be transmitted and provides for special primary election.

Sec. 12-21 has been amended to provide for special primary ballots for each party.

Sec. 12-22 has been amended to provide for official nonpartisan special primary ballots.

Sec. 12-23. Your Committee has added this section and made appropriate amendment providing for a primary election ballot.

Sec. 12-31 has been amended to provide for selection of party ballot; provisions made for special primary elections, clarify the day and time and to provide for a voter who re-registers after having his name removed from the register to select any one primary ballot in the next primary election in which he votes.

Sec. 12-41 has been amended to provide for special primary and special general elections.

Sec. 13-3 has been amended to clarify how the ballots for school board offices are to be printed in order to remove any possible conflict with section 12-23. Also, a new requirement added stating that those voters who do not wish to state their party preference or add specific time re-

quirement. Nonpartisanship of the primary election may select the school board ballot only.

Sec. 14-21 has been amended to add specific time requirement. Name of nominees for presidential electors and alternates must be received by the chief election officer.

Sec. 14-22 has been amended to add a specific time limit as to when a determination must be made in contested nominations of presidential electors and alternates.

Sec. 14-24 has been amended to specify the time and date the chief election officer must certify to the governor the names of the persons elected as presidential electors.

Sec. 15-1 has been amended to clarify who may vote by absentee ballot. Content of section 15-12 removed to this section so that all information about who may vote by absentee ballot is contained in one section.

Sec. 15-2 has been amended to clarify time, delete reference to a section that is to be repealed, provide for special primary elections, and clarify that certain persons requesting an absentee ballot must state his selection of party ballot, nonpartisan ballot or of only the official board of education ballot on his request.

Sec. 15-3 has been added by your Committee and amended by adding a requirement that all requests for absentee ballots received upon the last day shall be mailed to the voter as soon as reasonably practicable but, in no event, later than twenty four hours after receipt thereof.

Sec. 15-4 has been amended to delete provisions that will not be necessary should proposed amendments to section 15-9 be passed. Provides that absentee ballot will not be valid if affirmation statement not signed.

Sec. 15-5 has been amended to clarify language, make the receipt deadline the same for all elections and for all methods of receipt, and to delete a provision that will not be necessary should proposed amendments to section 15-9 be passed.

Sec. 15-7 has been amended to provide that absentee precincts shall meet before election day to receive absentee voters who are voting in person and provides

absentee precincts to be closed at 4:30 p.m. day before election. Absentee precincts to reopen on election day for purpose of counting all absentee ballots received in the mail or delivered to the county clerk.

Sec. 15-9 has been amended to delete the provisions for late absentee ballots. Now provides that for any election all reply envelopes containing absentee ballots received by the county clerk after the deadline for receipt stated in section 15-5 shall be kept unopened and disposed of pursuant to section 11-154.

Sec. 15-12. This section repealed. Contents of this section have been incorporated into section 15-1.

Your Committee has deleted the proposed chapter 15A entitled "Voting by Mailing Ballot". Your Committee feels that there is no justification for such a proposal. Also, the user, if any, would be very minimal considering our island units.

Sec. 16-42 has been amended to provide for special primary elections.

Sections 17-1, 17-2 and 17-3 have been amended to clarify times.

Section 17-5 has been amended to extend and clarify the time when a special primary shall be held. Further clarifies time for special general elections.

Sec. 19-6. Since the proposed chapter 15A was not adopted, all reference herein to such adoption has been deleted.

Sec. 25-5 has been amended to provide that compensation for members of the reapportionment commission shall be paid by warrants signed by the comptroller upon vouchers properly endorsed by the chairman of the commission.

Sec. 25-7 has been amended to provide that compensation for members of the apportionment advisory council shall be paid by warrants signed by the comptroller upon vouchers properly endorsed by the chairman of the appropriate advisory council.

Sec. 235-1 has been amended to delete that portion that refers to the presidential short ballot that is being repealed with Part I of Chapter 14.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 809**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 809, H. D. 1** and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. No. 538 Public Employment on H. B. No. 1835

The purpose of this bill is to seek legislative approval of cost items in contracts negotiated with public employee organizations pursuant to the provisions of Chapter 89, Hawaii Revised Statutes, Collective Bargaining in Public Employment.

The term "cost items" includes wages, hours, and other terms and conditions of employment, the implementation of which requires an appropriation by the Legislature.

H. B. No. 1835, H. D. 1 incorporated the cost items for six contracts transmitted by **Governor's Message 50**, dated March 9, 1973.

Your Committee has amended this bill by adding cost items for collective bargaining agreements negotiated with Unit 6, educational officers of the Department of Education; Unit 8, personnel of the University of Hawaii and the community college system, other than faculty (administrative, professional, and technical, or "APT" personnel); and Unit 13, professional and scientific employees. The cost items for these three units were transmitted by **Governor's Message 57**, dated March 22, 1973.

Unit 6, Educational Officers

Your Committee notes that the wage provision for the Unit 6 contract permits approval by the Legislature retroactive to September 1, 1972. Accordingly, the bill has been amended to include a 5.5% salary increase effective September 1, 1972, a 5.5% increase effective September 1, 1973 for 10-month educational officers, and a 13.5% increase effective September 1, 1973 for 12-month educational officers.

Unit 8, UH-APT Personnel

The agreement with Unit 8 covers the period February 1, 1973 to June 30, 1976 and provides for contract reopening during the month of September 1974. Each party may reopen two articles, but the wage provision is excluded as a reopening subject.

The contract provides for a 5.5% across-the-board increase effective February 1, 1973, a 7.5% increase effective July 1, 1973, a 6.0% increase effective July 1, 1974, and a 6.0% increase effective July 1, 1975. The latter three increases are in lieu of annual salary increments.

The contract provides for a 5.5% across-the-board increase effective February 1, 1973, a 7.5% increase effective July 1, 1973, a 6.0% increase effective July 1, 1974, and a 6.0% increase effective July 1, 1975. The latter three increases are in lieu of annual salary increments.

Unit 13, Professional & Scientific Employees

The agreement with Unit 13 is effective from February 1, 1973 and terminates on June 30, 1975. The wage provision provides for a 5.5% across-the-board increase effective February 1, 1973 and a 5.5% increase effective July 1, 1973. The contract may be reopened by the union in October of 1973 on wages for the period July 1, 1974 to June 30, 1975. Each party may also reopen two articles of its choice.

Unit 5, Teachers and Other Personnel of the Department of Education

Your Committee was informed that negotiations are currently underway on the reopening of the salary provision for Unit 5, teachers of the Department of Education, specifically for the school year beginning September 1973. However, it is aware that a 5.5% salary increase may be approved retroactive to September 1, 1972. So included in **H. B. 1835, H. D. 2**, is funding for a 5.5% salary increase retroactive for the school year beginning September 1, 1972. (Governor's Message —, dated March 19, 1973, transmitted the Unit 5 cost item.)

Unit 7, Faculty of the University of Hawaii and the Community College System

Your Committee was also informed that the employer has had only one formal negotiation session to date with Unit 7, faculty of the University of Hawaii and the community college system. No cost items for Unit 7 have been included in the bill since that contract is yet to be negotiated.

Your Committee on Public Employment is in accord with the intent and purpose of **H. B. No. 1835, H. D. 1**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 1835, H. D. 2** and that it be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. No. 539 Education on H. B. No. 1287

The purpose of this bill is to provide for a salary increase for teachers in the Department of Education.

Your Committee upon consideration of this bill recommends an amendment to **H. B. 1287**, a short form bill, to be incorporated as attached as **H. B. No. 1287, H. D. 1**.

The purpose of this amendment is to provide for a 5.5% across-the-board increase above the existing 1971-72 salary schedules which will be retroactive to September 1, 1972.

On March 19th, 1973, the Governor transmitted the cost item for the collective bargaining agreement which was negotiated with the Hawaii State Teachers Association on February 29, 1972. Article XVII, Section A, of that contract provided a 5.5% across-the-board increase above the existing 1971-72 salary schedule. The contract allows the legislature to provide for retroactivity to September 1, 1972 at the cost of \$15,864,386. The bill was so amended.

Your Committee is in accord with the intent and purpose of **H. B. No. 1287**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 1287, H. D. 1**, and recommends its referral to the Com-

mittee on Finance.

Signed by all members of the Committee except Representative Hapai.

SCRep. No. 540 Judiciary on H. B. No. 135

The purpose of this bill is to prohibit the holding, introducing or selling of any consumer commodity which is misrepresented or misbranded.

Your Committee held a hearing on this measure and heard from the Department of Agriculture, the Office of Consumer Protection and the Retail Merchants of Hawaii urging support of this measure.

It was pointed out to your Committee that the most flagrant area of abuse occurred in the designation of the "point of origin". Testimony from the Office of Consumer Protection indicated that many complaints were received from tourists who purchased goods believed to have been made in Hawaii only to find subsequently that they in fact were not. This form of advertising, that is by misbranding or misrepresenting where the product was manufactured or made, is detrimental to our honest businessmen, the tourist industry, and the image of this State.

Your Committee believes that this legislation is necessary in order to curtail the deliberate and deceptive practice of misbranding so as to assure that consumers receive the quality of merchandise and products that are represented and that they are correctly labeled.

It is to be stressed, however, that this should not preclude a manufacturer, seller, or holder to indicate clearly and concisely what in fact was done. For example, if a perfume manufacturer receives ingredients from various states or countries and mixes or blends these ingredients into the final product here in Hawaii, he should so label his product as being "blended" in Hawaii or other similar language. This applies to any manufacturer (as defined in this chapter) in any other industry in Hawaii.

Your Committee has amended this bill to provide that the director shall pursuant to section 486-9 and chapter 91, promulgate rules and regulations relating to misbranding. Your Committee made minor nonsubstantive changes in the form of this bill to conform to present bill drafting

practice recognized by this legislature.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 135, H. D. 1**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 135, H. D. 2** and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. No. 541 Judiciary on H. B. No. 15

The purpose of this bill is to revise section 657-38 to impose an added restriction upon those claiming title by adverse possession.

Because of the importance of **H. B. No. 15**, and a companion measure which would completely abolish title by adverse possession, your Committee held two hearings on this bill.

Some of the justifications for the continued maintenance of adverse possession are that it serves as a stimulant to full utilization of land, that it protects the expectations of both the possessor and the community, that it aids in cutting off stale claims apt to be invested with fraud or perjury, and more often than not, it is a device which continually clears up errors in prior conveyances and thus supports the integrity of the title system. It is the latter that perhaps is the mainstay for the retention of adverse possession.

It has been stated that the purpose of adverse possession is not to take property away from someone who is entitled to it, but rather to perfect the title of the person who is in possession and for all practical purposes the owner so as to permit the sale or mortgage or development thereof. It has also been stated that the acquiring of title by adverse possession is primarily to quiet title for the person in long possession, not to penalize an owner who has slept on his rights. Discarding the niceties and looking at the situation realistically, the legal effect, no matter how it is phrased, is to effectively cut off the true owner's right, title and interest to the property claimed.

The acquisition of title by adverse possession has a common law root, the doctrine of disseisin — if a true owner was ousted (another took possession claiming

a freehold interest) the disseisor was considered the owner subject only to the disseisee's cause of action and right of self-help, which were not assignable and could only pass by descent.

In Hawaii, a modified version of this concept is embodied in various sections of the Hawaii Revised Statutes, specifically chapters 501, 657 and 669. Section 669-1 (b) provides that any person may bring an action to establish title who has been in possession of the real property for not less than ten years. Section 657-31 bars any person from recovering possession of any lands unless he has brought the action within ten years after the right to bring the action first accrued. Section 657-38 deals merely with what constitutes possession.

Realizing the modern day justifications for the retention of adverse possession, your Committee recognizes both the beneficial aspects of its retention and also the detrimental effect it does have as to the true owner of the real property.

Your Committee has amended this bill as to section 657-38 so as to require that one claiming title by adverse possession must show that, in addition to having been in continuous open and peaceable possession, at the time he gained possession he was acting in "good faith". The requirement of "good faith", though it has been variously defined by different courts and there seems to be no general consensus among the authorities, it is intended by this bill to require that the person claiming title must believe that he has some claim of right, title, or interest in or to the lands, and that something must exist upon which such belief of claim is based. Good faith will be presumed until the contrary is shown.

Your Committee has amended this bill as to section 665-3, which deals with real property which escheats to the state by law, by modifying the present requirement to include "good faith".

Your Committee has further amended this bill so as to clearly indicate this Act shall be prospective in nature and will not affect the rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 15, H. D. 1**, as amended herein, and recommends that it pass Third Reading in the form attached hereto as **H. B. No. 15, H. D. 2**.

Signed by all members of the Committee.

SCRep. No. 542 Judiciary on H. B. No. 990

The purpose of this bill is to provide a comprehensive law relating to the jury selection system and the utilization of jurors.

Your Committee held a hearing on this and other similar measures and heard testimony from the Judiciary Branch, the Hawaii State Federation of Labor, AFL-CIO, and others.

Your Committee finds that this bill was prepared by an ad hoc committee consisting of judges from the several circuits, the chief clerk of the First Circuit, a representative from the office of the Director of Administrative Services, and Justice Rhoda V. Lewis, who served as draftsman.

Your Committee was impressed with this measure and the testimony submitted in support thereof by the Judiciary. A portion of that testimony summarizing this measure follows:

Sections 1 and 2 of the proposed new chapter contain a declaration of policy and prohibit discrimination.

Disqualification to serve as a juror is limited to insufficient knowledge of English, physical or mental disability, or conviction of a felony unless pardoned (section 4). Exemptions are limited to attorneys, physicians and dentists, ministers, members of the armed forces or police and fire departments, elected officials, heads of government executive departments, and judges (section 6).

A jury commission, constituted the same as under the present law (see section 10) is to compile a master list each year from voter registration lists, which may be supplemented with names from other lists (section 11). The jury commission will, by random selection, take from the master list the names to be processed, sufficient in number to provide the number of jurors

required for the ensuing year (section 12). Each of these persons will be sent a juror qualification form (section 13). All names of prospective jurors who, after processing, are found to be qualified and not exempt or excused for hardship, will be placed in the "qualified jury wheel", from which lists of grand jurors and trial jurors will be drawn at random to serve during the ensuing year, from and after January 15 (sections 14, 15 and 22).

A prospective juror may be excused for hardship only with the approval of the court (section 14). If a juror has been called on a panel within one year preceding the time of filling out the juror qualification form, he is entitled to exemption in the ensuing year (section 6 (6)).

In the first circuit, trial jury panels will be packaged at the beginning of the year in groups of twenty-six names taken at random from the list of trial jurors prepared by the jury commission. The other circuits may use this system or order another system which is not contrary to the general purposes of the chapter. In all the circuits, the drawing from the panels of prospective jurors for seating in the jury-box shall be by lot. There is no requirement that names on a particular panel be exhausted before those on another panel may be used in the drawing; this specified in the bill (sections 17 and 18).

In the first circuit, a trial jury panel serves thirty days, and then is excused (section 17(f)). In the other circuits there is no specified period; a trial juror may be excused after actual service "having regard to the equitable distribution of jury service" (section 18(d)).

A method of asserting noncompliance with the requirements of the chapter is provided by section 23. The prescribed method is exclusive, unless there are constitutional grounds. The moving party must show a substantial failure to comply with the law and that he has been prejudiced thereby.

Section 25 contains provisions protecting a juror from being discharged because he is called for jury service. Violation is a petty misdemeanor. A discharged employee may bring a civil action for lost wages, limited to six weeks' wages.

Your Committee has amended section

-11 to remove the secrecy provisions of section 235-116, Hawaii Revised Statutes in order to allow lists of taxpayers to be utilized in compiling the master list, if the court desires.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 990**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 990, H. D. 1** and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. No. 543

Legislative Management informing the House that **House Resolution Nos. 422 to 430, House Concurrent Resolution No. 103, and Standing Committee Report Nos. 544 to 569**, have been printed and distributed.

Signed by all members of the Committee.

SCRep. No. 544 Labor and Employment on H. R. No. 258

The purpose of this resolution is to request the department of labor and industrial relations to conduct a feasibility study on the establishment of an employment development program involving the relocation of people from areas where there are manpower surpluses to areas of manpower shortages.

The resolution requests that the department's study specifically include, but not be limited to, the following:

1. A comparison of the costs of the present unemployment insurance program and the costs of an employment development program which would include the payment of relocation expenses and other benefits to persons who would be willing to accept jobs requiring relocation of their residences.

2. The economic effects of the employment development program described above; and

3. Its social and economic implications.

Your Committee agrees that the program described in the resolution warrants

a thorough study by the department of labor and industrial relations. If it is a feasible program, it could reduce unemployment in certain areas with chronic unemployment problems and help meet manpower needs in other areas.

The department of labor and industrial relations supported the resolution but informed your Committee that its resources are presently inadequate to undertake the study. Federal budgetary cuts have reduced the funding of the department's Research and Statistics office by more than a third and it has not been able to undertake several mandated studies and reports. The department estimates that approximately \$13,000 would be required for the feasibility study. Your Committee recommends that the Committee on Finance give serious consideration to an expenditure of said amount for the requested study.

Your Committee on Labor and Employment is in accord with the intent and purpose of **H. R. No. 258** and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. No. 545 Labor and Employment on H. R. No. 276

The purpose of this resolution is reflected in its title.

Hawaii annually receives a greater number of immigrants from foreign countries than any other state and this places an additional strain upon the limited resources of the state. As immigration is controlled by Federally established policies, the Federal government should aid the state in coping with the many problems created by the large influx of immigrants into Hawaii.

Your Committee on Labor and Employment is in accord with the intent and purpose of **H. R. No. 276** and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Leopold.

SCRep. No. 546 Public Welfare and Assistance on H. R. No. 404

The purpose of this Resolution is to request the Department of Social Services and Housing to exclude tax credit rebates as a resource when determining the eligibility for and amount of economic assistance to be provided recipients.

The Consumer Tax Credit System was enacted to make the common-type taxes more equitable and less regressive for low-income families. However, the Public Welfare Division of the Department of Social Services and Housing regards tax credit rebates as a resource in determining eligibility and amount of economic assistance to be provided. Thus, recipients of economic assistance are discouraged from claiming tax credit since the receipt of any such rebate would reduce correspondingly the amount of economic assistance received. Since this Public Welfare policy would appear to defeat the intent of the Consumer Tax Credit System, this Resolution seeks the exclusion of tax credit rebates as a resource.

Your Committee on Public Welfare and Assistance concurs with the intent and purpose of **H. R. No. 404** and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. No. 547 Public Welfare and Assistance on H. C. R. No. 100

The purpose of this Resolution is to request the Department of Social Services and Housing to exclude tax credit rebates as a resource when determining the eligibility for and amount of economic assistance to be provided recipients.

The Consumer Tax Credit System was enacted to make the common-type taxes more equitable and less regressive for low-income families. However, the Public Welfare Division of the Department of Social Services and Housing regards tax credit rebates as a resource in determining eligibility and amount of economic assistance to be provided. Thus, recipients of economic assistance are discouraged from claiming tax credit since the receipt of any such rebate would reduce correspondingly the amount of economic assistance received. Since this Public Welfare policy would appear to defeat the intent of the Consumer Tax Credit System, this Resolu-

tion seeks the exclusion of tax credit rebates as a resource.

Your Committee on Public Welfare and Assistance concurs with the intent and purpose of **H. C. R. No. 100** and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. No. 548 Water, Land Use and Development on **H. R. No. 369**

The purpose of this resolution is to request the House Committee on Parks, Fish and Game Management to conduct hearings prior to the final adoption of the Kapuku Plan being developed by the Department of Land and Natural Resources relating to the conservation of marine life in coastal waters through the regulation of fishing activities.

The Kapuku Plan, whose Hawaiian meaning is "to restore to life", will be of widespread importance to the people of the State.

Your Committee on Water, Land Use and Development concurs with the intent and purpose of **H. R. No. 369** and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. No. 549 Water, Land Use and Development on **H. C. R. No. 97**

The purpose of this concurrent resolution is to indicate the Legislature's support of expanding Foreign Trade Zone No. 9 activities to the Neighbor Islands.

This concurrent resolution asks that the Department of Planning and Economic Development assist the counties in establishing general and special purpose subzones on the Neighbor Islands. It also asks for a progress report from each county's planning department for the 1974 Legislative Session.

Your Committee has amended the concurrent resolution so that the progress report comes from the county mayor, thus allowing the mayor flexibility in deciding which of the county departments shall

handle the matter.

Your Committee on Water, Land Use and Development concurs with the intent and purpose of **H. C. R. No. 97**, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as **H. C. R. No. 97, H. D. 1.**

Signed by all members of the Committee.

SCRep. No. 550 Water, Land Use and Development on **H. B. No. 1635**

The purpose of this bill is to appropriate \$65,000 to provide for a research management study of the population of the green sea turtle in Hawaiian waters and to provide for preliminary feasibility studies which may lead to means of halting or reversing the decline of these valuable and threatened animals.

Hawaii State Fish and Game Division records show that the commercial exploitation of these salt water reptiles has increased drastically over the past nine years. A low of 380 pounds of sea turtle was reported taken in 1963 while a record high of 25,583 pounds was reported for 1972. A large portion of this commercial catch now enters the tourist industry to be sold as turtle steaks, thus increases in exploitation can be expected to continue so long as our visitors create a demand. Since turtles that are captured but not sold for profit need not be reported to the Fish and Game Division, it is unknown how many animals are taken each year just for home use.

The potential of the green sea turtle as an important food item is known. Unfortunately, little is known about the supply. Therefore, your Committee has amended this bill to provide a three-year moratorium on the taking and selling of the green sea turtle while the studies are being made and the supply determined. The amendment is contained in Section 6 of the bill and reads: "No person shall take green turtles or eggs for private or for commercial use for a period of three years beginning with the effective date of this Act. Any person violating the provisions of this section shall be fined not less than \$25 nor more than \$200, or imprisoned for more than fifty days, or both". The previous section 6 of the bill dealing with the effective date is appropriately

renumbered as section 7.

Your Committee on Water, Land Use and Development is in accord with the intent and purpose of **H. B. No. 1635** as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as **H. B. No. 1635, H. D. 1.**

Signed by all members of the Committee.

SCRep. No. 551 Water, Land Use and Development on H. B. No. 1755

The purpose of this bill is to amend Sect. 101-2, HRS, relating to taking of private property for public use and the disposal of excess property, to permit the sale of excess property to other than one abutting owner under certain conditions.

At present, the sale of excess property resulting from condemnation for public purpose, regardless of lot size, topography or configuration, is restricted to the owner of the abutting land. This provision also has no procedures in cases where more than one abutting owner is interested in buying the land.

Under provisions of this bill, if an excess property conforms to the minimum lot size requirements of the applicable zoning regulation, and is of a configuration and topography which, in the judgment of the condemning authority, can be put to a reasonable use and has proper access to a street, then disposal may be made by sale at public auction to anyone. If the property is less than the minimum lot size and can only be sold to the abutting owner, it will be sold by sealed bid to the abutting owner submitting the highest offer above the appraised value by the condemning authority.

Your Committee on Water, Land Use and Development is in accord with the intent and purpose of **H. B. No. 1755** and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. No. 552 Education on H. B. No. 932

The purpose of this bill is to reapportion the elected Board of Education, and the bill reapportions the board as follows:

(a) The Board shall consist of 19 members instead of eleven

(b) First School Board District (Hawaii) shall have two members

(c) Second School Board District (Maui) shall have one member

(d) Third School Board District (Honolulu) shall have eight members

(e) Fourth School Board District (Central Oahu) shall have one member

(f) Fifth School Board District (Leeward Oahu) shall have two members

(g) Sixth School Board District (Windward Oahu) shall have one member

(h) Three members of the Board shall be elected at large from the City and County of Honolulu

(i) The Seventh School Board District (Kauai) shall have one member

In 1970, **Haldy vs. the Junior College of Metropolitan Kansas City**, decided by the United States Supreme Court applied the "one man, one vote" principle to local school boards. On March 16, 1970, nineteen days after Haldy, the Attorney General indicated that the Hawaii Board of Education was malapportioned. The Fifth State Legislature, Regular Session of 1970, passed an amendment to the Hawaii Constitution which would provide for an appointed Board of Education. In the 1970 General Election referendum, however, the amendment was defeated by a vote of 116,390 to 70,587.

Your Committee on Education has held extensive and thorough hearings on the matter of the Board of Education. The opinion of the Attorney General as given in opinion 70-5 and accepted by the Federal District Court (Civil No. 72-358) is that the State Board of Education is constitutionally malapportioned. Testimony from the Attorney General to your Committee states that the remedial procedures are essentially legislative rather than a judicial function. However, if the 1973 legislature fails to take corrective measures on the

matter of the malapportioned Board of Education, the Federal District Court will do so. The problem is in the words of the Attorney General "therefore squarely before the Seventh Legislature."

Your Committee has considered several proposals concerning the Board of Education and believes **H. B. No. 932** will remedy the problem of the malapportioned School Board based on population. Representation on the Board also reflects the concentration of schools and problems related to education in the State.

Testimony received from the Board of Education indicated that the enlargement of the Board is desirable because it would permit, in the proper cases, the division of responsibilities thereby assuring full consideration of the many problems faced by the Board. Mr. Yamashita, Chairman of the Board of Education, testified that with the introduction of collective bargaining as a responsibility of the Board, the workload has doubled.

Your Committee on Education is in accord with the intent and purpose of **H. B. No. 932**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 932, H. D. 1** and that it be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. No. 553 Housing on H. B. No. 612

The purpose of this bill is to check inflationary trends in housing prices in order to stabilize the State's economy and to help insure an adequate supply of housing to all residents of the State at all income levels.

Your Committee believes that one of the major contributing factors for the inflationary spiral in housing prices is the second and subsequent sale of homes at grossly inflated prices. Efforts to make homes available at moderate prices will be of no avail if the initial purchasers are allowed to make excessive profits on a subsequent sale in so short a period as allowed under present law. This bill, as amended, is intended to discourage short period speculation in the housing market.

In the form attached hereto, this bill

taxes all net gains from the sale of residential real property at the following rates:

1. If the property is held for less than three years, the tax is eighty per cent of the net gain.

2. If the property is held between three and five years, the tax is sixty per cent of the net gain.

A sale is exempted from the above rates and is taxed at capital gain or ordinary income rates, as applicable, if:

1. The property is held for more than five years;

2. The property is involuntarily sold;

3. The taxpayer is in the business of selling residential real property.

Your Committee on Housing is in accord with the intent and purpose of **H. B. No. 612**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 612, H. D. 1** and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. No. 554 Finance on H. B. No. 127

The purpose of this bill is to correct an error caused by Act 157, Session Laws of Hawaii 1971, by restoring the provisions which permit the effective date of retirement to be set by the board of trustees of the State retirement system, which date shall not be earlier than 30 days from the filing of the application.

Act 157, Session Laws of Hawaii 1971, amended the section of law dealing with ordinary disability retirement to permit any member to file an application for ordinary disability retirement even if on a leave of absence without pay. However, the Act referred to the statute which existed under the Hawaii Revised Statutes prior to a 1969 amendment under Act 110, and, in so doing, inadvertently restored the previous requirement that the effective date of retirement for ordinary disability retirement shall be not less than 30 nor more than 90 days from the filing of the application. Inadvertently repealed were the provisions of Act 110, Session Laws of

Hawaii 1969, which provided that the effective date shall be set by the board of trustees, which date shall not be less than 30 days from the filing of the application.

This bill, which further amends Sec. 88-75, Hawaii Revised Statutes, as amended, by deleting where restored and restoring where deleted the aforementioned provisions, will achieve the purpose originally intended.

Your Committee on Finance is in accord with the intent and purpose of H. B. No. 127 and recommends that it pass third reading.

Signed by all members of the Committee.

SCRep. No. 555 Finance on H. B. No. 218

The purpose of this bill is to amend sections of the Workmen's Compensation Law covering "temporary partial disability" and "payment after death" by (1) clarification of existing statutory language in the former, and (2) establishment of a calculable base to determine any "unpaid balance" of income benefits to dependents of a worker whose injury results in permanent total disability and who dies from a non-work connected cause.

Amended hereby are Secs. 386-32(b) and 386-34, Hawaii Revised Statutes, respectively.

1. Sec. 386-32(b) now provides that an injured worker who is temporarily partially disabled is entitled to receive benefits equivalent to 66-2/3% of the difference between his average weekly wages before the injury and the weekly wages he is "capable of earning" during the temporary disability period, up to \$50 a week. This section of the bill, as amended heretofore, proposes to amend the statute so that a temporarily partially disabled worker would be entitled to receive benefits equivalent to the same 66-2/3% of the difference between his average weekly wages before the injury and his "weekly earnings" during the temporary disability period, again limited to \$50 a week. The proposed language change is intended to provide an easily ascertainable base for computing temporary partial disability compensation, as the present language is difficult to apply. What an injured worker is "capable of earning" where he is certified for light

work by his doctor but none is available is open to much conjecture, and under the present law it is possible to obtain a statutory construction that the worker's wage loss replacement benefit status should revert from temporary total to temporary partial disability. The effect of such a construction would result in a substantial reduction in weekly income to the injured worker.

Therefore, the department of labor and industrial relations has consistently maintained that where an employer in such a situation is not able to provide light work as prescribed by the doctor, the employer shall continue weekly benefit payments on the basis of **total** disability rather than **partial** disability for work. Substitution of the phrase "the weekly wages he is capable of earning" with "his weekly earnings" is intended to insure that in order for temporary partial disability to apply there must be earnings resulting from light work.

2. Sec. 386-34 now provides that in a case where an injured worker is awarded permanent partial or permanent total disability benefits and subsequently dies from another cause before he collects his full award, the unpaid balance of the award, to the extent of his employer's liability, shall be paid to his dependents. As Act 42, Session Laws of Hawaii 1972, removed the limitation to an employer's maximum aggregate liability for compensation benefits, the balance of an award for total disability which should be paid to his dependents cannot be ascertained (although the balance is determinable as to an award for permanent partial disability). This bill proposes, therefore, to set the maximum amount of an employer's liability for the purpose of determining the balance of a permanent **total** disability at that amount specified in Sec. 386-32(a) for non-scheduled disabilities, which is presently \$35,100. This proposal does not affect the benefit rights of any other claimants and is only intended to provide a basis for determining the balance of an injured worker's award for permanent total disability in case the claimant dies from another cause and the balance is payable to his dependents.

Your Committee amended the bill typographically: In the introductory passage of Section 1, reference to the statutory provision being amended should be num-

bered 386-32(b), vice 396-32(b).

Your Committee on Finance is in accord with the intent and purpose of **H. B. No. 218, H. D. 1**, as amended herein, and recommends that it pass third reading in the form attached hereto as **H. B. No. 218, H. D. 2**.

Signed by all members of the Committee.

SCRep. No. 556 Finance on H. B. No. 1326

The purpose of this bill is to charge the department of health as the sole state agency with responsibility to coordinate a comprehensive statewide emergency medical services program as prescribed by the National Highway Traffic Safety Administration.

National Highway Traffic Safety Administration Standard 311, Emergency Medical Services, requires that each state have a statewide emergency medical services system that will insure quick identification of and response to highway crashes; sustain life through proper emergency measures, both at the scene and while in transit to an appropriate medical facility; and provide the coordination, transportation, and communications necessary to take the injured to an appropriate medical facility within the shortest practicable time, without creating additional hazards.

Presently, the state has no one central agency that regulates emergency medical services. Designation of the department of health, according to its director, will improve planning and overall systems review by centralizing the administrative activities in a single state agency, and is supported by NHTSA emergency medical service administrative studies and the experience of states which use this administrative approach. The centralized administration would be expected to improve the capability of states to meet the requirements for development of an emergency medical services comprehensive plan required by the standard. According to the director, experience shows that those states which have developed such a comprehensive plan have a system operation clearly superior to those that do not.

Furthermore, if the state does not comply with the provisions of the standard, it stands to lose 10% of its Federal Highway

Administration construction moneys.

It should be noted that this bill, by the provisions of Sec. 321—(b), allows the director of health to indicate after study what should be required in the way of either licensing, certification or registration for all the related emergency care personnel. However, the bill does **not** allow the emergency care personnel already trained to fulfill their functions. This requires passage of an amendment to the Medical Practice Act, of which legislative vehicles include **H. B. No. 1182** and **S. B. No. 883** (which as of the hearing hereupon remain reposed in their respective houses). These bills would place these support personnel under the direction, responsibility and control of a licensed physician and would allow them to function in the capacity for which they were trained.

Your Committee heard testimonies from representatives of both the department of health and the department of transportation, who are united in their support of this bill. Funding to initiate the program of statewide emergency medical services involves both: The department of health has estimated that some \$32,000(3) will be required for the first year of operation. The State highway safety coordinator has indicated that federal funds in that sum will be made available as "seed money" to provide for the needed positions and for some new (ambulance) equipment.

Your Committee has amended the bill by deleting the "/or" following the "and" in line 14 under Sec. 321—(a) as superfluous (see Sec. 1-18, Hawaii Revised Statutes); and all underlining designating new material has been deleted as not within the meaning of House Rule 24(2).

Your Committee on Finance is in accord with the intent and purpose of **H. B. No. 1326, H. D. 1**, as amended herein, and recommends that it pass third reading in the form attached hereto as **H. B. No. 1326, H. D. 2**.

Signed by all members of the Committee.

SCRep. No. 557 Finance on H. B. No. 320

The purpose of this bill is to provide for the appointment of security investigators in the department of the attorney general and to transfer personnel, presently per-

forming security functions, from the governor's office to the department of the attorney general.

Certain security investigators are presently employed by the office of the governor. However, these individuals are attached to the department of the attorney general for purposes of administration and supervision. When not performing security functions, they have been assigned to other investigative duties. Because of the dual function, and since the attorney general's office supervises these individuals, it is advanced by the attorney general and implicit in the recommendation hereupon by your Committee on Public Employment in **Stand. Com. Rep. No. 306**, that for administrative efficiency they should be made employees of the department of the attorney general.

Under the proposed measure, which amends Sec. 28-11, security investigators would provide security coverage for the governor and other public officials as may be necessary and would perform other functions as directed by the attorney general. Because their work often is of a personal and confidential nature, it is felt that security investigators should be exempt from civil service, and the bill so provides.

Your Committee on Finance is in accord with the intent and purpose of **H. B. No. 320** and recommends that it pass third reading.

Signed by all members of the Committee.

SCRep. No. 558 Water, Land Use and Development on H. B. No. 1143

The purpose of this bill is to clarify the definitions and language used in Part II of Chapt. 205, Hawaii Revised Statutes, dealing with shoreline setbacks.

The statute contains some printing errors including such things as brackets around some dates, and in one instance the word "transit" was printed instead of the correct word "transmit".

The bill is primarily a housekeeping measure to add clarity to the statute and eliminate possible jurisdictional disputes resulting from differing interpretations of technical terms.

At a hearing on this bill there were indications that amendments are necessary to achieve the clarification desired. Your Committee has amended the bill accordingly. This involved deleting item four in section one; and deleting the word "set-back" in several sections for consistency. Your Committee also amended the bill to add Sect. 205-36 of the statute which has a section in which the word "setback" also needs to be removed.

Your Committee on Water, Land Use and Development is in accord with the intent and purpose of **H. B. No. 1143**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 1143, H. D. 1**, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. No. 559 Finance on S. B. No. 90

The purpose of this bill (as introduced and received from the Senate) is to authorize the department of health to charge fees in addition to those presently set by statute when examinations for certain licensed occupations are purchased from a professional examination service.

In chapter 321, Hawaii Revised Statutes, there are certain licensed occupations enumerated which are jurisdictionally placed under the department of health. These are: podiatrists, physical therapists, midwives, tattoo artists, laboratory directors, laboratory technicians, sanitarians, itinerant vendors of medicines or drugs or devices, and, as amended, nursing home administrators.

Your Committee is informed that as to two of these occupations for which applications for license requires payment of a prescribed examination fee (i.e., podiatrist and sanitarian), the examinations are presently purchased from professional testing organizations (i.e., the National Board of Podiatry Examiners and the American Public Health Association, respectively) at costs which exceed the fees collected of applicants pursuant to the statute. Furthermore, we are informed that at least two more occupations (i.e., physical therapist and laboratory technician) may soon be licensed based upon purchased examinations.

The director of health has therefore requested authority to charge an additional fee to defray examination costs when they are higher than the fees in the schedule, "over and above" those listed in Sec. 321-14, which is hereby originally amended, only. Your Committee agrees with the director that this proposal is preferable to amending the statutory schedule from time to time, as necessary, even pursuant to Sec. 92-28; and, additionally, it is reasonable that the applicant (not the general fund) should defray expenses of the licensing program.

Upon the hearing of companion **H. B. No. 156** by your Committee, concern was expressed that the few occupations enumerated are placed exclusively under the department of health while other apparently related occupations also requiring licensure are administratively controlled by the department of regulatory agencies, which, under Sec. 26-9, Hawaii Revised Statutes, as amended, is mandated, in part, to "set standards and **enforce all laws, rules and regulations governing the licensing and operation of, and register and supervise the conduct of trades... and professions.**" (Emphasis added). Title 25, as amended, from chapter 436 through 471 covers some forty-five various professions and occupations which, by statute, are placed under such control. Excluded are those previously enumerated, expressly subject to regulation, licensure and registration by and with the department of health under Secs. 321-13, -14, and -15, respectively.

Asked whether these occupations did not, notwithstanding, belong properly under the administrative control of the department of regulatory agencies, into which they might be transferred and placed, the director conceded: "From a functional standpoint, it is not inappropriate."

Therefore, and to achieve that purpose, the bill has been further amended as follows:

(1) Section 1 of the bill, which amends Sec. 321-13, is new and provides that the department of health may prescribe rules and regulations respecting the occupations enumerated therein. The statute has been amended in subsection (b) to require that the certificate of registration required to engage therein be obtained from the

department of regulatory agencies, under department of health rules; and in subsection (c) that the same may be suspended or revoked by the department of regulatory agencies for violation of any department of health regulation.

(2) Section 2 of the bill was formerly, in substance, section 1, which amends Sec. 321-14, relating to licensure. The statute was amended further to provide for application to the department of regulatory agencies, which shall conduct the examination in accordance with rules and regulations prescribed by the department of health. Also, as to the authority to charge "over and above" the scheduled fees, which was the original and sole reason for this bill, the same is, as further amended, granted to the department of regulatory agencies, expressly.

(3) Section 3 of the bill, which amends Sec. 321-15, is new and provides for annual reregistration with the department of regulatory agencies in accordance with department of health rules and regulations, which applies also to license restoration.

(4) Therefore, prior sections 2 and 3 of the bill, which are merely procedural, were renumbered sections 4 and 5, respectively.

To the extent that these limited further amendments cause **licensure and registration** of the enumerated occupations to fall administratively under control of the department of regulatory agencies, subject to the relative uniformity of its procedural standards therefore, the task hereby undertaken is adequately achieved. **Regulation** remains, for the present, essentially with the department of health by its rules and regulations. Therefore, the amendatory process did not provide for the placement of these occupations or any of them into chapter(s) under Title 25, aforesaid; neither were they "placed within the department of regulatory agencies for administrative purposes" under and within the meaning of Sec. 26-9, as amended, because there is no board or commission presently established to govern them — except for the department of health itself, perhaps. (See also Sec. 26-35).

However, this scheme, or the inverse thereof, is not unprecedented. For example, under Sec. 321-12, in addition to the occupations affected hereby, enumerated in Sec. 321-13, the department of health is

authorized to prescribe rules and regulations for the public health and safety relative to barbers, hairdressers and the like, occupations which are otherwise under the department of regulatory agencies, administratively. (See Secs. 438 and 439).

Your Committee on Finance is in accord with the intent and purpose of **S. B. No. 90, S. D. 1**, as amended herein, and recommends that it pass second reading in the form attached hereto as **S. B. No. 90, S. D. 1, H. D. 1**, and be placed on the calendar for third reading.

Signed by all members of the Committee.

SCRep. No. 560 Finance on S. B. No. 163

The purpose of this bill is to establish a fee of \$10.00 per day to be paid to the board of medical examiners by a candidate who wishes to be examined in Hawaii for the medical license of another state.

Your Committee is informed by the department of regulatory agencies, which through the board of medical examiners, under its administrative control, conducts the examinations requisite to the practice of medicine, that there are physicians who are in Hawaii on a temporary basis who wish to take the federation licensing examination (FLEX) in order that they may receive a license as soon as they remove to another state. This examination can be administered twice a year, and all states participating must agree, by contract, to administer it on the same three days in June and December.

By agreeing to participate as a courtesy to the boards of other states, those state boards will, in turn, reciprocate and administer FLEX to Hawaii candidates when so requested by the local board. There are currently 44 states which use this licensing examination.

The board of medical examiners has testified that a fee of \$10.00 per day is necessary and reasonable to compensate for the administrative costs involved, such as correspondence, personnel time, rental of space and physical equipment in conducting the examination. These are referred to as "proctoring fees".

The language of the bill has been amended somewhat from companion **H. B.**

No. 308 which was heard by your Committee; however, it is substantively unaltered. Also, although the bill, as amended, does not comport with the letter of House Rule 24(2), its format does not do it so much violence as to justify further amendment.

Your Committee on Finance is in accord with the intent and purpose of **S. B. No. 163, S. D. 1**, and recommends that it pass second reading and be placed on the calendar for third reading.

Signed by all members of the Committee.

SCRep. No. 561 Finance on S. B. No. 125

The purpose of this bill is to provide for reinstatement of lapsed licenses of nursing home administrators.

This bill proposes to amend Sec. 457B-9, Hawaii Revised Statutes, to require that the annual renewal fee be paid on or before June 30 of each year, and to provide for forfeiture when the annual renewal fee is not so paid. A license so forfeited may be restored within three years upon payment of the delinquent fees plus a penalty of \$10 and evidence of current educational qualifications.

Under the present law there is no provision to insure compliance with the requirement for annual renewal of licenses of nursing home administrators.

Your Committee on Finance is in accord with the intent and purpose of **S. B. No. 125** and recommends that it pass second reading and be placed on the calendar for third reading.

Signed by all members of the Committee.

SCRep. No. 562 Transportation on H. C. R. No. 89

The purpose of this Concurrent Resolution is to honor Akoni Pule, former member of the House of Representatives, by renaming the Kawaihae-Mahukona Highway to the Akoni Pule Highway.

The Department of Transportation supports the intent of the measure. It, however, does not name the state highways. The department initiates the highway naming process by recommending a name

to the Advisory Committee on Geographic Names of the Department of Planning and Economic Development. The advisory agency in turn recommends its choice to the respective county governments.

In line with the name selection process herein described, your Committee has amended **H. C. R. No. 89** by adding to the final "be it resolved" clause the Advisory Committee on Geographic Names and the Council for the County of Hawaii.

Your Committee on Transportation concurs with the intent and purpose of **H. C. R. No. 89**, as amended herein, and recommends that it be adopted in the form attached hereto as **H. C. R. No. 89, H. D. 1**.

Signed by all members of the Committee.

SCRep. No. 563 Water, Land Use and Development on **H. R. No. 363**

The purpose of this resolution is to request the Federal Property Review Board to survey lands in Hawaii and transfer unused land to the State.

Your Committee thinks that the return of these unused lands could be helpful in meeting Hawaii's critical housing needs which are due, in part, to the shortage of suitable lands.

Your Committee on Water, Land Use and Development concurs with the intent and purpose of **H. R. No. 363** and recommends its adoption.

Signed by all members of the Committee.

SCRep. No. 564 Water, Land Use and Development on **H. C. R. No. 32**

The purpose of this concurrent resolution is to determine if there is a need for a State law dealing with soil erosion and sediment control.

The problems and dangers of soil erosion and sediment are well-known. Your Committee is concerned with finding the most effective means to combat these problems and to determine if a state law is needed. The concurrent resolution calls for the Soil and Water Conservation Districts to work with the county government agencies. The findings would be coordi-

nated by the Department of Land and Natural Resources and reported to the 1974 Legislature.

Your Committee thinks that the Department of Health and the Office of Environmental Quality Control should be involved in the effort. The resolution has been amended to add those two agencies.

Your Committee on Water, Land Use and Development concurs with the intent and purpose of **H. C. R. No. 32**, as amended herein, and recommends its adoption in the form attached hereto as **H. C. R. No. 32, H. D. 1**.

Signed by all members of the Committee.

SCRep. No. 565 Judiciary on **H. B. No. 1640**

The purpose of this bill is to exempt certain persons from coverage under the motor carrier law.

This bill proposes to exempt from coverage under the motor carrier law persons transporting unprocessed raw milk to processing plants from dairy farms and persons transporting animal feeds and farming supplies to animal husbandry farmers.

Your Committee has amended this bill so as to limit the exemption as it applies to persons transporting animal feeds and supplies. As amended the exemption will apply only if such transportation of feeds and supplies is made directly to the animal husbandry farmers and the return is to the sources of such animal feeds and supplies.

Your Committee has also amended this bill so as to conform to present bill drafting practice.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 1640**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 1640, H. D. 1** and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. No. 566 Judiciary on **H. B. No. 1174**

The purpose of this bill is to amend Chapter 571, Hawaii Revised Statutes, to give the district courts concurrent jurisdiction with the Family Court as to minors alleged to be traffic offenders.

It is reported that presently, by rule promulgated under the authority of Section 571-41, Hawaii Revised Statutes, the Family Courts have delegated the power to adjudicate most traffic matters to the judges of the District Courts within the several circuits. Some reasons given for this rule are first, recognition that juveniles who operate motor vehicles are held civilly to the same standard as an adult would and therefore should be treated equally by the judicial system in answering for offenses they commit while operating motor vehicles; and second, the recognized expertise of the District Courts in handling traffic offenses and offenders.

Your Committee has made some minor nonsubstantive changes to this bill to conform to present practice recognized by this legislature.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 1174**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 1174**, **H. D. 1** and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. No. 567 Judiciary on S. B. No. 990

The purpose of this bill is to amend the Hawaii Revised Statutes to provide for the use of Social Security Numbers on State identification cards.

At the present time the Department of the Attorney General is charged with the responsibility of issuing State identification cards and maintaining the necessary records thereof. It is felt that the use of the Social Security Number on the identification cards will give greater assurance of a person's identity and would be most helpful where records are kept according to a person's Social Security Number.

Your Committee on Judiciary is in accord with the intent and purpose of **S. B. No. 990**, and recommends that it pass Second Reading and be placed on the cal-

endar for Third Reading.

Signed by all members of the Committee.

SCRep. No. 568 Judiciary on H. B. No. 2025

The purpose of this bill is to amend the laws relating to the family courts in order to take care of problems raised by the enactment of the Hawaii Penal Code and to update these sections.

Your Committee finds that section 571-14 refers to sections repealed by Act 9, S.L. 1972. The proposed amendment deletes reference to those sections and substitutes reference to the appropriate provisions of the Penal Code, which are sections 902, 903 and 904. Section 905, relating to endangering the welfare of an incompetent is added since it is intended by this bill to give incompetents protection similar to that given minors.

Your Committee has amended this bill to add sections 577-9 and 577-10 and have made similar amendments as in section 571-14. Your Committee has further amended this bill by adding to it sections 577-11 and 577-13, which sections are to be repealed. Section 577-11 provides for a liberal construction. Your Committee notes that it is not appropriate to provide for a liberal construction. Instead, the Penal Code should speak for itself. Section 577-13 should be repealed also since section 577-10 provides for the exclusive jurisdiction of the family court of all cases coming within sections 709-902 to 709-905 of the Penal Code.

Other changes in section 577-10 have been made to conform to rules of court, under which there is no right to a preliminary hearing for a misdemeanor. Automatic commitment to the family court is called for when that court has exclusive jurisdiction. The reference to section 710-1 also has been deleted as unnecessary and because of the rules of court. Your Committee has further amended section 577-10 so as to make it clear that arraignment will be in the court of exclusive jurisdiction, i.e., the family court.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 2025**, as amended herein, and recommends that it pass Second Reading in the

form attached hereto as **H. B. No. 2025, H. D. 1** and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. No. 569 Judiciary on **H. B. No. 1852**

The purpose of this bill is to remove possible religious and constitutional objections to our present statute relating to oaths and affirmations.

Your Committee has amended this bill by removing the phrase "by law or by consent of parties" so as to allow every court or person **having authority** to hear, receive, and examine evidence to administer the oath or affirmation.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 1852**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 1852, H. D. 1** and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. No. 570 (Majority) Environmental Protection on **H. C. R. No. 69**

Your Committee received the testimonies of many witnesses on this resolution. All witnesses, save one, testified in its favor. The lone opponent of the resolution, Mr. Sunao Kido, chairman of the Board of Land and Natural Resources, voiced his opinion that the filling of Salt Lake should be permitted to continue because "golf course use... is an open space use," and because "residents of the area... purchased their homes since 1966... in expectation that a golf course was to be built."

Your Committee notes the inadequacy of such reasoning in view of the overwhelming arguments that establish the desirability and beneficial prospects of Salt Lake. In this and in the previous hearing, there was one thing on which all the residents of the Salt Lake area who testified agreed: that was the dire need of recreational facilities for the children of the neighborhood.

Accordingly, it was your Committee's

thought that it must address itself to that concern. The question then is, "Will a golf course fulfill the needs of the children?" Although a golf course will indeed be open space use, it will undeniably have a very restricted patronage, and will have little meaning, if any at all, for the children of the neighborhood. This, we believe, is the basic wrong of the presently indicated course for Salt Lake.

In addition your Committee is very much impressed by the tremendous potential and meaning that Salt Lake could have for the population of the entire state. If the state acquires the Lake and its remaining shoreline and backshore area, we look to the possibility of its conversion into a combination park and wild waterfowl preserve.

As a park, it could directly serve the children of the neighborhood and meet the primary concern previously discussed. As a wild waterfowl preserve, it could serve as a unique natural laboratory for the educational and recreational enjoyment of all of the people of Hawaii.

Your Committee notes the great popularity of Hanauma Bay as a marine preserve, and how swimmers are enthralled to be able to swim and wade among the abundance of fishes existing in the wild. We similarly note the considerable joy provided by the most miniature of waterfowl experiments presented by the ponds at the Honolulu International Center, and the similar direction being pursued by the flamingo exhibit at the entrance of the Honolulu Zoo. It is also recognized that major cities throughout the mainland have taken the initiative to utilize urban lakes as a means of bringing the natural habitat into the urban setting — this is imaginative planning. All of this goes hand in hand with the ever-growing demand for outdoor recreation and the expanding interest to experience the animal kingdom in its natural state.

We know that Salt Lake has been since time immemorial, a valuable habitat for a wide variety of waterbirds — particularly those endangered Hawaiian species such as the Hawaiian Stilt and Hawaiian Coot. Even in the presently saddened condition, Salt Lake serves as regular habitat for these birds and as occasional habitat for the Hawaiian Duck (Koloa) and the Hawaiian Gallinule ('alae 'ula), all of which are native birds found nowhere else in the

world. Thus, a wild waterfowl preserve at Salt Lake will make it the only place in the world where these species may be watched and enjoyed. As such, it will preserve one more attraction that will be purely and genuinely Hawaiian.

Another very important consideration is that filling in Salt Lake will mean the destruction of a vital part of our heritage. Salt Lake is mentioned in Hawaiian legends as the first house of the Goddess Pele, and early Hawaiians talked of an entrance to the realm of the ancestral spirits being located there.

In this connection, we recognize the profundity of the point made by the Congress of Hawaiian people, when they said:

"Surely, the planning for growth in Hawaii can accommodate the preservation of remnants of Hawaiian history that can never be duplicated in detail and authenticity....

As we struggle today to restore... ethnic pride... we look to physical reminders of a proud and noble people who made great strides in embracing their environment."

Your Committee notes that even the developer himself at one time had recognized the unique value of Salt Lake. In his request in 1964 to the State Land Use Commission that 60 acres around the Lake be removed from conservation and placed in urban in 1964 he pointed out that urbanization would permit the development of:

"a lovely residential area around the only natural lake in Hawaii." (Emphasis added.)

He had accordingly indicated that the 200-acre Salt Lake would remain unfilled, and it was upon such presentation that urbanization of the area around Salt Lake was granted in the first place.

There has been some concern expressed respecting the deplorable condition of Salt Lake. It must be reminded that such condition did not exist until the artesian well was capped in recent years to lower the water level, and chlorinated sewage discharge from a treatment plant at the Aliamanu Military Reservation was begun. The latter was scheduled for termination in 1973. With timely and positive action

to uncap the artesian well, your Committee is convinced that Salt Lake, which still lives despite Man's unthinking acts of destruction, can be preserved and restored.

Your Committee appreciates the fact that at the time of the Board of Land and Natural Resources' original decision to issue the permit to fill the lake, "no firm plans (had been made) by any public agency to acquire the Lake." However, that was also during the period when apparently less far-sighted planning concepts permitted homes and apartments to be constructed with spiralling intensity in the Lake area without provisions for the recreational needs of children. A condescension now to that prior wrong means abdication of responsibility.

Your Committee strongly feels that now that that wrong has been realized and voiced by the uncontroverted concern of the entire community, it has become incumbent upon responsible government bodies to take a hard look toward its cure. In that regard, the conversion of Salt Lake to a wild waterfowl refuge with suitable areas for parks, playground equipment, trails, bikeways and picnic grounds appears a very appropriate solution.

Your Committee also takes notice of the fact that there are already a number of golf courses in existence within a very short driving distance of the Salt Lake area. Moreover, while other sites are available on Oahu for additional eventual enjoyment of golfers, there is only one Salt Lake; only one "first home" of Pele; only one among a few places thought by the early Hawaiians to contain an entrance to their ancestral realm. As such, the uniqueness of Salt Lake extends as an asset to all of the people of Hawaii.

It must also be remembered that Salt Lake is the only lowland natural lake in Hawaii. Its accessibility magnifies its value, as it will be available to the ready enjoyment by all of us who wish for a momentary repose, alone, or with our children or grandchildren — to share with them the peace and wonder that essentially binds Man's spirit to nature.

Taken in this entire context, your Committee feels that the concern of the residents of the Salt Lake area will be best served if the unique qualities of Salt Lake

are preserved and the urgent recreational needs of the children fulfilled. In that light, it is reasonable to contemplate that such residents will be willing to rescind their "expectation (of) . . . a golf course," in exchange for a far more urgent and beneficial amenity. It should be noted here, however, that we are informed that the residents of the area are divided in their feelings as to whether the Lake should be retained as a lake or filled in for a golf course.

It should also be noted that the **Open Space Plan** mandated by the Legislature and prepared by Stewart L. Udall's Overview Corporation lists the acquisition of Salt Lake by the State in the "top priority" category.

Your Committee feels that this capsule review of the potential of Salt Lake underscores the need for a fresh look at the granting of the permit in 1966 to fill the Lake, and further indicates the desirability of a study as to the feasibility of acquiring the Lake. Indeed the study may reveal other more preferable alternatives: revoking the permit and requiring the developer to maintain the Lake; encouraging the City and County to accept or acquire the Lake for a park; persuading the developer to donate the Lake to the State for use as a natural or State park, et cetera.

Finally, your Committee notes the urgency of this Concurrent Resolution. The developer has partially filled in the lake, and although operations were suspended while the developer attempted to get further urban zoning to substitute high rise apartments for part of the golf course originally proposed, Mr. Kido testified that the developer has now informed him he plans to proceed. If it is the decision of the Board of Land and Natural Resources to preserve the priceless qualities of Salt Lake, it must do so quickly. Accordingly, such board's reassessment of this problem is of very urgent concern.

Your Committee has made several amendments to the Resolution to clarify its language and the current status of the Lake, and to stress the urgency of a prompt response by the Department of Land and Natural Resources and the Department of Planning and Economic Development.

Your Committee on Environmental Protection concurs with the intent and pur-

pose of **H. C. R. No. 69**, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as **H. C. R. No. 69, H. D. 1**.

Signed by all members of the Committee.

Representative Kato did not concur.

SCRep. No. 571 Finance on H. B. No. 877

The purpose of this bill, as introduced, is to authorize the several county councils, by ordinance, to dispense with or modify the statutory licensing requirements of chapter 249, Hawaii Revised Statutes, relating to bicycles.

Your Committee invited each of the counties to register its comments respecting the enabling legislation proposed by this bill, and each, through its director of finance, responded favorably. There was a general consensus that because the problems of bicycle control are the responsibility of local government, the authority to determine the solution most appropriate to the local situation should be relegated to the counties — and your Committee concurs. (See also **H. B. No. 876**). It will be noted that the taxes presently prescribed in relation to this purpose are realizations of the county in which collected. (Sec. 249-18).

The City and County of Honolulu recommended two additional amendments:

(1) Under Sec. 249-14, to allow for the issuance and display of the present metallic tag or of a decal as a means of indicating compliance, at the option of each county. The metallic tag is susceptible to being lost, stolen and fraudulently used between bicycles because easily removable; however, a decal, similar to that used on motor vehicles, affixed to the bicycle, is more difficult to remove or alter, which will deter theft and assist in recovery of stolen bicycles.

(2) Under Sec. 249-15, the amendment of which is added to the bill and which presently mandates the seizure of untaxed bicycles, to allow the police discretion whether to seize. The majority of cases do not concern the question of ownership (where seizure is justified), but rightful owners, usually youngsters (where a cita-

tion seems sufficient). In addition to the problems posed in transportation, storage and sale of unredeemed bicycles, because untaxed motor vehicles are not seized, the untaxed bicycle should not be treated otherwise.

Finally, in its drafting, the bill, as introduced, was prepared to amend Sec. 249-14 prior to its amendment by Acts 25 and 116, Session Laws of Hawaii 1972. By further amendment of the bill the provisions thereof were added bringing it into conformity with the statute, as amended. Also, brought into conformity with provisions of the various Charters was use of the substituted phrases "director of finance" and "county council", etc., in place of outmoded language, where appropriate, throughout.

Your Committee on Finance is in accord with the intent and purpose of **H. B. No. 877**, as amended herein, and recommends that it pass second reading in the form attached hereto as **H. B. No. 877, H. D. 1**, and be placed on the calendar for third reading.

Signed by all members of the Committee.

SCRep. No. 572 Judiciary on H. B. No. 809

The purpose of this bill is to amend the election laws in order to clarify deadlines and provide procedures for administering special primary and special general elections, to conform to recent legal decisions, and to provide for smoother administration of elections.

Your Committee heard on this bill and other related bills from the office of the Lieutenant Governor, the Lieutenant Governor of the State of Hawaii, and others.

Your Committee has made a change in the form of the bill to conform to present practice used in this Legislature. Minor grammatical and typographical errors have also been corrected.

Your Committee, after hearing testimony, believes that there exists no need to distinguish between an election inspector and an election clerk. They both are required to perform the same role. Therefore, throughout this bill "election official", "inspector", "election clerk", or combination

thereof has been substituted with "precinct official" and no further mention will be made herein where such amendments have been made to the section under discussion.

A brief summary of the bill, as amended, follows:

Sec. 11-1 has been amended to include special primary and special general elections. Other clarifying amendments have been made to clearly define the terms used.

Sec. 11-3 (an addition to the bill proposed) has been amended to allow the person reaching 18 years of age prior to any election to register to vote.

Sec. 11-14 has been amended to specify in what instances information generally required of all voters need not be recorded.

Sec. 11-15 has been amended to remove the one year residency requirement, but now requires that a person intend to make Hawaii his legal residence with all the accompanying obligations therein.

Sec. 11-17 has been amended to clarify day and time after which the clerk shall remove the name of any registered voter failing to vote. Since the deadline for receiving ballots is the closing of the polls, the postmark procedure is no longer applicable.

Sec. 11-18 has been amended to provide that no person who changes his residence from one precinct to another, may change his registration after the close of registration for election.

Sec. 11-19 has been amended to provide that a person can register at any time when he moves from one county to another.

Sec. 11-20 has been amended to establish clearly the days and times of different deadlines.

Sec. 11-22 has been amended to remove the requirement that the order of change of registration be filed and made open to the public.

Sec. 11-24 has been amended to require the closing of the register at 4:30 p.m. on the twenty-sixth day prior to the election, whether it be primary, special primary, special, general or special general. This

closing of the register, however, does not preclude a person from registering for the next election.

Sec. 11-51 has been amended to provide that an aggrieved person must appeal from a decision of the board of registration not later than 4:30 p.m. on the tenth day after the decision.

Sec. 11-62 has been amended to clarify the time within which a petition for the formation of a new party must be filed. It further requires the petition to contain the names and addresses of the officers of the central committee and of the respective county committees of the new party, and be upon a form prescribed and provided by the chief election officer. Further, objection must be raised not later than 4:30 p.m. on the 10th day, otherwise deemed approved. If objections are raised, decision must be rendered not later than 4:30 p.m. on the 30th day after filing of the petition or not later than 4:30 p.m. on the 100th day prior to the primary, whichever occurs first.

Sec. 11-63 has been amended to specify the days and times party rules and amendments thereto must be filed.

Sec. 11-64 has been amended to specify days and times names of officers of party must be filed, and when objections must be raised.

Sec. 11-72 has been amended to specify the days and times political parties must submit names for precinct officials; adds a requirement that the precinct officials be able to read and write English; further, requires the chief election officer to make a list of the precinct officials of the representative districts not later than 4:30 p.m. on the 10th day prior to a primary, special primary or special election. Removes the requirement, where more qualified persons than are needed for a precinct desire to serve in that precinct, be determined by drawing.

Sec. 11-73 has been amended to specify day and time that the chief election officer or clerk (in county elections) conduct a school of instruction for prospective precinct officials of precincts. Adds new requirement that periodic recertification must be obtained.

Sec. 11-75. Appropriate amendments

have been made to eliminate the distinction between election inspector and election clerk and to substitute "precinct official" in lieu thereof.

Sec. 11-76 has been deleted from this bill.

Sec. 11-77 has been amended to specify day and time political party must submit its list of watchers prior to any election. It adds a new requirement that a person who could not qualify to serve as a precinct official may not serve as a watcher. Subsection (e) provides that the chief election officer shall promulgate rules and regulations regarding the activities of the watchers, these to include recent decisions of the Supreme Court of Hawaii concerning poll watchers' ability to report election progress from the polls.

Sec. 11-91 has been amended to specify day and time proclamations to be issued.

Sec. 11-92 has been amended to provide for special primary and special general elections and clarifies days and times.

Sec. 11-113 has been amended to specify the day and time political party must submit names of the presidential and vice presidential candidates. Your Committee has amended this section, at page 32, by bracketing [office of the lieutenant governor] and inserting **chief election officer**, for consistency.

Sec. 11-114. Your Committee has added after "board of education" "**, except in primary elections**" to clarify that there shall be a separate school board ballot for primary elections.

Sec. 11-115 has been amended to provide for the change of terminology from the word "square" to "box".

Sec. 11-117 has been amended to clarify the day and time a candidate may withdraw.

Sec. 11-118 has been amended to clarify time within which a party may fill a vacancy. Substitution may not be later than 4:30 p.m. on the 10th day prior to the election, except in certain instances.

Sec. 11-119 has been amended to clarify day and time within which county clerk must receive absentee ballots. Your Committee could find no justification for adopt-

ing the voting by mail (chapter 15A proposed) and therefore all reference to mailing ballots has been deleted.

Sec. 11-135 has been amended to remove the requirement that at the polls the seals of the ballot containers or packages be publicly broken and opened by the chairman but requires that the seals of the ballot containers or packages be broken and opened on election day only in the presence of at least two precinct officials not of the same party.

Sec. 11-154 has been amended to provide for the securing of the ballots as soon as they have been tabulated rather than waiting until the end of the contest period, more flexibility for retabulations and recounts, and a more reasonable time for the disposition of election records. Once a candidate has been certified, the ballots and other election records may be destroyed.

Sec. 11-158. Your Committee has deleted this proposed new section as being unnecessary since adequate safeguards exist and since there is now only one closing date, the need for vote recounts may be minimal.

Sec. 11-172 has been revised to make this section applicable generally to contests for cause placing jurisdiction in such matters in the Supreme Court. Specific provisions for contests for cause are contained in the proposed new sections.

Sec. 11-173 is repealed.

Sec. 11-174 is repealed.

Sec. 11- is a new section proposed to deal with contests for cause in primary and special primary elections.

Sec. 11- is a new section proposed to deal with contests for cause in general, special general and special elections.

Both these new sections provide for contests, hearing and judgment for the named elections.

Sec. 175 provides that the supreme court can compel attendance of witness, punish for contempt, and so forth. Further, that costs shall be as provided by supreme court rule.

Sec. 11-176 which provides for appeal from a decision of a circuit court in special general elections has been repealed. The proposed new sections next preceding designed for dealing with contests for cause. As set up, the supreme court has exclusive jurisdiction and its determination is final.

Sec. 12-2. Your Committee feels that the primary election should be held on the first Saturday of October and therefore has deleted the proposed amendment thereto. Amendment makes provisions for special primary elections.

Sec. 12-3 has been amended to provide for special primary elections, clarify who may sign nomination papers; also amended to preclude conflict with section 12-4. Your Committee has amended paragraph (1) by substituting for "qualified" the phrase "their primary election ballot preference designation will allow them".

Sec. 12-6. Your Committee has deleted the proposed "60 day" period and retained the 45 day period.

Sec. 12-8 has been amended to clarify time when objection to filing of nomination papers may be made.

Sec. 12-9 has been amended to clarify time when list of candidates must be transmitted and provides for special primary election.

Sec. 12-21 has been amended to provide for special primary ballots for each party.

Sec. 12-22 has been amended to provide for official nonpartisan special primary ballots.

Sec. 12-23. Your Committee has added this section and made appropriate amendment providing for a primary election ballot.

Sec. 12-31 has been amended to provide for selection of party ballot; provisions made for special primary elections, clarify the day and time and to provide for a voter who re-registers after having his name removed from the register to select any one primary ballot in the next primary election in which he votes.

Sec. 12-41 has been amended to provide for special primary and special general elections.

Sec. 13-3 has been amended to clarify how the ballots for school board offices are to be printed in order to remove any possible conflict with section 12-23. Also, a new requirement added stating that those voters who do not wish to state their party preference or add specific time requirement. Nonpartisanship of the primary election may select the school board ballot only.

Sec. 14-21 has been amended to add specific time requirement. Name of nominees for presidential electors and alternates must be received by the chief election officer.

Sec. 14-22 has been amended to add a specific time limit as to when a determination must be made in contested nominations of presidential electors and alternates.

Sec. 14-24 has been amended to specify the time and date the chief election officer must certify to the governor the names of the persons elected as presidential electors.

Sec. 15-1 has been amended to clarify who may vote by absentee ballot. Content of section 15-12 removed to this section so that all information about who may vote by absentee ballot is contained in one section.

Sec. 15-2 has been amended to clarify time, delete reference to a section that is to be repealed, provide for special primary elections, and clarify that certain persons requesting an absentee ballot must state his selection of party ballot, nonpartisan ballot or of only the official board of education ballot on his request.

Sec. 15-3 has been added by your Committee and amended by adding a requirement that all requests for absentee ballots received upon the last day shall be mailed to the voter as soon as reasonably practicable but, in no event, later than twenty four hours after receipt thereof.

Sec. 15-4 has been amended to delete provisions that will not be necessary should proposed amendments to section 15-9 be passed. Provides that absentee ballot will not be valid if affirmation statement not signed.

Sec. 15-5 has been amended to clarify language, make the receipt deadline the same for all elections and for all methods of receipt, and to delete a provision that

will not be necessary should proposed amendments to section 15-9 be passed.

Sec. 15-7 has been amended to provide that absentee precincts shall meet before election day to receive absentee voters who are voting in person and provides absentee precincts to be closed at 4:30 p.m. day before election. Absentee precincts to reopen on election day for purpose of counting all absentee ballots received in the mail or delivered to the county clerk.

Sec. 15-9 has been amended to delete the provisions for late absentee ballots. Now provides that for any election all reply envelopes containing absentee ballots received by the county clerk after the deadline for receipt stated in section 15-5 shall be kept unopened and disposed of pursuant to section 11-154.

Sec. 15-12. This section repealed. Contents of this section have been incorporated into section 15-1.

Your Committee has deleted the proposed chapter 15A entitled "Voting by Mailing Ballot". Your Committee feels that there is no justification for such a proposal. Also, the user, if any, would be very minimal considering our island units.

Sec. 16-42 has been amended to provide for special primary elections.

Sections 17-1, 17-2 and 17-3 have been amended to clarify times.

Section 17-5 has been amended to extend and clarify the time when a special primary shall be held. Further clarifies time for special general elections.

Sec. 19-6. Since the proposed chapter 15A was not adopted, all reference herein to such adoption has been deleted.

Sec. 25-5 has been amended to provide that compensation for members of the reapportionment commission shall be paid by warrants signed by the comptroller upon vouchers properly endorsed by the chairman of the commission.

Sec. 25-7 has been amended to provide that compensation for members of the apportionment advisory council shall be paid by warrants signed by the comptroller upon vouchers properly endorsed by the

chairman of the appropriate advisory council.

Sec. 235-1 has been amended to delete that portion that refers to the presidential short ballot that is being repealed with Part I of Chapter 14.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 809**, as amended herein, and recommends that it pass Third Reading in the form attached hereto as **H. B. No. 809, H. D. 1**.

Signed by all members of the Committee.

SCRep. No. 573

Legislative Management informing the House that **House Resolution Nos. 431 to 437, House Concurrent Resolution Nos. 104 to 106, Standing Committee Report Nos. 570 to 572, and Standing Committee Report Nos. 574 to 595**, have been printed and distributed.

Signed by all members of the Committee.

SCRep. 574 Parks, Fish and Game Management on H. R. No. 213

The purpose of this Resolution is to request the Department of Land and Natural Resources to make a feasibility study to open more public lands on Oahu for hunting.

Your Committee on Parks, Fish and Game Management concurs with the intent and purpose of **H. R. No. 213** and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 575 Parks, Fish and Game Management on H. R. No. 323

The purpose of this resolution is to request the Department of Land and Natural Resources to conduct a feasibility study respecting the construction of fishing piers around Oahu.

Your Committee feels that the construction of such piers will enhance the opportunity for many of our 92,000 persons

on Oahu who may be classified as recreational fishermen to expand their activity.

Your Committee on Parks, Fish and Game Management concurs with the intent and purpose of **H. R. No. 323** and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 576 Education on H. R. No. 396

The purpose of this Resolution is as stated in the title.

The DOE found much merit in the recommendations of the Management Audit of the Department of Education on how to improve the department's organization management processes, and personnel administration. Your Committee feels that it would be appropriate to have a legislative interim committee monitor the DOE's progress in implementing the audit's recommendations. It is expected that the full implementation of the recommendations will require some legislative approval, and an interim committee will be fully prepared to propose the necessary legislation during the Regular Session of 1974.

Your Committee on Education concurs with the intent and purpose of **H. R. No. 396** and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 577 Education on H. R. No. 409

The purpose of this Resolution is for the House of Representatives to formally endorse the findings of the Management Audit of the DOE and request the agency to implement the recommendations made.

Your Committee understands, however, that some of the recommendations may be unfeasible to implement immediately. A legislative interim committee, therefore, has been suggested by **H. R. No. 396** so that it can participate with the DOE on the recommendations and to monitor their subsequent actions.

Your Committee on Education concurs with the intent and purpose of **H. R. No. 409** and recommends that it be referred

to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 578 Education on H. R. No. 137

The purpose of this Resolution is stated in its title. Presently, the DOE and the University of Hawaii both provide educational opportunities to adults. Working independently of each other, however, they have often duplicated educational services and have not realized the benefits of combining their resources and facilities. Your Committee believes that the coordinated efforts of the two agencies may have a synergistic effect thereby additionally benefiting the program without additional expenditures.

Your Committee on Education concurs with the intent and purpose of **H. R. No. 137** and recommends that it be referred to the Committee on Higher Education.

Signed by all members of the Committee.

SCRep. 579 Transportation on H. R. No. 420

The purpose of this Resolution is to urge the state and counties to utilize solid materials as median barriers and guard rails on the highways. It is the opinion of your Committee that such use will substantially reduce the suffering and injuries resulting out of motor vehicle accidents.

Your Committee on Transportation concurs with the intent and purpose of **H. R. No. 420** and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. No. 580 Transportation on S. B. No. 51

The purpose of this bill is to broaden the powers of the Interdepartmental Transportation Control Commission so that it may determine the number and size of transportation units of all kinds, instead of only ground and air transportation units, that may be within the territory of any island of the State at any one time. The determination is to be based upon preserving, safeguarding and enhancing the

physical and mental health of the people of the State and the ecology and environmental quality of the State and upon consideration of the need for mobility of people and goods.

The Commission established by Act 59, Session Laws of 1972, has been mandated to limit the number and size of transportation units and will be examining and evaluating transportation control strategies which limit the number and size of transportation units. It will also examine and evaluate transportation control strategies which discourage or restrict the use of transportation units.

The Commission has conducted a series of public hearings. In its meetings and staff research, it has developed a list of transportation control strategies which require examination and evaluation.

During the first several years, the primary effort of the Commission will be directed towards the control of automobiles. Towards that end, the Commission will be examining and evaluating transportation control strategies to minimize the need for mobility and to find alternatives to automobiles.

In view of the constitutional problems that may arise as the result of any law limiting the number and size of automobiles, the Commission has decided to examine and evaluate the transportation control strategies first before making any recommendation thereto. This will enable the Commission to base its recommendation on more substantial or compelling grounds.

Based upon its findings to date, the Commission has recommended to the Legislature that a voluntary vehicle emission inspection and maintenance program be instituted in the State on an experimental basis to be followed by a mandatory vehicle emission inspection and maintenance program based upon the experience gained from the voluntary program. The Department of Health, by Act 100 of the Session Laws of Hawaii 1972, already has the authority to set up a vehicle emission inspection program.

Your Committee on Transportation is in accord with the intent and purpose of **S. B. No. 51, S. D. 2**, and recommends that it pass Second Reading and that it be re-

ferred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. No. 581 Transportation on **S. B. No. 1152**

The purpose of this bill is to define the terms "mass transit" and "mass transportation" as used in the law granting to the counties the power to operate and provide such services.

The terms are not defined in the law; therefore, there is ambiguity as to whether or not school bus, charter and sightseeing services are included in the terms.

The bill clarifies the matter by expressly excluding school bus, charter and sightseeing services from the definitions of "mass transit" and "mass transportation" as used in the law. This is in keeping with the Federal Urban Mass Transit Act which expressly excludes such services from its term of mass transportation.

In effect, the bill expressly precludes the counties from engaging, directly or indirectly, in the school bus, charter and sightseeing services, under their authority to operate a mass transit system or to provide a mass transportation service.

Your Committee on Transportation is in accord with the intent and purpose of **S. B. No. 1152, S. D. 1** and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. No. 582 Consumer Protection on **H. B. No. 1768**

The purpose of this bill is to amend Chapter 431, Hawaii Revised Statutes, to broaden medical insurance policies. Presently, reimbursement of the type of medical expenses incurred by the injured person is left to the discretion of the insurance companies. This bill provides reimbursement for services of persons licensed in this State for the practice of medicine or surgery, osteopathy, optometry, naturopathy, chiropractic, dentistry or podiatry by the insurance companies.

Your Committee on Consumer Protec-

tion is in accord with the intent and purpose of **H. B. No. 1768** and recommends that it be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. No. 583 Consumer Protection on **H. B. No. 129**

The purpose of this bill is to close a loophole in the present law by regulating that solicitors who use the mails to offer free gifts as an inducement for the purchase of other products inform their prospective purchasers that a sales presentation will accompany the free gift. Under the present law, solicitors are prohibited from offering free gifts over the telephone to prospective customers as an inducement for buying higher priced items.

Your Committee heard testimony from the Office of Consumer Protection to the effect that some merchants have circumvented this provision by substituting the mail in place of the telephone. The Office of Consumer Protection testified that they have received numerous complaints about this scheme and are still receiving such complaints. The complaints fall into the following categories.

1. Contacted consumers did not realize that a sales pitch was to be made to them on some other expensive items prior to actually receiving the so-called "free" gifts.

2. The so-called "free" gifts were very inexpensive whereas the gift letter strongly indicated that relatively expensive gifts were to be given.

3. The "hard-sell" to purchase other expensive items was put on consumers as soon as they stepped foot in the establishments.

This Committee also heard testimony from numerous retail establishments to the effect that a blanket prohibition of all written gift-sales practices might unduly burden legitimate mail order businesses.

Based on the preceding testimony, this Committee agrees with the Office of Consumer Protection that consumers should be protected against unfair gift-sales practices. However, this Committee also feels that a blanket prohibition might be un-

reasonable. Therefore, your Committee has amended **H. B. No. 129** by adding a new subsection (b) which requires that such written solicitations include a conspicuous notification to consumers that a sales presentation will accompany the free gift.

Your Committee on Consumer Protection is in accord with the intent and purpose of **H. B. No. 129**, as amended herein, and recommends that it pass Second Reading and be placed on the Calendar for Third Reading in the form attached hereto as **H. B. No. 129, H. D. 1.**

Signed by all members of the Committee.

SCRep. No. 584 Consumer Protection on H. B. No. 130

The purpose of this bill is two fold. First, it will close a loophole in the present law by requiring that solicitors who use the mails to offer free gifts as an inducement for the purchase of other products inform their prospective purchasers that a sales presentation will accompany the free gift. Under the present law, solicitors are prohibited from offering free gifts over the telephone to prospective customers as an inducement for buying higher priced items. Secondly, this bill will also prohibit real estate salesmen from engaging in these types of practices. In the past, there has been no regulation of real estate salesmen in this regard.

Your Committee heard testimony from the Office of Consumer Protection to the effect that some merchants have circumvented this provision by substituting the mail in place of the telephone. The Office of Consumer Protection testified that they have received numerous complaints about this scheme and are still receiving such complaints. The complaints fall into the following categories.

1. Contacted consumers did not realize that a sales pitch was to be made to them on some other expensive items prior to actually receiving the so-called "free" gifts.

2. The so-called "free" gifts were very inexpensive whereas the gift letter strongly indicated that relatively expensive gifts were to be given.

3. The "hard-sell" to purchase other ex-

pensive items was put on consumers as soon as they stepped foot in the establishments.

The Office of Consumer Protection also testified that it has received numerous complaints against this same type of gift-sales practice by real estate salesmen, particularly those selling land on the Big Island and in other states. The Office of Consumer Protection suggested that these real estate salesmen should be subject to the same regulation as solicitors under Section 468-4, HRS.

This Committee also heard testimony from numerous retail establishments to the effect that a blanket prohibition of all written gift-sales practices might unduly burden legitimate mail order businesses.

Based on the above testimony, this Committee agrees with the Office of Consumer Protection that consumers of merchandise and land should be protected against unfair gift-sales practices. However, this Committee also feels that a blanket prohibition might be unreasonable. Therefore, your Committee has amended **H. B. No. 130** in two respects. First, we added a new subsection (b) to Section 468-4, which requires that written solicitations include a conspicuous notification to consumers that a sales presentation will accompany the free gift. Secondly, we added a new section to Chapter 484, HRS, to be appropriately designated, which will place the same restrictions on real estate salesmen.

Your Committee on Consumer Protection is in accord with the intent and purpose of **H. B. No. 130**, as amended herein, and recommends that it pass Second Reading and be placed on the Calendar for Third Reading in the form attached hereto as **H. B. No. 130, H. D. 1.**

Signed by all members of the Committee.

SCRep. No. 585 Finance on H. B. No. 862

The purpose of this bill, as introduced, is to increase the fees of serving officers for service of criminal and civil process, including mileage to effect the same in the district, circuit and supreme courts. As amended herein, any increase is limited to criminal service.

Secs. 607-4 and -8, as amended, relating

to the district court on the one hand and the circuit or supreme courts on the other, presently provide that the sheriff's or other serving officer's fee for serving a criminal summons and similar document (except subpoena) is \$4. In both statutes, this bill, as amended, raises the fee to "\$5 from and after the effective date of this Act until July 1, 1974, and \$6 thereafter."

The Judiciary is an agency which relies heavily upon this program for service of documents. The testimony indicated that in the District Court of Honolulu, for example, some 3,700 penal summons are issued each month by the violations bureau, preparation of which is accomplished in part by the court's clerical staff and in part by the deputy sheriff. Another time-consuming activity, the responsibility for verifying the address listed on the court files falls to the deputy sheriff. This alone requires eight hours of work for every 100 summons, and for this work the deputy receives no pay.

Compensation of deputies is based upon the number of summons actually served. Therefore, as justification for the increased service fees, the following was offered your Committee for consideration: It takes a deputy three days to knock on 100 doors, of which experience indicates that only 20 will be home. In actuality, a deputy can serve only 25 summons per week for an average weekly income of \$125, or \$500 gross per month (which includes mileage allowance). The net income, based on present fees, averages \$400 per month for those deputies who work at the courts. There is no vacation with-pay allowance, nor are there other fringe benefits. For his salary of \$400 a month, the deputy must endure a number of occupational hazards: citizens at times are belligerent, and dog bites are an everyday hazard. Since he is a contract employee, the deputy is not covered by workmen's compensation, nor is he entitled to sick leave.

As previously indicated, the bill has been amended to limit the fee increase to service of criminal process: from \$4 to \$5 upon enactment of the bill; \$6 after July 1, 1974. Your Committee believes such a schedule is reasonable while providing for incremental adjustment commensurate with anticipated increased costs.

The cost of service of criminal summons is recovered as a court cost as part of the

disposition, and, therefore, is not a financial burden to the State. On the other hand, the cost of service of a civil summons, the fee for which and mileage were not increased hereby, is carried by the litigant, payable at the time the service is requested.

Your Committee finds and hereby declares that an effective program of serving court summons is essential to the court's operation. Respect for the law is directly proportionate to the ability of the court to apprehend those who do not voluntarily responds to a citation.

Your Committee on Finance is in accord with the intent and purpose of **H. B. No. 862**, as amended herein, and recommends that it pass second reading in the form attached hereto as **H. B. No. 862, H. D. 1**, and be placed on the calendar for third reading.

Signed by all members of the Committee.

SCRep. No. 586 Finance on H. B. No. 1334

The purpose of this bill is to amend Act 197, Session Laws of 1972, to allow greater flexibility in financing a program for the planning and development of North Kohala.

Act 197 authorized a comprehensive program for the economic development of the North Kohala area, and the program is about to be initiated. Section 3 of the Act appropriated the sum of \$3,700,000 from general obligation bond funds of the state for purposes of planning and development.

This bill proposes to amend Act 197 by allowing the financing of the North Kohala development program from either general revenues of the state or through general obligation bonds. Your Committee has been informed by the department of budget and finance that the use of general obligation bond funds for the project would raise legal problems which could possibly affect the tax exempt status of the bonds to be issued. In the department's opinion the proposed amendment would also provide greater financial flexibility in the funding of the project, including the possible use of federal funds that may become available.

Your Committee agrees with the department of budget and finance that this

bill would provide a desirable flexibility in the funding of the North Kohala project. After consideration of the bill by your Select Committee of Hawaii Representatives under **Stand. Com. Rep. No. 318**, it is of the opinion that an extension of the period within which moneys appropriated for the project can be used would also be desirable as the project will not be completed by the present lapse date of the appropriation, June 30, 1973. It, therefore, amended the bill by extending the lapse date for the appropriation to June 30, 1974, and we concur.

Your Committee on Finance is in accord with the intent and purpose of **H. B. No. 1334, H. D. 1**, and recommends that it pass third reading.

Signed by all members of the Committee.

SCRep. No. 587 Finance on H. B. No. 1880

The purpose of this bill is to appropriate out of general revenues for supplies, equipment and personnel necessary to implement production research and labor efficiency in the pineapple industry, to be expended by the Hawaii Agriculture Experiment Station (HAES), University of Hawaii.

Through the College of Tropical Agriculture (CTA), the sum appropriated hereby is intended to offset certain costs associated with pineapple production previously performed by the Pineapple Research Institute (PRI) of Hawaii, heretofore an industry-financed research program for more than 50 years. According to Ronald M. Terry, addressing your Committee on behalf of the Pineapple Growers Association of Hawaii and its member companies, Dole, Del Monte, and the Maui Land & Pineapple Company, and the trustees of the Pineapple Research Institute (PRI), the industry, for a number of years, "contributed more than \$1,000,000 per year into this basic research program. Throughout the years PRI has made repeated contributions that have enabled the pineapple industry to survive in Hawaii," its inception going back to 1922.

However, certain "economic ills", as they are denominated by Leslie Swindale, associate director of HAES, have recently beset the pineapple industry, the substance and consequences of which were outlined

in a recent seminar presented under the leadership of the Lt. Governor. A follow up report entitled "The Impact of Foreign Pineapple Production on the Hawaiian Pineapple Industry," with its problems and recommendations, was prepared by the department of agriculture, in December, 1972. This report included a proclamation related to production costs which reads, "As noted previously the major effort must be to increase labor efficiency. It may be possible for the State to assume a greater proportion of the Industry's research needs toward this end. The possibility should be explored with Industry."

Within the last few weeks the Pineapple Growers Association has announced that PRI will be closed on June 1, 1973, and has prepared a special report on pineapple in Hawaii, dated February, 1973, "Present Problems and Future Production of Pineapple in Hawaii." This report recommends that the University take over the research in nematology (parasites) and pathology (other diseases) presently being undertaken by PRI and that it also undertakes certain other research problems of importance to the industry.

With pineapple being grown on only 63,000 acres, or 1.7 percent of the total State land area, the processed value of this fruit for Hawaii was nevertheless \$137 million. A work force of 6,200 year-round workers earned \$42 million in annual wages and another 12,000 seasonal workers earned \$10 million per year. These figures establish pineapple as the State's second largest agricultural industry, which remains an essential commodity of Hawaii's economy and should remain competitive in Mainland markets when priced and matched with foreign competition. For these reasons, your Committee endorses continued study in the pineapple industry and recommends the transfer of necessary equipment, supplies and staff from PRI to the University.

PRI was once an effective and viable research facility for the 4 major companies with a staff of 34 professionals. It has since been cut to four professionals supported by only two major companies, Del Monte Corporation and Maui Land and Pineapple Company. Dole Company presently conducts their own private research and Libby has ceased pineapple production in Hawaii. Now, Pineapple Task Force composed of university and industry

members acts in an advisory capacity to the director of HAES. Its seventeen members whose specialties include research, extension and instruction, have identified areas of research priority for immediate action, the specifics of which are set forth in **Stand. Com. Rep. No. 419** hereupon from your Committee on Higher Education, and shall not be extensively repeated hereat. Briefly, the priority areas for research include work on nematology and pathology at present being carried out by PRI, and other work on pesticides, floral differentiation and fertilizer use as proposed by the industry. It also includes work on waste management, post-harvest physiology, control of plant pests, and the development of models to maximize production. Each of the research studies listed has a high degree of productivity expectancy in a reasonable period of time.

The task force report recommends a program of research costing \$765,000 for the biennium 1973-75. Of this \$206,000 would come from existing HAES funds, which presently has four members of PRI on its staff, who, over the past few years, have continued a limited amount of pineapple research. In response to the need for greater attention to the problems of pineapple, HAES has tripled its expenditures on research on this crop from \$36,000 in 1970-71 to \$103,000 in 1972-73, so that if appropriations thereto are maintained at current levels, the magnitude of expenditures shown for 1972-73 should be able to continue.

In accordance with this analysis, HAES estimates that new funds amounting to \$559,000 and 18 positions would be needed in the 1973-75 biennium to undertake the **additional** work required on pineapple. The program is projected, at that figure, for a period of six years. However, your Committee on Higher Education reporting hereupon, as aforesaid, found that for 1972, PRI expended but \$143,324 in its final year before dissolution, which has hereby been confirmed; and based thereupon, so that the program may be maintained at least at current levels, your Committee on Finance makes the following recommendation: \$280,000 for the fiscal biennium 1973-75, to which sum and for which period the bill has been amended. (See also the hereto annexed "Appendix"). Perhaps too much emphasis in the testimonies and the reports which have been mentioned refer to the pineapple industry in terms of the large companies, whereas there are already some 30 small pineapple producers in the State, and it is anticipated that with the cut-back of large plantations, more pineapple lands may become available to small growers who could not otherwise afford the benefits of research which this bill continues to make available.

Your Committee on Finance is in accord with the intent and purpose of **H. B. No. 1180**, as amended herein, and recommends that it pass third reading in the form attached hereto as **H. B. No. 1880, H. D. 1.**

Signed by all members of the Committee.

Appendix

Cost Estimates:	Current and Continuing CTA Input		New Funds Requested			
	FTE	Support	First Year		Continuing Budget	
			73-74 Budget		Second through Fifth Year	
	FTE	Support	FTE	Support	FTE	Support
1. Professional						
Researcher (R-3) – Maui	2.2	\$ 45,223.00	1.0	\$ 11,232.00	1.0	\$ 11,676.00
Specialist (S-3) – Maui			1.0	11,232.00	1.0	11,676.00
			2.0	22,464.00	2.0	23,352.00
2. Technical Assistants	1.0	9,805.00	4.0	38,400.00	4.0	39,936.00
Temporary Assistants (BOR & APT)	1.5	16,882.00				
Student Help		550.00				

Cost Estimates:	Current and Continuing CTA Input		New Funds Requested			
	FTE	Support	First Year		Continuing Budget Second through	
			73-74 Budget		Fifth Year	
			FTE	Support	FTE	Support
3. Agricultural Technicians	1.45	11,830.00				
Maui			1.0	7,344.00	1.0	7,716.00
Oahu			1.0	7,344.00	1.0	7,716.00
			2.0	14,688.00	2.0	15,432.00
4. Equipment						
Mulch, fumigant, and fertilizer						
tractor (used)				2,500.00		
Spray boom (used)				2,500.00		
2 Growth chambers				5,000.00		
Misc. equipment (shakers,						
rotators, glove boxes, etc.)				3,000.00		
				13,000.00		
5. Land Rental				2,500.00		2,500.00
6. Department & Branch Station Operations		12,723.00		30,000.00		30,000.00
7. Miscellaneous Costs—including						
development of new plot area		5,987.00		35,000.00		2,000.00
8. Travel Costs				1,500.00		1,500.00
Total Requirement		103,000.00		157,552.00		114,720.00*

*Total requirement 2nd through 5th year calculated in "constant" dollars.

SCRep. No. 588 Finance on H. B. No. 1147

The purpose of this bill, as introduced, is to amend certain statutory fee provisions relating to horizontal property regime registration by (1) increasing from \$75 to \$250 the filing fee for notice of intention to sell condominium project offerings, and (2) establishing fees for issuance of a subsequent public report and supplementary public report at \$150 and \$75, respectively.

The filing fee which is required under Sec. 514-30 to accompany the written notification to the real estate commission before a condominium project is offered for sale as prescribed in Sec. 514-29, was established at \$50 when the law was first enacted in 1961, and administratively increased to \$75 pursuant to Sec. 92-28 in 1964. Increasing this filing fee to \$250, as proposed hereby, entitles the developer to issuance of a public report, whether preliminary or final, such as described in Secs. 514-34, also amended hereby, and 514-35.

Presently, these provisions on public reports do not provide for the payment of

fees for their issuance by the commission; and even by the proposed amendment this remains so as to the "initial" report (the cost of which, however, is reflected in the proposed increase of the notice of intention filing fee). In this regard, use of the term "initial" in place of "first" as it modifies the "public report" for which it is provided that no fee shall be imposed in the amendatory addition to Sec. 514-34, represents a further alteration of the statute recommended by your Committee. Lexicographically, this selection is a preferred antonym of the terms "subsequent" and "supplementary" as descriptive of the public reports for which the proposed amendment provides fees for issuance of \$150 and \$75, respectively, and from the testimonies it is apparent that this term is the accepted parlance of the profession.

The current annual revenue derived from condominium filings is approximately \$4,500; the operating expenditure of the condominium program amounts to some \$31,250. Based on statistics of fiscal year 1971-72 (65 initial public reports, 43 subsequent public reports and 16 supplementary reports issued) the revenue under the proposed bill will be raised to \$23,900.

This amount, however, although it still falls short of the costs for conducting the condominium program, should be considered together with the intended purpose of **H. B. No. 317, H. D. 1**, increasing the license fees paid by real estate brokers and salesmen, a principal consideration for which in **Stand. Com. Rep. No. 63**, your Committee stated was "so that, eventually, additional personnel may be hired to relieve the present staff in the professional and vocational licensing division to enable them to keep up with the demand for services from applicants, licensees and consumers." The net effect of that bill, which, as amended, has passed third reading and has been transmitted to the Senate, it was estimated, will increase the real estate commission's revenue contribution to the general fund by approximately \$72,250 annually.

The Hawaii Association of Real Estate Boards as representative of the industry, previously testifying in favor of the license fee increase for the reason indicated, also supported this measure "if [the developer] could be assured of a definite time by which his public report would be made available." There was a contention that it presently takes 60 to 90 days; and it was submitted at the hearing that under heavy workload situations, after 30 days from the filing, there be an option to contract for a private consultant, fees to be paid by the developer.

Your Committee invited the real estate commission to comment upon the proposed amendment, and its written reply, through the licensing administrator of the department, upon reputed discussion with all concerned agencies (including the Board of Realtors) was unfavorable for reasons set forth in **Stand. Com. Rep. No. 513** upon **H. D. 1** hereof from your Committee. However, following its passage on second reading, your Committee was informed by its chairman that the real estate commission had reevaluated its position; the bill was, therefore, by floor action re-committed and the following amendment effected:

A new section 3 was added to the bill amending Sec. 514-44 entitled "Request for hearing by developer," to which was added "public report or . . ." Therein a provision has been included that:

"If, within thirty days after notice of

intention is properly filed pursuant to sections 514-29 and 514-30, a public report has not been issued by the real estate commission, the developer may, in writing, request that the director of regulatory agencies submit the inspection of the condominium project (if intent to inspect has been indicated by the commission pursuant to sections 514-31 and 514-33) and the preparation of the public report prescribed in section 514-34, to a private consultant approved by the commission under a consultant contract. If the director determines to let the contract, all fees and other costs related thereto shall be paid by the developer."

The existing provisions of the section, which require a hearing by the commission upon written request by a developer whose report(s) are not issued within a reasonable time or who is grieved by a report, is preceded by the amendatory clause that, "If the director determines not to let the contract . . ." the hearing requirement applies.

Your Committee on Finance is in accord with the intent and purpose of **H. B. No. 1147, H. D. 1**, as amended herein, and recommends that it pass third reading in the form attached hereto as **H. B. No. 1147, H. D. 2**.

Signed by all members of the Committee.

SCRep. No. 589 Finance on H. B. No. 1155

The purpose of this bill is to authorize the department of education to sell and receive royalties on patents and copyrights, and to establish a separate revolving fund kept by the department into which all receipts from such sales and royalties are to be placed for the purpose of defraying some or all of the expenses incident to the development, preparation, publication and sale of educational materials or equipment.

Presently, Sec. 296-17, Hawaii Revised Statutes, which is amended hereby, limits the department to the preparation and sale of "publications", and prescribes that all sums received therefrom shall be deposited "to the credit of the general fund of the State."

However, according to the superintendent of education in testimony before your

Committee, "the creation and publication of innovative educational materials under the auspices of the department are drawing national and international attention," such that "numerous requests are being received for copies; sometimes for entire school systems." An example in point is the Hawaii English Program.

Proponents of this bill contend that the department's budget does not include publication costs for other than its own use; thus, any publication sold is a drain on the department's budget. Therefore, expand the statutory authorization to include the sale of patents and copyrights, and provide that all royalties or receipts from sales are retained to replenish funds used in producing and publishing new educational materials. (See **Stand. Com. Rep. No. 325**).

Your Committee, however, has over the past several years consistently recommended against the indiscriminate establishment of revolving funds, requiring in order to receive endorsement that there be a protracted and quantitative factor of fiscal experience demonstrating the tendency thereof to successfully remain truly self-sufficient and without the requirement for replenishment from other sources of funding for maintenance of the related program, notwithstanding the standard defined in Sec. 37-62(43). (See, e.g., Act 141, Session Laws of Hawaii 1971, section "j" amending Sec. 306-10). This policy has been guided by the mandate of Sec. 37-40 which provides, in relevant part, "that no expenditure shall be made from and no obligation shall be incurred against any revolving fund . . . in excess of the amount standing to the credit of the fund"

Therefore, in the absence of the experience factor indicated, and to preclude the prospect that your Committee may be subject to the imposition of annual requests to reappropriate the fund proposed to be established hereby, the bill has been amended. While retaining therein the added authorization to sell and receive royalties on patents and copyrights, the provisions establishing a separate revolving fund and describing its purpose have been deleted, and the requirement that such receipts be deposited to the credit of the general fund has been restored.

Your Committee on Finance is in accord with the intent and purpose of **H. B. No.**

1155, as amended herein, and recommends that it pass third reading in the form attached hereto as **H. B. No. 1155, H. D. 1**.

Signed by all members of the Committee.

SCRep. No. 590 Finance on H. B. No. 1154

The purpose of this bill is to make mandatory that the State provide for insurance protection of junior police officers while in the performance of their duties, coverage to include maximum benefits of \$20,000 for medical care and hospitalization, \$5,000 for death, \$1,500 for funeral expenses, and \$100,000 for public liability.

Sec. 27-26, Hawaii Revised Statutes, which is hereby amended, presently provides that funds **may** be appropriated for training programs, and for either the procuring of insurance **or** assuming liability therefor by the State, but limited to the medical care and hospitalization coverage and the funeral expense payment which are carried over into this bill. The proposed amendment directs that the State **shall** procure the prescribed insurance **and** assume liability therefor, which includes those coverages which are presently optional, and, in addition, (1) a \$5,000 death benefit for the legal guardian, parents, or designated beneficiary of the deceased child, and (2) public liability not to exceed \$100,000 for each claim or cause of action attributable to negligence of any child, the benefit to enure to his legal guardian or parents in the event they are named as parties. In all cases, benefits are payable only where the junior police officer is engaged in the performance of his duties or other activities certified as a proper function by the police department of the county.

Your Committee on Finance concurs with the expression of your Committee on Education from which this bill was referred under **Stand. Com. Rep. No. 387**, that "the junior police officers and their legal guardians or parents should be protected and afforded these benefits for their services." Without these benefits, there are several problems presented, principal among them:

1. In the past, insurance has been provided through contributions by private businessmen, through Pacific Insurance Company. At present, there is only in-

demnity insurance coverage provided by that policy, which, moreover, your Committee is informed is soon to be discontinued.

2. The benefits of workmen's compensation law under Sec. 386-171 applicable to "volunteer personnel" are limited to hospital and medical expenses, only, if not provided for under another law or secured from a third party, and which does not provide for injury, death or protection from civil action. Moreover, according to the director of labor and industrial relations in written reply to an inquiry by the department of education:

"If any JPO or JPO advisor is generally performing service for the State or county governments and who has not secured payment of his hospital and medical expenses from the State under any other provision of the law and has not secured payment therefor from a third party, such a person would be entitled to only hospital and medical expenses under the workmen's compensation law

"If, however, JPO's and their advisors are providing services for the private schools rather than the State or county governments in general, it would appear that coverage under chapter 386 would not be extended to those JPO's and advisors performing service in an unpaid and voluntary capacity."

Your Committee hereby leaves unanswered the implicit question of the legality of expending State funds for coverage of junior police officers from private schools (although ostensibly performing a "public service"), which should best be undertaken by the attorney general pursuant to his responsibilities under Sec. 26-7.

3. Under Hawaii law, the parents or legal guardian of a child whose negligent conduct causes injury or death, even though not actively participating therein, are liable in damages therefor. Where the child is a junior police officer in the performance of his duties, the further question of State liability arises under the Tort Claims Act, in Sec. 662-1 of which is contained the following definitions:

(1) "State agency" includes the executive departments, boards, and commissions of the State but does not include

any contractor with the State;

(2) "Employees of the State" includes officers and employees of any state agency, members of the Hawaii national guard, Hawaii state guard, and persons **acting in behalf of a state agency in official capacity, temporarily, whether with or without compensation;** (Emphasis added).

A literal construction would seem to include junior police officers as "employees . . . acting in behalf of a state agency" (department of education), even though "temporarily" and "without compensation". Therefore, the provision of this coverage prospectively protects not only legal guardians and parents, as to whom the bill provides the benefit shall enure, but also the State, as the bill also prescribes "assuming liability on the part of the State therefor"

It is estimated by the department of education that for procuring the insurance required, premiums will run to between \$60,000 and \$70,000 per year. Your Committee, in the interest of economizing the cost but without impairment to benefits considered coupling the policy with presently existing statewide insurance as appropriate. However, it was learned that the department of accounting and general services, which administers the State's insurance programs, has in force only two statewide policies (auto fleet and comprehensive crime), neither of which is suited to the requirements established by the bill. For all other coverages, including public liability, the State is self-insured.

Your Committee does not believe self-insurance is advisable to meet the mandate of this bill, however, when compared with the cost of premiums estimated to obtain coverage under a policy of insurance. This is so because it is not inconceivable to contemplate the case of a single carload of "kids" involved in a single accident spurned by a single act of negligence on the part of a junior police officer "consuming" an amount of damages for liability easily in excess of the premiums for coverage of innumerable accidents under an insurance policy affording coverage over the period of an entire year.

Your Committee is not unmindful of the affect which no-fault automobile insurance will bear to the problem at which this

bill is, in part, addressed. However, and notwithstanding the form such law will take upon its prospective enactment, it is noted that the bill most probably to be passed (**H. B. No. 637, H. D. 1, S. D. 1**) is not proposed to take effect until July 1, 1974. This measure, an appropriation for which is to be provided in the budget for expenditure by the department of education, and to be expended by the department of accounting and general services, is considered necessary and proper to accommodate the situation meanwhile.

Amendments to the bill effected by your Committee are primarily technical and include: (1) adding a description of the added benefits to the introductory paragraph of the amended statute, in which coverage is made mandatory, (2) language changes, notably "claim or cause of action" for "suit", as in conformance with Act 164, Session Laws of Hawaii 1972, amending chapter 661, relating to "[Suits] Actions by and against the State," and (3) reducing the amended statute into separate (but unnumbered) paragraphs each covering the separate principal benefits.

Your Committee on Finance is in accord with the intent and purpose of **H. B. No. 1154**, as amended herein, and recommends that it pass third reading in the form attached hereto as **H. B. No. 1154, H. D. 1**.

Signed by all members of the Committee.

SCRep. No. 591 Parks, Fish and Game Management on H. C. R. No. 98

The purpose of this Concurrent Resolution is to request the Governor to declare the fourth Saturday of each September as "National Hunting and Fishing Day".

Your Committee recognizes the esthetic, health and recreational virtues of hunting and fishing, and the need to rededicate ourselves to conservation and the respect for our wildlife and natural resources. We are also mindful of the increasing concern for our environment that has magnified in the last several years. Concomitant with such concern has grown the demand for outdoor recreation and expanded desire of the people to experience and learn about animals and fishes in the wild.

Your Committee on Parks, Fish and Game Management concurs with the in-

tent and purpose of **H. C. R. No. 98** and recommends its adoption.

Signed by all members of the Committee.

SCRep. No. 592 Parks, Fish and Game Management on H. R. No. 402

The purpose of this Resolution is to request the Governor to declare the fourth Saturday of each September as "National Hunting and Fishing Day".

Your Committee recognizes the esthetic, health and recreational virtues of hunting and fishing, and the need to rededicate ourselves to conservation and the respect for our wildlife and natural resources. We are also mindful of the increasing concern for our environment that has magnified in the last several years. Concomitant with such concern has grown the demand for outdoor recreation and expanded desire of the people to experience and learn about animals and fishes in the wild.

Your Committee on Parks, Fish and Game Management concurs with the intent and purpose of **H. R. No. 402** and recommends its adoption.

Signed by all members of the Committee.

SCRep. No. 593 Health on S. C. R. No. 9

The purpose of this Concurrent Resolution is to request that all plans for new or existing facilities, programs, or services relating to the aged be transmitted to the State Commission on Aging for action.

Your Committee recognizes that in the past there has been poor coordination relating to matters of aging because governmental agencies have not been transmitting their plans to the Commission on Aging.

Your Committee on Health concurs with the intent and purpose of **S. C. R. No. 9, S. D. 1** and recommends its adoption.

Signed by all members of the Committee.

SCRep. No. 594 Environmental Protection on H. B. No. 635

The purpose of this bill is to establish

a means whereby capital improvements for antipollution projects can be financed through the issuance of revenue bonds by the State through the Department of Budget and Finance, thus encouraging private industry or governmental bodies to initiate such projects by providing a means of financing same.

Your Committee, being strongly committed to the preservation and, where necessary, restoration of the quality of our environment, recognizes that the promulgation of Federal, State and County regulations will require some businesses, as well as governmental bodies, to make substantial, non-income producing, investments in antipollution control facilities. Your Committee finds that the assistance of the State in providing a vehicle by which such antipollution programs can be financed is a public purpose, inasmuch as a cleaner environment benefits all of Hawaii's citizens. Your Committee further finds that the lower interest costs associated with these tax-exempt bonds should encourage some businesses to initiate pollution control measures on their own volition.

This bill would provide a governmental vehicle in Hawaii by which Federal tax advantages can be gained by those industries in Hawaii involved in antipollution projects, thereby encouraging and assisting such industries to carry out pollution control measures and also giving governmental bodies located in Hawaii the option to use the same financing vehicle in carrying out pollution control. The genesis of the antipollution revenue bond comes from the industrial development bond which is a bond issued by a governmental body, the proceeds of which are used to build a facility to be used by a private party. The bond is secured by and paid from the payments made by such party (or user) for the use of the facility.

In 1968 Congress amended the Internal Revenue Code to provide that, if the amount of the industrial bond issue exceeded \$5,000,000, the interest payable on the bonds would not be exempt from Federal income taxes. Congress also provided, however, that if the function of the facility was pollution control, the dollar limitations would not apply and that interest on bonds issued for such purpose would remain exempt from Federal income taxes, regardless of the amount of

the issue. Congress thus made it possible for industry and, later by Congressional amendment, government bodies to borrow money for pollution control facilities at a lower rate of interest, thereby encouraging the initiation of pollution control projects as well as assisting in compliance with antipollution statutes and court orders.

As drafted, the bill provides that the State will not incur any costs whatsoever in connection with any phase of the pollution control project or any phase of the sale of the antipollution revenue bonds. The bill permits revenue bonds to be issued only for pollution control facilities. The payment of such revenue bonds is limited solely to the moneys paid by industry or a governmental body for the use of the facilities or the purchase of the facilities by it. Neither the State's general fund nor any general revenues of the State will be obligated to pay the revenue bonds. The bonds will neither affect nor be counted in any way against the constitutional debt limit of the State. The bill requires that the State be compensated by the project party out of either the revenue bond proceeds or from other sources for any and all expenses it incurs in issuing the revenue bonds and that the user of the facilities pay all expenses the State incurs in carrying out the pollution control project. Your Committee has amended the bill to include reimbursement of indirect as well as direct expenses the State may incur. Included in these expenses to be covered by the project party are any expenses incurred prior to the issuance of the bonds. Your Committee has further amended the bill to include expenses which are incurred even though the bonds are never issued. Consequently, the State will not be using any of its own moneys to pay for the revenue bonds, to pay for the costs and expenses of issuing or administering the bonds, or to pay for preliminary or any other expenses relating to the project, even though the bonds are not sold.

It is the understanding of your Committee that the Federal Internal Revenue Service will review all projects to insure that only those projects or portions thereof that are purely antipollution in nature will qualify for tax-exempt status. This requirement will insure that private industry will not be able to include any projects which do not meet the approval of the IRS as pollution control measures. As a further safeguard, your Committee has required

that any antipollution project within the meaning of this Act shall be certified as necessary or desirable by the Department of Health.

Your Committee heard from witnesses at the governmental and private industry level as well as from an environmental organization, the Hawaii Chapter of the Sierra Club, and all of the persons presenting testimony were unanimous in their support of State antipollution revenue bonds as a sound approach to the financing of pollution control measures. Testimony indicated that since the first antipollution revenue bond issue was sold two years ago, numerous other state and county agencies on the Mainland have utilized this concept.

In order to clarify the intent of this legislative proposal and to maintain consistency in its language, your Committee has amended the bill, with the assistance of State bond counsel, in the following general manner:

1. Reference is made to Section 103(c) (4) of the U.S. Internal Revenue Code of 1954, as amended, regarding Federal tax exemption of interest on bonds issued by public bodies for antipollution facilities.

2. Section 39-126 of the proposed bill is amended to expend the powers of the Department of Budget and Finance, in order to guarantee the completion of the antipollution project and fulfillment of the obligations of the project party.

3. Section 39-130 of the proposed bill, as amended, clarifies the provisions to be included in the project agreement entered into by the Department, delineating the obligations of the project party. This includes a provision which gives the Director of Finance the option to require a deposit from the proposed project party prior to entering into negotiations with such party to cover any expenses incurred by the department.

4. In Section 39-131 of the bill, the subsection relating to the final maturity date is clarified.

5. In Section 39-131 of the bill, a subsection is included which will enable the Director of Finance to elect not to serve as fiscal agent for the payment of the interest on the bonds, thus permitting the

Director to spend the minimal amount of time necessary to administer the projects.

Your Committee on Environmental Protection is in accord with the intent and purpose of **H. B. 635**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. 635, H. D. 1**, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. No. 595 Environmental Protection on **H. B. No. 1522**

The purpose of this bill is to establish a state environmental policy and to require environmental impact statements on major actions affecting the environment.

At the present time, the only requirements for filing environmental impact statements are contained in the federal National Environmental Policy Act which requires such statements for major federal actions significantly affecting the human environment, and in the Governor's Executive Order dated August 23, 1971, which requires all State agencies to file environmental impact statements on projects that utilize State lands or funds. It is felt that the enactment of this legislation will broaden the scope of environmental consciousness with respect to all major actions affecting the environment.

This bill will establish a system of review as early as possible which will insure thoughtful and comprehensive evaluation of the environmental effects of major actions in both the private and governmental sectors.

Your Committee held two hearings on environmental impact statement bills. The second was held because your Committee felt that additional environmental impact statement bills introduced after the first hearing significantly differed from the original bills and that interested citizens should be given as total an opportunity as possible to make their views known.

There seems to be general agreement that environmental impact statements would be beneficial in terms of our growing awareness of the necessity of carefully weighing the effects on the environ-

ment of the actions we may take with all good intentions, which nevertheless detrimentally affect the environment. A number of major objections to the bills proposed seem valid to your Committee and we have incorporated language to assuage those fears. One was that environmental impact statements should not be required of every single project or action no matter how small or insignificant its environmental impact might be. Your Committee has included language to insure that statements will be required only where there are major actions which significantly affect the environment.

The other point repeatedly stressed was that environmental impact statements should be filed as early as practicable in the course of any proposed action, for example, at the time of major rezoning decisions. Your Committee feels that the provisions of this bill now satisfy this requirement.

A third fear was raised as to the effect of this bill on ongoing projects; that is, whether it would apply retroactively, for example, to a subdivision already subdivided but not yet built. Your Committee has added language to ensure that only the actions which remain to be carried out after the effective date of this Act shall be reviewed to determine that they are consistent with the provisions of this Act.

In addition your Committee has inserted in Part I a declaration of state environmental policy that is nearly a verbatim version of the National Environmental Policy Act of the federal government. The bill provides that actions which fall under the requirements of this Act shall be in compliance with the state policy so declared.

Secondly, those provisions providing for "categorical exemptions" from the requirements of the bill were deleted since they would provide a loophole that would render much of the bill meaningless and might make its implementation subject to manipulation.

Finally, non-substantive technical changes were made to clarify its intent and operation.

Your Committee on Environmental Protection is in accord with the intent and

purpose of **H. B. No. 1522**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 1522, H. D. 1** and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. No. 596 Housing on H. B. No. 92

The purpose of this Bill is to improve certain laws dealing with the Hawaii Housing Authority, the Department of Labor and Industrial Relations, County redevelopment agencies, and the Department of Social Services and Housing in order that these agencies may more effectively cope with the housing problems facing the State.

Your Committee considered a large number of measures designed to improve the effectiveness of these agencies in providing more housing and the bill in the form attached hereto incorporates provisions from many of these measures.

Sections 2 through 10 deal with the powers and duties of the Hawaii Housing Authority. These sections provide for the following:

(1) Sections 2 and 3 enlarge the number of commissioners from six to eight and allows the commissioners to elect a chairman rather than having the Governor's Special Assistant for Housing designated by law as the chairman.

(2) Section 4 authorizes the Authority to acquire land not presently needed for housing if the land will be needed in the foreseeable future. This will allow the Authority to purchase land at more favorable prices and make possible a land bank for future housing needs. This Section also removes the limit on the price the Authority can pay for a dwelling as established by the federal 235 program. These limits are presently \$31,500 for a three bedroom home and \$36,000 for a four bedroom home. There are few, if any, homes available on the market at such prices and these limits have severely limited the Authority in purchasing housing units.

(3) Section 5 enables the Authority to issue short term project notes in addition to general obligation bonds as presently authorized. This will allow needed flexi-

bility of different financing methods and the different interest rates paid on short term notes would help in lowering housing costs.

(4) Section 6 strengthens the buy back provisions for Authority housing projects by increasing the term of the buy back provisions from ten to twenty years and providing that the buy back price shall be no more than the price originally paid by the purchaser plus cost of improvements made by the purchaser adjusted to the appreciation or depreciation of the dollar. The stronger buy back provisions will discourage speculation in Authority housing projects.

(5) Section 7 amends Section 359G-11.1 to add non-profit community associations to those eligible to borrow interim construction money from the State.

(6) Section 8 limits the sale of residential dwelling units developed by private developers with the aid of State or County funds. The restrictions are that no person can purchase more than one unit; no person or unmarried minor child whose spouse or parent has a unit can purchase any unit; no person whose income, including the income of a spouse, exceeds low or middle income standards as determined by the Hawaii Housing Authority, can purchase a unit; no person who owns land suitable for residential use can purchase a unit. This measure would help to insure that housing units in State or County assisted developments will not be sold for speculative purposes.

(7) Section 9 is designed to provide a means whereby people whose incomes are too high for government subsidy programs but too low for conventional mortgages can purchase homes. This measure would allow the State to loan funds to prospective home buyers which would assist them in qualifying for a conventional mortgage. The Authority would be able to make payments on behalf of the buyers of up to \$50.00 a month to help reduce monthly mortgage payments. This \$50.00 would have the effect of saying the buyer had an additional \$200.00 a month in income, and therefore would induce the lending institution to approve the mortgage loan, when it normally would reject it. The \$50.00 payments would be made directly to the lending institution and would continue for five years. At the end of 10 years, or when-

ever the house is sold, whichever is sooner, the buyer would pay the Authority back the amount it had loaned plus interest. In order to discourage speculation by those utilizing this provision to purchase a home, the measure contains a twenty year buy back provision in favor of the Authority. If the property is offered for sale during this period, the Authority has the right of first refusal at a price not to exceed the original price paid by the borrower plus the cost of any improvements adjusted to the value of the dollar. The effect of this Section would be to allow many residents, who cannot now buy a home, to be able to purchase a home.

(8) Section 10 would allow the Authority to enter into a joint development with a private developer even after the developer has initiated a project on his own if at least fifty per cent of the units in the project are suitable for purchase by persons of low income. If the Authority enters into an agreement with a developer under this measure, the sales of the units would include a buy back provision and thus discourage speculation.

Section 11 relates to the approval of the Director of the Hawaii State Department of Labor and Industrial Relations for the installation of factory built homes in the State. It gives added flexibility to the Director by allowing him to approve factory built homes upon certification by the manufacturer that such homes meet certain standards and the manufacturer posts a \$50,000 bond conditioned on the requirement that the homes meet such standards.

Section 12 gives more flexibility to the County redevelopment agencies by removing the prohibition against such agencies erecting new structures on its property and allowing purchase of land other than undeveloped vacant land for redevelopment projects. This Section also amends Section 53-38 to provide for real property tax exemptions for redevelopment projects only when at least fifty per cent of the project includes low and moderate income housing. Present law does not have the fifty per cent low-moderate income housing requirement.

Section 13 provides for the establishment of a housing location unit in the Department of Social Services and Housing to locate, in cooperation with the Hawaii Housing Authority, housing for wel-

fare recipients at the lowest possible rates.

Your Committee on Housing is in accord with the intent and purpose of **H. B. No. 92, H. D. 1** and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. No. 597 Housing on H. B. No. 91

The purpose of this bill is to control rentals of housing accommodations in the State.

Hawaii presently experiences a housing crisis. There is a serious public emergency in the housing of a considerable number of persons within the State. Residential construction in the last decade in Hawaii has not kept pace with population increases. Thus, an inadequate supply of housing has forced the price of houses to a point where vast numbers of people are unable to purchase housing.

These people have been forced into the rental market. More than 60% of the households in Hawaii are occupied by renters. The vacancy rate of rental units in Hawaii is substantially lower than that for the entire nation. Moreover, there has been a substantial decline in the construction of multiple-family units. Therefore, the prevailing conditions pertaining to rental of housing in the State permit landlords to exact from tenants whatever the market will bear. Consequently, tenants have had to allocate greater portions of their income to rentals of housing accommodations, leaving them with little financial resources to obtain other necessities. Since federal decontrol of rental stabilization in January, 1973, many landlords in Hawaii have made arbitrary, speculative, and abnormal increases in rentals of housing accommodations. In many cases, rentals have increased from 30% to 50%.

Unless residential rents are regulated, disruptive conditions in the rental market will continue to produce grave threats to the public health, safety, and general welfare. Your Committee thinks that preventive action of the legislature is imperative in order to preclude exactions of inequitable, unreasonable, and oppressive rents.

The significant features of this bill are as follows:

(a) Sec. -2 establishes maximum-rent ceilings and minimum-service standards for housing accommodations in the State. This section freezes rents and services at the levels which existed on January 1, 1973.

(b) Sec. -3 provides for the registration of rental housing accommodations in the State. Landlords must register a housing accommodation with the mayor of the county in which the accommodation is located.

(c) Sec. -5 empowers the mayors of the several counties to administer and enforce rent control of housing accommodations within their respective counties. Under this section, the mayors may initiate proceedings.

(d) Sec. -6, Sec. -7, and Sec. -8 relate to the procedures and powers of the respective mayors.

(e) Sec. -11 provides a vehicle for landlords or tenants to petition the appropriate mayors for adjustments of rents. A prominent feature of this section is that after January 1, 1975, a mayor may increase the maximum-rent ceiling for a housing accommodation which a landlord rented or offered for rent for a continuous period of 12 months immediately preceding a petition for adjustment; however, such increase may not exceed 10% of the gross rentals which the landlord realized for the housing accommodation for the 12-month period immediately preceding his petition.

(f) Sec. -12 contains certain prohibitions to enhance compliance with the provisions of this bill.

(g) Sec. -15 provides for judicial review by the Supreme Court.

(h) Sec. -17 provides for a civil penalty to be assessed against persons who violate the provisions of this bill.

(i) Sec. -18 provides for private remedies against persons who violate the provisions of this bill.

(j) Sec. -19 provides for a criminal penalty for persons who violate the provisions of this bill.

Your Committee finds that rent control should be a temporary measure to meet the present emergency; therefore, your Committee has provided that the authority to enforce control of rents charged for housing units under section 2 of the Act shall expire within two years from the effective date of the Act. Maximum rent ceilings and minimum service standards as of January 1, 1971, was changed to Jan. 1, 73.

Your Committee on Housing is in accord with the intent and purpose of **H. B. No. 91, H. D. 1**, as amended herein, and recommends it pass Third Reading in the form attached hereto as **H. B. No. 91, H. D. 2**.

Signed by all members of the Committee.

SCRep. No. 598 Water, Land Use and Development on **H. B. No. 721**

The purpose of this bill is to give explicit direction that land classified and used for agriculture, whether dedicated or not, shall be assessed at its value in use in agriculture and to permit a lessee the same privilege of agricultural land dedication as is available to the lessor.

The bill clearly specifies the Legislature's intent that the State Department of Taxation shall disregard the value and market price of neighboring lands as well as the value the land might have if it were used for purposes other than agriculture.

It is your Committee's view that intensive use of agricultural land for agriculture is its highest and best use.

At a hearing on this bill, the director of the State Department of Taxation suggested stronger controls be placed in the bill to curb speculation in sales of agricultural land. Your Committee favors curbs on such speculative sales and accordingly amended the bill to include a tax recapture provision in subsection (f) (2). This recapture provision specified that if land taxed on agricultural use is changed to urban district classification, the land owner is, at that time, liable for the tax difference for the ten years preceding the change to urban use. If, however, the change to urban classification is not petitioned by the land owner, your Committee thinks the land owner should not be penalized with the tax differential. Accordingly,

your Committee has amended subsection (f) (2) to provide that if the change to urban classification results from action by a state agency, or government action during the periodic boundary review or through condemnation proceedings, the land owner is not subjected to the tax recapture provision.

Your Committee having heard numerous bills dealing with taxation of land dedicated for agricultural use thinks modifications of the dedication law properly belong in a single bill and has amended this bill accordingly.

This bill would allow the lessee the same agricultural use dedication as is available to the lessor. The bill changes the initial term of dedication from ten to five years and permits cancellation of the dedication with one year's notice at any time after the end of the fifth year. The bill increases from five to ten percent per year the penalty which must be paid if provisions of the land dedication are not observed. Your Committee thinks the shorter initial dedication will encourage dedication of more land and that the shorter term will not be abused because of the increased penalty.

The bill also deletes that sentence of the dedication law which says "Nothing in this paragraph shall preclude the State from pursuing any other remedy to enforce the covenant on the use of the land." Your Committee has heard extensive testimony indicating that land is not being dedicated because of uncertainty of the meaning of that sentence. Some land owners are fearful of how the words "any other remedy" may be interpreted. Your Committee agrees that the sentence is vague and thinks there are sufficient safeguards in the bill as amended herein.

Your Committee on Water, Land Use and Development is in accord with the intent and purpose of **H. B. No. 721, H. D. 1**, as amended herein, and recommends that it pass Third Reading in the form attached hereto as **H. B. No. 721, H. D. 2**.

Signed by all members of the Committee.

SCRep. No. 599 (Majority) Judiciary on **H. B. No. 708**

The purpose of this bill is to provide an

equitable and expedient means of settling bona fide claims of a consumer against a person alleged to have violated consumer protection laws short of litigation.

Under existing law, the Office of Consumer Protection is, among other things, empowered to investigate and enforce suspected violations of consumer protection laws. The Office of Consumer Protection is mandated to represent the State, the various counties, and the general public as consumers.

This bill proposes a means of settling a dispute short of litigation. It provides that the director (director of the Office of Consumer Protection) may accept written assurance of voluntary compliance from the person suspected of violation. A consumer who accepts and receives full restitution from such person is barred from bringing any further action on account of the same acts or practices. Your Committee believes that this informal procedure of settling disputes is desirable and will expedite the processing of these consumer complaints and may effectively reduce litigation.

Your Committee feels, however, that as this bill presently is drafted, a person who voluntarily enters into such an agreement may unnecessarily open himself to further litigation. In order to avoid this possibility, your Committee has amended this bill to provide that not only may the director accept the written assurance of voluntary compliance from the alleged violator, but he should wherever possible also obtain the agreement of the consumers affected. Your Committee further amended this bill so as to state that in no event shall the fact that a person who enters into an assurance of voluntary compliance be considered to be an admission of any violation nor shall such written assurance constitute prima facie evidence of any violation in any court of law. The purpose of this bill would seem to be defeated if an alleged violator who signs an assurance agreement may be subsequently held, on the basis of this agreement, liable to any other person who alleges the same violation since these assurances are public records and as such may be admissible in court.

Your Committee has further amended this bill to state that the assurance may include a stipulation for reimbursement to some or all consumers who have been

damaged by the alleged unlawful act. Further, that in the event a consumer does stipulate to the assurance and receives restitution or accepts and receives restitution he will be barred from maintaining any further action against the alleged violator for the same act or practice.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 708, H. D. 1**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 708, H. D. 2** and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

Representative Carroll did not concur.

SCRep. No. 600 Judiciary on H. B. No. 2021

The purpose of this bill is to amend the laws relating to the family courts by removing inconsistencies, conforming statutes where provided for by rules of court, and updating the various sections affected by the Hawaii Penal Code.

This bill proposes numerous amendments and a brief summary thereof follows:

1) In section 571-3, the placement of the words "in each circuit" is changed to avoid the implication that sessions of the family court may be held only in the circuit. As a division of the circuit court, and under section 603-14 as amended by Act 88, L. 1972, effective July 1, 1973, may conduct proceedings outside the circuit upon consent of all parties who have appeared, unless there is a jury.

2) Section 571-5 has been amended to provide for the adoption of rules by the supreme court under its rule making power under Article V, Section 6, of the State Constitution.

3) Section 571-7 has been amended to prohibit family court referees from practicing law while they hold office.

4) Sections 571-21(e), 571-14, and 571-45, are conformed to the constitutional provision as to the rules of court.

5) Section 571-54 has been amended to

conform to the changes made in chapter 641 by Act 89, L. 1972. The second paragraph, as amended, preserves the principle that a stay on appeal does not affect a child custody order unless otherwise specified, adding a provision that the family court, as well as the supreme court, may otherwise order and make an order for temporary custody pending final disposition of the case.

6) Sections 571-61 and 571-63 are conformed to changes made in sections 634-59, 634-60 and 641-2 by Act 89, L. 1972.

7) Section 571-82 is amended to conform to changes made in section 603-14 by Act 88, L. 1972.

8) Section 571-84 is amended to conform to constitutional provision as to the rules of court.

9) Section 571-14 has been added to this bill and amended to provide for changes brought about by enactment of the Hawaii Penal Code. See below for further discussion.

10) Sections 577-9 and 577-10 have been amended to provide for changes brought about by the enactment of the Hawaii Penal Code. Further, section 577-10 has been amended to conform to rules of court, under which there is no right to a preliminary hearing for a misdemeanor. Automatic commitment to the family court is called for when that court has exclusive jurisdiction. The reference to sections 710-1 and 710-7 has been deleted as unnecessary and because of the rules of court. Your Committee has further amended section 577-10 so as to make it clear that arraignment will be in the court of exclusive jurisdiction, that is, the family court.

11) Section 577-11 has been repealed as being inappropriate in view of the Hawaii Penal Code.

12) Section 577-13 has been repealed since 577-10 covers jurisdiction of the family court.

13) Amendments made to chapters 578, 579, and 580 merely conform these provisions to changes made in chapter 603 by Act 88, L. 1972, effective July 1, 1973, or are made in the interests of consistency of language or because of change in terminol-

ogy appearing in county charters.

Your Committee has amended this bill by inserting in Section 1, a new subsection (1) amending section 571-14. The proposed amendment deletes reference to sections 577-8 and 577-12 which were repealed and provides for insertion of appropriate sections of the Hawaii Penal Code.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 2021**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 2021, H. D. 1** and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. No. 601 Judiciary on H. B. No. 998

The purpose of this bill is to amend Act 89, S.L. 1972, in order to retain certain provisions which will be repealed effective July 1, 1973.

The 1971 report of the Committee on Coordination of Rules and Statutes called for the transfer to Chapter 651 certain sections from other chapters. The amendments to Chapter 651 did not pass in 1972, but the sections which were to be transferred are to be deleted from the present chapters pursuant to Act 89, S.L. 1972, effective July 1, 1973.

Revision of Chapter 651, relating to attachments, has been complicated by the United States Supreme Court in **Fuentes v. Shevin**, 407 U.S. 67. The possibility of revising Chapter 651 this session is unlikely since it will require much study and time. This bill would amend Subsection (r) of Section 2A, Act 89, so as not to repeal Sections 634-43, 634-45, 634-47, 634-61, 634-62 and 634-64.

The sections which this bill would preserve, instead of repealing them on July 1, 1973, are as follows:

Section 634-43: Provides that when a sheriff, in executing process, is confronted with claims of third persons, he may apply to the court for determination of these claims. It should be noted that the reference in this section to Sections 631-41 and 631-42 is superseded by Rule 22 of the Hawaii Rules of Civil Procedure.

Section 634-45: Provides that when property seized under court process is subject to a chattel mortgage or the like, the court may determine how the secured debt shall be paid, in ordering the sale of the property.

Section 634-47: Provides that questions of law arising from conflicting claims to property (such as claims mentioned in Section 634-43) may be submitted to the Supreme Court for decision.

Section 634-61: Provides for service by publication or other substituted service when the defendant cannot be personally served but there is property subject to attachment.

Section 634-62: In a case under Section 634-61 the judgment is valid only against the property attached, which may be sold under execution process.

Section 634-64: Provides how notice shall be given that an attachment has been levied. Also provides what priority the attachment has in relation to mortgages and other conveyances.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 998** and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee

SCRep. No. 602 Judiciary on H. B. No. 1000

The purpose of this bill is to amend the existing laws regarding the public utilities commission in order to eliminate inconsistencies; delete outmoded provisions, make improvements of a technical nature, and to transfer procedural matters to rules of court where applicable.

Your Committee favors the removal of such outmoded terms as "judges at chambers", "actions at law", and so forth.

Further, your Committee is in accord with the proposed amendment to section 269-13 by the use of the words "permitted intervenor". This clearly indicates that a permitted intervenor at an investigation by or proceeding before the public utilities commission shall have the right to be

present and to be represented by counsel. Further, the right to present any evidence desired and to cross-examine any witness who may be called.

Also, this bill clearly indicates that a person has a right to appeal from every final order (if preliminary, is of the nature defined in section 91-14 (a)) to the supreme court and that such appeal shall be in the manner and within the time provided for by the rules of court.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 1000** and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee

SCRep. No. 603 Judiciary on H. B. No. 33

The purpose of this bill is to adopt the Revised Uniform Principal and Income Act. The purpose of the Act is to set forth convenient and workable rules of administration of estates which are believed to be consistent with the wishes of most settlors upon the subjects treated.

The Revised Uniform Principal and Income Act was promulgated by the National Conference of Uniform Laws Commissioners and approved by the American Bar Association in 1962 as a substitute for the Uniform Principal and Income Act promulgated by the National Conference in 1931. This Act has been enacted (with varying modifications) by California, Idaho, Kansas, Maryland, Michigan, Mississippi, New York, South Carolina, and Wyoming.

The Act is proposed to provide simplicity and convenience of administration of trust estates and estates in probate, and applies to all trusts and estates, whether or not in existence at the time the Act becomes law. The rules of administration established by the Act are required to be followed in the administration of trusts and estates unless the trust instrument provides for the contrary or gives the trustee discretion, in which event the trustee's discretion may be exercised with no inference of imprudence or partiality arising from the fact that the trustee has made an allocation contrary to the Act.

Your Committee after consideration of

this measure has made the following amendments:

1) Present Hawaii law provides for executor's and administrator's fees be computed in part upon income and in part upon principal of the estate. To the extent that the fees are computed upon income, they have been charged against the income of the estate. Section 5 (a) of the Act would charge all expenses incurred in the settlement of the estate against the principal. Your Committee believes there is no reason to change the present Hawaii law and therefore have inserted after "representatives" on line 13 of page 7 the words "(other than commissions on estate income)".

2) Section 5 (b) (2) of the Act deals with the allocation of income earned during the administration of a decedent's estate and requires that the income from the property (real and personal, thus amending section 531-14, Hawaii Revised Statutes, by including the income subject to such allocation the income from real property which is not specifically bequeathed or devised) not specifically bequeathed or devised be divided among the estate beneficiaries in accordance with their proportionate interests in the estate assets which produced the income. Testimony submitted to your Committee urged that in order to avoid the possibility that this section would be interpreted as not permitting recognition of changes in the proportions of allocation, the following proviso be added at the end of section 5 (b) (2) reading as follows:

"Provided, however, that the amount of income earned during the further administration of the estate from and after the date of payment of any estate or inheritance tax shall be distributed to such legatees and devisees in proportion to their respective interests in the undistributed assets of the estate after the making of such payment on the basis of the fair market value of the assets immediately after the making of such payment.

The proviso is added simply in recognition that estate tax payments may alter the respective proportional interests of the beneficiaries in the estate at the time of the payment.

3) Section 12 of the Act provides rules for reimbursing life beneficiaries for income lost by reason of the holding of

underproductive property in the trust estate. The usual situation applies to property which cannot be readily sold or disposed of by the trustee (e.g. underproductive real estate which cannot be readily sold and must be held until a purchaser can be found at a fair price). This rule should not be made applicable to securities which are readily marketable and which are held for capital appreciation rather than income production. Your Committee has amended this section so as to exclude from the application of these rules any securities listed on the national securities exchange or traded in over the counter.

4) Section 13 of the Act provides for apportionment of charges incurred by the administration of the trust or estate. Subsection (a) (5) and (c) (1) deal with the allocation of trustee's compensation. Section 607-18, Hawaii Revised Statutes, provides for trustee's commission computed upon income and principal at stated rates, with commissions on income constituting a charge on income. Your Committee believes there is no need to alter the existing statutory scheme and have therefore deleted subsection (a) (5) and (c) (1).

It is to be noted that these amendments were urged by the Hawaii Commission on Uniform Laws and Hawaiian Trust Company, Ltd., and follow the same amendments made by New York when it adopted the Revised Uniform Principal and Income Act.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 33**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 33**, **H. D. 1** and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. No. 604 (Majority) Judiciary on **H. B. No. 1848**

The purpose of this bill is to amend the existing law relating to splitting of fees with non-licensed persons.

The present law prohibits a licensee from splitting fees with or otherwise compensate persons not licensed for referring business. If a broker violates this provision his license may be subject to revocation or sus-

pension.

The law allows however, a licensed broker to compensate a licensed broker of another state if such broker does not conduct any of the negotiation in this State. This bill proposes to allow a licensed broker to pay a commission to a licensed broker of a foreign country if such broker does not conduct any of the negotiations in the State. It further provides that such foreign broker may not collect or attempt to collect commission or other compensation for his services from both of such parties without first obtaining a written consent of the parties to the real estate transaction to do so.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 1848** and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

Representative King did not concur.

SCRep. No. 605 Judiciary on H. B. No. 662

The purpose of this bill is to include among the duties of the chief of police the duty to enforce any restraining order made by a Hawaii Family Court.

Your Committee has amended this bill to require that such restraining order be of the type requiring the defendant to cease and desist from any further spouse abuse or trespass made by the Family Court.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 662**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 662, H. D. 1** and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. No. 606 Judiciary on H. B. No. 659

The purpose of this bill is to include among the duties of the chief of police or any of his subordinates the duty to enforce any restraining order made by the Hawaii Family Court.

Your Committee has amended this bill to require that such restraining order be of the type requiring the defendant to cease and desist from any further spouse abuse or trespass made by the Family Court.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 659**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 659, H. D. 1** and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. No. 607 Judiciary on H. B. No. 1515

The purpose of this bill is to transfer the members of the Capitol security guard force from the Department of Defense to the Department of the Attorney General.

Your Committee held a hearing on this bill and heard testimony from both the Department of Defense and the Department of the Attorney General. It was elicited from such testimony that both departments are in accord with the transfer, with certain reservations. By this transfer it is intended by your Committee that the Department of Defense shall retain employees engaged as security guards for national guard and civil defense facilities. The transfer of security guards to the Department of the Attorney General shall be those security guards presently assigned to the Capitol Security Complex. It is intended by your Committee that the term "Capitol Security Complex" shall mean the State Capitol and other state buildings. Further, it is to be emphasized, as stated in this bill, that this transfer shall in no way change the civil service status, result in a reduction of salary range and other items enumerated in Section 3 of this bill.

Your Committee has amended this bill and inserted in Section 1, Sec. 121-9, Hawaii Revised Statutes, relating to the duties of the adjutant general and have made an appropriate amendment thereto to reflect the intent of this measure as indicated in the foregoing paragraph. Accordingly, Sections 1 through 5 have been redesignated Sections 2 through 6.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B.**

No. 1515, H. D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as **H. B. No. 1515, H. D. 2**.

Signed by all members of the Committee.

SCRep. No. 608 Water, Land Use and Development on **H. B. No. 324**

The purpose of this bill is to amend Sec. 171-69, H.R.S., to enable persons displaced from employment by the closing of agricultural enterprises to be eligible for public land farm lots.

The termination of various agri-business enterprises is becoming a regular occurrence in Hawaii. Workers displaced by such shutdowns find new employment opportunities limited, particularly on the Neighbor Islands, and especially when a number of workers are terminated at the same time in a small community. Some of these individuals want to enter farming and in some areas public land farm lots are available or can be made available. This bill is intended to assist those displaced workers in obtaining farm lots. Many of these employees do not qualify for farm lots under existing statutes which detail rigid requirements for ability to farm. Some of these same concerns were expressed by the 1972 Legislature in establishing the new farmer loan program which includes participation by persons displaced from employment in an agricultural enterprise and which specifies special training courses. Your Committee thinks this assistance should be available to qualify for state farm lands as is provided for farm loans. The need for this legislation to assist displaced employees is such that your Committee has amended this bill to reflect this concern.

Your Committee on Water, Land Use and Development is in accord with the intent and purpose of **H. B. No. 324**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 324, H. D. 1** and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. No. 609 Environmental Protection on **H. C. R. No. 75**

The purpose of the Resolution is to in-

sure that the Department of Defense comply with the National Environmental Policy Act of 1969 (NEPA) by preparing an environmental impact statement on the return of the 25th Division.

Your Committee believes reintroduction of the 25th Division is a major federal action significantly affecting the human environment under the terms of the National Environmental Policy Act. As pointed out in testimony, the Department of Defense has its own guidelines, "Environmental Considerations in Department of Defense Actions" which are set forth in the Code of Federal Regulations.

Section 214.6, Major Actions Significantly Affecting the Quality of the Human Environment, states that the Department of Defense "shall insure that a decision is not made until the environmental consequences of the decision have been assessed." The Section further specifies that if the assessment "indicates that the decision will either affect the environment on a large geographical scale or have a serious environmental effect in a more restricted geographical area, the proposed action shall be considered a Major Action Significantly Affecting the Quality of the Human Environment (MASAQHE)...."

All the testimony offered was in favor of the Resolution. Dr. Richard Marland, Interim Director, Office of Environmental Quality Control, reflected the views of other testifiers when he stated that the preparation of an environmental impact statement for an action as "significant as the return of the 25th Division to the State of Hawaii" is consistent with the Department of Defense's policies and, "is a reasonable thing to expect."

Your Committee is persuaded that the return of the 25th Division will cause significant environmental impacts including, but not limited to, effects on population distribution, housing, schools, traffic, beaches, parks and other public services, public utilities, land use, the economy and environmental needs.

Your Committee on Environmental Protection concurs with the intent and purpose of **H. C. R. No. 75** and recommends that it be referred to the Committee on Water, Land Use and Development.

Signed by all members of the Commit-

tee.

SCRep. No. 610 Environmental Protection on H. C. R. No. 74

The purpose of the Resolution is to insure that the Department of Defense prepare an environmental impact statement as required by the National Environmental Policy Act of 1969 (NEPA) detailing the impacts of the military's long-range presence in the State of Hawaii as set forth in its recently completed master plan. Further, the Resolution requests the Governor and the Department of Planning and Economic Development to review the feasibility of establishing a joint civilian-military planning committee on such plan.

The Department of Defense study, "A Plan for Department of Defense Facilities, State of Hawaii," in which actions with enormous environmental impact, such as the transfer of military lands, were described, is a major federal action significantly affecting the human environment within the meaning of NEPA and thus necessitates the preparation of an environmental impact statement.

The Department of Defense itself has established procedures for assessing environmental consequences of continuing and proposed programs. Section 214.6 of the Department of Defense regulations, as found in the Code of Federal Regulations, states that if the assessment "indicates that the decision will either affect the environment on a large geographical scale or have a serious environmental effect in a more restricted geographical area, the proposed action shall be considered a Major Action Significantly Affecting the Quality of the Human Environment...."

The Department of Planning and Economic Development during testimony displayed its willingness to undertake an examination of establishing a joint military-civilian committee on the Defense Department's long-range plan for Hawaii and to pursue further with the Secretary of Defense the filing of appropriate environmental impact statements if the Legislature should so direct. All of the testimony favored adoption of the Resolution.

Your Committee concludes that with military dominion over nearly 300,000 acres of land in the Islands, significant numbers of military support personnel and depen-

dents, and projected additional construction of military facilities, a joint civilian-military review committee is highly desirable in order to further a coherent and comprehensive planning process in this state. In fact, the Department of Defense Plan itself recommends that "there be some means of joint civilian-military planning for Hawaii's future, and that this Plan be the basis for continuing action coordinated among the Department of Defense and appropriate Federal, State and City and County planning organizations."

It was suggested at the hearing that the reference to the "Army" be deleted and "military" be substituted since the plan under scrutiny involves all the services. Your Committee is in agreement and has amended the Resolution to incorporate this change.

Your Committee on Environmental Protection concurs with the intent and purpose of H. C. R. No. 74, as amended herein, and recommends that it be referred to the Committee on Water, Land Use and Development, in the form attached hereto as H. C. R. 74, H. D. 1.

Signed by all members of the Committee.

SCRep. No. 611 Environmental Protection on H. R. No. 204

The purpose of this Resolution is to request the House Committee on Environmental Protection to hold hearings into the potentialities of restricting aircraft noise through curfew regulations and other alternative measures.

Noise pollution, particularly that caused by aircraft, has become an increasing environmental concern.

Noise curfews have been effectuated both in the U.S. and abroad, at both international airports and relatively small domestic fields. Recently, the Department of Transportation and the Solicitor General, in briefs before the United States Supreme Court, changed their position on a local airport's authority to set noise curfews. Formerly, the Federal Aviation Administration took the position that aircraft noise regulations were preempted by federal noise statutes — that is, a locality could not set noise codes or levels of its own. In the legal materials submitted to the Su-

preme Court in **Lockheed Air Terminal vs. The City of Burbank**, the Federal Department of Transportation, the parent organization of FAA, reversed its stance and reported that a local authority's attempts to control aircraft noise via curfews and other methods were consistent with the legislative history of FAA noise regulations.

In this context, your Committee finds it appropriate that hearings be held as to potential resolutions of the aircraft noise problems in the residential areas surrounding Honolulu International Airport. The Department of Transportation, the manager of the Honolulu Airport, supports the intent of this resolution and has offered to provide information and assistance in any hearings that may be held in response to this resolution.

Testimony was submitted indicating that noise levels around Honolulu International Airport are intense and that people in the Kalihi-Palama area often have their sleep interrupted by the roar of aircraft. It has been estimated that 13,000 school children in Kalihi-Palama suffer interruptions in their education amounting to one hour per school day. Seventeen students from Dole Intermediate School testified at the hearing, and one seventh grader remarked, if public hearings were held the Legislature would be "better able to vote for what the people want."

Your Committee on Environmental Protection concurs with the intent and purpose of **H. R. No. 204**, and recommends that it be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. No. 612 Environmental Protection on H. B. No. 114

The purpose of this Bill is to insure proper state planning by providing for the collection of data with respect to persons leaving or entering the State.

In order to facilitate data gathering, the Bill provides that a form shall be prepared by the Department of Planning and Economic Development to be filled out by persons entering or leaving the State. The form is to be approved by the attorney general prior to use.

The just released Legislative Reference Bureau study by David R. Hood, Dean of the University of Hawaii Law School, and Bella Bell, entitled "In-migration as a Component of Hawaii Population Growth: Its Legal Implications," reports that in-migration represents 40 per cent of the total actual population increase experienced by Hawaii between 1960-1970. The study stresses the importance from the planning viewpoint of knowing not only how many people are moving into or out of the State, but why. At the present time, as the chief of the Statistics Branch for the Department of Planning and Economic Development testified, only incomplete and possibly inaccurate data are available from which conclusions can be drawn. Without knowledge of motivational factors, desirable strategies for controlling in-migration cannot be formulated or implemented.

Your Committee has amended **H. B. 114** so that administration of the migration count rests with the Department of Planning and Economic Development rather than with the Department of Health. Also the Bill no longer deals solely with in-migration but instead proposes a tally of all persons entering and leaving the State.

The State statistician testified that the problem of non-response has increased alarmingly since 1970 when reporting by airline passengers became voluntary. The bill additionally provides that refusal to complete the forms or intentional misinformation shall constitute a misdemeanor. The bill also has been amended to provide that provisions for completion of the forms through the carriers transporting persons into or out of the State may be made. Heads of households may complete the form for all members of the household.

Your Committee believes that there is growing awareness and apprehension about the problems of uncontrolled population growth, and that the compiling of the data required by this Bill is crucial to proper planning.

Your Committee on Environmental Protection is in accord with the intent and purpose of **H. B. No. 114**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 114, H. D. 1** and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

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SCRep. No. 613 (Majority) Environmental Protection on **H. B. No. 1914**

The purpose of this bill is to create a new division in the Department of Land and Natural Resources which would consolidate all the enforcement functions now separately under the Fish and Game Division and the Forestry Division.

The new division, to be called the Division of Environmental Conservation, would provide for a more efficient use of existing man-power to carry out enforcement in areas not now subject to their control.

The duties would include the former tasks of supervising fish and game laws as well as forestry regulations, but would extend to such additional areas as enforcement of regulations prohibiting violation of cultural and historical sites.

As pointed out in testimony by the Office of Environmental Quality Control, "Our newer recognition of what constitutes our natural environment argues that we cannot confine our interests to the traditional game warden and forest ranger type of environmental control. The broader authorities provided by this Bill should help protect our historical sites and other State lands in addition to the existing controls by the wardens."

Your Committee looks with approval upon the plan, as testified to by the Department of Land and Natural Resources, to begin a departmental public education program with emphasis on protection of the environment. Under this program, the conservation enforcement officers would be instructed in such diverse subjects as marine and aquatic life, wildlife, native and exotic plants, and laws and regulations necessary for their protection, particularly of rare and endangered species.

Your Committee has included one amendment suggested by the Department to cover the appointment of conservation officers, including volunteers, and to define the term.

Your Committee on Environmental Protection is in accord with the intent and purpose of **H. B. No. 1914**, as amended herein, and recommends that it pass Second Reading in the form attached hereto

as **H. B. No. 1914**, **H. D. 1** and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

Representative W. Chong did not concur.

SCRep. No. 614 (Majority) Environmental Protection on **H. B. No. 944**

The purpose of the bill is to appropriate money out of the general revenues of the State of Hawaii to fund the Hawaii Center for Environmental Education (HCEE). The funds are to be expended by the office of the Governor on the basis of contracts drawn up with the HCEE. Your Committee has amended the bill by the deletion of the \$50,000 specified and the insertion of a blank appropriation permitting the level of funding to be determined by the Committee on Finance.

The Hawaii Center for Environmental Education is designed to provide interested parties and agencies access to accurate and up-to-date environmental information, data and resources, including persons, materials and equipment. Your Committee believes that the Center will thus serve the increasing needs for environmental information of individuals as well as public and private organizations.

At present, environmental data-gathering for environmental education tends to be either haphazard or duplicative of time and resources. The Center should alleviate any such duplication of energies by consolidating information and resource references in one central clearing-house for environmental education material.

The Center would fulfill a second critical function, namely that of developing course materials and educating the educators in the nascent field of environmental education. According to the testimony of Curtis Smitch, the Interim Director of the HCEE, as the Center is formalized, more time will be devoted to assistance in program development and "to the training of concerned educators in viable environmental education methods." It is envisioned that the Center will coordinate primarily pre-collegiate curriculums, schools, and teachers.

The Hawaii Center will utilize a computerized information storage/retrieval system. Your Committee believes that current

environmental information could thus be obtained when it is needed without the inevitable delays that are now often the case. There is an additional benefit in the maintenance of a Center, especially for residents and agencies on the neighbor Islands. A telephone call to the Center could locate the data desired or, in certain cases, pinpoint the unavailability of collected reference material. All information would be up-dated and programmed to meet the changing needs of the statewide community.

The Center is a private non-profit organization. The projected leadership will be made up of a director and supporting personnel, and will be governed by a board of directors consisting of representatives from government, educational organizations and citizen groups. At the hearing, diverse groups endorsed HCEE, including the Department of Education, the Office of Environmental Quality Control, county planning departments, various program centers at the University of Hawaii, the Pacific-Asian Affairs Council, the ILWU and the Outdoor Circle.

It is believed that after the initial start-up costs, the Center will be sustained through Federal and private grants, as well as through the payments of subscribers.

Your Committee believes that environmental education within the unique laboratory that Hawaii provides merits legislative support and appropriate funding.

Your Committee on Environmental Protection is in accord with the intent and purpose of **H. B. No. 944**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 944, H. D. 1** and be referred to the Committee on Finance.

Signed by all members of the Committee.

Representative W. Chong did not concur.

SCRep. No. 615 Agriculture on S. B. No. 129

The purpose of this bill is to provide for more effective control of the introduction of plants, animals, insects, diseases and other organisms into the State by repealing Chapter 150, Part I, H.R.S. and adding a new chapter to be entitled, "HAWAII

PLANT AND NON-DOMESTIC ANIMAL QUARANTINE LAW."

Your Committee agrees with the findings of the Senate Committees on Ecology, Environment and Recreation, Economic Development and Ways and Means as expressed in Senate Standing Committee Report Numbers 377 and 391 that Hawaii is unique among all states in being able to enact worthwhile and meaningful quarantine procedures. Being an isolated archipelago, we do not have the problem of having pests walk or fly across our borders, but we are more vulnerable to introductions of plant and animal life that may upset our tightly balanced eco-system.

Your Committee on Agriculture is in accord with the intent and purpose of **S. B. No. 129, S. D. 1** and recommends that it be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. No. 616 Environmental Protection on H. B. No. 1089

The purpose of this bill is to bring the state environmental protection laws, especially those laws relating to water pollution control, into compliance with Public Law 92-500 recently enacted by Congress. It would amend Chapter 342, HRS, which was Act 100 passed by the Sixth Hawaii State Legislature, bringing Hawaii's laws into agreement with Federal requirements for air quality regulation. These amendments would bring Hawaii's laws into compatibility with the new Federal water pollution control amendments of 1972.

These Federal amendments made major changes in the role of the federal government in water pollution control, and specified the setting of national effluent standards, treatment and pre-treatment standards, and standards of performance. Another major change was the introduction of a federally administered permit system, although it was provided that any state which has the proper procedures and enabling legislation could receive authorization to administer the permit system.

The proposed amendments are necessary to comply with the requirements of Public Law 92-500 for eligibility to administer a state water quality permit program. In their absence, the State of Hawaii would not be

granted the authority to issue permits for municipal or industrial discharges, and further, the enforcement of violations of Federal standards would be preempted by the Federal Environmental Protection Agency. As pointed out in testimony by the Office of Environmental Quality Control, "the State of Hawaii should retain these areas of responsibility so as to provide that measure of flexibility which reflects our own intimate knowledge of Hawaii's needs and unique situation."

In addition, as the Department of Health testified, Hawaii receives program grant funds and construction grant funds from the Environmental Protection Agency yearly. To continue to receive these grant monies, Hawaii's water pollution control program must be approved by EPA and these amendments incorporate the EPA requirements. Program grant funds amounted to \$102,500 and \$157,500 for fiscal years 1971 and 1972 respectively, and sewage construction funds amounted to approximately \$3.4 million and \$13.0 million for fiscal years 1971 and 1972 respectively.

In addition to the amendments to Chapter 342, Hawaii Revised Statutes, proposed by the bill, the Department of Health learned, when it submitted the administration bill to Regional Counsel of the Federal Environmental Protection Agency for review, that certain additional requirements needed to be included in the bill. Testimony submitted by the department outlined these additional amendments, and your Committee has incorporated these into the bill.

The Department of Health's testimony that the proposed changes were mandatory in order to comply with national laws and to continue to receive federal grants was strongly supported by the Office of Environmental Quality Control.

Your Committee on Environmental Protection is in accord with the intent and purpose of **H. B. No. 1089**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 1089, H. D. 1** and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

The purpose of this bill is to delete references to "prevailing wages" and other criteria inconsistent with the collective bargaining law as the basis for adjusting the salary schedule for blue collar employees under Sec. 77-5, Hawaii Revised Statutes, and also to correlatively modify the existing compensation plan therein.

Sec. 77-5 is the so-called "equal pay for equal work" law for blue collar positions. It provides for a biennial review of the pricing of blue collar classes by the conference of personnel directors and, where appropriate, adjustments in pricing to insure equal pay for equal work among State and county jurisdictions. It additionally provides for a survey of prevailing wage data in the community and the establishment of new rates based on this data which are to be recommended to the Legislature for adoption.

Enactment of Chapter 89, Hawaii Revised Statutes, being the public employees collective bargaining law, incorporated therein the equal pay for equal work concept and excludes this area from collective bargaining. However, under collective bargaining the rates within the wage board schedules are negotiable, making the provisions of Sec. 77-5 relating to the establishment of new rates based on prevailing wage data obsolete. This bill proposes to amend that statute by deleting reference to the construction of new salary schedules based on prevailing rates.

On the other hand, according to the State director of personnel services, there is need for retention of salary schedules and rates currently contained in Sec. 77-5. One reason is that the structure of the salary schedules which includes number of grades and steps within each grade is **not** negotiable. In addition, the salary rates within the schedule are applicable to all blue collar positions until new rates are negotiated and approved as cost items by the Legislature. Present salary schedules contained in Sec. 77-5 will also continue to be applicable to positions excluded from collective bargaining, even after new rates become effective as a result of negotiations. Accordingly, therefore, the existing compensation plan was correlatively (and incidentally) modified.

The net effect of this bill, therefore, is to retain those provisions of Sec. 77-5 which relate to equal pay for equal work

and the existing salary schedules under the modified compensation plan for blue collar employees while deleting those provisions which relate to negotiable items. In short, these amendments are intended to bring Sec. 77-5 in conformance with Chapter 89, Hawaii Revised Statutes.

Your Committee on Finance is in accord with the intent and purpose of **H. B. No. 341** and recommends that it pass third reading.

Signed by all members of the Committee.

SCRep. No. 618 (Majority) Judiciary on **H. B. No. 1162**

The purpose of this bill is to establish rights of divorced persons to dower and curtesy in their former spouse's estates when the divorce decree does not finally divide the property of the parties.

This bill proposes a major amendment to Section 580-56 which now relate only to forfeiture of dower. It is proposed to provide for statutory control in those instances where a Decree of Divorce relates only to the dissolution of the marriage and does not finally divide the property of the parties. The divisible divorce, that is where the marriage is dissolved but the other rights of the parties have not been adjudicated, is quite common. Under present law, in the event one party to that divorce were to die before the division of the property was completed, intervening rights of a new spouse could have attached. This hiatus should be eliminated by statutory enactment.

The proposed language reserves to a former spouse the rights to dower and curtesy presently granted by Hawaii Revised Statutes until the entry of a Decree which finally divides the property of the parties to the former marriage. The proposed language further bars the rights of dower and curtesy to a subsequently acquired spouse until the property of the parties of that prior marriage has been finally divided, and then provides that after such division of the property of the parties to the prior marriage is accomplished that dower and curtesy attach to such property as is vested in the new spouse's spouse.

Your Committee has made certain technical amendments to this bill to clearly

show the amendment proposed and in order to retain the intent of the bill has amended subsection (d) to read as follows: "(d) Following the entry of a decree of divorce, or the entry of a decree or order finally dividing the property of the parties to a matrimonial action if the same is reserved in the decree of divorce, a divorced spouse shall not be entitled to dower or curtesy in the former spouse's real estate or any part thereof, nor to any share of the former spouse's personal estate." Your Committee has also amended this bill by eliminating all discriminatory language by substituting spouse or other appropriate words where applicable. Your Committee has amended this bill also to clearly indicate that this right to dower or curtesy will extend only for a period of one year of the entry of a decree or order reserving the final division of property. It should be noted that in most states, this right to dower or curtesy has been abolished.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 1162**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 1162, H. D. 1** and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

Representatives Fong and Yamada did not concur.

Joint Stand. Com. Rep. 619 Judiciary and Corrections and Rehabilitation on **H. B. No. 1157**

The purpose of this bill is to further a modern criminal justice system by integrating the agencies which have correctional responsibility in order to make effective utilization of government and community resources to provide a correctional program which responds to the need of each individual offender processed through the system.

Further, in regard to the eligibility of the State to receiving federal funds from the Law Enforcement Assistance Administration Program (LEAAP), certain guidelines set forth by the LEAAP must be met. The need for federal assistance in the designing and other phases of this program is desirable and necessary in view of our State's present financial position.

The changes sought by this bill are as follows:

1) The Director of Social Services and Housing (hereafter Director) to be given managerial responsibility for all State correctional facilities except intake service centers. He would be given responsibility of initiating individual correctional plans for committed persons.

2) Community Correctional Centers are to be established for each of the counties. These centers would replace the present county jails and would provide expanded diagnostic, guidance and supervisory services for committed persons.

3) A high security correctional facility would provide custodial services not now provided by Hawaii State Prison or by the Honolulu Jail for high security risk and problem prisoners. The facility would provide services similar to but in addition to those of community correctional centers.

4) Intake service centers are to be provided for each of the counties. In Hawaii, Kauai, and Maui counties, they would be integrated with the community correctional centers. These centers would provide initial or preliminary screening of offenders, pre-sentence investigations, medical, psychiatric, and psychological examinations, diagnostic, guidance and monitoring services.

5) The intake service centers are to be administered by executive directors appointed by the Governor with the advice and created for the purpose of advising and recommending to the Governor policies and procedures for the operation of the centers. It would consist of fifteen members, three from the Judiciary, two each from the Department of Social Services and Housing, the Department of Health, from among the police departments of the counties, from among the prosecutors of the counties, three from private social agencies and the public defender.

6) County jails are to be transferred from the counties to the Department of Social Services and Housing and their functions absorbed by the community correctional centers. Employees are to be made State employees without loss of employee rights and benefits. However police officers assigned to the jails would remain with the counties. All State correctional officers would receive the retirement benefits now given to jail employees.

7) Although the effective date of the Act is July 1, 1973, three years from the effective date would be allowed as a transitional period during which the Governor would effect the transfer of jails, including improvements without cost to the State. The State, however, would assume the obligations of the counties of paying interest and principal on bonds issued for improvements of property. During the transitional period, the counties are to appropriate funds for the maintenance and operation of county jails, which is to be deposited to the credit of the general fund of the State and applied to the costs incurred by the State for the operation of the jails.

In addition, other changes are made in Chapter 353 relating to corrections to align existing provisions with the major recommendations of the correctional master plan.

Your Committees on Judiciary and Corrections (hereafter Committee) held a joint hearing on this matter and heard testimony from representatives of a number of organizations. All of the groups testified as being in favor of and in accord with the intent of the Hawaii Correctional Master Plan although a number of reservations were raised about specific provisions of the Bill. Primarily, these focused on the placing of intake service centers under executive directors appointed by the Governor without regard to civil service centers. In addition, ambiguities and vagueness in certain provisions of the Bill were raised, particularly pertaining to the question of when State funding would be required to accomplish the transfer of county jails and the planning of correctional programs and facilities.

Your Committee finds that there is a need for the State to proceed at this time with the implementation of the pre-design planning of the facility portion of the Correctional Master Plan which is expected to take through fiscal 1978. During the next biennium pre-design planning is expected to be completed so as to present accurate costs and a finalized plan to the 1975 legislature.

The Ad Hoc Committee of the Correctional Master Plan, a committee made up of representatives of private and government agencies established to assist the State Law Enforcement and Juvenile Delinquency Planning Agency and the director of the Department of Social Services

and Housing, met with representatives of the Hawaii Correctional Association who testified at the joint hearing to suggest some changes in the Bill which were incorporated into this Bill.

Your Committee after hearing testimony has examined the testimony and made the following amendments to **H. B. No. 1157** as follows:

Section 1 has been amended to accurately state the purpose of the bill.

Section 2 has been added and amends Chapter 353 to be entitled "Corrections" rather than "Prisons and Jails". Note that all subsequent section numbers have been renumbered.

Section 3 has been reworded but retains reference made in section 353-2 to intake service centers. Further the last portion of this section beginning with "for the safe-keeping" to end has been bracketed for deletion.

Section 4 simplifies the reference to the powers of the director of social services and housing under section 353-3 to apply to all correctional facilities except intake service centers.

Section 5 amends section 353-4, to add to the powers of the director, the authority to initiate correctional plans previously stated as provided for under section 353-4, as amended, relating to the director's rule making powers.

In addition, the authority for the director to impose punishment for breach of rules is eliminated since it is covered adequately under section 353-3. Also blanket authority for the inter-facility transfer of committed persons is vested in the director.

Section 6 amends section 353-6, to eliminate the mandatory four months visitation of correctional facilities by the director.

Section 7 amends section 353-7 to update references to "judge at chambers", etc.

Section 8 amends section 353-8 to include admission records and correctional program records.

Section 9 amends section 353-10 to require that not only examination records of initial entry be maintained but also subse-

quent medical treatments and examinations.

Section 10 amends section 353-16 to delete reference to "Construction" projects in authorizing temporary facilities since they would be included generally under projects and further changes the section's title to reflect the section's intent.

Section 11 amends section 353-22 by deleting subsections d, e, and f granting furloughs to prisoners since this is covered in section 15 of the Bill relating generally to the granting of furloughs. Also subsection c is deleted as this is covered in section 5 of the Bill relating to the special powers of the director. Subsection states that among the purpose of the conditional release centers, that of providing guidance, furloughs, etc. to committed persons.

Section 11 of the original bill is deleted since 353-39 has been repealed for prisoners where minimum sentence was set after June 7, 1967.

A new section 12 is added amending section 353-25 on compensation for labor or training by prisoners to clarify that prisoners working in a correctional facility or for a correctional industry are not covered by the Workmen's Compensation Law. This is consistent with an attorney general's opinion.

Section 13 amends section 353-47 by adding the lieutenant governor and the mayors of the counties as officials who can visit any correctional facility.

Section 14 amends section 353-48 to change the wording to the original wording of such section with changes in reference to "committed persons" instead of "prisoner", and "correctional facility" instead of "prison and jail". The penalty provided in section 353-48 is eliminated since it is now covered by Penal Code, section 1023. Since unauthorized communications are not now covered under section 1023, it is now made a Grade C Felony similar to the offense provided for passing second class prison contraband under section 1023.

A new section 15 is added which gives the director the general authority to grant furloughs from any correctional facility. The section also clearly states that a committed person approved for employment purposes would not be considered an agent

or employee of the State. He would be covered for workmen's compensation purposes by his employer.

Section 16, relating to community correctional centers, has been amended which authorizes to exercise direction and control concurrently over all the community correctional centers in each county. Further, it has been amended to provide that any such center may be integrated and operated with any other correctional facility or facilities.

Section 17 relating to the creation of a high security correctional facility follows the intent and purpose of the high security correctional facility as set forth in the Hawaii Correctional Master Plan. And as such, has been amended to allow the integration of these high security correctional facilities with other correctional facilities.

Section 18, relating to the creation of an intake service center advisory board is amended by changing the board membership to fifteen members. The amendment was made to assure broader representation from affected agencies and to assure broader representation from affected agencies and to assure representation from private social agencies instead of the private sector in general.

In addition, the powers of the board were expanded to provide that it would have responsibility for recommending to the Governor nominees for the intake service executive director positions.

Section 19 relating to the Creation of Intake Service Centers is amended by changing the reference to pre-conviction investigations to pre-sentence investigations as they are more familiarly known and the re-description of the functions of the centers by adding subsections b-f. Also reference is made to the Governor's appointment of center directors shall be pursuant to section 18.

Section 20 relating to intake service centers on Maui, Kauai has been amended to require that the community correctional centers and the intake service centers be integrated.

Section 21 relating to the repeal of certain statutes in implementing the correctional master plan is amended in restoring section 353-6.5 should be repealed when the intake service centers are created since

they will have the major diagnostic role in the correction system. During the transitional period, until the centers are fully operational, there is need for authorization of a correctional diagnostic center. In addition section 353-23 relating to female prisoners and section 353-26 relating to payroll claims are also repealed since these provisions are outdated and unnecessary. Reference to sections 353-44, 45, and 46 are deleted since these provisions are effectively repealed as to new prisoners. The repeal of section 353-91 through 353-96 dealing with county jails is made effective on July 1, 1976.

Section 24 amends section 603, of the Hawaii Penal Code, by providing for psychological as well as psychiatric and other medical observations.

Section 25 relating to probation officers is amended by correcting the reference to sections 711-78 instead of section 726-72, a clerical error. In addition, the authority for appointing probation officers is eliminated since as a matter of practice probation officers are not appointed by circuit judges but are appointed through civil service recruitment.

Section 27 relating to employee contributions amended by providing that all corrections officers who will get the same retirement benefits as policemen and firemen and jail guards will start contributing 10.4 percent of their compensation beginning July 1, 1976.

Section 28, relating to benefits of State employees upon retirement is amended to provide that after June 30, 1977 corrections officers may retire with 10 years of service. Since no funding is provided for this bill, this amendment is necessary to provide that the increased retirement benefits do not go into effect until after the effective date of the transfer of county jails.

Section 29 has been amended to clearly indicate the Department of Social Services and Housing succeeds to the powers and rights of the counties as to the jails on July 1, 1976, the date of the transfer of all county jails by executive order of the Governor.

Section 30 has been amended to provide that all employees of the counties whose duties relate to maintenance and operation of county jails shall be State employees

effective July 1, 1976.

Section 31 has been amended to clearly provide that the Governor by executive order, will effect the transfer of all county jails, on July 1, 1976.

Section 32 has been amended to clearly indicate that no State general funds may be used for the next biennium to implement the plan except as otherwise authorized. However, any State general funds and federal funds previously authorized may continue to be used. In addition if additional federal funds become available, provision is made for not reducing State general funds previously authorized. Also, the counties will continue to appropriate funds for the maintenance and operation of the county jails until July 1, 1976.

Section 34, a new section, is added to eliminate the possibility that a committed person may demand a correctional service which a State agency cannot provide although authorized by the Act, during the transitional period. Although State agencies are requested to provide the full range of services as soon as possible, State agencies would have until July 1, 1976 to provide the full range of services.

Section 37 clearly indicates by establishment of effective dates that the legislature intends that the portions of the plan requiring construction or additional operational monies will not be made effective until July 1, 1976 when the pre-design planning phase shall be complete.

Your Committees on Judiciary and Corrections and Rehabilitation are in accord with the intent and purpose of **H. B. No. 1157**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 1157, H. D. 1** and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Wedemeyer.

SCRep. No. 620 Finance on H. B. No. 28

The purpose of this bill, as heretofore amended, is to amend the criminal injuries compensation law to disallow payment to a victim whose "felonious criminal activities" contribute to his injury or death.

Under the statute which is hereby

amended, Sec. 351-31 (c) mandates that the criminal injuries compensation commission consider the behavior of the victim and whether because of provocation or otherwise, he bears a share of the responsibility for his injuries and the compensation to him is reduced in proportion to the amount attributable thereto. As introduced, the proposed amendment provided that if the commission finds that the victim contributed to, whether directly or indirectly, the criminal act which gave rise to his injury or death, no compensation is to be made to him. Your Committee on Judiciary reported hereupon under **Stand. Com. Rep. No. 492** amended this bill to require that the criminal activities attributable to the injury thus precluding recovery shall be limited to those felonious in nature.

This bill, as introduced, also amends Sec. 351-51 to indicate that where a private citizen incurs injury or property damage in preventing the commission of a crime, he may recover from the criminal injuries compensation fund if he does not share any of the responsibility for the crime that caused his injury or damage. In its testimony before both your Committees on Judiciary and Finance, the commission expressed opposition to such restriction as would deny compensation to the "good samaritan" who is "the least bit responsible" as "self-defeating". (Contra: **S. B. No. 212**).

However, your Committee on Judiciary did not delete the purportedly pugnacious provision (and neither did it add or delete several other provisions recommended by the commission, except as aforesaid). We shall defer upon that determination as one appropriately related to the subject matter hereof; and, moreover, if required to recommend upon it, the restriction would likely find our tacit approval to the extent of any reduction achieved thereby in the sum of general revenues required to compensate claims awarded by the commission, which for 1972 comes to \$195,420.93. (See **H. B. No. 593; S. B. No. 228, S. D. 1**).

Your Committee did, however, amend the bill as follows— upon recommendation of the commission:

(1) In section 1, pg. 1, lines 6 through 11 have been "unbracketed" (although the period at the end thereof is replaced with a semicolon, and the added provision thereafter preceded with "and"). The commis-

sion is concerned that deletion thereof would be to "cast in doubt" its authority to deny or reduce the amount of the award in cases of "non-criminal 'provocation'" or behavior, which reason applies (it would appear) with greater force because of the prior amendment precluding recovery in cases where contributory conduct constitutes felonious criminal conduct, only.

(2) Section 4 has been amended to provide that, in addition to the Act taking effect upon approval, it "shall apply to all applications for compensation... which are then or thereafter pending... regardless of the date of the injury or death."

Your Committee on Finance is in accord with the intent and purpose of **H. B. No. 28, H. D. 1**, as amended herein, and recommends that it pass third reading in the form attached hereto as **H. B. No. 28, H. D. 2**.

Signed by all members of the Committee.

SCRep. No. 621 Finance on H. B. No. 1322

The purpose of this bill is to amend Sec. 213 of the Hawaiian Homes Commission Act, 1920, by addition thereto of the "Hawaiian loan guarantee fund", and to make an appropriation therefor.

Presently, there are 6 revolving funds and 2 special funds established in the State treasury under Sec. 213, all essentially related to home construction and maintenance. By the addition of subsection (k) thereto, this bill authorizes the department of Hawaiian home lands to create another special fund out of which loans made by governmental agencies or lending institutions to homestead lessees may be guaranteed, limited to home, farm and commercial purposes, and to be known as the "Hawaiian loan guarantee fund". (See also Sec. 213(a), also hereby amended).

The department under Sec. 208(8) of the Hawaiian Homes Act is authorized presently to guarantee loans. Governmental and private agencies are willing to accept such guarantees from the department, your Committee is informed, provided moneys are available for such guarantees. The Farmers Home Administration, for example, would be willing to consider a proposal under which the ratio of the reserve to the total amount of rural housing loans

outstanding would be less than one-to-one, and probably not one-to-four. The department of Hawaiian home lands, however, would need to guarantee to pay the full amount of any particular loan in default.

As stated in our report on **H. B. No. 1321**, this bill, as amended, must be considered in relation to **H. B. No. 1156, H. D. 2**, which, as amended, proposes to increase the aggregate amount of loans to lessees from governmental agencies which may be assured by the department from \$500,000 to \$2,000,000 in accordance with its request under the original bill, as introduced. This perspective justifies the amendment which has been effected herein to the appropriation for financing the loan guarantee fund hereby established, as follows:

Based upon department testimony, which is fairly firm on the one-to-four ratio of reserve to total amount of loans outstanding, acceptable by the Farmers Home Administration, and based upon the \$2,000,000 ceiling upon the aggregate of loans guaranteed, as aforesaid, \$500,000 in general revenues is sufficient for funding the purpose hereof, and section 2 of the bill has been amended accordingly (the figure of \$2,000,000 being replaced.)

For the present, anyway, sums, which may be supplemented subsequently are subordinate to the vital feature of this bill: the establishment of a Hawaiian loan guarantee fund. Most homesteaders now find it all but impossible to secure loans from private lending institutions and governmental agencies because the Hawaiian Homestead Act of 1920 prohibits the homesteader from offering a mortgage on his land as security for a loan. This bill hopefully represents the beginning of the end of the predicament of the otherwise qualified lessee who wants to improve his home or farm but not being able to afford such improvements because he cannot get a loan.

Your Committee on Finance is in accord with the intent and purpose of **H. B. No. 1322**, as amended herein, and recommends that it pass third reading in the form attached hereto as **H. B. No. 1322, H. D. 1**.

Signed by all members of the Committee.

SCRep. No. 622 Finance on H. B. No. 1145

The purpose of this bill is to clarify and expand the scope of defender services to assure legal counsel for persons who are financially unable to obtain a private attorney, in all situations wherein they are now constitutionally or statutorily entitled to legal representation.

The amendments to Sec. 705C-1, Hawaii Revised Statutes, which are hereby proposed, do not provide for any material changes to the objectives and scope of the current program; rather the effect would be merely to acknowledge recent changes in the law which have expanded the right to counsel for indigent criminal defendants.

A recent U.S. Supreme Court decision (**Argersinger v. Hamlin**) provides that "no person may be deprived of his liberty who has been denied the assistance of counsel." In effect, this decision requires the appointment of counsel for any indigent criminal defendant who is charged with an offense for which he may be sentenced to confinement in jail or prison for even one day. Under Hawaii's existing statute, aforesaid, an indigent criminal defendant is entitled to counsel only if the offense involved is punishable by imprisonment for 30 days or more.

The new Penal Code requires the appointment of counsel for minimum term and parole hearings before the board of paroles and pardons, but the existing public defender statute does not specifically authorize the appointment of the public defender in such cases. The bill, which applies to "all hearings" before the board, provides that the appearance of a public defender shall be subject to the approval of its chairman.

In all cases where appointed counsel is constitutionally or statutorily required, either the public defender or a court-appointed private attorney must provide the necessary legal services. This bill authorizes the public defender to provide the legal services in compliance with the mandate of the U.S. Supreme Court and the Hawaii Penal Code, always subject to court approval, and thereby minimize the use of court-appointed private attorneys, except, principally where conflicting interests exist.

The significance of having the public defender, rather than court-appointed private attorneys, provide legal services in as many cases as possible is largely economi-

cal. In testimony before your Committee by the public defender, it was stated that experience has "clearly demonstrated" that the cost of defender services per client is approximately 50% less than the cost per client of court-appointed private attorneys.

Moreover, the public defender anticipated that the recent U.S. Supreme Court decision and the new Penal Code will require legal services for an additional 2,000 persons during the 1973-1975 biennium. Thus, unless the public defender's office is authorized and staffed to handle these cases, court-appointed private attorneys will have to be utilized at substantially greater cost to the State, which will hereby be minimized by an estimated one-half.

Your Committee on Finance is in accord with the intent and purpose of **H. B. No. 1145, H. D. 1**, and recommends that it pass third reading.

Signed by all members of the Committee.

SCRep. No. 623 Finance on H. B. No. 1552

The purpose of this bill is to amend the criminal injuries compensation law by (1) conforming the Hawaii Revised Statutes section numbers therein enumerating the offenses covered to the numbering in the new Penal Code, and (2) expressly excluding injury or death resulting from operation of a motor vehicle, boat or aircraft, unless intentionally inflicted.

Sec. 351-32, hereby amended, is divided into two subsections, each including one of the aforementioned provisions, respectively.

The first is "housekeeping" and consists of enumerating "violent crimes" to which the chapter applies by section numbers in the new Penal Code, deleting references to the Hawaii Revised Statutes which are superseded thereby.

The second addresses itself to the frequent applications which are annually submitted for consideration where the injuries were the result of an automobile accident. The commission has consistently held that the statute does not contemplate nor authorize awards in those cases because the element of criminal intent is absent; in the case of death, the statute does not enumerate negligent homicide caused by the

operation of a motor vehicle; and, finally, because it does not appear from the history of the statute that the legislature intended to complicate the concept of compensating innocent victims of crimes with the mass of problems created by automobile accidents and personal injury litigation.

Your Committee on Finance is in accord with the intent and purpose of **H. B. No. 1552** and recommends that it pass third reading.

Signed by all members of the Committee.

SCRep. No. 624 Finance on H. B. No. 1142

The purpose of this bill is to authorize the department of planning and economic development to prepare a **plan** for the management of the State's coastal zone which complies with the requirements of the Federal Coastal Zone Management Act of 1972 (P.L. 92-583), which shall guide the department, the land use commission, and other agencies of the State and counties in implementation of the management **program** establishing objectives, policies and standards to guide public and private uses of lands and waters in the coastal zone.

In response to the National Oceanic and Atmosphere Administration which administers the Act, the governor has designated the department of planning and economic development as the State's planning agency to prepare the coastal zone management program for Hawaii. This measure provides the authorization to undertake the program, and use whatever appropriate funds and resources may become available (none are hereby appropriated) to match federal funds that may be made to coastal states. The federal matching share is two-thirds of the project cost.

Population growth and economic requirements have placed increasing and competing demands upon the lands and waters of Hawaii's coastal zone and have stressed the need for more effective protection and use of its land and water resources. Not only is this a matter of State interest, it is now a matter of national concern, and federal legislation has been enacted to encourage state and local governments to exercise full authority over the coastal zones under their jurisdiction. This bill is drafted as to grant state and

county agencies the authority to implement the coastal zone management program in accordance with the basic plan, hereby to be developed. The provisions hereof will allow Hawaii to proceed with an early start on the comprehensive planning of its coastal resources which are economically, environmentally, and esthetically essential.

Your Committee on Finance is in accord with the intent and purpose of **H. B. No. 1142** and recommends that it pass third reading.

Signed by all members of the Committee.

SCRep. No. 625 Finance on H. B. No. 1156

The purpose of this bill is to increase the aggregate amount of loans to lessees from governmental agencies for which the department of Hawaiian home lands may assure repayment under Sec. 208(8) of the Hawaiian Homes Act of 1920, as amended.

By Act 146, Session Laws of Hawaii 1967, Sec. 208 of the Hawaiian Homes Act, providing that lessees were ineligible under "farm loan act", was repealed, enabling homestead farmers and ranchers to seek out loans from governmental agencies, e.g., State farm loan program, Farmers Home Administration. Correlatively, Sec. 208 was expanded to give the department authority to guarantee such loans, and in subsection (8) the aggregate amount was established at \$500,000.

The department currently contends that this figure is not realistic to accommodate the present and future demands of homesteaders. For example, Farmers Home Administration through legislation introduced by Congressman S. Matsunaga made it possible for homesteaders to qualify for home loans with interest rates as low as 1 per cent. Farmers Home Administration is also willing to loan moneys to the department of Hawaiian home lands in which the ratio of the reserve to the total amount of rural housing loans outstanding would be less than one-to-one, and probably at one-to-four. The department, however, would need to guarantee to pay the full amount of any particular loan in default. But, unless the guarantee ceiling is raised, the department cannot fully take advantage of loans from this and other governmental agencies.

As we stated in our reports on **H. B. No. 1321** and **1322, H. D. 1**, this bill, as amended, must be considered in relation thereto, particularly the latter, establishing the "Hawaiian loan guarantee fund" as Sec. 213(k) and, as amended, making an appropriation of \$500,000 therefor. Out of this special fund, the department is authorized to guarantee loans made by governmental agencies or (private) **lending institutions** to lessees for home, farm and commercial purposes.

At some length, your Committee therein discussed the justification for amending the recommended appropriation, which shall not be repeated hereat. However, as that figure bears directly upon the guarantee ceiling hereby increased, based upon the ratio of reserve to total amount of loans outstanding, as explained therein and aforesaid, your Committee is compelled to recommend reduction of that figure, based upon the amended appropriation in **H. B. No. 1322, H. D. 1**, from \$8,000,000, as heretofore amended (see **Stand. Com. Rep. No. 335** from your Committee on Water, Land Use and Development) to \$2,000,000. The bill has been so amended.

The bill has been further amended (1) by adding a comma between the word "... ACT" and the year "1920" in the title, and (2) because no testimonies were offered upon its signification and the value of its interposition otherwise patently questionable, the word "actual", which was added in the original bill to modify the phrase "aggregate amount", referring to the limit assurable by the department, has been deleted.

Your Committee on Finance is in accord with the intent and purpose of **H. B. No. 1156, H. D. 1**, as amended herein, and recommends that it pass third reading in the form attached hereto as **H. B. No. 1156, H. D. 2**.

Signed by all members of the Committee.

SCRep. No. 626 Finance on H. B. No. 1321

The purpose of this bill is to amend Sec. 213(b) (2) of the Hawaiian Homes Commission Act, 1920, by increasing the maximum which the department of Hawaiian home lands may guarantee the repayment of or otherwise underwrite an authorized loan, from \$20,000 to \$25,000.

By Act 259, Session Laws of Hawaii 1969, the subject provision was amended to authorize the department to make home loans to qualified homesteaders from a maximum of \$10,000 to \$20,000. Intended to accommodate increased construction costs, department experience of late has demonstrated that this limit is no longer adequate to meet current market prices: On 4-bedroom units, recent bids are at a minimum of \$18,500, not including an average cost of at least \$1,000 for cesspool requirements, and to which must be added an annual inflationary cost factor of 10 per cent.

This bill must be considered in relation to **H. B. Nos. 1322, H. D. 1**, and **1156, H. D. 2**, recommended and reported upon by your Committee concurrent herewith. The former, which adds subsection (k) to Sec. 213, authorizes creation of the "Hawaiian loan guarantee fund", and, as amended, appropriates \$500,000 out of general revenues thereto. The latter, as amended, amends Sec. 208(8) by increasing the aggregate amount of loans to lessees from governmental agencies which may be assured by the department from \$500,000 to \$2,000,000.

Enactment of these proposals should alleviate the concern of those who contend that lifting the maximum guarantee ceiling per loan will proportionately decrease the number of units which can be constructed. Contrarywise, we concur with your Committee on Water, Land Use and Development in **Stand. Com. Rep. No. 460** hereupon, that the adjustment fills the need "to provide homes commensurate to family size in an economic climate of increasing costs."

Your Committee on Finance is in accord with the intent and purpose of **H. B. No. 1321** and recommends that it pass third reading.

Signed by all members of the Committee.

SCRep. No. 627 Finance on H. B. No. 1332

The purpose of this bill is to appropriate funds out of the general revenues of the State of Hawaii to be expended by the department of land and natural resources for loans under the Hawaii fisheries new vessel construction loan revolving fund.

The loan program was authorized by Act 193, Session Laws of Hawaii 1965, as amended by Act 28, Session Laws of Hawaii 1968. Its purpose is to assist in the development of commercial fishing in the State of Hawaii by providing financial assistance for the construction of new fishing vessels. Loans of up to 80 per cent of the cost of construction of new fishing vessels are authorized at a simple interest rate of 5-1/2 per cent per annum for terms up to 20 years. A total of \$900,000 has been appropriated for the loan program by Act 193 in 1965, Act 8 in 1966 and Act 175 in 1970; all but \$47,533.79 of this sum has been loaned.

To date, a 79-foot steel-hulled longline ahi vessel, the **M. V. Kilauea**, and a 98-foot steel-hulled aku vessel, the **M. V. Anela**, with long-range and refrigerated fish-holding capabilities have been constructed under this program. Since its addition to the Hawaiian fishing fleet in mid-1969, the **Kilauea**, your Committee is informed, has consistently outproduced the other vessels in the longline fleet, and during the six months that the newer **Anela** has fished in Hawaiian waters, it produced over one-million pounds of aku.

During 1972, two loans of \$240,000 each were authorized for the construction of two almost identical, 87-foot steel-hulled longline vessels. The vessels are presently under construction at Tacoma, Washington and are scheduled to be completed in the very near future. With these loans, the total number made under this program has increased to four; the total amount loaned now stands at \$876,398.00. As of March 15, 1973, the sum of \$99,125.00, including the balance of \$23,603.00 and loan repayments of \$21,170.00 in principal and \$54,352.00 in interest, is available in the revolving fund.

The department of land and natural resources is presently in receipt of two applications for loans of \$109,661 and \$150,000 from owners of wooden fishing boats that were lost recently. These applications, however, cannot be accommodated due to insufficient funds. The department has indicated that \$200,000 is needed to supplement the revolving fund, and the bill was heretofore amended under **Stand. Com. Rep. No. 342** to provide for an appropriation in this sum. In this, your Committee concurs.

Your Committee on Finance is in accord with the intent and purpose of **H. B. No. 1332, H. D. 1**, and recommends that it pass third reading.

Signed by all members of the Committee.

SCRep. No. 628 Finance on H. B. No. 1246

The purpose of this bill is to amend the Employees' Retirement System law relating to conditions under which an employee may purchase membership service for certain types of prior employment herein (1) by extending the period after wartime service and redefining re-employment, and (2) for service rendered at Leahi Hospital or Ka'u General Hospital.

Sec. 88-51, Hawaii Revised Statutes, which presently provides for eight types of service that may be purchased as membership credit for retirement purposes, is hereby amended as to one type and a new type is added.

(1) Subsection (7), relating to wartime service with federal defense agencies between the years 1941 and 1945, is amended by extending the cutoff date to 1947, and further by allowing that the employee return to "government service" instead of specifically to his "regular job". There are a few employees who would otherwise be eligible to purchase this credit who returned from wartime defense work after 1945; but by 1947, some of them cooperated with their appointing authorities and accepted other government jobs. This bill would allow these individuals, about 5 in number, statewide, to purchase membership credit.

(2) Subsection (9) adds a new type of purchasable service: that which is rendered prior to becoming a member as a full-time employee at Leahi Hospital or Pahala Hospital, now known as Ka'u General Hospital, as follows:

When Leahi Hospital became a state institution, the workers then employed were granted full prior service credit in the retirement system by Act 70, Session Laws of Hawaii 1968. By "prior service" is meant service which is granted without purchase. The funds of these employees standing in their individual account under the Leahi Hospital pension plan were transferred to the individual account of the members and

the employer's pension funds were also transferred to the retirement system pension accumulation fund. The bill is intended to permit members who were not employees of the Leahi Hospital at the time of transfer but who were formerly employed thereat, or who are employed elsewhere in government service, to purchase such service as membership service. Again, it is estimated that there is but a "handful" of such persons affected.

Act 123, Session Laws of Hawaii 1971, transferred the employees of Pahala Hospital to the new Ka'u General Hospital. It granted them full prior service credit in the retirement system, **on the condition** that the money in their private pension plan would be turned over to the retirement system. However, the private pension carrier has refused to cooperate in this effort to provide coverage for the employees, and these funds have never been transferred so that service of employees at Ka'u General Hospital dates back only to May 21, 1971 (the effective date of Act 123). Therefore, prior service at Pahala Hospital must be purchased, rather than such service being credited without cost. However, the cost to provide the benefit for the purchase of this service is estimated to be "nominal" at approximately \$1,600 for about 18 full-time employees affected.

While these amendments would benefit only a few employees and only gives them the privilege of purchasing membership credit, your Committee believes that all three groups have valid claims for the right to purchase this credit.

Your Committee on Finance is in accord with the intent and purpose of **H. B. No. 1246, H. D. 1**, and recommends that it pass third reading.

Signed by all members of the Committee.

SCRep. No. 629 Education on H. B. No. 932

The purpose of this bill is to reapportion the elected Board of Education, and the bill reapportions the board as follows:

(a) The Board shall consist of 19 members instead of eleven

(b) First School Board District (Hawaii) shall have two members

(c) Second School Board District (Maui) shall have one member

(d) Third School Board District (Honolulu) shall have eight members

(e) Fourth School Board District (Central Oahu) shall have one member

(f) Fifth School Board District (Leeward Oahu) shall have two members

(g) Sixth School Board District (Windward Oahu) shall have one member

(h) Three members of the Board shall be elected at large from the City and County of Honolulu

(i) The Seventh School Board District (Kauai) shall have one member

In 1970, **Haldy vs. the Junior College of Metropolitan Kansas City**, decided by the United States Supreme Court applied the "one man, one vote" principle to local school boards. On March 16, 1970, nineteen days after Haldy, the Attorney General indicated that the Hawaii Board of Education was malapportioned. The Fifth State Legislature, Regular Session of 1970 passed an amendment to the Hawaii Constitution which would provide for an appointed Board of Education. In the 1970 General Election referendum, however, the amendment was defeated by a vote of 116,390 to 70,587.

Your Committee on Education has held extensive and thorough hearings on the matter of the Board of Education. The opinion of the Attorney General as given in opinion 70-5 and accepted by the Federal District Court (Civil No. 72-358) is that the State Board of Education is constitutionally malapportioned. Testimony from the Attorney General to your Committee states that the remedial procedures are essentially legislative rather than a judicial function. However, if the 1973 legislature fails to take corrective measures on the matter of the malapportioned Board of Education, the Federal District Court will do so. The problem is in the words of the Attorney General "therefore squarely before the Seventh Legislature."

Your Committee has considered several proposals concerning the Board of Education and believes **H. B. No. 932, H. D. 1** will remedy the problem of the malapportioned

tioned School Board based on population. Representation on the Board also reflects the concentration of schools and problems related to education in the State.

Testimony received from the Board of Education indicated that the enlargement of the Board is desirable because it would permit, in the proper cases, the division of responsibilities thereby assuring full consideration of the many problems faced by the Board. Mr. Yamashita, Chairman of the Board of Education, testified that with the introduction of collective bargaining as a responsibility of the Board, the workload has doubled.

Your Committee on Education is in accord with the intent and purpose of **H. B. No. 932, H. D. 1**, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. No. 630

Legislative Management informing the House that **House Resolution Nos. 438 to 441, Standing Committee Report Nos. 596 to 629, and Standing Committee Report Nos. 631 to 664**, have been printed and distributed.

Signed by all members of the Committee.

SCRep. No. 631 Health on S. C. R. No. 32

The purpose of this Concurrent Resolution is to urge the Hawaii Congressional Delegation to support the restoration of Federal funds for emergency health services.

Your Committee is aware of the threat of Federal funds being discontinued in this area and such funds are necessary to facilitate and continue on-going programs.

Your Committee on Health concurs with the intent and purpose of **S. C. R. No. 32** and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. No. 632 Health on H. C. R. No. 21

The purpose of this Resolution is to re-

quest Congress to support the recommendation of the Intergovernmental Relations Committee of the National Legislative Conference with respect to evaluation of independent medical audit procedures to make the same more effective in controlling medicaid costs.

Your Committee recognized the effect of recent federal legislation which under threat of losing federal participation urges states to control the costs of long-term care under Medicaid.

Your Committee also recognized that there is a need in the medicaid program for improved review of the independent medical audit to insure that right kind of care is given to the right people.

Your Committee on Health concurs with the intent and purpose of **H. C. R. No. 21** and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. No. 633 Health on H. R. No. 28

The purpose of this Resolution is to request the Department of Health to establish more neighborhood health services.

Your Committee recognizes the maldistribution of doctors and medical care facilities in the State with heavy concentration in the City of Honolulu, but less available in the rural and neighbor island areas. This is a deprivation of equal care. To combat such inequity, your Committee recognizes the need for the expansion of neighborhood health clinics.

Your Committee on Health concurs with the intent and purpose of **H. R. No. 28** and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. No. 634 Health on H. R. No. 27

The purpose of this Resolution is to request the Department of Health to train and utilize more para-professionals in the rendering of health services and care.

Your Committee recognizes the high cost of medical care necessitated by the exten-

sive expert training required of doctors. There are many phases of the doctors' services that could be rendered under his supervision by less expensive personnel.

The upward spiraling of medical cost might be reduced to the benefit of the patients and make health services more accessible in outlying areas, where the availability of such services are sorely lacking.

Your Committee assumes that in every instance where such para-medical services are used, reduced billing will be reflected to the benefit of the patients.

Your Committee on Health concurs with the intent and purpose of **H. R. No. 27** and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. No. 635 Health on H. R. No. 88

The purpose of this Resolution is to request the Department of Health and the Counties to implement a coordinated system of emergency medical care.

Your Committee recognizes that for the efficient operation of an emergency medical system there must be careful coordination of all related county and state facilities. Moreover, there has been considerable improvement in ambulance procedure and equipment which makes coordination more necessary.

Your Committee on Health concurs with the intent and purpose of **H. R. No. 88** and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. No. 636 Water, Land Use and Development on H. R. No. 401

The purpose of this resolution requests a joint study by the Department of Hawaiian Home Lands and the Department of Land and Natural Resources into the feasibility of exchanging Hawaiian Home Lands for lands of the State in Keanae and Hana for Hawaiians.

It has been indicated by Hawaiian groups

and individuals that lands are needed for residential, agricultural, and other purposes in the Keanae and Hana areas where the Department of Land and Natural Resources will soon make available from expiring leases approximately 738.71 acres of land. It has been explained that an exchange for these State lands with Hawaiian Home Lands could provide suitable residential and productive agricultural lands for lessees who qualify under the Hawaiian Homes Act.

Upon consideration of this resolution, your Committee endorses this joint study by the Department of Hawaiian Home Lands and Department of Land and Natural Resources for the feasibility of land exchanges by the two departments that this study would provide much needed lands for Hawaiian Homes lessees.

Your Committee on Water, Land Use and Development concurs with the intent and purpose of **H. R. No. 401** and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. No. 637 Water, Land Use and Development on H. R. No. 412

The purpose of this resolution is to request a study to determine the adequacy of recreational facilities in the area from Punchbowl to Aiea, and the suitability of certain land in that area for a park.

The resolution would have the Department of Land and Natural Resources seek information from the City and County of Honolulu and report 30 days prior to the 1974 Legislative Session.

Your Committee on Water, Land Use and Development concurs with the intent and purpose of **H. R. No. 412** and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. No. 638 Judiciary on H. B. No. 1724

The purpose of this bill is to provide for a law revision commission and to make an appropriation therefor.

At present, there is set up under the statutes, the judicial council whose capacity is one of advisory and whose function it is to report to the Supreme Court recommendations toward the better administration of justice in the courts of our State. This bill proposes to add to their present function the task of updating our statutes when and if it deems advisable with the thought toward the modification or elimination of antiquated and inequitable rules of law, and to bring the law of this State, civil and criminal, into harmony with modern conditions. In order to accomplish this task, the council may utilize any source available to it. The council is to determine the number of employees and their duties.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 1724** and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. No. 639 Judiciary on H. B. No. 1898

The purpose of this bill is to transfer the podiatry licensing function from the Department of Health to the Department of Regulatory Agencies.

Your Committee held a hearing on this measure and heard from the Department of Health and the Hawaii Podiatry Association.

The present law requires that licensing be effected by the Department of Health. Though there is only a handful of podiatrists presently practicing in Hawaii, it is felt that by the passage of this bill, it would serve as a stimulus and the number of licensed podiatrists may double. Since it presently is an administrative function of the Department of Regulatory Agencies, by way of the Board of Medical Examiners, to license all physicians and surgeons in the State, this transfer seems not only desirable but proper.

Your Committee notes that this bill provides for the licensing, qualifications examinations, fees, revocation of licenses, and so forth. This is a rather comprehensive bill dealing with the licensing and regulating of podiatrists. It is noted that discrimination is prohibited, but it is your

Committee's belief that such prohibition should apply to governmental agencies only and have effected such change. It should also be noted that any person who acts in violation of this chapter is guilty of a misdemeanor.

It is your Committee's belief that this legislation may aid in raising the profession of podiatry to its rightful position.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 1898, H. D. 1**, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as **H. B. No. 1898, H. D. 2**.

Signed by all members of the Committee.

SCRep. No. 640 Judiciary on H. B. No. 991

The purpose of this bill is to repeal the requirement for compulsory vaccination against smallpox.

Your Committee notes that it is now the stand of the United States Public Health Service that mandatory vaccinations be abolished and that vaccinations be given only where there is a risk of contracting smallpox.

Testimony before your Committee by Dr. Wilbur Lummis of the Department of Health indicates that the Health Department wholeheartedly supports the repeal of this requirement as not being necessary. Additional testimony from the community indicates community support to the repeal of this requirement.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 991** and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. No. 641 Judiciary on H. B. No. 167

The purpose of this bill is to require tests for alcohol content upon any person who has been fatally injured in or who dies within four hours after the occurrence of a traffic accident.

Your Committee held a hearing on this bill and heard testimony from the Depart-

ment of Health and the Department of Transportation urging favorable consideration be given to it.

Your Committee has amended this bill by inserting at the end of the last sentence of subsection (a) the phrase "except by order of the court" thus allowing such data obtained to be also made available when ordered by the court.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 167, H. D. 1**, as amended herein, and recommends that it pass Third Reading in the form attached hereto as **H. B. No. 167, H. D. 2**.

Signed by all members of the Committee.

SCRep. No. 642 Judiciary on H. B. No. 645

The purpose of this bill is to clarify the extent of liability faced by rescue and emergency teams.

The existing law provides that persons rendering emergency care in good faith are free of civil liability except for acts of gross negligence or wanton acts. This bill clarifies the application of that concept by: (1) more specifically setting out the extent of liability in cases where resuscitation is necessary; (2) defining "rescue team" to mean persons trained in "cardio-pulmonary resuscitation"; and (3) differentiating between acts in response to emergency and preparatory phases such as maintenance of equipment and designation and training of personnel.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 645** and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Wedemeyer.

SCRep. No. 643 Judiciary on H. B. No. 479

The purpose of this bill is to remove the pregnancy disqualification in the unemployment compensation law.

Presently, a woman is disqualified from receiving workmen's compensation benefits during the four month period prior to the anticipated date of such individual's giving birth to a child and two months after child-

birth. This is true even though she may meet all of the benefit eligibility requirements under the law.

This bill proposes to delete the pregnancy disqualification, thus putting such claimants on an equal footing as all other claimants under the "able and available for work" eligibility requirement.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 479** and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Wedemeyer.

SCRep. No. 644 Judiciary on H. B. No. 577

The purpose of this bill is to amend the third party liability provisions of the Workmen's Compensation Law to require the employer of an industrially injured worker to share in the cost of litigation and attorney's fee when the employee brings the third party action alone and a judgment or settlement ensues to the employee's benefit.

Under present law, if a claimant brings a third party suit alone and recovers damages, prosecution costs and attorney's fee are borne solely by the employee from the proceeds. The employer recovers whatever expenditures he was required to make under the Workmen's Compensation Law and the worker gets the balance of the proceeds from the settlement or judgment.

The effect of this bill will be to accord the worker a greater portion of the settlement as well as insure fairness to all parties. Where the employee effectuates a third party recovery, he should be able to first deduct his costs and attorney's fees before he pays over the employer's reimbursement for his compensation outlays over to him, and that the employer should reasonably share in the costs and attorney's fees.

Your Committee is in accord with the intent and purpose of **H. B. No. 577** and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Wedemeyer.

SCRep. No. 645 (Majority) Judiciary on H. B. No. 660

The purpose of this bill is to prohibit physical punishment except in instances where reasonable force is necessary in order to restrain a student from hurting himself or any other persons.

Your Committee held a hearing on this measure and heard from the Department of Education, National Association of Social Workers, Inc., State Federation of Labor, AFL-CIO, Mental Health Association of Hawaii and many, many others. The testimony submitted generally urged favorable passage of this measure.

Your Committee agrees that there is a problem that exists within our school system today and that unless some steps are taken to correct them, the possibility of further physical punishment, sometimes needlessly, may continue. Therefore, in an effort to effectuate its purpose, your Committee has amended this bill by adding thereto that reasonable force may be used as defined in section 703-309(2) of the Penal Code by a principal or his agent. However, such reasonable force may be used only in the presence of another teacher and out of the presence of any other student for the limited purposes outlined in section 703-309(2) (a).

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 660**, as amended herein, and recommends that it pass Third Reading in the form attached hereto as **H. B. No. 660, H. D. 1**.

Signed by all members of the Committee.

Representative Medina did not concur.

SCRep. No. 646 Agriculture on H. B. No. 68

The purpose of this bill, as amended, is to provide incentives for the construction of agricultural structures by granting a 50% exemption from real property taxation for a period of five years. This incentive will encourage the replacement of older, dilapidated and inefficient structures with ones that will include all structures used for raising poultry and livestock that are constructed after January 1, 1974. This bill has been amended by changing the period of exemption from ten years to five years.

Chapter 246, HRS, already provides real property tax exemptions for several cate-

gories of real property improvements, including pulp and paper mills using bagasse fiber, shelters for agricultural and horticultural crops and air pollution control devices. This committee believes that similar exemption for poultry and livestock structures will be equitable and work to improve the productivity and efficiency of agriculture in the state.

Your Committee on Agriculture is in accord with the intent and purpose of **H. B. No. 68**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 68, H. D. 1** and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. No. 647 Judiciary on H. B. No. 1385

The purpose of this bill is to amend the statutes relating to savings and loan associations so as to remove or clarify what appears to be ambiguous and which concern (1) the voting rights of holders of guaranty shares, and (2) whether borrowing members constitute a separate class of stock of the association.

Your Committee finds that section 407-5, Hawaii Revised Statutes, defines the term "guaranty shares". It essentially is like paid-in capital in a general corporation and is subject to all of the conditions and liabilities that attaches to such paid in capital stock. Section 407-6 defines "member" as any owner of any share of stock.

In subsection 407-31(8) the problem appears. The last sentence of that subsection reads "No member shall cast more than fifty votes". In the same subsection appears the following: "... every member shall be entitled to one vote for each \$100 or fraction thereof of the withdrawal value of his share account, and each borrowing member shall be entitled to one vote in addition to any votes he may have as a shareholder".

The ambiguity arises as to whether such limitation is applicable to nonwithdrawable shares or "guaranty shares". Section 407-112 provides that all of the provisions of the general laws of the State relating to corporations where not inconsistent with this chapter, or otherwise inapplicable,

shall apply to all associations doing business under the chapter. Section 416-58 relating to corporations generally and dealing with stocks and classes thereof allows any duly formed corporation to establish the terms, powers, voting preferences, and so forth in its articles of association.

Your Committee, after careful consideration, believes that the number of votes the guaranty shareholder is entitled should not be limited to \$100 per vote nor to the fifty vote limitation but may be as fixed in the articles of association or charter. Further, since it is nonwithdrawable, such shareholders have a continuing economic interest in the association. It is your Committee's belief that the proposed amendment to section 407-31(8) will remove any further uncertainty.

Under existing law, section 407-61, Hawaii Revised Statutes, it does not appear clear whether borrowing members constitute a separate class of stock where statutes require the separate vote for each class of stock of a corporation. Your Committee believes that the proposed amendment to section 407-71 will clarify this matter by specifically providing that "borrowing members shall not be deemed to be the holders of a separate class of stock".

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 1385** and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. No. 648 Judiciary on H. B. No. 1910

The purpose of this bill is to amend the laws relating to fiduciary companies to prohibit the advertising of any "giveaway".

After considering this bill, your Committee has substantially expanded its coverage to prohibit: (1) conditioning of "giveaway"; and (2) fiduciary companies from entering into agreements with any person engaging in activities which, if done by a fiduciary company, would be prohibited. As amended, it is your Committee's belief that this will effectively curtail some of the problems created by the "giveaway" programs by some segments of the financial community.

Your Committee, in defining the term "give away", does not intend that any services performed on the premises of the financial institution be included within the definition of the term. Therefore, a fiduciary company may offer free notarial services, savings boxes and other such matters without having them considered as give away.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 1910**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. 1910, H. D. 1** and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Fong & Sakima.

SCRep. No. 649 Judiciary on H. B. No. 1849

The purpose of this bill is to amend the statutes relating to operations of a branch office of a state-chartered savings and loan association.

Your Committee held a hearing on this measure and heard from the Department of Regulatory Agencies, the Savings and Loan League of Hawaii, American Savings and others, urging favorable consideration of this measure.

Your Committee finds that this measure simply clarifies the statutes to allow action on the part of the savings and loan industry to provide necessary powers to branch personnel for more effectively and efficiently servicing of customers.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 1849** and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. No. 650 Judiciary on H. B. No. 1845

The purpose of this bill is to provide a definite statutory guideline for the treatment of the problem of shoplifting by merchants, and to establish immunity from criminal and civil liability where the detention of persons reasonably thought to be

engaged in shoplifting is done in a reasonable manner, for a reasonable time and for the specific purpose of recovering goods or to cause a proper arrest by a police officer.

The original form of the bill was changed to adapt the statutory law in the State of Arkansas to the Hawaii Revised Statutes. Your Committee felt that rather than amending Section 723-4, Hawaii Revised Statutes, as initially contemplated in the original form of the bill, it would be more appropriate to add an entirely new section to Chapter 723, to obtain a comprehensive treatment of the problem.

It should be noted that the immunity extended by this bill does not extend to detentions (1) that involve circumstances where it was unreasonable for the merchant to have thought that the person in question was engaged in shoplifting; (2) handled in an unreasonable manner or for an unreasonable length of time; or (3) effected for purpose other than recovery of goods or for causing proper arrest by a police officer.

Finally, it should be observed that the language of this bill, as amended, is adapted to conform with **H. B. No. 1856, H. D. 1** which treats the criminal aspect of the same problem.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 1845**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 1845, H. D. 1**, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. No. 651 Judiciary on **H. B. No. 1856**

The purpose of this bill is to tighten the provisions of the Hawaii Penal Code respecting shoplifting.

The original form of the bill was expanded by adapting the recommendation of the Report of the Virginia Advisory Legislative Council of 1969 to the Hawaii Penal Code. By such amendment your Committee feels that a comprehensive treatment of the problem is obtained.

One intent of the bill is to enable ap-

prehension of shoplifters while they are still in the store. At the present time, merchants are afraid to effect an arrest while the criminal is still on the premises because he can successfully avoid conviction by contending that he intended to pay before leaving the premises. This bill will permit effective prosecution in those instances when the goods are sought to be concealed in such manner that the triers of the fact may reasonably infer fraudulent intent.

This bill as amended also covers the offense of persons changing price tags or containers to defraud the merchant.

Addressing itself to the evidentiary problems that are most frequently met in the prosecution of these cases, the bill as amended retains the concept of the original form of the bill that the price and name tags or markings on the goods should be evidence of its value and ownership.

Additionally, the bill as amended permits photographs of the goods to be used in admission upon appropriate authentication by the arresting police officer, so that the goods themselves need not be impounded as evidence and may be returned to the store.

Finally, the theory of inferred criminal intent is spelled out in the body of the law so that the triers of the facts may appropriately focus on all of the facts and circumstances surrounding the manner the act in question was done. Your Committee feels that whether the person in question left the premises or was still on the premises when his act was questioned is but one circumstance to be considered with all others in ascertaining the requisite criminal intent.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 1856**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 1856, H. D. 1** and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. No. 652 Judiciary on **H. B. No. 1539**

The purpose of this bill is to clarify the

status between the Office of the Attorney General and the various counties respecting enforcement of the anti-trust laws.

Your Committee amended the original form of the bill by inserting subsection 480-14(b) to deal with the problem of inordinate delays and jeopardy of the counties interest by the running of the period of limitation, upon the Attorney General's failure to move in timely fashion. The amendment permits the prosecuting attorney in such cases to bring suit in behalf of the county. However, your Committee has retained the requirement that it is the Attorney General who, upon commencement of such suit, appropriately represents the county. This is because the complexity of an anti-trust suit requires expert handling, and such expertise is not possessed by any other public legal office in Hawaii.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 1539**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 1539, H. D. 1**, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. No. 653 Judiciary on H. B. No. 807

The purpose of this bill is to provide an incentive to a person who rents a motor vehicle to return it to its lawful owner.

Your Committee finds that rental agencies have been plagued for a number of years with overdue and abandoned vehicles. Presently, there is no legal means available to compel a person to return the vehicle when it is overdue. This proposed bill would make it a misdemeanor if a person intentionally fails to return a rental motor vehicle.

Your Committee has made certain technical amendments to this bill to show in the title heading a penalty is to be imposed and in the body that an "offense" is committed when a person fails to return a rental motor vehicle. Additionally, it is your Committee's belief that, because of certain unforeseen circumstances, a person may be unable to return the motor vehicle within the contracted period. A provision allowing such a person to return the vehicle within

forty-eight hours after the time stated on the rental agreement has therefore been added.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 807**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 807, H. D. 1** and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. No. 654 Judiciary on H. B. No. 901

The purpose of this bill is to prohibit the defacing, removal or alteration of any factory or manufacturer or owner identification mark or serial number from any product, merchandise equipment or article on which the same has been marked or inscribed for purposes of identification.

Your Committee held a hearing on this measure and heard testimony from the Honolulu Police Department, Pacific Contractors and the Retail Merchants of Hawaii requesting your Committee give favorable consideration to this bill.

Your Committee was made aware that there does exist now the practice of removing identification marks and because of the tremendous amount of merchandise that is stolen from retailers, construction sites and other places and resold without identification marks, it is difficult if not impossible for the police, merchant, equipment or store owner, to prove that the item was his. It is believed that this bill will provide for a more effective means of protection to the public from theft and traffic of stolen merchandise.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 901**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 901, H. D. 1** and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. No. 655 Judiciary on H. B. No. 1860

The purpose of this bill is to allow an

officer with a lawful warrant of arrest to pursue and arrest the accused in any part of the State.

Under present law, an officer is precluded from arresting an accused person who is outside the jurisdiction of the court issuing the warrant. In order for the officer to pursue and arrest the accused, he must first obtain an indorsement with proper words of authority from some circuit judge or district judge on the island where the actual arrest is made. This bill would remove these requirements and will allow the officer to pursue and arrest an accused anywhere within the State.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 1860** and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. No. 656 Judiciary on H. B. No. 562

The purpose of this bill is to provide our citizens convenient public access to the mountains and the sea. Not too long ago, access to the sea and the mountain was readily available. However, with the rash of urbanization and development of various parts of our State, this ready accessibility is rapidly diminishing.

Your Committee held a hearing on this matter and heard testimony from the Department of Planning and Economic Development and the Hawaiian Trail and Mountain Club. Their views on this matter were adequately expressed and urged your Committee give favorable consideration to this measure.

Your Committee concurs with the feelings expressed. Additionally your Committee recognizes the need for the people of this State to be able to utilize what scarce recreational facilities that are available to them. The sea has been to many a source of joy. Swimming, diving, surfing, fishing, boating, water skiing and many other water sports will be denied lest appropriate means of access to the sea are made available. Similarly, mountain climbing, picking mountain apple, wild flowers, wild berries, guavas, and all of the many wonderful things we once enjoyed as children, may be denied our children or our grandchildren,

unless some means were made available today to provide some convenient and reasonable access to our mountains and our sea.

Your Committee, after careful consideration, has made certain amendments in order to strengthen the intent and purpose of this bill. First, that public access be made available not only by right-of-way but also by easement. Second, since many public highways may not be interpreted to include public streets, your Committee has added that such public access or right-of-way or easement be made available from public highways or public streets. Third, your Committee felt that it was imperative that the ordinances to be adopted by the counties be done within a reasonable period of time. It is believed that one year is more than adequate to develop ordinances to effectuate the intent and purpose of this bill. Fourth, unless the county accepts the land dedicated for right-of-way, your Committee felt it should not be bound to assume the burden of improvements and maintenance of such right-of-way. It is your Committee's intent, however, that the intent of this Act be expeditiously put into effect unless for compelling reasons a county may not be willing or able to comply. Fifth, your Committee felt that subdivision needed to be defined in its use in this section so as not to unduly burden persons who may simply divide their one lot into two lots thereby being required to dedicate a portion of their land for a right-of-way.

Your Committee made other minor typographical corrections.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 562, H. D. 1**, as amended herein, and recommends that it pass Third Reading in the form attached hereto as **H. B. No. 562, H. D. 2**.

Signed by all members of the Committee.

SCRep. No. 657 Judiciary on H. B. No. 661

The purpose of this bill is to provide some protection to a spouse from being physically abused.

Through testimony elicited from witnesses testifying before your Committee, it was made apparent that there is really little, if any, protection for a spouse beaten by

the other spouse. Many times a call is made to the police for assistance but the police are unable to act. What is normally required in those instances is that a formal complaint be registered and then arrest will follow, oftentimes too late to prevent the beating. Also, the beaten spouse, usually the female, is hesitant to file a complaint for fear of reprisal at a later time, or the incarceration of the spouse would remove the breadwinner, leaving the family without support, often becoming dependents of the state.

This bill is intended to alleviate this problem to a certain extent. A police officer, upon arrival at the scene, is given the power to arrest if the offense is committed in his presence. Section 571-14(2) (B) gives the family court exclusive jurisdiction over any adult charged with an offense, other than a felony, against the person of the defendant's husband or wife. Section 571-42 establishes the procedure to be followed in such cases. It is intended by your Committee that these laws be enforced to the extent that they will afford the abused spouse the necessary protection needed. Further, that unless it appears adverse to the best interests of all concerned, the family unity should be retained without the necessity of the abusing spouse being stained a "criminal". Toward this end, the courts are asked to aid these persons needing its assistance in order that they may be rehabilitated.

Your Committee has amended the original form of the bill to set out a definite course of action for the police officer to follow in those cases where recent, substantial, physical harm having been inflicted upon the spouse is readily apparent but has not been inflicted in his presence so as to permit an arrest. The bill as amended provides that the officer is to make reasonable inquiry as to whether further, substantial, physical harm is likely to occur. If he should ascertain that such likelihood exists, the police officer is empowered to require the other spouse to leave the premises for a cooling-off period of at least three hours. A spouse's failure to comply with such reasonable request of the police officer is made a basis for such officer to take appropriate steps to arrest the troublesome spouse to prevent further substantial physical harm being inflicted upon the already injured and fearful spouse.

The bill retains the right of the injured

spouse to seek appropriate remedy through the family court. This right is already in existence as a matter of general application of existing law, but this bill clarifies the existing situation by establishing the same as specific statutory law.

It is intended also that for first offenders, such records be expunged.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 661**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 661, H. D. 1** and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. No. 658 Judiciary on H. B. No. 1634

The purpose of this bill is to allow a homeowner to make minor repairs to his home.

Your Committee believes, however, that for the homeowner to perform this work himself he should have some knowledge of home repair. His safety and welfare is definitely our concern. Therefore, your Committee intends by the term "minor repair" to mean such repair as does not exceed \$500 in labor and material. Your Committee feels that any job in excess of \$500 is not minor and should be done by a person licensed and qualified to do so.

Your Committee has amended this bill in order that the homeowner will not be deemed to be acting in contravention of the law. Section 444-2(7) relating to contractors presently exempts any person who undertakes by himself or through his employers any operation for himself from the requirement of obtaining a license. By this insertion it is your Committee's belief that it be made abundantly clear that a homeowner who undertakes minor repairs to his home need not obtain a license of any kind to do so.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 1634**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 1634, H. D. 1** and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. No. 659 (Majority) Judiciary on H. B. No. 2030

The purpose of this bill is to establish regulation of the "options on commodity futures contracts" business. An "option on commodity futures contracts" is a warrant to buy a certain quantity of a commodity at a set price in a set period of time. The attraction of this type of investment has been the fact that the investor is able to limit his losses to the amount of money he puts up, while the prospect of gain is theoretically limitless.

Options on commodity futures contracts with respect to certain commodities such as wheat, corn, cotton, etc., are subject to regulation under the Commodity Exchange Act. However, a few commodities do not come under such regulation, and it is the business of trading in options on commodity futures contracts with respect to such unregulated commodities that have been the subject of much controversy, litigation and loss to investors in recent months.

The Department of Regulatory Agencies has supported this bill and has offered additional amendments which have all been incorporated into the amended form of this bill.

As amended, this bill will:

(1) Include options on commodity futures contracts among the type of securities that must be registered by qualification, except in the case of those subject to regulations under the Commodity Agency Act which are specifically exempt under Section 485-4;

(2) Require a prospectus in such registration by qualification disclosing generally, among other things, the following:

(A) The total value to be offered;

(B) Method of calculating the offering price;

(C) Method by which the offering is to be made;

(D) Policy to be followed to assure sufficient funds to pay upon exercise of the

options; and

(E) Facts relating to the affected interest in the options to be offered.

In addition, this bill, as amended, includes specific provisions that require the offerer: (1) to have a minimum paid-in capital of \$100,000 and, (2) to cease operation at the end of any business day that its "cash value goes below 125 percent of its open option cash position".

In explanation, it should be pointed out that the forms of criticism of the trade in options on commodities futures contracts has been focused on the reluctance of the brokers to hedge sufficiently to ensure that they can pay out on their obligations upon their exercise. It appears that this is the main area of contention in recent law suits.

Your Committee feels that this bill, as amended, will afford protection to the investing public in an area that lacks government regulation, and that this should be the first step in looking for appropriate solution while the federal and state agencies throughout the nation are as yet attempting to come to grips with this somewhat new breed of investment.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 2030**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 2030, H. D. 1** and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Wedemeyer.

Representative Carroll did not concur.

SCRep. No. 660 Judiciary on H. B. No. 153

The purpose of this bill is to facilitate cancer research in Hawaii by providing for the collection and use of information contained in the Hawaii Tumor Registry.

Your Committee held a hearing on this bill and heard testimony from the Department of Health, the American Cancer Society, the Queen's Medical Center, the Hawaii Medical Association, and others. The testimony generally favored passage of this measure with certain reservations concerning the confidentiality accorded to a patient.

Your Committee finds that the Hawaii Tumor Registry, established in 1960, is the central tumor registry for the entire State and receives abstracts and reports of all cancer cases diagnosed or treated at any hospital in the State. The information contained in the registry would be most valuable in terms of research to combat the second leading cause of death, cancer. However, the present law, as interpreted by the Attorney General, forbids the Department of Health to disclose the identity of the patient or his physician to non-departmental personnel, virtually stifling research based on the information contained in the Hawaii Tumor Registry.

This bill proposes to make such information available in certain instances. Section 324-21 would allow any person to provide information relating to cancer to the Hawaii Tumor Registry and exempts such person from suit for having provided the information. Section 324-22 provides that the material collected can be used or published only for the purpose of advancing medical research, medical education or education of the general public, except that the registry may reveal all relevant information to a patient's attending physician. Your Committee has amended Subsection (a) on page 2, line 9, the word "patient" to read "patient's". Additionally, this section provides that the patient's identity will remain confidential. However, securing more information directly from a patient is allowed provided approval is first obtained from the patient's physician. Your Committee has amended Subsection (b) by substituting for "upon" at page 2, line 17, the word "from" to make clear that only when information is to be obtained directly from a patient need the attending physician's approval be obtained, thereby enabling use of any information concerning the patient not obtained directly from the patient without any prior approval.

However, your Committee has amended Subsection (c) of Section 324-22 to provide that where the patient is still alive and additional information is to be obtained directly from the patient, approval must first be obtained from the patient, his immediate family or the patient's attending physician, in that order of priority.

Section 324-23 provides for confidentiality in court proceedings and Section 324-24 provides a penalty for any violation of this proposed new part. Present Section 324-43

as amended in this bill will allow use of names when requesting additional information for research.

It is your Committee's belief that this bill, as amended, will provide for and facilitate the need for cancer research in Hawaii.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 153, H. D. 1**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 153, H. D. 2** and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. No. 661 Judiciary on S. B. No. 97

The purpose of this bill is to amend the temporary disability insurance law to permit benefits to be payable for disability resulting from pregnancy, or its termination, or complications resulting therefrom.

It is your Committee's belief that "disability" should be defined to include the total inability of an employee to perform the duties of her employment "when" caused by pregnancy. Though this amendment is technical in nature, it serves to clarify an ambiguity that may arise as to what point in time disability resulting from pregnancy, termination of pregnancy or complications resulting from pregnancy will occur.

Your Committee has made some minor nonsubstantive changes in the form of the bill and also typographical corrections.

Your Committee on Judiciary is in accord with the intent and purpose of **S. B. No. 97, S. D. 1**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **S. B. No. 97, S. D. 1, H. D. 1** and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. No. 662 Judiciary on S. B. No. 134

The purpose of this bill is to extend the time within which a claimant may file an appeal from a denial of a claim or from an incorrect benefit payment under the temporary disability insurance law.

Under present law, the period for filing such claim is ten days. The director of labor and industrial relations appeared before your Committee testifying in favor of the extension of time since he found that in many instances this ten-day period has worked to the disadvantage of many claimants who failed to file timely appeals either because of lack of knowledge with the law, incapacity, or some other extenuating circumstance. It is the director's belief, and your Committee concurs, that this short appeal period tends to nullify such right to appeal.

Your Committee on Judiciary is in accord with the intent and purpose of **S. B. No. 134** and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. No. 663 Judiciary on H. B. No. 706

The purpose of this bill is to amend the mass merchandising law to provide for inclusion of private passenger motor vehicle used primarily in the business of the insured.

Your Committee held a hearing on this measure and heard testimony from the Hawaii Association of Real Estate Boards, the Board of Underwriters of Hawaii, I.L.W.U. Local 142, and the Department of Regulatory Agencies urging favorable consideration.

Under present law, the business use restriction excludes from group plans outside salesmen and all others whose professions or occupations involve regular use of private passenger automobiles. Unforeseeably, this has resulted in a substantial number of persons driving private passenger automobiles being unable to participate in money saving mass merchandising automobile insurance plans. The proposed amendment, strongly endorsed by the Department of Regulatory Agencies, would permit extension of mass merchandising advantages to thousands of automobile owners presently excluded.

Your Committee has amended this bill to apply to individuals, their relatives, and members of their household.

Your Committee on Judiciary is in ac-

cord with the intent and purpose of **H. B. No. 706**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 706, H. D. 1** and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. No. 664 (Majority) Public Employment on H. B. No. 1504

The purpose of this bill is to increase the salaries of first deputies or first assistants to the head of any department of the State from 85% to 90% of the director's salary.

Your Committee has amended this bill to allow the increase of the salaries of first deputies or first assistants from 85% to 90% of the director's salary. This bill originally allowed for an increase from 85% to 95% of the director's salary.

Your Committee on Public Employment is in accord with the intent and purpose of **H. B. No. 1504**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **H. B. No. 1504, H. D. 1** and be referred to the Committee on Finance.

Signed by all members of the Committee.

Representative Wong did not concur.

SCRep. No. 665 Parks, Fish and Game Management on H. C. R. No. 80

The purpose of this concurrent resolution is to request the Department of Land and Natural Resources to conduct a feasibility study respecting the construction of fishing piers around Oahu.

Your Committee feels that the construction of such piers will enhance the opportunity for many of our 92,000 persons on Oahu who may be classified as recreational fishermen to expand their activity.

Your Committee on Parks, Fish and Game Management concurs with the intent and purpose of **H. C. R. No. 80** and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. No. 666 (Majority) Public Employment on **H. B. No. 439**

The purpose of this bill is to provide that officers of the legislature, e.g. the chief clerk, assistant clerk and sergeant-at-arms, shall be provided the same retirement benefits as that for judges and elected officers which would be 3.5% of average final compensation for each year of credited service as an officer of the legislature.

Existing law provides that officers of the legislature are general employees and are entitled to retirement benefits under the regular formula of 2% of average final compensation.

Your Committee on Public Employment is in accord with the intent and purpose of **H. B. No. 439** and recommends that it pass Second Reading and that it be referred to the Committee on Finance.

Signed by all members of the Committee.

Representatives Kunimura and Wong did not concur.

SCRep. No. 667 Labor and Employment on **S. B. No. 14**

The purpose of this bill is to establish a program of mandatory minimum prepaid health care in the State to assure this type of protection for employees in private employment not covered by collective bargaining agreements.

Your Committee, after deliberation and consideration of testimony from the State Advisory Council for Comprehensive Health Planning, the Department of Labor and Industrial Relations, the Legislative Coalition, the Hawaii Medical Service Association, the Hawaii Medical Association, representatives of employers, the Hawaii Tuberculosis and Respiratory Disease Association, the National Association of Social Workers, Inc., and other interested organizations and individuals, recommends the following amendments:

1. Sec. -3(3)—amend the definition of employer to include the phrase “debtor in possession or” immediately preceding

the words “receiver or trustee in bankruptcy”.

Under the Federal Bankruptcy Act (11 USCA), there are situations in bankruptcy proceedings when the debtor continues in possession of his property and himself functions as a trustee with the power, for instance, to operate his business. The amended definition, including a debtor in possession in bankruptcy, therefore, reflects more accurately the persons who may be operating a business in bankruptcy pursuant to federal law.

2. Sec. -3(8)—amend the definition of “seasonal employment” within the definition of “regular employee” to include a cross reference to section 387-1, HRS, (the Wage and Hour Law) for a definition of “seasonal pursuit”.

This amendment will facilitate consistency and ease of administration by incorporating into the new program terms that are familiar to the administrator, the Director of Labor and Industrial Relations.

3. Sec. -7(a)—amend the internal reference to section 12(1) or (2) so that it refers to section 12(a)(1) or (2), a technical drafting matter.

4. Sec. -7(b)—add a sentence to encourage coverage of dependents of the employee by providing that a plan with fewer benefits than plans with the largest number of subscribers in the State (i.e., HMSA or Kaiser) will be acceptable if the employer contributes at least half of the cost of coverage of the dependents under the plan.

5. Sec. -7(c)(3)(A)—in the specification of the types of benefits that must be provided by a prepaid health care plan, delete the inclusion of the first visit to the doctor.

Certain existing prepaid health care plan operators have objected to the specific inclusion of the first visit on the grounds that such a benefit is in substantial variance with their operations, and it is intended in the bill not to disrupt the functioning of the existing systems of prepaid health care plan operators.

6. Sec. -11—amend the figure 86.67 to read 346.68. This would change the qual-

ifying requirement for employee coverage from approximately 4 weeks of employment to approximately 16 weeks.

7. Sec. -12(c)—renumber the internal references from sec. -20 to sec. -21 and from sec. -19 (b) to sec. -20(b).

8. Sec. -13—amend the provision on liability for payment of the premium of the required coverage by referring to limitations on withholding of employees' wages.

Without this amendment, the bill would require in every case that the costs of the mandatory coverage would be shared on a fifty-fifty basis, regardless of the employer's business size or the employee's wage scale.

9. NEW SECTION—add a new sec. -14 to provide that the employee shall pay half of the cost of the mandatory coverage, or 1.5% of his wages, whichever is less, and the employer shall pay the balance, and be entitled to a subsidy in some cases.

Since the cost of prepaid health care is not wage-related, i.e., the cost is the same for an employee earning \$2,000 a year as for an employee earning \$20,000 a year, the withholding from wages of the full half share would be proportionately overly oppressive on the low-wage earner.

10. Sec. -15, renumbered sec. -16—amend the continuation of coverage provision to require the employer to pay his share of the premium for three months of hospitalization or disability, or for the period for which the employer has undertaken to continue the payment of the employee's regular wages, whichever is longer.

The matter of the employer's contribution to the premium while the employee is hospitalized or prevented by sickness from working is of the greatest importance; it is particularly under such circumstances when the employee most critically needs the health care.

11. Sec. -16, renumbered to sec. -17—renumber the internal reference from sec. -18 to sec. -19.

12. Sec. -17, renumbered sec. -18—renumber the internal reference from sec. -16 to sec. -17.

13. Sec. -18, renumbered sec. -19—renumber the internal reference from sec. -17 to sec. -18.

14. Sec. -21, renumbered sec. -22—limit the employee's consent to pay a greater share of his wages for the purposes of providing prepaid health care benefits for his dependents by the restrictions of sec. -7(b) as per item 4 above. In addition, add a prohibition on waiver of rights by an employee or agreement by an employee to pay a greater share of the premium than is required by the law.

These amendments will obviously accord greater protection to employees against certain kinds of pressures that might be irresistible, particularly since the bill is intended to cover only non-union, private employment.

15. Sec. -23—delete this section which would require prepaid health care plan contractors to provide the coverage at the applicable community rate or at a uniform basic premium rate applicable to all employers subject to the law.

This kind of provision, imposing a standard of risk pooling, might be useful to preclude a tendency toward risk rating of certain classifications of employees and consequent excessive premiums. However, certain existing prepaid health care plan operators have objected to such a provision on the grounds that it is in substantial variance with their operations and further, that they do not, and cannot, function with an applicable community rate or at a uniform basic premium rate to be applicable to all employers subject to the law. It is intended, in this bill, not to disrupt the functioning of the existing systems of prepaid health care plan operators. It is noted, further, that the administrative authority of the director of labor and industrial relations, with the advice of the advisory council, under sec. -7, would be adequate to prevent major abuse.

16. Sec. -32—add to the administrative authority of the director of labor and industrial relations "rounding off" powers for all purposes under this law, including purposes related to the premium supplementation fund; authority to prescribe the filing of reports by prepaid health care plan contractors; and authority to prescribe the form and content of requests by employers for premium supplementa-

tion and the period for the payment of the supplementation.

17. Sec. -33 — add a penalty for the employer's failure to comply with the provisions for continuation of coverage (sec.

-15, renumbered sec. -16). Also provide that penalties collected shall be payable into the special fund for premium supplementation, rather than into the general fund of the State.

18. NEW PART — add a new Part IV (sec. -41 to -47) to provide for subsidies to marginal small employers. An employer of fewer than eight employees is to be entitled to premium supplementation if his share of providing the coverage for his employees exceeds 1.5% of the total wages paid to all his employees and if the amount of the excess is greater than 5% of his business income before taxes.

The department of labor and industrial relations has estimated that the cost of the premium supplementation for marginal small employers will be between \$175,000 to \$225,000 annually, under existing circumstances of the State's distribution of income, employment patterns, proportion of unionization of the State's labor force, minimum wage law, and like economic considerations. Your Committee finds that this cost is a worthwhile bargain for a program that will result in virtual universal prepaid health care for the population of the State.

19. Add a new section to **S. B. No. 14, S. D. 1**, to provide for an appropriation out of the general revenues of the State in an amount of \$162,500. Of that amount, \$50,000 is recommended for the administrative expenses for "start-up costs" for the department of labor and industrial relations and \$112,500 for premium supplementation costs for the period January 1, 1974 to June 30, 1974.

20. Amend the effective date to provide that the Act shall take effect on January 1, 1974, in order to allow ample preparation time to the department of labor and industrial relations.

Your Committee on Labor and Employment is in accord with the intent and purpose of **S. B. No. 14, S. D. 1**, as amended herein, and recommends that it pass Second Reading in the form attached hereto as **S. B. No. 14, S. D. 1, H. D. 1**, and be

referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. No. 668 Military and Civil Defense on **H. R. No. 45**

The purpose of this Resolution is to request the Commander in Chief of the Armed Forces in the Pacific to instruct the commanding officers of all United States Army, Air Force, Navy, and Marine reservations in the State of Hawaii to cooperate with the Hawaii office of the Bureau of Sport Fisheries of the United States Department of the Interior and the Hawaii Department of Land and Natural Resources, in instituting a program which would permit bird and big game hunting by civilians on military reservations in the State.

Public Law 86-797 authorizes the military, in cooperation with the United States Department of Interior and an appropriate State agency, to permit individuals to hunt on military installations.

Your Committee on Military and Civil Defense concurs with the intent and purpose of **H. R. No. 45** and recommends that it be referred to the Committee on Parks, Fish and Game Management.

Signed by all members of the Committee.

SCRep. No. 669 Military and Civil Defense on **H. R. No. 224**

The purpose of this Resolution is to urge the United States Congress to amend the Soldiers and Sailors Act to allow each state to tax non-resident military personnel. Alternatively, it requests the federal government to consider assuming full responsibility for providing schools and education for military dependents.

Representatives of the Department of Education explained that federal assistance to those areas whose schools are impacted by military and federally-connected personnel is provided under Public Law 874. Funds in the past have been appropriated under two categories:

Category A: those students whose parents reside and work on federal properties; and

Category B: those students whose parents either work on or reside on federal properties. President Nixon's budget proposal would continue the Impact Aid Program but would delete Category B money.

Your Committee has amended this Resolution to reflect the above fact and made other technical, non-substantive changes.

Your Committee on Military and Civil Defense concurs with the intent and purpose of **H. R. No. 224**, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as **H. R. No. 224, H. D. 1**.

Signed by all members of the Committee.

SCRep. No. 670 Military and Civil Defense on **H. C. R. No. 59**

The purpose of this Concurrent Resolution is to urge the United States Congress to amend the Soldiers and Sailors Act to allow each state to tax non-resident military personnel. Alternatively, it requests the federal government to consider assuming full responsibility for providing schools and education for military dependents.

Representatives of the Department of Education explained that federal assistance to those areas whose schools are impacted by military and federally-connected personnel is provided under Public Law 874. Funds in the past have been appropriated under two categories:

Category A: those students whose parents reside and work on federal properties; and

Category B: those students whose parents either work on or reside on federal properties. President Nixon's budget proposal would continue the Impact Aid Program but would delete Category B money.

Your Committee has amended this Concurrent Resolution to reflect the above fact and made other technical, non-substantive changes.

Your Committee on Military and Civil Defense concurs with the intent and purpose of **H. C. R. No. 59**, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as **H. C. R. No. 59, H. D. 1**.

Signed by all members of the Committee.

SCRep. No. 671 Judiciary on **H. B. No. 900**

The purpose of this bill is to require the surrender of vehicular license plates to the appropriate county agencies by any person abandoning an automobile or by anyone coming into custody of an abandoned automobile and disposing of it or conveying it as junk, to thereby prevent the use of discarded vehicular license plates in the traffic of stolen motor vehicles.

Upon consideration of the bill, your Committee has amended it to provide for addition of a new section to Chapter 290, "Abandoned Vehicles" rather than to Chapter 249, "County Vehicular Taxes" as being a more appropriate location for the proposed section.

Your Committee has further amended the bill to increase its effectiveness, by providing that any violation of the proposed new section shall be a misdemeanor.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 900**, as amended herein, and recommends that it pass second reading in the form attached hereto as **H. B. No. 900, H. D. 1**, and be placed on the calendar for third reading.

Signed by all members of the Committee.

SCRep. No. 672 Judiciary on **H. B. No. 1770**

The purpose of this bill is to require retailers to label pork produced in Hawaii as "Island Produced Pork" to distinguish the same from pork produced elsewhere.

The original form of the bill addressed such requirement to importers and wholesalers of pork as well and labeling of definite geographical origin of all pork — such as "Mainland", "Foreign", and "Local Grown".

Your Committee amended the original form of the bill so that the requirement is addressed only to retailers and for use of the words "Island Produced Pork". It is your Committee's thought that labeling by retailers only will suffice for the purpose

sought to be achieved, and that distinctive labeling of only local pork as "Island Produced Pork" will prove much more attractive and beneficial.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 1770, H. D. 1**, as amended herein, and recommends that it pass Third Reading in the form attached hereto as **H. B. No. 1770, H. D. 2**.

Signed by all members of the Committee.

SCRep. No. 673 Judiciary on H. B. No. 1088

The purpose of this bill is to amend the workmen's compensation law relating to funeral and burial allowance by allowing certain prepaid funeral and burial plan payments to the surviving spouse or the decedent's estate.

Present law requires that where a work injury causes death the employer is required to pay funeral expenses not to exceed \$1000 to the mortician and burial expenses not to exceed \$500 to the cemetery. Such payments are to be made directly to the mortician or the cemetery.

The proposed bill would allow funeral payments and burial expense payments to be made directly to the surviving spouse or to the decedent's estate if the deceased has a pre-paid funeral and burial plan.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 1088** and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. No. 674 Judiciary on H. B. No. 306

The purpose of this bill is to permit graduates of two-year foreign dental hygienist training programs which are accredited by the Council of Education of the American Dental Association to qualify for application for license. The existing law presently recognizes only American trained dental hygienists.

Your Committee notes that the Department of Regulatory Agencies is in support

of this bill. It is recognized that with the assurance of appropriate accreditation, the restriction against foreign trained dental hygienists becomes unduly discriminatory.

A further effect of the bill is to extend the present 30-day application filing deadline to 45 days.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 306** and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. No. 675 Judiciary on H. B. No. 1769

The purpose of this bill is to require imported raw agricultural commodities and processed foods that do not meet the pesticide residue standards of the Food, Drug and Cosmetic Act, to be appropriately labeled to reflect that fact.

Your Committee notes that domestic raw agricultural commodities and processed foods are stringently regulated to meet the Food, Drug and Cosmetic Act pesticide residue standards, while imported items often fail to meet such standards. As additional expense is involved for domestic items to meet such standards, the imported items obtain a definite and unfair edge if such labeling is not required.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 1769** and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. No. 676 Judiciary on H. B. No. 196

The purpose of this bill is to delete the one-year residency requirement for the practice of medicine and surgery.

Your Committee believes that such requirement is unnecessary and will not result in lowering the standards for the practice of medicine.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 196** and recommends that it pass Third

Reading.

Signed by all members of the Committee.

SCRep. No. 677 Judiciary on H. B. No. 217

The purpose of this bill is to lengthen the period within which a claimant may file an appeal from a denial of a claim or from an incorrect benefit payment.

Section 392-72 presently permits a claimant to file an appeal from a denial of a claim or from a payment of an incorrect benefit amount within 10 days from the date of denial or the date of payment of the disputed amount. This bill proposes to allow claimants 20 days for the filing of the appeals.

The director of labor and industrial relations in supporting this bill informed your Committee that the present 10-day period worked to the disadvantage of many claimants who failed to file timely appeals because of lack of knowledge, incapacitation, or other circumstances. Your Committee agrees that the present appeal period may be too short, particularly because the law is relatively new and eligible claimants may not be generally familiar with its details.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 217** and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. No. 678 Judiciary on H. B. No. 1883

The purpose of this bill is to require that the director of finance annually appoint a certified public accountant to audit all books and records of the special compensation fund and, in the event the balance of the special compensation fund falls below an amount determined insufficient to meet the fund's current and projected obligations, to levy on the gross premiums of insurers of employers insured under section 386-121(a) (1) provided for in section 386-153, and charge provided in section 386-154 against each employer as provided in section 386-121(a) (1) during the succeeding year and each succeeding year thereafter until the cash balance of the fund equals or exceeds, as of December 31 of any year,

an amount sufficient to meet the fund's current and projected obligations.

The special compensation fund is financed primarily through levies against employers or their insurance carriers. Over the years the coverage of the fund has increased and the fund currently assumes the obligations for previous disabilities in subsequent injury cases, for life pensions, for permanently disabled employees, for the liability of defaulting employers, for allowances for services of attendants, for totally disabled workers, for weekly income benefits where a worker is in concurrent employment, etc. The annual disbursements from the fund currently exceed \$490,000.

The bill includes that the audit shall advise and recommend appropriate levies and charges to adequately finance the fund's obligations. As amended, the bill removes the statutorily prescribed rate of the levy on insurance premiums, removes the minimum and maximum fund balances, places assessment rate setting responsibility with the director of labor and industrial relations, and provides for a special assessment against insurance underwriter and self-insured employers during the second half of calendar year 1973 to keep the fund solvent until such time that an audit is made and financial direction obtained.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 1883, H. D. 1** and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. No. 679 Judiciary on H. B. No. 219

The purpose of this bill is to effect certain technical non-substantive changes to the unemployment compensation law. These changes have clarifying effect on the present law without changing present practice.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 219** and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. No. 680 Judiciary on H. B. No.

579

The purpose of this bill is to remove pregnancy as a disqualification in the Additional Unemployment Compensation Law.

Present law prohibits a woman who is pregnant and within four months of the anticipated birth date of the child and two months after childbirth to receive benefits under the extended unemployment benefits.

This bill deletes the pregnancy disqualification and would allow a woman to receive benefits under this law unless she is otherwise disqualified.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 579** and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. No. 681 Judiciary on **H. B. No. 220**

The purpose of this bill is preclude judicial review of decisions and orders of the Hawaii Employment Relations Board in representation proceedings.

Section 377-5 of the Act presently permits a decision or order of the Hawaii Employment Relations Board in a representation proceeding to be appealed to the Circuit Court. This bill proposes to amend Section 377-5 by deleting language which permits appeals and by adding language which would expressly make determinations on representation matters final. It would, however, retain the right of parties to appeal to the Circuit Court in unfair labor practices cases.

The proposal is consistent with National Labor Relations Board practice and procedure as there is no direct judicial review of NLRB decisions in representation cases. It would eliminate undue delays in deciding such matters as appropriate bargaining units and eligibility of employees to vote in elections. Unless these matters are expeditiously determined, the right of employees to organize for collective bargaining and the policy of the Hawaii Employment Relations Act to foster industrial peace are both jeopardized.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B.**

No. 220 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. No. 682 Judiciary on **H. B. No. 2026**

The purpose of this bill is to amend Chapter 433 by adding a new section which would apply to union mutual benefit societies.

This bill proposes to vest the insurance commissioner with the discretion to waive any specific requirement of Chapter 433 for labor union mutual and fraternal benefit societies if he determines that the waiver will not adversely harm the members and their dependents.

It will also require a labor union mutual benefit society to file an annual report with the insurance commissioner and a complete financial report prepared by a certified public accountant.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 2026** and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. No. 683 Judiciary on **H. B. No. 389**

The purpose of this bill is to prevent the reconsideration of any petition that has been decided adversely for the petition by the land use commission until after the elapse of a period of one year. Even after the year has elapsed, reconsideration of a petition on the same matter may be granted only upon a showing of changed circumstances.

Presently, this matter is governed by the Land Use Commission's **Rules of Practice and Procedure** which provides that a petition may be reconsidered after six months if the petitioner submits "significant new data or additional reasons which substantially strengthen his petition". This has resulted in the loss of many hours and much cost to the City and County and State government and to individual citizens in the consideration and processing of repetitious applications that may have been disap-

proved for good reason. The League of Women Voters of Hawaii appeared before your Committee and urged favorable consideration be given this measure.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 389** and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. No. 684 Judiciary on H. B. No. 198

The purpose of this bill is to delete the one-year residency requirement pertaining to the practice of pharmacy. The effect of this bill will be to bring Hawaii in accordance with recent federal decisions holding that such residency requirements are unconstitutional.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 198** and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. No. 685 Judiciary on H. B. No. 103

The purpose of this bill is to authorize the Department of Land and Natural Resources to establish and maintain marine reserves, refuges and public fishing grounds.

Your Committee recognizes that the ancient Hawaiian people exercised wise management of marine resources. It seems only proper that Modern Man should do likewise at a time when the fish population along the shores of much of this State has dwindled.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 103, H. D. 1**, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. No. 686 Judiciary on H. B. No. 478

The purpose of this bill is to eliminate certain discriminatory features of the existing law related to commercial employment agencies.

The effect of the bill will be to make female and minor applicants be subject to referral for employment on the same basis as adult male applicants, and to apply the prohibition against referral to employment for immoral purposes to be equally applicable to both sexes.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 478, H. D. 1** and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. No. 687 Judiciary on H. B. No. 636

The purpose of this bill is to regulate the catching of mullet.

Under the existing law although the catching of mullet out of season was made illegal, no effective mechanics for its implementation was stated in the law.

This bill addresses regulation to dealers who purchase mullet requiring a system of reporting to the Department of Land and Natural Resources in order that effective regulation may be achieved.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 636** and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. No. 688 Judiciary on S. B. No. 121

The purpose of this bill is to eliminate the durational residency requirement for the practice of optometry.

The Department of the Attorney General advised the Board of Examiners in Optometry that such durational residency requirement was unconstitutional. This bill would accordingly bring the law relating to optometry in line with recent federal decisions on this question.

Your Committee on Judiciary is in accord with the intent and purpose of **S. B. No. 121** and recommends that it pass Third Reading.

Signed by all members of the Committee.