SPECIAL COMMITTEE REPORTS

Spec. Com. Rep. 1

Your Committee on Credentials begs leave to report that it has thoroughly considered the matter of the seating of the members elect of the House of Representatives of the Eighth Legislature of the State of Hawaii, Regular Session of 1975, and finds that the following members elect are duly qualified to sit as members of the House of Representatives, to wit:

First District:	Jack K. Suwa
Second District:	Stanley H. Roehrig Herbert A. Segawa
Third District:	Yoshito Takamine
Fourth District:	Minoru Inaba
Fifth District:	Alvin T. Amaral Gerald K. Machida
Sixth District:	Ronald Y. Kondo Velma M. Santos
Seventh District:	Donna R. Ikeda W. Buddy Soares
Eighth District:	Steve Cobb Jack Larsen
Ninth District:	Dan S. Hakoda Ted T. Morioka
Tenth District:	Ken Kiyabu Lisa Naito
Eleventh District:	John S. Carroll Kinau Boyd Kamalii
Twelfth District:	Clarence Y. Akizaki Carl T. Takamura
Thirteenth District:	Neil Abercrombie Hiram L. Fong, Jr. Charles T. Ushijima
Fourteenth District:	Russell Blair Kathleen Stanley
Fifteenth District:	Robert Kimura Richard Ike Sutton
Sixteenth District:	Akira Sakima Ted Yap
Seventeenth District:	Richard Garcia Kenneth Lee
Eighteenth District:	Mitsuo Uechi James H. Wakatsuki
Nineteenth District:	Benjamin J. Cayetano Norman Mizuguchi
Twentieth District:	Daniel J. Kihano Mitsuo Shito

Twenty-First District:	Richard C.S. Ho Henry Haalilio Peters
Twenty-Second District:	Oliver Lunasco Howard K. Oda
Twenty-Third District:	George W. Clarke
Twenty-Fourth District:	Ralph K. Ajifu Faith P. Evans
Twenty-Fifth District:	John J. Medeiros Andrew K. Poepoe
Twenty-Sixth District:	Jann L. Yuen
Twenty-Seventh District:	Richard A. Kawakami Tony T. Kunimura Dennis R. Yamada

Signed by Representatives Ushijima, Inaba, Blair, Ho, Morioka, Ajifu, Sutton and Ikeda

Spec. Com. Rep. 2

Your House Interim Committee on Lands appointed pursuant to H.R. No. 528, adopted by the Regular Session of 1974 and directed to review the adequacy of existing statutes relating to the preservation of historic sites and objects, begs leave to report as follows:

BACKGROUND

In 1973, the director of the Department of Land and Natural Resources, acting as the Historic Preservation Officer for Hawaii, established a task force to review the State's preservation laws and prepare a comprehensive revision for consideration by the department and submission to the 1974 State Legislature.

It was the feeling of the 1973 Legislature, the department and the task force that Hawaii's historic preservation laws were in need of improvement, clarification and consolidation. In February, 1974, the task force submitted its recommendations to the director of the Department of Land and Natural Resources. These recommendations consisted of three main parts:

1. Revisions to Chapter 6, Hawaii Revised Statutes, based largely on the National Advisory Council Model Legislation and existing Hawaii laws;

2. Administrative reorganization of the historic preservation program within the Department of Land and Natural Resources; and

3. The use of economic incentives for the preservation of historic properties to be developed by the Department of Land and Natural Resources.

At the 1974 legislative session, the recommendations of the task force were contained in House Bill 58 and Senate Bill 2171-74. The task force testified at legislative hearings on the bills, including one held by your Committee on Water, Land Use Development.

At the conclusion of the public hearing, it was the feeling of your Committee that an insufficient period of time remained during the legislative session to afford the proper in-depth analysis that the proposals deserved, and a review was therefore planned for the 1974 interim period.

Thus, by your memorandum of June 5, 1974, this interim committee was established to study the adequacy of our existing statutes on historic preservation through the review of the 1973 task force proposals. A public hearing was held on June 27, 1974. Prior to the hearing, working drafts of the 1973 task force recommendations were distributed to some 40 persons and community organizations interested in historic preservation, including the members of the task force. These persons were requested to review the draft and to make specific recommendations for refinements or changes at

the June 27 hearing. Among those persons testifying at this hearing were the director of the Department of Transportation; the chairman of the Historic Buildings Task Force; the vice-president, Hawaii Museum Association; the assistant executive director of the Downtown Improvement Association; and representatives of various community, environmental and planning groups.

FINDINGS AND RECOMMENDATIONS

Your Committee found that the present organizational structure and the definition of responsibilities among the agencies involved in historic preservation was not conducive to the development of a comprehensive program. In response to Public Law 89-665, the federal historic preservation act, the Legislature passed Act 254, Session Laws of Hawaii 1967, (Chapter 6, Hawaii Revised Statutes) which gave responsibility for historic preservation to the Department of Land and Natural Resources. In 1969, Act 216 addressed the problem of procedure to be followed when archaeological and historic investigations are made and findings discovered on public land and on private lands. Act 236, Session Laws of Hawaii 1969, created the Hawaii Foundation of History and the Humanities as a nonprofit corporation which was to act as a depository of funds and gifts to be held in trust for the public in the preservation of Hawaiian history and heritage. The Act further authorized the Foundation to review the work of the Department of Land and Natural Resources including its statewide survey and to cooperate and consult with the department on its functions under Chapter 6, Hawaii Revised Statutes. In addition, the Foundation became responsible for approving projects for nomination of historic sites to the National Register of Historic Places as required under Public Law 89-665.

Act 202, Session Laws of Hawaii 1971, established a review board within the Foundation which would "order and enter historic properties into the Hawaii register of historic places" as required under Public Law 89-665. Act 251, Session Laws of Hawaii 1974, amended the statutes of the Hawaii Foundation for History and the Humanities, in order to clarify the exact nature of the Foundation. In addition, the Act provided clarification on the role of the Review Board and its relationship to the Department of Land and Natural Resources in supervising the selection of historic sites by the Department of Land and Natural Resources.

In examining Chapter 6, Hawaii Revised Statutes, your Committee found that the statutory structure was a result of piecemeal legislation which were motivated by a need to meet the demands on an expanding historic preservation program and federal funding requirements under Public Law 89-665.

Your Committee further found that, under the present statutory provisions, county governments are not being effectively involved in historic preservation. Your Committee believes that, in order to develop a truly comprehensive and coordinated program, county involvement in the planning, development and implementation of historic preservation programs is necessary. Consequently, your Committee recommends including provisions for establishing county historic preservation agencies.

Based on its findings, your Committee recommends a reorganization and revision of Chapter 6, Hawaii Revised Statutes. This reorganization and revision would define the roles and relationships of the agencies involved in historic preservation and clarify ambiguous statutory language:

1. Revisions to Chapter 6, Hawaii Revised Statutes. These revisions should include as a statement of policy and public interest a statewide comprehensive historic preservation program and definition of such terms as "historic property", "historic preservation", and "undertaking". It is suggested that the term "project" rather than "undertaking" be used in order to distinguish between the substance of the definition and the procedures relating to the term.

State title to historic property on public lands and provisions for investigation, recording, preservation and salvage appropriations should also be established along with inter-departmental coordination and notification on these matters. However, counties and other State agencies should also be allowed to expend monies for historic preservation under the direction of the Department of Land and Natural Resources.

Procedures for the review, investigation, recording, preservation and salvage of historic property on private lands should also be established along with penalties for non-compliance and the use of the Governor's contingency fund for, at the minimum, an option on the acquisition of property if other funds are not otherwise available.

Penalties for violation of general laws relating to historic preservation should be expanded and made more stringent. The same should be done for penalties regarding reproductions, forgeries and illegal sales. Enforcement of these provisions should be established either through local police officers or through the Department of Land and Natural Resources by designating qualified persons as enforcement officers with full legal authority to enforce all provisions of all laws and rules and regulations pertaining to the Department of Land and Natural Resources.

Existing statutes relating to monuments and memorials should be renumbered and placed together under one part.

2. Administrative reorganization. The Department of Land and Natural Resources should be clearly designated as the State's historic preservation agency responsible for the development and establishment of a comprehensive historic preservation program and further designated as a depository for historic specimens and objects.

A separate State preservation officer should also be established. Traditionally, a State preservation officer has been necessary to qualify for federal funds and the director of the Department of Land and Natural Resources has functioned in this capacity. This should be a separate person appointed by the Governor and placed within the Department, in order to work full time with federal funds and with federal agencies on matters on historic preservation and to function as the executive officer of the Hawaii Advisory Council on Historic Preservation.

A Hawaii Advisory Council on Historic Preservation should be created which will serve to coordinate and act as a clearinghouse for the wide variety of historic preservation undertakings and projects authorized, funded, licensed or otherwise provided by and through the State and by private owners. The composition of the council should include the State preservation officer, the president of the Hawaii Foundation for History and the Humanities, the director of the Department of Planning and Economic Development, the director of the Department of Transportation, the director of the Department of Accounting and General Services, the planning officers of each county, and four citizens, one of whom should be the chairman.

County level preservation efforts should be established through authorization of local historic preservation programs, establishment of county historic preservation commissions and the adoption of county regulations and restrictions for the protection, enhancement, preservation and use of historic properties.

3. Economic incentives for historic preservation. Concomitant with the establishment of a comprehensive historic preservation program is the need to overcome the critical, overriding, and antithetical force of development. Such development forces provide one of the greatest obstacles to historic preservation despite general legislative agreement of the value and commitment to historic preservation. Urban pressures facing many historic landmarks dictate development toward greater density usage since a majority of those landmarks are of underutilized density in relation to current zoning, compacted in specific areas of the city, located in areas where public service facilities are most abundant, and can be profitably managed.

Unfortunately, the federal, state, and local governments, which advocate historic preservation as a public benefit and a desired goal, have never dealth realistically with the dilemma facing the private landowner--public benefit vs. economic gain. More often than not, economic gain wins out and landmarks are torn down to make way for highrise commercially lucrative buildings.

The land dedication approach is one method of preserving historic landmarks. As with the agricultural dedication concept, it is intended to promote desirable land use, in this case historic preservation, through tax incentives. Upon dedication of a historic site or building, the dedicated property would (1) be exempt from any increase in real property taxes for the period of dedication, or (2) be allowed a reduction in real property tax. However, in areas of concentrated or high density use, real property tax abatement or reduction alone does not appear enough of an incentive to prevent development "to highest and best use".

The solution in historic preservation lies in the government's ability to realistically deal with the economic forces operating and to turn them into forces working toward a general community good. At the same time, a plan needs to be devised which would promote historic preservation at lowest cost to the government and highest return to the private landowner. The rationale behind this premise is that "the value of a

property is largely a function of public (zoning) regulations."[1] That is, value of property is determined by the amount of government investment in public services and amenities. It is further determined by the zoning classiciation which establishes the potential for development. Such an effect is most acute in urban areas where there is the highest concentration of public investment and allowable development potential. This public investment and license granted to the private owner by government provides an avenue by which government can claim a monetary interest in private property. As a result, urban areas, technically, cannot be assumed to be purely private property under the control of the private owner to do with as he pleases. Instead it could be considered in part to be a public asset which can be guided to serve public good. If properly executed, public good can be achieved without abridging the rights of the private owner.

Transfer of development rights is a relatively new concept in the United States. Its underlying concept is that the development potential of a parcel of property is transferable. Traditionally, a parcel of property was considered unique. Therefore, if the development potential of Lot A was 4X, then the owner of Lot A could develop the parcel to its potential (4X) or to a lesser degree (assume 2X). In the latter case, he "loses" the difference between the actual and the potential (4X - 2X = 2X). Whatever the monetary equivalent of 2X is, it remains unused because of its tie to the unique parcel of property. In time and depending on surrounding development, the owner of Lot A may be forced to develop his property to its fullest potential.

Transfer of development rights concept takes this incentive to develop and channels it into desired goals. Under the concept, the development rights of any lot allowable under zoning restrictions would not be tied to the unique parcel of land. The owner of Lot A would be allowed to transfer the remaining potential (2X) to another lot, as dictated by appropriate planning. In return for the transfer, he would receive a monetary equivalent of the remaining potential (2X).

The use of this concept can be most effective in attempting to accomplish specific aims which would benefit public good--open space, historic preservation--without disrupting the economic land market and destroying land value which may be a resultant effect of condemnation or dedication.

Specifically applied to an historic preservation objective, transfer of development rights program includes:

(1) Development rights;
(2) Real property tax reduction;
(3) Preservation restriction;
(4) Development rights transfer district;
(5) Development rights bank.

Development Rights. Development rights are defined as "the difference between the size of the landmark building and the larger building that could be built on the landmark site under present zoning."[2] Transfers of these development rights would be authorized by a landmark or other appropriate commission and are allowed only after the landmark has been designated for historic preservation.

Real Estate Tax Reduction. A corresponding reduction in the real property taxation of the landmark property as a result of the loss of the development potential would be provided to the landmark owner. Similarly, an increase in the real property taxation of the transferee lot to account for the increased development potential would be required. As a result, real property taxation revenue would not be lost to the local government.

Preservation Restriction. Preservation restriction is defined as "a property interest conveyed by the landmark owner to the city obligating him and future owners to retain the property in its landmark status".

Development Rights Transfer District. This is a specific area mapped out and designated by the appropriate planning commission as the area in which development rights from landmarks may be transferred. These areas may be superimposed over parts of the city where there is the greatest concentration of landmarks or they may

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[1]John J. Costonis, Space Adrift, Saving Urban Landmarks through the Chicago Plan (Urbana, Illinois: University of Illinois, 1974), p. 34.

[2]Costonis, p. 54.

be located in other parts of the city which have comparable densities and public services. A development rights transfer district would then allow for two levels of development--the prescribed density of the zoning classification and the excess density acquired under a development rights transfer. Ceilings would be placed on the amount of excess density which can be built on any given lot or area in accordance with proper urban planning.

Development Rights Bank. This would be a government administered reserve into which development rights may be deposited, held, and sold. Both public and private landowners may participate. It would also provide for government a source of revenue which could be used for acquisition, restoration, and maintenance of other historic landmarks without having to use general revenues. The government portion of the fund could be established on a revolving fund basis.

The experience. Because of the recentness of the concept, experience has been very limited and the full effects of transfer of development rights cannot be fully articulated. Municipalities such as New York City and San Francisco have adopted ordinances in the spirit of transfer of development rights. However, the New York program, instituted a number of years ago, has yet to complete one transaction. Its difficulties lie in the bureaucratic maze and process which is required before transfers can occur. Probably one of the most restrictive factors of the New York plan is the requirement that transfers can only be made to adjacent properties. Adjacent property is defined as "contiguous to or across a street or intersection from a landmark lot; it may also be one of a series of lots that connect with the landmark lot, provided that all of these lots are in single ownership."[3] San Francisco's plan is similar to the New York plan though less elaborate.

In his book, "Space Adrift, Saving Urban Landmarks through the Chicago Plan", John J. Costonis, an expert on laws relating to landmark preservation, states that transfer of development rights concept which is essentially incentive zoning provides a local government with "unprecedent leverage over private development decisions. But this advantage comes at a steep price: the willingness of the city to do the kind of planning homework that is all too rare at the municipal level today."[4] He goes on further to state examples of some of the difficulties involved in the implementation of the concept.

First is the avoidance of distorting overall planning. It may be possible that the incentive of transfer of development rights could lead to abuses such as its being controlled by special interest groups such as the downtown developers. In order to avoid this, the local government must establish priorities and policies concerning comprehensive zoning and then enforce such policies through decisions consistent with the planning. In no case should the incentive zoning formulate the overall development policy.

Secondly is the constant monitoring and reassessing of areas designated as development rights districts so as not to overload these areas. Under traditional zoning, once the limitation is established, it becomes self-executing. With the allowance of increases in density beyond the zoning, there would be a constant need to review and assess each district after a transfer is made to determine the maximum density allowable without intruding of the aesthetics of the area or increasing the need for public services.

The legislation. Since the specifics of transfer of development rights are essentially in the province of zoning and planning which is a county function, the role of the State is to provide the guidance and the authority of local governments to institute such programs through the provision of state zoning enabling acts. These acts legitimize the use of zoning to accomplish preservation and validate the transfer of development rights as a technique in accomplishing this goal.

The statute could resemble the Illinois Historic Preservation Enabling Act and including the following parts:

1. Declaration of policy--This would include a statement which would grant to local governments the power to institute transfer of development rights for the preservation of historic properties which are delcared to be a public use and essential to the public interest.

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[3]Costonis, p. 39.
[4]Costonis, p. 54.

2. Definitions--Terms to be defined include development rights, preservation restriction, transfer of development rights, development rights bank, and public easement.

3. Authority--Provides for local governments to have the power to designate historic areas, sites, monuments, etc., and to impose regulations governing such designated areas, sites, monuments, etc., including the provision for development rights transfer.

4. Administrative agency--Provides for the designation of an agency, commission department, or other body to administer the program.

5. Valuation--Encumbrances or restrictions imposed upon designated property shall be deemed public easements and any depreciation occasioned by such encumbrances or restrictions shall be deducted in the valuation of such property.

6. Tax reduction--Specific authorization to provide for persons who dedicate for historic preservation purposes to have his real property tax assessed at its actual use with the preservation restriction.

7. Severability clause.

CONCLUSION

The inquiry made by your Committee into the adequacy of existing statutes relating to historic preservation has disclosed the need for legislation to consolidate, clarify, and expand our laws in order to enable the State to take a strong leadership position in historic preservation. Appropriate legislation will be drafted to accomplish the foregoing objectives for consideration by the Legislature during the 1975 Regular Session.

Signed by Representatives Kawakami, Lunasco and Medeiros.

Spec. Com. Rep. 3

Your Interim Committee on Elderly Housing Problems begs leave to report as follows:

Your Interim Committee was established for the purpose of investigating problems related to the housing of our elderly citizens, including inquiries into the need for additional housing, types of housing designs suitable for the elderly, and general housing policies.

COMMITTEE OUTLOOK

Even though about one-fifth of the elderly live in housing units that are dilapidated or lacking in minimal facilities, their housing needs were not specifically acknowledged in legislation until 1959--twenty-six years after the first federal housing act. While increasing longevity may have its benefits, these benefits are often mitigated by inadequate housing, insufficient health care, and social neglect. Large numbers of the elderly live alone or with unrelated individuals, and social networks of most elderly persons have been broken many times. Such losses cannot be replaced, but decent and inexpensive housing can provide increased social contact as well as shelter, particularly that housing which is specifically designed and located with the needs of the elderly in mind.

With this philosophical orientation in mind, your Interim Committee delved into the work of further investigating the housing problems of the elderly.

COMMITTEE PROCEDURES

Your Interim Committee was comprised of Representative Daniel J. Kihano, Chairman; Representative Tony T. Kunimura, Vice-Chairman; Representative Ronald Y. Kondo; Representative Yoshito Takamine; Representative James Aki; Representative Andrew K. Poepoe.

Your Interim Committee embarked upon its investigation into the housing problems of the elderly by deciding on the procedural format of the Committee. The Committee agreed

to sponsor a series of informal round-table discussions with public officials who directly or indirectly contributed to the housing programs of the State. Members of the private sector were also requested to attend several of these discussion-meetings. Both groups were afforded an opportunity to express their candid views in an informal atmosphere which encouraged the flow of information and which resulted in purposeful suggestions to the Committee members. The principal suggestion which the members came to agree upon had to do with the future direction of your Interim Committee's immediate objectives. Specifically, your Interim Committee agreed to limit its outlook to a general overview of the elderly housing problems in Hawaii and then to concentrate its efforts toward specific housing developments in two geographical areas determined to be areas of critical need: Molokai and Waipahu, Oahu. After a review of the housing needs throughout the State, the Committee recognized that Maui, with its exemplary Hale Mahaolu development; Kauai, with developments in Eleele, Koloa, Kapaa, and Lihue; and Hawaii, with its Pomaikai, Hale Hauoli, and Ka'u developments were progressing well toward satisfying the critical needs for elderly housing in their own counties. Your Interim Committee further determined that Honolulu, with Makua Alii, Paoakalani, Punchbowl, and other developments, was also making satisfactory progress in its elderly housing endeavors. Molokai and Waipahu, on the other hand, had no existing elderly housing developments and dim hopes for one in the near future. Therefore, these areas were determined to be most critically in need of elderly housing at this time and the Committee pinpointed them for immediate legislative consideration. The Committee recognizes that needs still exist elsewhere and recommends that administrators in charge of the elderly housing projects in the other geographical areas continue implementing their housing development plans with great dispatch.

INQUIRIES, FINDINGS, AND RECOMMENDATIONS

Inquiry on the General Housing Outlook for the Elderly

Because housing is such an important part of the elderly family's living concerns, the Committee reviewed previously gathered information on the factors which contribute to adequate housing in Hawaii. Among the areas reviewed were population characteristics contributing to the existing problems. Maps showing the elderly population concentrations were produced and the information used in reviewing plans for future housing needs. Project plans and designs suitable for certain kinds of elderly living patterns, including kitchen design, gardening provisions, and so forth, were also considered.

Financing elderly housing projects through HUD, the Farmers Home Loan Project, State financing, etc., was considered with a view toward maximum uitlization of the funding sources now available. Project management and housing operations were also briefly considered. And, the effects of past legislation on the housing programs were re-examined.

Findings

Your Interim Committee finds that the availability of housing in great variety is imperative. Such housing should respond to health and income needs and provide a choice of living arrangements. It should include sales and rental housing, new and rehabilitated housing, large and small concentrations. It should be produced by public agencies and by private profit and nonprofit sponsors, with incentives to encourage such housing in all communities.

Methods to support a massive and varied housing program and mechanisms for assuring appropriate services are imperative to the well-being of the elderly of this State. A decent and safe living environment is an inherent right of all elderly citizens. It should become an actuality at the earliest possible time.

Recommendations

Your Interim Committee recommends that a State policy on housing for the elderly should enjoy a high priority and should embrace not only shelter but needed services of quality that cover the span of independent living in comfort and dignity, in and outside of institutions, as a right wherever the elderly live or choose to live. Of particular concern and priority are the elderly poor.

Inquiry Into Factors Affecting the Housing Picture for the Elderly

There are several prominent factors which appear to affect the housing problems of the elderly. Some of these are unique to Hawaii with its varied cultural heritage, and others are common throughout the nation. If these factors could be isolated and discussed, perhaps solutions to these problems could be more easily developed.

Findings

While there has been federal, State, and county legislative action regarding housing for the elderly, it has not been sufficient to meet the need for adequate housing that exists among this group, let alone respond to the demand for a wide range of living arrangements on the part of many old people today. Because of Hawaii's critical land and housing situation, complicated even further by last year's freezing of federal funds for housing projects, the problem appears to be even more acute for the local aged population. After all, the very quality of life is directly affected by the type of housing and living arrangements available to occupants.

Generally, the housing problems of the aged population are compounded by several factors. Some of these are:

(1) Very low income, often at a poverty level;

(2) Ethnic background, which although not a problem in itself in Hawaii, does mean resultant language and cultural barriers. Since so many immigrants were brought in to work on the plantations, foreign speaking elderly are not uncommon here. On the contrary, they constitute more than half of the current aged population in need;

(3) The lack of family--due to either death or relocation (common in our mobile society);

(4) Physical handicaps and other medical problems making it difficult to maintain housing; and

(5) Isolation and loneliness, especially when living in large, impersonal and consequently unfriendly apartment buildings.

Recommendations

Your Interim Committee believes that a well-rounded and many faceted program outlook is necessary to solve the many problems related to elderly housing. Among the programs which should be encouraged are:

(1) Providing home repair services for the elderly so that they can live independently in their own homes, although they can no longer physically maintain the homes themselves.

(2) Providing more outreach services to the elderly who do live in their own homes, in order that they may remain there.

(3) Actively implementing a policy whereby when housing units for the elderly are eliminated for any reason, adequate replacement units must be made available and relocation programs provided before such persons are displaced.

(4) Carefully considering the provision of financial incentives to families providing housing and related care in their own homes for their elderly relatives and friends.

Inquiry Into the Needfor Elderly Housing on Molokai

One of the concerns of your Interim Committee was to investigate the problems now being faced by the Hawaiian Homes Commission and the Hawaiian community in general in relation to the elderly Hawaiians residing on Hawaiian home lands. Many have nowhere to go, no relatives to take care of them, and yet who have an understandable hesitancy about leaving the surroundings of the homelands with which they have become familiar. Specific questions as to the housing problems of the elderly on Hawaiian home lands, how these may be alleviated, and particular lands which may be available for development or trade were considered.

Findings

The Committee, in its informal discussions with housing staff and personnel, came to the conclusion that a specific project located on Hawaiian home lands should be encouraged. It proposed that such a project be submitted to the Hawaiian Homes Commission for discussion. On August 30, 1974, the Commission approved in principle the tentative project proposal for the development of needed housing for the aged. The Commissioners agreed with the Committee that many native Hawaiians are in dire need of such housing which should be suited to their economic and life-style needs. A review of the Hawaiian Homes Commission Act reveals that although procedures are spelled out on how native Hawaiians may be selected to occupy, cultivate, or use their lands for periods of up to 99 years, there are no provisions for these same people when they are aged.

However, in order for the Commission to finalize such a housing plan, specific land exchange plans with the Department of Land and Natural Resources, zoning changes, etc., must be completed. The Molokai Task Force, in its earlier report to Maui County, reported that there is indeed a need for such public housing on Molokai. More should be done by the State in this area of development.

Recommendations

Your Interim Committee recommends that the Hawaii Housing Authority develop a project, to be used as a pilot project, for the elderly on Molokai. The project should be located on Hawaiian home lands suitable for such a project, such as those in Kalamaula, and should be used after a land exchange with the Department of Land and Natural Resources. The design of the project should include common cooking facilities, low-rise design, and open garden areas, if possible. In addition, persons from the immediate geographical area should be encouraged to apply for such housing.

Inquiry Into Elderly Housing in the Waipahu Area

Another area of concern reviewed by the Committee was the special housing problems of the elderly in Waipahu. Of particular concern was the problem of the elderly plantation worker. These workers were usually immigrants with small pensions and little knowledge of geographical areas other than those in which they worked. Their number was on the increase and their needs becoming more and more evident.

Findings

The Oahu Sugar Plantation, which operates in the Waipahu area, reports that they do have a number of elderly employees and pensioners who would be potential residents of an elderly housing project. While the plantation does now provide some housing for their workers, many of the existing units are old and dilapidated and in need of major repairs.

There are 400 elderly in plantation housing now, and none pay more than $40 in rent. They would be unwilling to move to anything much more expensive than that, thus the crying need for public elderly housing projects in the area.

AmFac did apply for apartment zoning in Waipahu, requesting that present residential lands be zoned for apartment use. They intended to build a three-story walk-up designed for elderly housing and in coordination with the Hawaii Housing Authority. However, the zoning change was neither recommended by the County Planning Commission nor approved by the City Council. Therefore, no further positive action on this project has been taken to date.

Recommendations

Your Interim Committee recommends that an elderly housing project specifically designed to satisfy the needs of the plantation elderly and other elderly residents in the area be undertaken by the Hawaii Housing Authority. Low-rise living, garden units, and perhaps open areas in which pet cocks can be kept should be considered. If AmFac is unable to implement its plans due to zoning changes, etc., then other developers should be encouraged to embark upon this much needed project. If need be, the State, through the Hawaii Housing Authority, might also look into the possibility of implementing the provisions of Act 171, Session Laws of Hawaii 1974, as well as other housing legislation to assure realization of this project and to better facilitate the

development of elderly housing projects in the State.

CONCLUSIONS

The poorly housed elderly living in squalor amid the general affluence of a prosperous State are of great concern to the people of Hawaii. The dilapidated and deteriorating housing to which many of the elderly are relegated is an ever-increasing problem. Therefore, insuring our elderly citizens of an independent and dignified life-style through "decent" and "affordable" housing has become the immediate goal of this Interim Committee.

Your Interim Committee acknowledges with gratitude and great appreciation the many persons who willingly participated in the small group discussions which were informally held with Committee members. Their contributions facilitated the preparation of this interim report and the recommendations for the 1975 Legislative Session.

Signed by Representatives Kihano, Kunimura, Kondo, Takamine, Aki and Poepoe.

Spec. Com. Rep. 4

Your House Interim Committee on Education appointed in accordance to H.R. No. 333, 1974 Session, to study major educational issues, begs leave to report as follows:

INTRODUCTION

The legislative responsibility to oversee the progress of public education is becoming a difficult task to complete during a 60-day regular session. The broad range and variety of educational activities make it necessary for the continued monitoring of selected educational programs. In the past, such monitoring has been carried out through interim examination and has been essential in effectuating change within the department of education and to provide needed data on the progress of educational programs which require continuing legislative appropriations.

In recognition of this, the House of Representatives, Regular Session of 1974, adopted H.R. No. 333 appointing a House Interim Committee to study major educational issues which may have an impact on the department's biennium budget as well as to monitor selected programs.

Your Committee held several public hearings during the interim period and received considerable testimony regarding the effectiveness of selected educational programs. In addition to the hearings, your Committee held meetings with the Board of Education and with noted educators to receive their concerns on Hawaii's public education system.

I. FOUNDATION PROGRAM

One of the strongest guiding principles in the formulation of an overall State educational policy has been the concept of equal educational opportunities for all of Hawaii's children. This has been interpreted to mean that each child, despite the enrollment of his school or its geographical location, should have equal access to a minimum and basic offering of educational experiences within a learning environment. The Foundation Program was, therefore, developed to provide a basis for delivering and guaranteeing a minimum and common level of courses and services in our public schools.

The Seventh State Legislature during the 1974 session appropriated additional funds and positions for the Foundation Program after discovering that the foundation curriculum for many small schools with declining enrollment had fallen below minimum levels. This was found to be the result of the allocation of teacher positions on the basis of pupil-teacher ratio as set forth in the teacher's collective bargaining contract.

Your Committee believes that the collective bargaining agreement, declining enrollment and other variables should not hinder the delivery of needed educational experiences that are offered through the Foundation Program.

In assessing this problem, your Committee believes that one possible solution is to

require, by statute, that a minimum Foundation Program be provided in every public school. This would ensure that such a program would be available in every school despite factors that could affect the full delivery of the program. However, your Committee believes that action by the legislature should be contingent upon the department's developing plans by which such a program could be implemented, including the utilization of alternative means of delivering education other than the use of the full-time teacher.

Your Committee also learned that the department had developed procedures to evaluate the appropriateness of Foundation Program objectives through a Foundation Program and Assessment Improvement System. It is your Committee's recommendation that the department continue to judge the program's effectiveness on its ability to accommodate the unique characteristics of the particular community it serves and, therefore, the particular students in the school.

II. SPECIAL EDUCATION

Along with the principle of equal educational opportunities, your Committee believes that all children and youth, additionally, are entitled to quality public education and that no child shall be deprived of such opportunity because of birth defects, physical handicaps or emotional and social deprivation. In an effort to accomplish this goal, the department's Special Education Branch has contracted with the Management Analysis Center for assistance in the development of a master plan for special education.

Your Committee has been informed that this master plan, which was scheduled for presentation to the interim committee, will be completed by the opening of the 1975 session of the Eighth State Legislature.

Your Committee, however, reviewed the progress of the plan during the interim and was gratified to find that its planners have gone through considerable effort to solicit the participation of parents and organizations in the development of a master plan. It is your Committee's belief that the plan will continue to emphasize:

- Early identification of children needing special education services.
- Career and vocational programs for special education students.
- Greater coordination with other governmental agencies serving the handicapped to insure efficient utilization of resources.

III. 3-on-2

The Seventh State Legislature was implicitly clear in its direction to the Department of Education of the necessity of an evaluation of the Modified 3-on-2 Program, an organizational pattern that uses two teachers and an educational assistant. Testimony provided by the department indicates that data for the comparative study of "3-on-2," "Modified 3-on-2" and "self-contained classes" was compiled in June of last year and that this information is now undergoing interpretation and analysis. Results of this comparative study and evaluation is to be presented to the 1975 State Legislature for review. Your Committee expects that this evaluation will provide the Eighth Legislature with a sound basis for determining the effectiveness of the Modified 3-on-2 Program and allow for appropriate legislative action on this educational program.

IV. HAWAII ENGLISH PROGRAM

Your Committee received testimony from the Department of Education that the implementation of the Hawaii English Program from kindergarten through six grades is a firm commitment. Funds appropriated by the 1974 Legislature for the implementation of the fifth grade portion of the program have been released by the Executive. However, this release of the funds did not meet the purchasing deadline that would have guaranteed the delivery of needed program materials for the 1974-75 school year. Materials are now anticipated for classroom use in January, 1975.

Your Committee, however, was pleased to learn from the Department of Education that the Executive also released funds for the purchase of materials for the 1975-76

school year. This would guarantee having all HEP materials for the fourth, fifth and sixth grades prior to the opening of school in September, 1975. This would be the first time that the Department has been able to achieve this objective since the installation of the Hawaii English Program in 1970.

Your Committee also received testimony from the Department of Education that too many disruptive factors such as insufficient training of teachers, late deliveries and inadequate installation assistance have deterred the effectiveness of the program. Since the department has made a commitment for a K-6 language system, your Committee believes that a greater effort must be devoted to program monitoring in order to achieve more efficient delivery of the program implementation and ongoing evaluation.

Your Committee also learned that the department is deferring and request to the legislature for funding of complete lateral coverage of HEP from grades K-6. Currently, 57 per cent of the target population receives lateral coverage under the Hawaii English Program. Your Committee believes that any decision for lateral coverage should follow a complete evaluation of the active K-6 program and should include alternate programming for coverage for students not suited for HEP, since the Committee has received a wide range of opinions on the effectiveness of HEP.

Your Committee is also aware that the Hawaii English Secondary Project, which would have provided an HEP program from grade 7 through 12, was scheduled for completion in August, 1976. However, budgetary reductions and other adjustments have necessitated an extension of the completion date to August, 1977. This will, unfortunately, mean that the initial HEP class, whose population is made up of primarily slow learners and disadvantaged youngsters, will not be covered by the secondary program when they reach the seventh grade. Your Committee expects that his year's extension will permit the Department of Education to present to the legislature for its consideration a program that will provide for an HEP secondary project for grades 7 through 12 and that will have minimized many of the disruptive features that have plagued the implementation of the elementary program.

V. COUNSELING AND GUIDANCE

A statewise comprehensive guidance plan is presently being developed which will provide additional counseling services for the secondary level and to the elementary level. Services are now practically non-existent at the elementary level, and most experts agree that the focus of counseling should occur at this level. The plan is scheduled for review by the 1975 Legislature.

Your Committee will also be interested in the department's evaluation of the Foundation Guidance Plan, a component of the proposed comprehensive guidance plan which is now being field tested with ESES Title III funds.

Your Committee realizes that the importance of counseling and guidance has increased with recent disturbances between various student elements in our public school system. Your Committee believes through counseling and guidance in the schools, that the educational system can assist in promoting cultural and social understanding among students and thereby assist in an effective and appropriate way to minimize student disturbances.

Your Committee is also concerned with the growing number of immigrant children in our public school system who are badly in need of additional and different kinds of counseling and guidance to assist in their participation at the classroom level. The department should make every effort in those areas that have a high immigrant population to provide counselors who are bilingual.

Finally, your Committee realizes that many of the responsibilities for counseling and guidance are shared between the compensatory education program which provides counseling assistance through the Comprehensive School Alienation Program and the school counseling and guidance program. Your Committee expects the department to continue to coordinate their efforts to provide maximum coverage throughout the State.

VI. ENROLLMENT TRENDS

Your Committee has continued to pursue the enrollment projections inasmuch as it plays a crucial role in the preparation of the department's budget and personnel position count. Interest in the enrollment projection process has increased since

1973, when it was learned that the department's budget was based on an anticipated enrollment far greater than was actually realized.

Your Committee heard testimony in July, 1974 that statewide regular enrollment was projected to be 177,402 for the 1974-75 school year. However, the official enrollment count taken in Septermber, 1974, showed that statewide enrollment had declined and the regular school enrollment was 176,381, which is down 1,021 students.

Your Committee also learned that the biennium budget for the Department of Education has been based on anticipated enrollment for 1975-76. Your Committee recommends that the Legislature carefully examine this area for overestimates and receive a revised enrollment figure from the department before taking appropriate action.

Testimony was also given by the department that they are now considering measures to insure accurate enrollment forecasting. Your Committee was pleased to hear that the department has developed a reporting system which will help identify the causes and extent of student migration throughout the State. In addition, the department is looking into the possibility of automating their migration so that more rapid evaluation of enrollment trends will be available. Your Committee supports these efforts and hopes that it will alleviate the situation. It also recommends that the department develop a reporting system that will identify the cross-over to and from Hawaii's private schools. A great majority of students receive notification of acceptance in the spring, and it would make it possible for the department to identify the cross-over to and from our public schools and may aid in its enrollment forecast.

CONCLUSION

Your Committee's interim review of these educational programs underscores the importance of continued monitoring during the 1975 Regular Session. As mentioned in this report, the department is expected to present to the Legislature reports and evaluations that should assist the Legislature in its deliberation of these programs. Your Committee believes that these programs should be thoroughly reviewed before any decision is made for possible incorporation into the department's biennium budget.

Signed by Representatives Sakima, Takamine and Oda.

Spec. Com. Rep. 5

Your House Interim Committee on Consumer Protection, appointed pursuant to H.R. 528, adopted by the Regular Session of 1974 and directed to study and review major areas of concern to the consumer public, begs leave to report as follows:

BACKGROUND

Recent events have drawn public attention to several problem areas affecting the consumer public. Consumer complaints, newspaper articles, media editorials and concerns expressed by legislative constituencies have identified certain prominent areas which warrant the attention of your Interim Committee on Consumer Protection. Your Committee, upon further consultation with the State Office of Consumer Protection, concluded that the following problem areas warranted study and review:

I. White Collar Crimes.

II. Regulation of Soliciting by Charitable Organizations.

III. Regulation of Local Tour Agencies.

IV. Problems Related to Newly Arrived Immigrants.

V. Monetary Limit of Small Claims Court.

Your Committee viewed its mission as one of studying the need for corrective legislative action on the aforementioned subject areas. Your Committee, therefore, set for itself three basic approaches relative to these subject areas:

1. Determination of the adequacy of existing laws relative to the protection of the public interest in these areas.

2. Determination of the extend and types of problems encountered and experienced by consumers in these areas.

3. Recommendation of such legislation and governmental practices as may be appropriate to assure adequate protection of consumer interests in these areas.

Consequently, your Committee conducted staff studies to identify problems and deficiencies in relevant laws and in the administration thereof.

In accordance with the scope of review as defined above, your Committee conducted a series of public hearings during the months of August and September, 1974 to receive testimony from government officials, special interest groups and members of the consumer public.

FINDINGS

I. White Collar Crimes.

Part VII of Act 9, Session Laws of Hawaii 1970 (Hawaii Penal Code), relating to business and commercial frauds, deals with white collar crimes in general. Section 870, entitled, "Deceptive Business Practices," refers more particularly to consumer concerns. This section proscribes knowingly or recklessly engaging in certain business practices likely to deceive customers of clients. This section provides a single punishment and simple definition for various offenses related to false weights and measures, adulteration and mislabelling of commodities.

The Proposed Michigan Revised Penal Code (1967) contains a similarly worded statute relating to deceptive business practices. Comments at pages 288-89 in the Michigan Code relating to said statute state that such a statutory section is not intended to be a detailed regulation of the subject area, but rather only to control the criminal penalties utilized to enforce legislation dealing with deceptive business practices. Your Committee recognizes the tremendous body of law outside of the Penal Code which regulates various business practices and that enforcement tools such as statutory licensing, injunction and private action can be just as effective as the criminal sanctions contained under Section 870.

In testimony received by your Committee, the Director of the Office of Consumer Protection, offered the following: Companies and individuals who have committed or are engaged in deceptive or fraudulent business activities--or what are more popularly referred to as white collar crimes--presently face the threat of a civil monetary forfeiture of an injunction. The criminal acts committed by unscrupulous businessmen are not necessarily any less onerous than felonious acts in general. Economic crimes are similarly despicable in that they are committed with carefully laid out design and execution. A suggestion was offered as to the threat of arrest and subsequent imprisonment being a more effective deterrent in eliminating offending business conduct than civil actions. Presently, the Consumer Protector is authorized to seek injunctive relief or monetary forfeiture. Where an injunction is successful, however, the violator is not prevented from engaging in another form of business. In the case where a fine is handed down, the sum that must be surrendered goes to the State of Hawaii and not to the defrauded consumer, leaving the conned victim without any compensatory relief.

It was suggested by the Director that criminal laws be amended to provide for the prosecution of unscrupulous business practices, and that the Office of Consumer Protection be given prosecutorial powers to initiate criminal proceedings where business organizations and individuals are found to be engaged in unfair or deceptive business practices which amount to criminal fraud.

The Office of the Attorney General also testified on the extensive involvement of organized criminal elements in identified areas of white collar crime, such as infiltration of legitimate business, labor racketerring, loan sharking, antitrust and tax violations, and bankruptcy fraud. At the national level, the U.S. Justice Department has also recently placed greater emphasis on investigating fraud, embezzlement, political kickbacks and similar white collar crimes.

II. Regulation of Soliciting by Charitable Organizations.

In recent months, a daily Honolulu newspaper called attention to the competition for

charitable dollars and asked the question: "Are we willing to accept the possibility that charities with high-powered razzle-dazzle appeal may grab the lion's share of our charity dollars, leaving those lacking in such appeal. . .with leftover crumbs?" This question identifies a growing concern to which your Committee strongly believes legislative attention is warranted in order that charitable organizations in the State of Hawaii not be placed in a position where competition for charitable dollars would become totally dependent upon "razzle-dazzle" methods.

Solicitation of funds from the public by charitable organizations is governed by Chapter 467B of the Hawaii Revised Statutes which requires either registration with or a letter of exemption from the Director of Regulatory Agencies.

The Director of the Department of Regulatory Agencies stated that the department has not encountered any serious problems relative to compliance with or administration of the statute. On occasion, organizations have proceeded to solicit contributions without proper registration. In such cases, the department has prevailed upon them to comply with the law and file appropriate registration statements.

In testimony before your Committee, the Better Business Bureau of Hawaii, Inc. attested to the abovementioned procedure and added that local charitable organizations soliciting funds which have not registered with the Director of Regulatory Agencies are requested to do so by the BBB and those claiming exemption are notified that, in accordance with the law, they must have a letter of exemption from the Director. The BBB annually receives hundreds of requests for information concerning solicitations--both mail and door-to-door--sponsored by both local and nationally affiliated charitable organizations. The Council of Better Business Bureaus provides local bureaus with reports on organizations that solicit nationally and for solicitations of local origin, the BBB of Hawaii develops information which can be made available to the public. According to the Better Business Bureau of Hawaii, Inc., its records show that, on the matter of competition for charitable dollars locally, there are few apparent current problems as far as charitable solicitations on Oahu.

A representative of the largest voluntary charitable fund raising organization in Hawaii, the Aloha United Way, called attention to the growing sophistication on the part of the donors, who are demanding assurances that their dollars are being used effectively. The AUW emphasized the concept of accountability, more specifically, accountability to the donor. This concept requires a system of financial reporting which accurately reflects the spending rate of the organization, thereby reflecting how much an organization would spend on fund raising and management as well as for service programs. The AUW further suggested that information should be provided to donors who have the right to expect that their contributions are used in the manner intended and not for exorbitant fund raising and overhead costs.

The Office of Consumer Protection expressed concern over local solicitation of funds by out-of-state charitable organizations. The Consumer Protector is of the opinion that there should be full disclosure on the distribution of funds prior to solicitation, the rationale being that the people of Hawaii should be informed as to what percentage of their dollar would be used for administrative and other expenses and what percentage would be used for actual charitable use within the State of Hawaii.

Your Committee was informed of a more particular problem area by the Consumer Protector, which relates to the solicitation of funds by an out-of-state hospital and the use of a well-known Hawaii resident's name as a "figurehead representative" for this purpose. It was suggested that the use or exploitation of the celebrity's name as a "drawing card" tends to mislead or confuse the public by inflating the worthiness of the charity.

In this regard, HRS Sec. 467B-9 prohibits the use of the name of any person except that of an officer, director or trustee of a charitable organization. However, Sec. 467B-11 exempts hospitals that are affiliated with religious organizations from the applicable chapter. Nevertheless, Sec. 467B-11(5) requires hospitals to file annual financial reports with the State of Hawaii. Accordingly, if it is an out-of-state hospital which is soliciting funds from the people in-state, the hospital must file a financial statement with the Department of Regulatory Agencies.

III. Regulation of Local Tour Agencies.

Your Committee was informed that the Office of Consumer Protection has received many complaints against local tour agencies, the type of complaints varying from

inconvenience to outright fraud.

The most significant case involving fraud was the Baron's Travel and Tours, Inc. case where the Office of Consumer Protection received 48 complaints against that company involving an approximate sum of $30,000 in monetary losses on the part of the consumers. The modus operandi of the subject travel agency was to book future tours to the Philippine Islands and to collect monies in advance. On the appointed day of the tour, the consumers learned that there was no tour scheduled and the booking agent had abscounded with their monies.

In this particular type of situation, certain persons were authorized by the travel agency to sell airline tickets to the consumer on behalf of the agency. Such persons functioned as "middlemen" between the agency and the ticket purchaser, receiving commissions on ticket sales accomplished. Your Committee was advised that such "middlemen" in actuality were operating as independent contractors rather than as agents of the travel agency.

Your Committee was further informed that many consumer complaints have been filed against local tour agencies for the overbooking of hotel accommodations, resulting in visitors being placed in hotels of inferior quality and suffering attendant inconveniences. Many local tour agencies handling mainland tour groups function as mere "agents" of another travel agency on the mainland. In cases of overbooking, misrepresentations made to the consumers may have been made by the "principal" mainland travel agency. One remedy may lie in holding local tour agencies accountable for the actions of the mainland travel agency which are detrimental to consumers.

Based on the number and nature of complaints filed against several local tour agencies, the Consumer Protector suggested legislation on the licensing or bonding, or both, of local tour agencies.

Representatives of the tour agency and sightseeing industries testified that most "reputable" firms are policed from within the industry and, to some extent, by the Public Utilities Commission and such organizations as the Air Travel Conference and the International Air Transport Association.

Your Committee acknowledges that existence and extent of certain unethical practices attributable to certain local tour agencies. Your Committee recognizes, however, that in any socio-economic system, there will always be that insignificant minority who would take advantage of the consumer's lack of knowlege and vulnerability. While the Baron tour group is a case in point, it cannot be concluded that such unethical practices are widespread within the tour agency industry, until the extend and severity of the problem can be documented and verified. Your Committee recognizes that excessive or unwarranted governmental regulation over any particular industry or business sector may have a retardant or detrimental effect on the general health and growth of the industry. Proper cause and justification should be demonstrated before government may intrude upon the conduct of certain business enterprises.

Presently, there are no statutory requirements of regulations, whether by licensing or bonding, governing the operations of local tour agencies.

IV. Problems Related to Newly Arrived Immigrants.

In recent years, the State of Hawaii has been experiencing a heavy influx of immigrants, principally from Pacific Basin countries. Recent statistics compiled by the Department of Planning and Economic Development indicate that Hawaii ranks twelfth among the states in the number of immigrants who come to the United States to live. Proportionately, there are more immigrants settling in Hawaii than in any other state. General unfamiliarity with the socio-economic and linguistic milieu in which newly arrived immigrants find themselves poses a variety of problems.

Understandably, a less than adequate comprehension of the English language contributes to the difficulties experienced by immigrants adjusting to the various challenges of the American scene. The Consumer Protector reported that the complaints received by his office from newly arrived immigrants primarily relate to the difficulties encountered with the language barrier. Many immigrants enter into contractual agreements without fully realizing the obligations and conditions expected. In citing examples, the Consumer Protector related that some immigrants enter into landlord/tenant agreements not knowing that the habitation of the dwelling is restricted to a single family,

and in many cases, more than one family would occupy the dwelling. The tenant, upon notification by the landlord that the rental agreement prohibits multi-family occupancy, would then contact the Office of Consumer Protection for assistance which cannot be rendered because of the provisions in the rental agreement. Another example offered is where many immigrants enter into retail contracts without realizing their monetary obligations; and, when default occurs, the personal property purchased by the immigrant is repossessed by the seller, to the detriment of the immigrant purchaser.

In attempting to alleviate part of the problem, the Consumer Protector reported that his office has produced consumer protection literature written in Samoan, Filipino (Ilocano) and Japanese and graphically illustrated in a comic strip format for public distribution.

The Director of the State Immigration Service Center testified that his office has assisted in the translation and distribution of consumer education materials and that the several immigrant service centers throughout the State have provided orientation programs on consumer protection.

The Consumer Protector alluded to a California statute which requires contracts to be drafted in languages of consumers who are not familiar with the English language, such as Spanish. Accordingly, the Consumer Protector suggested that legislation requiring that contractual agreements be drafted in the language of various immigrant groups might be of some assistance.

V. Monetary Limit of Small Claims Court.

Under existing law, the jurisdictional limitation for action in the small claims court is $300 with the exception of cases involving security deposits under the Landlord/Tenant Code and counterclaims under Section 633-30, Hawaii Revised Statutes. HRS Sec. 633-27 specifically provides that all district courts, when sitting as a small claims division of the district court, have jurisdiction over cases for the recovery of money where the amount claimed does not exceed $300 exclusive of interest and costs.

It is becoming increasingly common that most contracts, in particular, retail installment contracts, involve amounts in the range of $300-$1,000. When the recovery amount is more than $300, a person must seek remedy in district court and would normally have to hire an attorney and assume the attendant legal costs. Further, where the amount of the disputed claim is not much more than $300, there would probably be some reservation over suing in district court because the attorney's fee could easily constitute a substantial portion of the recovered amount, thereby discouraging the entire effort towards recovery.

In consideration of the aforementioned factors, the Consumer Protector recommended that the jurisdictional limitation of the small claims court be raised to $1,000. The Retail Merchants Association of Hawaii and the Chamber of Commerce of Hawaii, of which the former is an affiliate, concurred with the recommendation, though no specific monetary limit was suggested. A representative of the Legal Aid Society of Hawaii testified that their office handles a substantial number of cases where the recovery sought is between $300 to $1,000. Based on the number of persons who have sought the assistance of their office for such disputed claims, the recommendation that the small claims court monetary limitation be raised was supported.

As a related matter, the question of whether attorneys should be prohibited from practicing before the small claims court was also brought before your Committee. Present law restricts the jurisdiction of the small claims court to (a) cases for the recovery of money where the claim is $300 or less, (b) cases involving security deposits under the Landlord/Tenant Code irrespective of the amount sought, and (c) counterclaims under HRS Sec. 633-30. HRS Sec. 633-28 (b) authorizes a person to represent himself in small claims court and further prohibits attorneys from representing another person in cases involving tenancy security deposits before the small claims court. It was suggested to your Committee that the aforementioned prohibition against appearance of attorneys before the small claims court be extended to cases where the amount of recovery sought is $300 or less.

The argument behind this suggestion is based on the contention that consumers who hope to use the small claims court as a means of resolving disputed claims must necessarily retain legal counsel where he would, in all probability, be facing opposition and represented by an attorney and must consequently assume the attendant legal fees. Accordingly, the Consumer Protector recommended that attorneys be prohibited from

practicing before the small claims court so that consumers may present their own cases to the court without being confronted with professional opposition and thereby granting some semblance of parity to the consumer.

RECOMMENDATIONS

I. White Collar Crimes.

In recognizing that the Office of Consumer Protection is presently operating under certain statutory constraints which preclude the office from instituting proceedings before the courts or prosecuting criminal offenses, your Committee recommends that the Legislature consider legislation that would grant the Office of Consumer Protection prosecutorial powers to initiate criminal proceedings against business organizations and individuals who are engaged in unfair or deceptive business practices that amount to criminal fraud.

HRS Sec. 487-5(5) presently restricts the Consumer Protector to the investigatory and information-gathering aspects of suspected violations of laws related to consumer protection. Your Committee is aware that the Department of the Attorney General is statutorily empowered to prosecute cases involving violations of State laws and that the respective county attorneys are chartered to prosecute offenses against State laws under the authority of the Attorney General. Your Committee emphasizes that the proposal to give prosecutorial powers to the Consumer Protector relevant to offenses violating consumer interests does not usurp those prosecutorial powers inherent in the offices of the Attorney General and the county attorneys. Your Committee believes that the Office of Consumer Protection has the necessary expertise and priority concern which would allow expeditious prosecution of consumer-related crimes and still be consistent with the existing law enforcement structure.

II. Regulation of Soliciting by Charitable Organizations.

Existing law requires every charitable organization which has solicited funds within the State to file an audited balance sheet and income and expense statement for the preceding fiscal year with the Department of Regulatory Agencies. Your Committee, in considering the generous nature of the residents of Hawaii in making voluntary contributions, should be afforded a more accurate perspective as to what and where their contributions will be going and, therefore, endorses the concept of accountability to the prospective donor.

In this regard, your Committee recommends that legislation be considered which would require a system of financial reporting that would accurately reflect the intended spending rate of the charitable organization. Such a report would indicate how much an organization would expend on administrative expenses and service programs.

Your Committee feels that prospective contributors have a right to know how their contributions will be used and to expect the assistance promised without multiple layers of administrative overhead between the contribution and the service. Your Committee believes that full disclosure as to the distribution of funds prior to solicitation can be a significant factor influencing the disposition and inclination of those approached by fund raising charities towards making contributions. Your Committee feels that it is of the public interest that any organization which in the name of charity engages in unacceptable practices in fund raising or in allocating of the money collected be subjected to public disclosure to the greatest practical extent. This would help in protecting the public from contributing for something less than what was intended and in preserving the stature of those organizations which faithfully carry out their stewardships of publicly contributed funds.

III. Regulation of Local Tour Agencies.

Your Committee appreciates the testimony provided by the Consumer Protector on the number and type of complaints filed in his office by people who have been victimized by local tour agencies and acknowledges the suggestion offered by the Consumer Protector that legislation be introduced to have local tour agencies be licensed or bonded or both. Your Committee is also aware of other related suggestions requiring tour agencies to register with an appropriate government agency prior to entering into operation with preconditions such as financial competency, depositing of prescribed

collaterals and the assignment in tour agency offices of licensed travel representatives who have passed a government examination.

Your Committee recommends, however, that a more accurate estimation of the nature and extent of the problems that are prevalent in the general area of tour agencies doing business in the State must be made before any move is initiated towards establishing some degree of governmental regulation over the industry. Your Committee has requested the Consumer Protector to submit a comprehensive report on this problem area to the Legislature.

IV. Problems Related to Newly Arrived Immigrants.

Some of the problems experienced by many newly arrived immigrants focus on retail installment sales contracts and landlord/tenant agreements entered into without adequate comprehension and appreciation of the legal obligations and conditions attendant thereto.

With reference to the proposal suggested that contractual agreements be drafted in the language of the newly arrived immigrants, your Committee is aware that present law does allow a buyer to cancel a retail installment sales contract where the sale is made at a place other than the seller's business within a three-day period after the contract has been signed. It should be noted that this three-day "grace" period for cancelling a retail installment sale is applicable only to "house-to-house" sales.

Your Committee questions, however, whether printing the terms of a contract in the immigrant's "mother tongue" will, in fact, effectively cope with the problem. It is generally agreed that contracts, by their very nature, are complex and sometimes incomprehensible whether the reader be an immigrant or non-immigrant. Therefore, the utility of translating the terms of a contract into another language must be reasonably determined before such a requirement can be established.

Your Committee, therefore, recommends that an expanded and improved consumer education program coordinated by the Office of Consumer Protection with the cooperation of relevant State and county governmental agencies, is a more effective means of resolving some of the newly arrived immigrants' problems. Such a program could carry a major emphasis on consumer matters. A further proposal that could be considered by the Legislature is the creation and funding of positions within the Office of Consumer Protection for one or more investigators with bilingual or multilingual speaking abilities.

V. Monetary Limit of Small Claims Court.

Your Committee has found that the $300 jurisdictional limitation for action in the small claims court could be raised. Your Committee, however, believes that extensive study and review is necessary in order to determine an exact monetary ceiling.

Your Committee cautions that the Legislature, in considering the aforementioned recommendation, must be aware of a probable increase in administrative expenses that will be incurred by the Judiciary if such a ceiling increase is considered. In formulating a practical and reasonable monetary ceiling for small claims court jurisdiction, your Committee recommends that the Legislature adopt a resolution requesting the Judiciary to conduct a cost analysis study regarding the total and additional administrative expenses that will be incurred if the jurisdictional limitation of $300 for small claims court is raised to certain amounts in the $300 to $1,000 range.

In reference to the proposal suggesting that attorneys be prohibited from appearing in behalf of any person in the small claims court, your Committee has certain reservations as to whether any such amendment to HRS Sec. 633-28(b) would accomplish the intended purpose without placing the typical victimized consumer at an even greater disadvantage than may presently be the case. Under existing law, a consumer plaintiff seeking recovery in small claims court has the option of retaining legal counsel to represent him in his behalf where the seller-respondent will generally have retained an attorney. However, in considering the proposal of barring attorneys from practicing in small claims court, enactment of such legislation could result in a situation where the layman may be confronted with an adversary who, though being a non-lawyer, may possess specialized credentials, expertise and skills to give him an undue advantage over the inexperienced layman.

Such may be the case where a lending institution official, schooled and experienced

in the ways of seeking recovery on defaulting loans, would be a formidable opponent in open court against the average lay person. In referring to a courtroom situation where the adversaries are a lending institution official versus a laymen--both without counsel representation--your Committee wonders whether a lending institution official can, under existing law, rightfully appear in small claims court on behalf of himself or the lending institution employing him. Of note here is HRS Sec. 633-28(b) which states that the services of a non-lawyer appearing in small claims court shall be without compensation and that the rendering of such services with compensation constitutes the unlawful practice of law. Your Committee, therefore, feels that the suggestion that attorneys be prohibited from appearing in small claims court requires further examination in light of the problematic situations which may result.

CONCLUSION

The inquiry and review conducted by your Committee into the several major areas of concern to the consumer public, as defined by the Committee, disclosed the need for legislative action in certain areas and legislative caution and further review in other areas. Where recommended, appropriate legislation will be drafted for consideration by the Legislature during the 1975 Regular Session.

Signed by Representatives Yap, Cobb, Wakatsuki, Yamada, Carroll and Fong.

Spec. Com. Rep. 6

Public hearings concerning the twelve component projects of the PNP were held on January 13, 20, and 30, 1975. The testimony submitted was overwhelmingly in support of the projects.

Your Committee has reviewed the projects and in general, has found them responsive to the intent of the Act and to the communities they serve. Your Committee recommends that with the exception of the Model School Learning Centers, the PNP and its project components be continued through the 197577 biennium. Your Committee also recommends that the PNP administration be authorized two more staff positions.

It is also recommended that the Office of the Legislative Auditor be requested by concurrent resolution to make a comprehensive management audit of all component PNP projects and to report its findings to the Legislature ten days before the opening of the Second Session of the Eighth Legislature. This audit should include an assessment of how well PNP components, individually and in total, fulfill the intent of Act 299. The Auditor should also recommend overall alternative directions, and evaluation and research criteria to be considered by the PNP administration.

Your Committee's review of the PNP projects indicated a paucity of evaluative data. We also felt there was a need to redefine the goals and objectives of some of the projects. Therefore, the following recommendations relating to present operations are made:

a. The PNP administration should develop an evaluation and research component with the responsibility to recommend which projects be dropped, expanded and/or absorbed by an appropriate agency.

b. Plans should be made for all projects including specific dates for "spin-offs" to appropriate State agencies. Your Committee feels that "demonstration" projects are funded and implemented with the implicit assumption that they will be "spun off" if and when their utility is proven.

c. The PNP administration should consider recommending to the Legislature that project target populations be expanded. Your Committee feels that it is usually inequitable to limit services only to people residing in certain geographic areas.

d. Goals, objectives, and management practices of the Human Service Centers should be clarified to permit them to meet community needs more efficiently. All of the Centers have encountered difficulties in providing a team approach to social services. The PNP administration should consider providing the Service Centers with a budget to hire staff from State departments and private agencies. This would be similar to the approach mandated in the Quick Kokua program (HRS 362-82). Another alternative would be for PNP administrators

to negotiate with the line departments to "detach" their workers so that they would be completely under the administrative supervision of Human Service Center managers. These alternatives are recommended because of Center managers' present problems in supervising Center staff.

e. In planning future directions for delivery of State social services, PNP administrators should explore alternatives for those projects that do not fit into any existing agency's responsibility. Quick Kokua seems to epitomize this problem.

Your Committee recommends that the PNP administration submit specific proposals and plans to the Legislature based on the preceding recommendations by January 10, 1976.

Your Committee further recommends that our review be submitted to the House Committee on Finance to assist them in their budget consideration of the Progressive Neighborhoods Program.

Signed by Representatives Stanley, Peters, Machida, Naito, Segawa, Yamada, Amaral, Evans, Santos, Lee, Mizuguchi, Sakima, Takamine, Yuen, Clarke and Kamalii.

CONFERENCE COMMITTEE REPORTS

Conf. Com. Rep. No. 1 on H.B. No. 360

The purpose of this bill is to make clear that the Office of Consumer Protection may bring civil actions to enforce consumer protection laws and to enlarge the authority of that office.

Under the present law setting forth the functions, powers, and duties of the Office of Consumer Protection, that office is charged with enforcing laws enacted, and rules and regulations promulgated for the purpose of consumer protection but no specific mention is made as to its authority to enforce such laws, rules and regulations by filing civil court actions. This bill makes it clear that the Office of Consumer Protection has such authority.

The bill also deletes the requirement in the provision allowing the Office of Consumer Protection to contract with nonprofit organizations, that contracts may only be entered into with organizations which have been in existence for five years prior to June 3, 1974.

Your Committee has made the following amendments to H.B. No. 360, H.D. 1, S.D. 1:

(1) Deleted the proposed new provision which would authorize the Office of Consumer Protection to obtain restitution for consumers. This was deleted because your Committee is of the opinion that the proposed provision is overly broad and H.B. No. 1209, which is presently being considered by the Senate, provides for restitution in certain circumstances.

(2) Deleted the proposed provision authorizing the Office of Consumer Protection to conduct arbitration hearings in disputes involving the interests of consumers. Your Committee believes that because the Office of Consumer Protection brings actions for alleged unfair or deceptive business practices, there is some question as to the appropriateness of allowing that office to function as an arbitrator in disputes involving businesses and consumers. Further study should be made in this area and your Committee recommends that if Senate Concurrent Resolution No. 128 is adopted by both Houses, that the question of arbitration be taken up as a part of the study of the operations of the Office of Consumer Protection called for in the Resolution.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 360, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 360, H.D. 1, S.D. 1, C.D. 1.

Representatives Yamada, Yap, Cobb, Naito, Carroll and Sutton,
Managers on the part of the House.

Senators Kuroda, Kawasaki and Leopold,
Managers on the part of the Senate.

Conf. Com. Rep. No. 2 on S.B. No. 1215

The purpose of this bill is to establish and specify the role of an organization to be designated by the Governor as the Metropolitan Planning Organization of each county with a population of 200,000 or more.

This organization will be primarily an advisory body to the Legislature and the legislative body of the appropriate County in affairs involving the continuous, comprehensive, cooperative, urban transportation planning for that county. The MPO shall develop through continuing cooperative input from the State and county planning agencies a short and long range transportation plan for the county and will receive certain funds for the purpose of carrying out continuing, comprehensive, cooperative, urban transportation planning as allowed by federal law.

Oahu does not now have a planning organization which meets federal law requirements due to the impasse which exists between various members of the present organization, the Oahu Transportation Planning Program. As a result, the Federal

Highway Administration and UMTA have decertified Oahu transportation programs for future federal funding.

In order to become recertified it is mandatory that a metropolitan planning organization be established by the State as soon as possible. Loss of all federal planning and construction funds for transportation may continue until that time.

A key problem facing your conference committee was the composition of the policy board of the proposed MPO.

Mr. George Akahane, Chairman of the Council of the City and County of Honolulu, participated in the conference committee with your other conferees in order to obtain direct input from the City and County of Honolulu concerning the proposed Oahu MPO.

Unlike many mainland states, Hawaii has only one urbanized area, the City and County of Honolulu, and more importantly, the urbanized areas comprise the greater part of the State of Hawaii. For example, as of July 1, 1973, about 678,262 or about 81 percent of the total population of the State of Hawaii resides on Oahu. It is unlikely that any other state has this extreme concentration of population in a single urbanized area.

In the area of governmental structure, Hawaii's unlike other states' structures, consists of only two levels, county and state. More importantly, in Hawaii, the State government functions as a general purpose government having responsibility for such normally local government programs as public education, health, welfare and judiciary. This unique situation is borne out by the fact that in Fiscal Year 1973, the State government provided approximately 81 percent of the total State and county expenditures for Hawaii compared to a national average of about 37 percent.

More specifically, in the transportation area, the State has programmed about $149 million in new highway facilities for Oahu in Fiscal Year 1976 as compared to about $31 million by the City and County of Honolulu.

As a result, the MPO must reflect the unique situation prevailing in Hawaii. It must also be designed to prevent the type of situation which led to the decertification of the OTPP; it must be accessible and accountable to the public; and it must provide for public input.

Your Conference Committee has amended the bill to provide for a metropolitan planning organization which would adequately reflect the unique government structure in Hawaii.

The Policy Committee of the Metropolitan Planning Organization will consist of nine City Councilmen, together with five Senators from the county in question as appointed by the President of the Senate, and five Representatives of that county as appointed by the Speaker of the House.

For Oahu, the OTPP staff will continue as the staff for the Oahu MPO.

In order to achieve maximum participation from members of the MPO Policy Committee, it was decided by your Conference Committee that at least six Legislators and at least five Councilmen be present for all decision-making sessions of the MPO, and that all decisions would have to be by majority vote of all members of the MPO Policy Committee, or ten out of nineteen.

Your Conference Committee has determined that the MPO established by this bill would be an advisory body only in that the sovereign power of the State for ultimate decision-making in transportation planning will be retained by the legislative body of the State and county and by the executives of each. However, the MPO will function as a coordinating, planning body receiving from the appropriate State and city agencies, necessary input to develop a short-range six-year transportation plan and also a long-range multi-modal master transportation plan for that county.

The State Department of Planning and Economic Development has been designated as the State A-95 clearinghouse agency for OMB, and on Oahu, the City Department of Planning has been designated as the A-95 agency for Oahu. It is anticipated that there will be an agreement reached between the City A-95 agency and the MPO concerning the functions which each will serve in short and long range planning, and which areas each will cover in their various plans. If the City Department of Planning,

as the Oahu A-95 agency, does not enter into such an agreement, serious consideration should be given by the Governor toward appointing another agency as the A-95 agency for Oahu.

It is anticipated that the Governor will terminate the State's agreement with the Mayor of the City and County of Honolulu which designates the Oahu Transportation Planning Program, or OTPP, the metropolitan planning organization for Oahu, since the MPO established by this bill, is intended to supersede the OTPP and to begin to utilize the OTPP staff from the effective date of this bill.

Your Conference Committee feels that the MPO may need a lay advisory body, particularly in areas requiring advanced technical competency or expertise not generally found in either the MPO Policy Committee or the MPO staff. Therefore, it is the intent of your Conference Committee that should such an advisory body be deemed necessary, it shall be formed.

Your Committee has deleted the severability clause, section 12 of the bill.

Your Committee on Conference is in accord with the intent and purposes of S.B. No. 1215, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1215, S.D. 1, H.D. 1, C.D. 1.

Representatives Cayetano, Kondo, Takamura and Ajifu,
Managers on the part of the House.

Senators O'Connor, Ching and Rohlfing,
Managers on the part of the Senate.

Conf. Com. Rep. No. 3 on S.B. No. 92

The purpose of this bill is to amend Hawaii's Residential Landlord-Tenant Code.

This bill amends Chapter 521, Hawaii Revised Statutes, in the following manner:

1. A new subsection is added to section 521-43 which would require a landlord or owner who resides outside the state or on another island from where the unit is located, to designate on the written rental agreement, an agent residing on the same island to act in his behalf. This would assure the tenant that he will be able to deal with someone on the same island; it will facilitate the return of the security deposit upon termination of the agreement; and it will provide for quick response for repair or maintenance of the rental unit.

2. Section 521-64 is amended to expedite the procedures regarding the tenant's remedy of repair and deduction for minor repairs. Under the present law, a defect in the unit which endangers health or safety or is in violation of the rental agreement, may be repaired by the tenant in the event that the landlord takes no action within twenty days after receiving notice of the defect. This provision applies to repairs under $100.

In cases which involve repairs over $100, the tenant must ask the Department of Health to inspect the premises to determine if a health violation exists and if so determined, the landlord must repair the defect within twenty days of receiving notification by the Department. In the event that the landlord fails to remedy the defect within twenty days, the tenant must get two estimates for the necessary work and present them to the landlord twenty days before allowing the work to be commenced. The tenant can deduct up to $100 from his rent to cover the cost of the repairs or if the repairs exceed $100, he can deduct up to one month's rent.

This bill, in the form proposed by the Senate, reduces the amount of time in which the landlord must make repairs after receiving notification that a health violation exists, to five business days. Also, the tenant could allow work to commence five business days after giving the estimates to the landlord and the $100 limit used throughout this section was raised to $200.

The House amended this bill by also reducing, from twenty to ten business days, the amount of time in which the landlord must repair, maintain, keep in sanitary condition, or as agreed to in the rental agreement. The Senate proposal regarding the waiting period after giving the estimate was increased from five business days

to ten business days.

Your Conference Committee amended the bill increasing the ten business days permitted to repair, maintain, or keep fit, to twelve business days. The intent of your Committee is to allow the landlord at least two full weeks, including weekends, to remedy the defect.

The ten business day waiting period was reduced to five business days.

These changes are proposed to expedite the repair of conditions which are found to be in noncompliance with health and other provisions.

The increase from $100 to $200 is being proposed because of the increasing costs of repair and service.

3. Section 521-71, regarding termination of tenancy and landlord's remedies for holdover tenants, is amended by adding subsection (a) a provision requiring 90 days notice of termination by the landlord in the case of demolition proceedings.

Presently, the landlord need only give 28 days notice of termination; however, demolition of dwellings, especially buildings with a large number of units, causes a temporary swelling of the number of people in the market who are seeking new rental units.

This change will provide these tenants who are usually low income or elderly, adequate time to re-settle. Your Committee re-worded the proposal to clarify its intent.

4. New provisions are added to section 521-73(c) which would permit the circuit court judge who hears a motion to temporarily restrain a landlord's unreasonable entry to impose a fine of not more than $100. Presently, an injunction by the court will permit the tenant to terminate the rental agreement. The fine provision would offer another recourse in the event that the tenant wanted to continue the agreement.

5. The provisions of section 521-74 are expanded by prohibiting the landlord from evicting or raising the rent of a tenant who has complained in good faith to the landlord, building department, Office of Consumer Protection, or any other governmental agency. Presently, the landlord is prohibited from raising the rent or evicting a tenant who has complained to the Department of Health. This section is expanded because there exists other problems not restricted to health which could lead to these actions following a dispute between the landlord and tenant.

Section 521-74(b)(2) is amended by adding the words, "or that of his immediate family", after the present subsection which permits the landlord to recover possession of the unit if he seeks the dwelling in good faith for his own purposes. This change is being proposed so that the landlord can recover the unit for his family members without it being considered a retaliatory eviction.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 92, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 92, S.D. 2, H.D. 1, C.D. 1.

Representatives Yamada, Stanley, Yap and Medeiros,
Managers on the part of the House.

Senators Kuroda, Nishimura and Saiki,
Managers on the part of the Senate.

Conf. Com. Rep. No. 4 on H.B. No. 336

The purpose of this bill is to increase the maximum liability of hotels for the loss or theft of property placed in their custody by hotel guests.

Liability for items placed in a hotel's safe is increased from $250 to $500 provided that the hotel gives the guest a receipt which states in large noticeable type that the hotel will not be liable for loss exceeding $500. The liability for the loss of personal property intrusted to the hotel or lost through the hotel's negligence is increased from $50 to $500. Further, the maximum amount of liability may be in excess of $500

if there is a special agreement in writing made with the innkeeper.

Your Committee, upon further consideration, has made the following amendments to H.B. No. 336, H.D. 1, S.D. 2:

(1) For valuables intrusted to a hotel safe, added an additional disclosure to the receipt required to limit the hotel's liability to $500. The additional disclosure informs the guest that the hotel may accept liability for losses in excess of $500 by a written agreement with the guest.

(2) Clarified the language allowing a hotel to accept responsibility for losses in excess of $500 by a written contract.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 336, H.D. 1, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 336, H.D. 1, S.D. 2, C.D. 1.

Representatives Yap, Lee, Naito and Hakoda,
Managers on the part of the House.

Senators Nishimura, Hara, Kuroda and Leopold,
Managers on the part of the Senate.

Conf. Com. Rep. No. 5 on H.B. No. 363

The purpose of this bill is to require travel agencies and sales representatives to be licensed in order to act as intermediaries between a person seeking to purchase travel services and any person seeking to sell travel services.

Presently there is no law regulating travel agencies and, consequently, there have been abuses in relation to the misrepresentation of tours as well as the nonperformance of services. Because travel services may entail large expenses, and because even a relatively minor trip can represent years of planning and careful savings, the potential for harm to consumers is great. This bill is designed to curb some of the possible abuses.

Upon further consideration, your Committee has amended H.B. No. 363, H.D. 1, S.D. 2, by:

(1) Deleting the registration requirement for officially appointed agencies of air or ocean carriers.

(2) Providing for biennial rather than annual renewal of licenses to conform with the biennial renewal system for licenses proposed by H.B. No. 1873, H.D. 1, S.D. 1. There will be no loss of revenues as the annual renewal fees have been doubled.

(3) Deleting the appropriation provided for in the bill. This was done because the workload on the Department of Regulatory Agencies will be reduced by the deletion of the registration requirement for officially appointed agencies of air and water carriers, and the department should be able to provide the necessary services within existing appropriations.

(4) Making minor changes relating to form which have no substantive effect.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 363, H.D. 1, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 363, H.D. 1, S.D. 2, C.D. 1.

Representatives Yamada, Cayetano, Yap and Sutton,
Managers on the part of the House.

Senators Nishimura, Kuroda and Saiki,
Managers on the part of the Senate.

Conf. Com. Rep. No. 6 on H.B. No. 851

The purpose of this bill is to amend the provisions of the Collection Agency Law,

Section 443-9, Hawaii Revised Statutes, to require that the sureties on bonds executed by an applicant or licenses be insurers authorized by the State Insurance Commissioner to engage in the insurance business.

Under existing law, a corporate collection agency may be a self-insured agency by presenting a certified financial statement to the Collection Agency Board. The surety need not be authorized to engage in the insurance business provided it has presented the certified statement to the Board.

Your Committee finds that the rights of clients of collection agencies will be better protected if collection agencies are bonded only by an authorized surety bonding company.

Upon consideration of this measure, your Committee has amended H.B. No. 851, H.D. 1, S.D. 1, by:

(1) Deleting the last sentence on page 2. The sentence is no longer ncessary. as the bill provides that a bond may only be obtained from a surety insurer authorized by the State Insurance Commissioner to transact business in this State, and subsection (c) provides that the form of the bond shall be set by the Board.

(2) Deleting the words "commissioner of the collection agencies" and the word "commissioner" where they appear on page 2 of the bill and substituting therefor the word "board". The changes conform to Act 189, Session Laws of Hawaii 1970, which changed the regulatory format from an advisory board and a commissioner of collection agencies to a board with full powers to regulate collection agencies.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 851, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 851, H.D. 1, S.D. 1, C.D. 1.

Representatives Yap, Takamine, Uechi and Hakoda,
Managers on the part of the House.

Senators Nishimura, O'Connor and George,
Managers on the part of the Senate.

Conf. Com. Rep. No. 7 on H.B. No. 1874

The purpose of this bill is to assist consumers who are faced with "double-pay" situations in dealings with licensed contractors for home improvements.

Presently, some homeowners who have hired and paid a contractor are faced with a mechanic's or materialmen's lien against their property because of the contractors failure to pay subcontractors, employees, or suppliers. Under existing law, they can apply for reimbursement from the Contractors Recovery Fund but only after an exhaustive, time-consuming, and often costly legal procedure. This bill would ease the access to the Contractors Recovery Fund for homeowners caught in this situation and make it simpler for the Contractors Recovery Fund to then proceed against the defaulting contractor.

This bill also replaces references to "licensee" with "licensed contractor" in the provisions of the fund to limit recovery to acts of the contractor rather than each employee who may also be licensed. Some contractors have a number of their employees licensed and it would be wrong to multiply his liability by the number of his employees who are licensed. The fund was established to protect consumers from the wrongful acts of contractors regardless of how many of their employees are also licensed.

Most homeowners become involved in "double-pay" situations because they have little or no knowledge of lien rights or the consumers option to demand bonding on the project. The bill requires contractors to disclose and inform the consumers of lien rights and bonding option. If the consumer knows ahead of time what his options and responsibilities are, it may reduce the number of liens and subsequent claims against the fund.

Your Committee has amended H.B. No. 1874, H.D. 1, S.D. 1, by adding a new Section 6 providing that the Act shall take effect upon its approval.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1874, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1874, H.D. 1, S.D. 1, C.D. 1.

Representatives Uechi, Stanley, Takamine and Fong,
Managers on the part of the House.

Senators Nishimura, Kuroda and Leopold,
Managers on the part of the Senate.

Conf. Com. Rep. No. 8 on S.B. No. 1046

The purpose of this bill is to require the Department of Social Services and Housing to pay usual and customary fees of dentists up to the maximum which federal rules permit the Department to pay.

Currently, the Department pays 75% of usual and customary fees up to the seventy-fifth percentile of fees charged by all dentists. If medical assistance payments exceed the seventy-fifth percentile, then the Department will lose federal matching funds available under Title XIX of the Social Security Act.

Your Committee has amended the bill by retitling the new section of the Hawaii Revised Statutes. Your Committee has also deleted the sentence in the bill which specified that the Department and the Hawaii Dental Association jointly review the schedule of maximum fees which the Department can pay. Your Committee desires that this be done, but your Committee feels that it is inappropriate to refer to the Hawaii Dental Association in statute.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1046, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1046, S.D. 1, H.D. 1, C.D. 1.

Representatives Stanley, Machida, Peters, Sakima, Segawa,
Yamada, Clarke, Evans and Kamalii,
Managers on the part of the House.

Senators Toyofuku, Taira and Henderson,
Managers on the part of the Senate.

Conf. Com. Rep. No. 9 on S.B. No. 959

The purpose of this bill is to amend Chapter 417E, Hawaii Revised Statutes, relating to take-over bid disclosures, to correct certain defects, to eliminate ambiguities, and to add three exemptions to registration of take-over bids.

The bill would amend Chapter 417E as follows:

(1) Section 1 of the bill amends Section 417E-1(7) to clarify the definition of "take-over bid" by deleting the undefined words "tender offer" and "request or invitation for tenders", and substituting clearer language taken from the Virginia take-over bid statute. The term "shares or other units" is used because "equity security" is defined in terms not only of stock but also of convertibles, warrants, and rights.

(2) Section 2 of the bill amends the definition of "exempt offer" in Section 417E-1(8) so as to broaden such exemptions.

Section 417E-1(8) presently provides that an offer made by a corporation to purchase shares of a subsidiary at least fifty-one per cent of which is owned by the parent is an exempt offer. The change made by this bill would expand the definition to apply where at least fifty-one per cent of the voting stock of a subsidiary is owned "directly or indirectly".

Further, Section 417E-1(8) presently provides that an offer to acquire shares of a corporation with less than 100 shareholders and $1,000,000 in assets is an exempt offer. The proposed change breaks this into two parts, so that an offer to acquire shares of a corporation with less than 100 shareholders is an exempt offer and an offer to acquire shares of a corporation with less than $1,000,000 of assets is also

an exempt offer.

Section 2 of the bill as originally drafted was amended by the deletion of three completely new definitions of exempt offers. The following are the deleted exemptions:

(a) An exemption was provided for in connection with offers to purchase shares effected by a registered broker-dealer on a stock exchange or on the over-the-counter market if the broker performs only customary functions and receives no more than customary broker commissions and the broker-dealer neither solicits nor arranges to solicit shares or offers to sell shares of the offeree company. Section 417E-1(8) of the existing law provides that an isolated offer to purchase shares from individual shareholders and not made to shareholders generally is an exempt offer. This exemption permits customary and usual trading transactions. Accordingly, this exemption was deleted because it was deemed unnecessary in view of the "isolated offer" exemption.

(b) An exemption was provided for situations where the board of directors of the offeree company consents to the offer. Since the purpose of the statute is to provide appropriate disclosure for the benefit of the stockholders, this exemption was deleted.

(c) An exemption was provided for where an equity security is exchanged for another security if the offered security is registered under the Securities Act of 1933 or the Hawaii Blue Sky Law (Chapter 485, Hawaii Revised Statutes). This exemption was deleted because it was felt that the purpose of the take-over bid statute is to provide for disclosure and that disclosure should be made regardless of whether cash or securities are used to effect a take-over bid. Further, registration under the Securities Act of 1933, or under the Hawaii Blue Sky Law, would not in either case insure the disclosure of the information required by the present take-over bid statute. Moreover, the present take-over bid statute provides for a hearing at the request of the offeree company and authorizes the Commissioner of Securities to determine whether or not the take-over bid is fair and equitable to offerees and is made on substantial equal terms to all stockholders.

(3) Section 3 of the bill amends Section 417E-1 by adding a definition of "offeror's presently owned shares", a term used in the definition of "take-over bid", as amended by this bill. The present statute does not appear to include an offeror's associates' shares in the ten per cent measure used to determine whether an offer is a take-over bid, and the proposed definition would cause such shares to be counted. This provision eliminates an opportunity to evade the provisions of the statute by not counting associates' shares or those to be purchased at a later date.

In order to be consistent with the change to the definition of "take-over bid", the phrase, "offeror's presently owned shares", was changed to "offeror's presently owned shares or other units" and the phrase, "aggregate number of shares", was changed to "aggregate number of shares or other units".

(4) Section 4 of the bill amends Section 417E-3(c) to require the application for registration to include the name and address of the offeror company and the aggregate consideration the offeror may be bound to pay. Further, a new clause is added to require that the application include a statement as to whether any other filings have been made under federal or State laws and, if so, that copies of such filings accompany the application. This requirement would allow the Commissioner of Securities to coordinate his review with other governmental agencies.

(5) Section 5 of the bill amends Section 417E-3(e) to correct an error in the law as enacted where the word "offeree" was used when "offeror" was intended. Further, the minimum and maximum registration is set at $200 and $1,000, respectively.

(6) Section 6 of the bill amends Section 417E-9(c) by deleting from the civil remedies section the provision which would permit an offeror who acquired shares in violation of the statute but who no longer owned the shares concerned to bar any suit by an offeree by offering "to pay damages". Just what form such an offer would take is not clear, but it is possible that, under the present statute, an offeror could sell or give away the shares acquired in violation of the law, immediately offer a minimum amount in damages to each offeree, and thereby insulate himself from suit. The proposed change to the law would eliminate this possibility.

(7) Section 7 of the bill amends Section 417E-12 by providing that appeals from

the decision of the Commissioner of Securities shall be confined to the record rather than be a trial de novo. This will avoid a duplication of the hearing held by the Commissioner.

Your Committee, upon further consideration, amended S.B. No. 959, H.D. 1, by adding the words, "of equity security", at page 2, line 7 of the bill.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 959, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 959, H.D. 1, C.D. 1.

Representatives Yamada, Yap, Cayetano and Sutton,
Managers on the part of the House.

Senators Nishimura, Chong and George,
Managers on the part of the Senate.

Conf. Com. Rep. No. 10 on S.B. No. 1050

The purpose of this bill is to protect retail gasoline dealers from arbitrary and unreasonable termination of their franchise agreements with petroleum distributors.

This bill would provide protection to retail gasoline dealers when dealing with large petroleum distributors by adding a new chapter to the Hawaii Revised Statutes governing the termination, cancellation, or nonrenewal of gasoline dealer franchise agreements. Under the bill, retail gasoline dealers are given a cause of action against petroleum distributors for wrongful or illegal termination or cancellation of the franchise agreement or unreasonable refusal to renew the franchise.

Your Committee upon further consideration has made the following amendments to S.B. No. 1050, S.D. 1, H.D. 1:

(1) The words "and provisions" were added to Sec. -2(c)(2).

(2) Technical changes were made to Sec. -3 for purposes of clarity.

Your Committee on Conference is in accord with the intent and purposes of S.B. No. 1050, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1050, S.D. 1, H.D. 1, C.D. 1.

Representatives Yamada, Roehrig, Uechi and Medeiros,
Managers on the part of the House.

Senators Nishimura, O'Connor and Saiki,
Managers on the part of the Senate.

Conf. Com. Rep. No. 11 on S.B. No. 1628

The purpose of this bill is to provide for coordination of services for the developmentally disabled by placing the Developmental Disabilities Council, referred to as the State Council, in the Office of the Governor with responsibilities for planning, reviewing, and monitoring plans prepared by the various departments of the State on behalf of the developmentally disabled. Provisions are also made for coordinating programs of the various departments and private agencies to assure efficient use of funds, non-duplication of services and specific areas of responsibility, and for evaluation of programs.

Your Committee finds that this bill gives the Developmental Disabilities Council official status by statute. This bill also gives the Council sufficient stature to provide monitoring, evaluation of existing services, and planning for new community services. Most important, this bill provides for the Council to coordinate activities on behalf of the developmentally disabled in the various departments and private agencies, and ensures their participation in the activities of the Council.

Your Committee further finds that the placement of the State Council in the Office of the Governor, instead of the Department of Health, would give it a more independent role in establishing goals and priorities for planning and funding programs. This

independence, in turn, could make the body more efficient in its job of advocating and evaluating services for the developmentally disabled.

Your Committee upon further consideration has made the following amendments to S.B. No. 1628, S.D. 1, H.D. 1:

(1) The findings have been amended to identify the present location of the council.

(2) A new section 2 has been added to the bill, defining "developmental disabilities".

(3) Section 3(1)(A) has been amended to make the required plan comprehensive in scope, consistent with federal requirements. The plan is given effect upon the approval of the governor, and a goal consistent with the achievement of normalization of the lives of the developmentally disabled has been included, in keeping with the mandate for a comprehensive plan.

(4) Section 3(1)(B) has been amended so that the implementation process can be monitored, for the monitoring of the plans themselves alone is otherwise meaningless.

(5) Section 3(2)(B) has been amended to encourage the coordinated usage of resources, as coordination is a key consideration of federal requirements. Further, private resources use in specified or desired ways may be encouraged, but not necessarily assured.

(6) Section 3(3)(A) has been amended, so that monitor and evaluation functions will encompass the implementation process, as evaluation of plans would be preliminary to approval of plans, which the section mandates as a duty of the council.

(7) Section 3(3)(B) has been amended to qualify the monitoring duty of the council to projects relating to developmental disabilities.

(8) Section 3(3)(C) has been amended to provide that services to be received will be at least equal to that previously expected, so that extent of services offered will not be unduly restricted.

(9) Two new paragraphs have been added, to set up an annual report function, so that the State can be apprised of the work of the council, and so that the required and requested reports of HEW will be prepared and submitted. Other necessary reports are also provided for.

(10) The appointment provisions have been amended to conform to statutory requirements, in addition to staggered terms to ensure continuity.

(11) Membership of the council has been amended to include possibility of appointment of guardians of developmentally disabled persons, in addition to the individuals and their parents.

(12) The appointment of an executive secretary has been made permissive, since there is no guarantee of funds availability for the council. It has been provided that the executive secretary and staff shall be subject to civil service.

(13) Three new sections have been added, to provide for the proper transfer of employees, equipments, function, authority, contracts, funds, and similar items, so that these will transfer with the council.

(14) Miscellaneous style and technical changes have been made.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1628, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1628, S.D. 1, H.D. 1, C.D. 1.

Representatives Segawa, Sakima, Stanley, Takamine,
Evans and Santos,
Managers on the part of the House.

Senators Chong, Nishimura and Henderson,
Managers on the part of the Senate.

Conf. Com. Rep. No. 12 on H.B. No. 91 (Majority)

The purpose of the bill is to provide for a comprehensive historic preservation program through the development of a coordinated system, which would promote the use and conservation of historic property for the education, inspiration, pleasure and enrichment of the citizens of the State.

Under this bill, the roles and responsibilities in the historic preservation program would be clarified. The Department of Land and Natural Resources is designated as the lead agency for the State's historic preservation program. To strengthen the program, a separate position of State preservation officer has been established to be responsible for the comprehensive historic preservation program and act as the State liaison officer for the conduct of relations with the federal government and other states.

In addition, provisions relating to historic property found on State land, designation of property for the National Register of Historic Sites and the Hawaii Register of Historic Places, preservation activities and procedures have been delineated to allow for the greatest amount of participation by all those concerned with historic preservation.

Counties have been included in the total statewide historic preservation program through authorization to establish county historic preservation commissions.

In addition, a forum for settling issues involving possible conflicts between projects has been provided through the creation of the Hawaii Advisory Council on Historic Preservation.

Your Committee, upon further consideration, has made the following amendments to H.B. 91, H.D. 2, S.D. 1:

(1) The amount of an appropriation for a public project which may be allocated for historic preservation purposes has been amended fron one-half of one percent to one percent.

(2) In order to provide the most effective atmosphere for the development of the multicultural program, the program has been transferred from the Hawaii Foundation for History and Humanities to the Ethnic Studies Program of the University of Hawaii. Appropriate transitional provisions have been added, including the transfer of personnel, equipment and monies to effect an orderly transition.

(3) Under the bill, there existed ambiguities concerning the status and transfer of the employees of the Hawaii Foundation for History and Humanities. Provisions for the proper transfer of such personnel to the reconstituted Hawaii Foundation for History and Humanities have been added.

(4) Other technical changes involving terminology have been made to maintain consistency throughout the bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. 91, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 91, H.D. 2, S.D. 1, C.D. 1.

Representatives Kawakami, Ho and Larsen,
Managers on the part of the House.

Senators King, Hara and George,
Managers on the part of the Senate.

Senator Hara did not concur.

Conf. Com. Rep. No. 13 on H.B. No. 282

The purpose of this bill is to require the Department of Land and Natural Resources to submit to the Legislature a resolution for review of action on any public land exchange twenty days prior to the start of any regular or special session.

Section 171-50(c) presently provides that any exchange of public land for private land shall be subject to disapproval by the Legislature by two-thirds vote of either the Senate or House or by majority vote of both in any regular or special session next following the date of exchange. Under the present system, exchanges are posted to the Legislature each session. If the Legislature does not specifically disapprove an exchange (by appropriate resolution), the exchange stands approved when the session ends. No action by the Legislature means approval. Thus, it is necessary to introduce a resolution only when disapproval is sought.

This bill will in effect give notice by means of a resolution to the Legislature that a land exchange has been undertaken by the Land Department. Your Committee feels that without the resolution, the land exchange matter may get lost in the "shuffle" during the session.

Your Committee has amended section 2 of the bill to clarify the language of the bill and to provide flexibility in land exchange.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 282, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 282, H.D. 1, S.D. 1, C.D. 1.

Representatives Kawakami, Ho, Uechi, Morioka, Larsen and Ajifu,
Managers on the part of the House.

Senators Wong, Hara and Henderson,
Managers on the part of the Senate.

Conf. Com. Rep. No. 14 on H.B. No. 430

The purpose of this bill is to make parents liable for welfare payments by the State to or for the benefit of their children. The Department of Social Services and Housing is subrogated to the right to bring support actions against parents to recover welfare payments. If parents are included in such payments, then they do not incur an obligation to repay the Department. When a family court order specifies parental obligations, parents are only responsible for payments specified in the court order.

Your Committee has amended the purpose of this bill to provide for the recovery of welfare payments from the estate of a welfare recipient who dies and does not have a surviving spouse, child, father, mother, grandfather, grandmother, grandchild, stepfather, stepmother, or any designated heir. When third party liability exists for medical payments on behalf of recipients of medical assistance, the Department of Social Services and Housing is directed to require an assignment of third party payments.

This bill will meet federal requirements that states must establish child support units in order to qualify for federal matching funds for AFDC payments. Other states have been very successful in reducing welfare costs by aggressively pursuing non-support claims against parents.

Your Committee has amended the bill by granting broad authority to pursue non-support claims to the State Attorney General. This authority includes non-support claims on behalf of both welfare and non-welfare children and in child support cases involving desertion or divorce. Your Committee feels that there is a need to provide such services on behalf of all children. Federal funds will be available to subsidize the cost of child support services. While federal rules are not yet finalized, they probably will require that non-welfare families bear some of the cost of such services.

Your Committee has amended the purpose of the bill in order to permit the State to recover welfare payments from the estate of a recipient who dies and does not have a designated heir or a surviving member of his immediate family. Your Committee feels that indigent families will be better able to break the cycle of poverty if they can pass on their family homes. Your Committee also recognizes that hanai family members should have a right to inherit family kuleanas, if they are designated as an heir.

Your Committee has specified the obligation of recipients of medical assistance to assign payments by responsible third parties at the direction of the Department

of Social Services and Housing.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 430, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 430, H.D. 1, S.D. 1, C.D. 1.

Representatives Stanley, Naito, Roehrig and Kamalii,
Managers on the part of the House.

Senators Nishimura, Chong, Toyofuku and Leopold,
Managers on the part of the Senate.

Conf. Com. Rep. No. 15 on H.B. No. 1742

The purpose of this bill is to create a new chapter in the Hawaii Revised Statutes to alleviate the effects of the high rate of unemployment. The bill provides for State-funded training subsidies for certain employers, similar to the federal CETA program. It also provides for low interest State loans to employers who train and permanently hire unemployed persons.

Your Committee has amended the bill by deleting Section 2, sub-paragraphs (1) and (2), on pages 8 and 9, relating to the college work-study program and the State Student Incentive Grant Program. Your Committee finds the nature and operations of these programs to be incompatible with the title of the bill. Also, the subsequent sections have been renumbered accordingly.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1742, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1742, H.D. 1, S.D. 1, C.D. 1.

Representatives Lee, Takamine, Peters, Yuen, Fong,
Santos, Akizaki, Ajifu and Kihano,
Managers on the part of the House.

Senators Wong, Toyofuku and Anderson,
Managers on the part of the Senate,

Conf. Com. Rep. No. 16 on H.B. No. 850

The purpose of this bill is to amend Chapter 294, Hawaii Revised Statutes, the No-Fault Automobile Insurance Law.

The bill makes the following changes to Chapter 294:

(1) Section 294-2 Definitions.

Motor Vehicle

The phrase "of a type" is inserted in the definition of motor vehicle to be consistent with endorsements and avoid gaps in out-of-State coverage. The present definition of motor vehicle means any motor vehicle required to be registered under Chapter 286; i.e., the motor vehicle must be registered in this State. Section 294-3 (b), pertaining to out-of-state coverage, refers to "accidental harm arising out of the operation, maintenance, or use of a motor vehicle." This could be construed to mean that in order to receive no-fault benefits while driving out-of-state, the motor vehicle involved must be registered in this State. Therefore, if the insured were driving out-of-state and not operating a vehicle registered in this State at the time of the accident, the section could be construed to mean that he does not qualify for no-fault benefits. To eliminate this possibility and provide the insured with out-of-state coverage, the definition of motor vehicle should not be limited to only those vehicles registered in this State. Clearly, no-fault coverage should be afforded an insured who drives a motor vehicle other than his own outside of Hawaii.

(2) Section 294-3 Right to No-Fault Benefits.

Maximum Limit of No-Fault Benefits

Subsection (c) defines the total no-fault benefits payable per person or to his survivor. As presently written, the provisions can be interpreted to mean that separate $15,000 limits apply individually to the injured person and to his survivor, such that the maximum limit of no-fault benefits might be interpreted to be $30,000. The indicated amendment clarifies that the $15,000 limit applies to each person, inclusive of his survivors in the event of his death.

(3) Section 294-4 Obligation to Pay No-Fault Benefits.

Pedestrians

Subsections (1)(A) and (B) provide that a pedestrian must be struck by a vehicle to be eligible for no-fault benefits. The amendment to these subsections expands the term "pedestrian" to include a bicyclist. This is primarily a technical change for clarity, since the practice to date has been to consider a bicyclist to be a pedestrian for purposes of applying the no-fault law and benefits. The law presently requires that an injured pedestrian be "struck by" a motor vehicle in order to obtain no-fault benefits. There is nothing in the law which covers injury to a pedestrian in an accident which might be caused by a motor vehicle, but in which there is no physical contact between the pedestrian and the vehicle. The situation in which the injured pedestrian strikes the vehicle is also not covered. In the latter two cases, these pedestrians might be denied no-fault benefits. The amendments to these subsections, therefore, expand the present law by providing benefits to injured pedestrians through the mere involvement (operation, maintenance or use) of a motor vehicle.

(4) Section 294-6 Abolition of Tort Liability.

Subsections (a)(1), (2) and (3) refer to a person suffering accidental harm or death. This is amended to pertain to such person sustaining accidental harm or death. This is primarily a technical change for clarity. The fear is that if anyone injured in an automobile accident can make claim, everyone else involved in the same accident can also make claim, even if they were not injured or failed to meet the tort qualifications. This was clearly not intended and can be avoided by the addition of the indicated language.

Maximum No-Fault Benefits

Subsection (a)(3) provides that tort action is allowed if injury occurs to a person in a motor vehicle accident and as a result of such injury the maximum no-fault benefits are exhausted. The question has arisen as to what is meant by "maximum no-fault benefits". One interpretation could be the $15,000 maximum limit of no-fault benefits provided for in Section 294-3(c). Another interpretation could be the $800 per month monthly earnings loss maximum provided for in Section 294-2(10)(c). The addition of the phrase "aggregate limit of" would clarify that the threshold that must be met before tort action is allowed is the $15,000 maximum limit of no-fault benefits (Section 294-3(c), or the $15,000 aggregate limit of no-fault benefits (Section 294-2(10).

(5) Section 294-8 Conditions of Operation and Registration.

Subsection (c) was added to provide that the no-fault law does not apply to vehicles owned by or registered in the name of any agency of the federal government, in order to clarify the present situation in which federal agencies have taken inconsistent positions with respect to the application of the no-fault law.

(6) Section 294-9 Obligations Upon Termination of Insurance.

"Take All Comers" Provision

Subsections (b) and (c) provide that an application for a no-fault policy may not be rejected nor can a no-fault policy, once issued, be canceled or refused renewal except for reasons specified by law. Since a no-fault policy by definition means an insurance policy which meets the requirements of Section 294-10, Required Policy Coverage, but does not specifically include required optional additional insurance as provided for in Section 294-11, it appears that the law does not prevent an insurer from rejecting an application for required optional additional coverage nor canceling or refusing to renew such coverage.

The amendment to subsections (b) and (c) increases consumers' rights to obtain and maintain insurance coverage pertaining to not only basic coverages outlined in Section 294-10, but also to required optional additional insurance meeting provisions of Section 294-11. Any application for a policy providing these coverages may not be rejected nor canceled by an insurer, except for reasons specified by law.

Reporting of Cancellations

The changes to subsection (c) regarding insurers' cancellation requirements are primarily for administrative facilitation. Subsection (c) presently provides that in any case of cancellation or refusal to renew, a thirty-day written notice by registered or certified mail, deliverable to addressee only, shall be given to the insured, the commissioner, and the County Director of Finance of the appropriate county of registration.

A large number of cancellation notices sent out are not effected, as insureds frequently renew prior to the expiration of the thirty days. This being the case, the requirement that copies of the thirty day notices be sent to the commissioner and county directors of finance results in an inordinate amount of mailing and clerical handling without constructive benefit. The commissioner or county directors of finance are only concerned with cancellations which are actually effected and when insurance coverage on a motor vehicle has ceased.

The provisions of this section are therefore amended to require the thirty-day notice to be sent to the insured by registered or certified mail and that notices not be sent to the county directors of finance unless cancellation is actually effected. The copy to the commissioner is considered unnecessary since the required statistical and/or specific information is subsequently provided to the commissioner through insurers' quarterly reports. The bill requires that a copy be sent to the chief of police of the appropriate county.

(7) Section 294-10 Required Policy Coverage.

Property Damage Liability

Subsection (a)(2) presently provides for liability coverage of not less than $10,000 for all damages arising out of injury to or destruction of property. It has been pointed out that property damage liability coverage provided under policies in existence prior to the no-fault law specifically exclude property in the care custody and control of the insured. For example, property damage liability coverage should not apply to damage to property which an insured is transporting, such as in the case of a trucking firm, or in his charge as in the case of a borrowed vehicle. The exceptions indicated were standard in all automobile policies in effect prior to the no-fault law, since appropriate coverages are available through other sources.

The amendment to subsections (a) and (a)(2) clarifies that the intent of Section 294-10 was not to expand bodily injury and property damage liability coverage beyond those provided under policies in existence prior to the no-fault law.

Medical-Rehabilitative Limit

Subsection (b) presently provides that the commissioner is to accumulate data for all motor vehicle accidents beginning January 1, 1973. The bill extends the date for starting to acquire data to September 1, 1974, in order to allow time to acquire more reliable experience data.

(8) Section 294-13 Motor Vehicle Insurance Rates.

Subsection (b)(6)(D) presently provides that the initial rates are to be reviewed prior to July 1, 1975. For purposes of conformity with other sections of the bill, this date was changed to September 1, 1975, to coincide with the end of the first year of the operation of the law.

The bill amends subsection (j) to conform this section with subsection (l). The subsection presently provides for an open rating period of three years starting September 1, 1974. In view of the fact that subsection (l) prohibits increase of rates except under certain conditions until September 1, 1975, the open rating period was extended from September 1, 1975 to August 31, 1978.

(9) Section 294-22 Joint Underwriting Plan Risks, Eligibility.

Subsection (b)(1) provides that eligible applicants shall secure a no-fault and tort liability policy through the Joint Underwriting Plan.

The JUP was designed to be a haven for the applicant who could not obtain insurance in the voluntary market at a reasonable premium and not a mandatory "dumping ground" for all JUP eligible risks. This subsection is, therefore, amended to clearly provide that eligible applicants have the option of securing a no-fault and tort liability policy through the Plan; i.e., it clarifies that coverage under the Joint Underwriting Plan is at the consumer's option.

Public Assistance Recipients

Subsection (b)(2)(A) provides that licensed drivers receiving public assistance benefits are eligible for coverage in the JUP at no cost. A literal reading of this would mean that a public assistance recipient need only be a licensed driver in order to be eligible for free insurance. This literal interpretation could open the door to widespread abuse in that licensed drivers receiving public assistance could insure the vehicles of friends and relatives at no cost.

The amendment to this provision precludes public assistance recipients from obtaining free insurance on vehicles not registered in their name.

(10) Section 294-24 Joint Underwriting Plan Rates.

Motorcycle Deductible

Subsection (b)(1) provides for a $250 deductible for a motorcycle no-fault coverage under the JUP. Section 294-11(a)(5)(B) does not provide for such a deductible for motorcycles insured in the voluntary market. To provide consistency, the $250 deductible for motorcycle no-fault coverage under the JUP has been deleted.

The present provisions under JUP do not afford $100 or $300 deductible options for motorcycle no-fault coverage; these optional deductible coverages are offered motorcycles insured in the voluntary market. The amendment provides for $100 and $300 deductibles in addition to the $500 and $1,000 deductibles presently authorized to be offered motorcycles receiving no-fault coverage under the JUP.

(11) Section 294-35 Allocation of Burdens Until System Established.

The present law requires that the commissioner shall, within one year after the effective date of this Chapter, establish a system of proportionate reimbursement as authorized by the provisions on equitable allocation of burdens, Section 294-34(c).

It is felt that there will be insufficient experience data available for the commissioner to establish a system of proportionate reimbursement within the required time period. It is therefore recommended that the commissioner be allowed a two-year period after the effective date of this chapter in which to establish a proportionate rate of reimbursement system.

The commissioner is presently receiving motorcycle and truck accident reports from insurers; however, these reports only reflect initial handling of claims and remain pending. Insurers are required to provide updated reports whenever there is significant change in the total economic loss sustained, but not less frequently than each six months, until the claim is closed. All of the reports received by the commissioner continue to remain open. It is felt that the commissioner will not obtain adequate data from closed files to accurately establish a system of proportionate reimbursement for at least another year. At that time, there should be an adequate number of closed files to obtain necessary experience data.

In subsection (1), a self-insurer has been included under the proportionate reimbursement provisions. This is consistent with the provisions of subsection (2).

(12) Section 294-39 General Penalty Provision.

The enforcement provisions in subsection (a) have been changed by eliminating the maximum $1,000 civil penalty and providing the county police departments with authority to issue citations for violations of applicable provisions of this chapter,

within the framework set by the Violations Bureau of the District Court of the First Circuit.

Government officials experienced with the enforcement of other legislation indicate that civil remedies are too cumbersome for widespread effective enforcement on a large scale. The civil penalty provided for in this section has also been found to be cumbersome and administratively impractical to carry out. In addition, concern has been expressed in regard to a lack of a basis or schedule of penalty amounts and the absence of judicial discretion or guidelines in determining an equitable penalty.

It should be noted that the first four civil complaints filed against uninsured motorists resulted in a penalty of $1 against each of the four defendants. There is general consensus among the Honolulu Police Department, the District Court, and the commissioner that a solution lies in amending the penalty provision by providing for the issuance of traffic citations in lieu of filing civil suits. The citations, in a form approved by the District Court, would be issued to a violator by a police officer.

There is presently a mechanism available within the Violations Bureau of the District Court of the First Circuit to cope with a violation of the traffic code. The enforcement provisions of the No-Fault Law can easily be made a part of this mechanism by the indicated amendment.

(13) Drivers Education Fund Underwriters' Fee.

The Drivers Education Fund Underwriters' Fee is amended by deleting it from Section 286-140 and placing it in Chapter 294. This is primarily to provide for equitable distribution and control of this fund.

Section 286-140 provides that "There is assessed and levied upon each insurer and self-insurer a drivers education fund underwriters' fee of $1 per year on each motor vehicle insured by each insurer or self-insurer." The section also specifically describes the procedures and timing for computation and payment of this fee. These procedures are literally not workable and administrative control is difficult. To correct this situation, the commissioner should be allowed discretion in defining the basis for computation and timing of payment consistent with the intent of the law and sound administrative practices.

The law presently requires that the drivers education fund fee is due and payable in full on a monthly basis, within thirty days of commencement of coverage under a no-fault insurance policy. This is amended to require that the fee be due and payable on an annual basis by means and at a time to be determined by the commissioner. This is primarily a change for administrative facilitation and also more closely corresponds with reporting requirements established by the Motor Vehicle Insurance Division.

The drivers education fund provisions are also amended by providing that the drivers education programs administered by the Department of Education (Chapter 299) as well as the District Court (Section 286-128(m)) would benefit from the funds generated by this section. The law presently directs the entire drivers education fund solely to the drivers education program administered by the District Court. It is felt that the programs administered by both the Department of Education and the District Court should equitably share this fund. Accordingly, based on the estimated personnel and operating costs necessary to maintain the services presently provided by the courts' remedial driver program, the bill provides for allocation as follows:

(1) To allocate 70 per cent of the special driver education fund account to the commissioner of motor vehicle insurance and 30 per cent to the superintendent of the department of education for the fiscal year 1975-76.

(2) To allocate 60 per cent of the special driver education fund account to the commissioner of motor vehicle insurance and 40 per cent to the superintendent of the department of education for the fiscal year 1976-77.

(3) To allocate 50 per cent of the special driver education fund account to the commissioner of motor vehicle insurance and 50 per cent to the superintendent of the department of education for the fiscal year 1977-78.

Based on the State Highway Safety Coordinator's traffic data, there were 484,521 registered motor vehicles in Hawaii in 1973; thus, approximately $500,000 is projected

to be generated by the drivers education fund underwriters' fee. It is felt that by equitably proportioning this fund between the drivers education programs administered by both the Department of Education and the District Court, more students of age throughout the State might have the opportunity to enroll in driver education classes. By training more youngsters in the program driving techniques at an early age, the District Court may possibly experience a reduction in the number of people having to appear or participate in their driver education program. Additionally, the learning of safe and proper driving techniques by more individuals may result in a reduction in accidents, which should correspondingly assist in stabilizing or decreasing rates.

Your Committee, upon further consideration, has made the following amendments to H.B. No. 850, H.D. 1, S.D. 2:

Subsections (1) and (2) of section 294-35 were amended by including an additional provision providing that in conjunction with section 294-7, Rights of Subrogation, an insurer or self-insurer shall not recover more than twenty-five per cent under subsection (1) and twenty per cent under subsection (2) of all no-fault benefits paid to any person who effects a tort settlement for accidental harm.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 850, H.D. 1, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 850, H.D. 1, S.D. 2, C.D. 1.

Representatives Yap, Kondo, Lee, Roehrig, Carroll and Oda,
Managers on the part of the House.

Senators Kuroda, O'Connor and Leopold,
Managers on the part of the Senate.

Conf. Com. Rep. No. 17 on H.B. No. 1875

The purpose of this bill is to amend the Hawaii Revised Statutes relating to the Horizontal Property Regimes Act. Chapter 514 is amended in the following manner: (1) Initial management contracts for condominiums are limited to one year if the first managing agent of the association is the developer or an affiliate of the developer. (2) Purchasers of units under agreements of sale are given the same voting rights in association matters as owners, provided that the seller may retain voting rights on matters that substantially affect his security interest in the unit. (3) Developers are required to pay a pro rata share of the maintenance costs of the condominium association based on the number of unsold units. (4) The first meeting of the condominium association shall be held not later than 180 days after the issuance of the certificate of occupancy for the condominium by the appropriate county agency. In addition, the chapter has been amended to require all members of the board of directors to be owners, co-owners, spouses of owners, or officers of any corporate owner of a unit. (5) Developers of condominiums are required to notify all association members and members of the board of directors that the one-year warranty period of structural and appliance defects will expire in ninety days. (6) Directors of condominium association boards are prohibited from voting on any issue in which he has a conflict of interest. (7) Sec. 514-21 is amended to require all books of receipts and expenditures of condominium associations to be available for examination at the place of address of the project or elsewhere within the State as determined by the Board. (8) Two or more condominium projects which are part of the same incremental plan of development and which are in the same vicinity may be merged together so as to permit joint use of the common elements by all owners of apartments in the merged projects. In addition, the merged projects may provide for a single association of owners and board and for sharing of common expenses. The bill also provides for making the record-keeping provision of section 514-21, subject to the penalty, investigation and injunction provisions of sections 514-46, 514-48, and 514-50 respectively.

Your Committee, upon further consideration, has made the following amendments to H.B. No. 1875, H.D. 1, S.D. 2:

1. Sec. 514-2: Definition 18 is expanded to include land which may or may not be contiguous and including more than one parcel of land. Your Committee, by the use of the phrase "same vicinity", intends that the parcels of land must be in close proximity to each other. This provision was added in order to allow property ownership

of areas for parking, recreation, etc., on separate parcels of land which may be across the street or in the adjacent block. It also allows for increments being completed at different times.

2. Sec. 514-3: The change to this section is to require the owner of any project whether leasehold or fee simple to join in the declaration for the establishment of the horizontal property regime. It has been found that in instances where there is a default by the master sublessor under his master lease, the apartment owner may not have protection under his apartment lease. In order to handle this situation, this amendment is proposed. It is recognized that in some instances, there may be some difficulty in getting the fee owner (master lessor) to sign the declaration along with the master sublessor. This amendment will require the fee owner to join in the declaration.

3. Sec. 514-11: In the filing of condominium projects with the Real Estate Commission the concept of "phased or incremental development" has been introduced. In order to clearly indicate that such "phased or incremental development" is possible, subparagraph 12 regarding the contents of the declaration is added.

4. Sec. 514-12: On some occasions the description of land on which the condominium project is built is very lengthy. It is understood that it is not necessary to have it repeated in all the apartment deeds. Therefore, provisions are made to provide for incorporation by reference of the description in the declaration in the apartment deeds.

5. Sec. 514-13: This section has been amended to require that elevations of buildings be filed along with the floor plans. The reason for having elevations is that in the event that any project is damaged or destroyed, the elevation of the building or buildings would be available for reconstruction. The building department maintains plans only for a certain number of years and thereafter disposes the plans, making it desirable to have the elevations along with the floor plans as suggested in this amended form of Sec. 514-13.

6. Sec. 514-16: There has been some question as to whether or not an Improvement District Assessment or any utility assessment constitutes a blanket lien which must be satisfied at the time an apartment is conveyed for the first time from the developer to the initial buyer. Section 514-16 is amended to make clear that an Improvement District Assessment and/or utility assessment need not be paid in full in order to convey an apartment whether it be the first or subsequent conveyance.

7. Sec. 514-24: Under the priority of liens in this section, where there is an unpaid mortgage or record, there is a question whether or not the costs and expenses include attorney's fees as provided in the mortgage. Section 514-24 is amended so that the mortgages or record, and other related costs and expenses such as attorney's fees will have priority over the maintenance fees of the Association of Apartment Owners.

8. Sec. 514-29: The existing law is not clear as to whether or not an offer of sale of a condominium can commence prior to the issuance of the Commission's public report on the project. In order to make it clear that it is necessary to have a public report prior to the offering for sale, Section 514-29 is amended to that effect.

9. Sec. 514-37: At present, all changes made which materially change the project requires the developer to immediately submit sufficient information to the Real Estate Commission. However, minor changes, usually involving the use of equivalent material in the construction of the building, need not be reported. It is the intent of the amendment to establish a limitation period of 90 days from the date the purchaser has accepted in writing the apartment or he has first occupied the apartment within which he may file a complaint as to any changes in building plans.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1875, H.D. 1, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1875, H.D. 1, S.D. 2, C.D. 1.

Representatives Yamada, Yap, Kondo, Stanley, Fong and Medeiros,
Managers on the part of the House.

Senators Nishimura, Young, O'Connor and Leopole,
Managers on the part of the Senate.

Conf. Com. Rep. No. 18 on H.B. No. 1852

The purpose of this bill is to expand Section 731-3.2 of the Hawaii Revised Statutes concerning expungement of arrest records.

The act's purpose is to protect the individual from extra-judicial penalties when a person has been arrested for a crime but has not been charged or convicted. The bill is intended to allow a person's records to be expunged, where he or she has been arrested for and charged with a crime and subsequently has been acquitted or charges have been dismissed.

In amending H.B. No. 1852, H.D. 1, the Senate Committee on Judiciary accepted the recommendation of the State Prosecuting Attorneys' Committee and amended the bill to preclude expungement in cases where a person has not been convicted because of a bail forfeiture or because he has absented himself from the jurisdiction.

Your Committee on Conference upon further consideration has amended H.B. No. 1852, H.D. 1, S.D. 1 to provide that preclusion of expungement should only apply to the following categories of persons:

(1) Persons against whom conviction has not been obtained for a felony or misdemeanor because of bail forfeiture;

(2) For a duration of five years from arrest or citation of persons against whom conviction has not been obtained for a petty misdemeanor or a violation, because of bail forfeiture; and

(3) Persons against whom conviction has not been obtained for any offense because they have absented themselves from the jurisdiction and thereby prevented conviction.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1852, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1852, H.D. 1, S.D. 1, C.D. 1.

Representatives Yap, Naito and Carroll,
Managers on the part of the House.

Senators Nishimura, O'Connor and Leopold,
Managers on the part of the Senate.

Conf. Com. Rep. No. 19 on S.B. No. 516

The purpose of this bill is to amend various sections of the Hawaii Penal Code.

This bill amends Sections 702-215 and 702-216, Hawaii Revised Statutes, to provide for the positive wording of legal propositions. At present, the sections are worded in a negative way. Because lawyers use the language of the statutes in framing instructions to the jury, the negative proposition is a cumbersome one to convey in meaningful fashion. The bill does not change the substance of the law, only the form is changed for easier understanding.

Your Committee, upon further consideration, has made the following amendments to S.B. No. 516, S.D. 1, H.D. 1.

(1) Deleted Section 8 in its entirety.

(2) Inserted a new Section 8 which amends Section 701-105, Hawaii Revised Statutes, by deleting the words "with this Code" after the word "published". The purpose of this revision is to remove the requirement that the commentaries on the Hawaii Penal Code be published with the Code. It is the intent of your Committee that the revised commentaries be published in a manner that will promote its basic purpose which is to aid in understanding the provisions of the Code.

The amendment allows this purpose to be accomplished either by printing the commentaries with the statutes or by printing the commentaries in a separate pamphlet. The choice of method is to be made by the revisor of statutes considering both the purpose for which the commentaries will be used and the practical limitations of

printing.

It is your Committee's intent to forward directly to the revisor, the draft of the commentaries, updated and revised in accordance with Conference Committee Report No. 2-72, H.B. 20-1972. The revisor of statutes shall review this draft and, where necessary to further its purpose as an aid in understanding the Code, make changes in substance, form and style. In the case of future amendments to the Hawaii Penal Code, the revisor shall prepare appropriate additions and revisions of the commentary for publication.

Act 202, 1972, provides the sum of $17,820 "for the printing of the Hawaii Penal Code". Your Committee believes this language is sufficient to cover all costs incurred in preparation for publication.

(3) Inserted a new Section 11 relating to the effective date of the bill.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 516, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 516, S.D. 1, H.D. 1, C.D. 1.

Representatives Roehrig, Yap, Cayetano, Lee, Carroll and Fong,
Managers on the part of the House.

Senators Nishimura, O'Connor and George,
Managers on the part of the Senate.

Conf. Com. Rep. No. 20 on S.B. No. 1281

The purpose of this bill is to provide the necessary appropriations to fund the judiciary branch of the government of the State of Hawaii for the fiscal biennium 1975-77.

Last year, in further recognition of the judiciary as a branch of government separate and co-equal to the executive branch and the legislative branch, and to limit executive controls over the judiciary and its courts, Act 159, SLH 1974 was enacted, under which was granted to the judiciary distinct responsibility for its fiscal operations. This S.B. No. 1281, as amended, provides for the first separate judiciary budget, pursuant to Act 159 and the judiciary's declaration that it supports the objective to safeguard the rights and interests of persons by assuring an equitable and expeditious judicial process. The appropriations made by this bill cover both the operating budget and the capital improvements projects for the judiciary for the fiscal biennium 1975-77.

Your Committee has made the following changes in S.B. No. 1281, S.D. 2, H.D. 2:

(1) Amended the appropriation under program item no. 5 to provide for a social worker III in district court.

(2) Amend the appropriation under program item no. 6 to add state matching funds for LEAA federally-funded projects.

(3) Eliminated $4,250,000 in G.O. bonds for judicial complex under program item no. 6, capital project item no. 1.

(4) Amended the appropriation under program item no. 7 to provide funds for student help.

(5) Renumbered capital project items no. 2 to 5, as 1 to 4.

(6) Corrected the figure $5,569,000 in Part IV, section 9, to $1,319,000 to reflect the change under item (3).

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1281, S.D. 2, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1281, S.D. 2, H.D. 2, C.D. 1.

Representatives Suwa, Akizaki, Inaba, Kihano, Kiyabu, Kondo, Kunimura, Lunasco, Mizuguchi, Morioka, Peters, Ajifu, Amaral, Clarke, Hakoda and Kamalii,
Managers on the part of the House.

Senators Wong, Yamasaki, Hara, Hulten, King, Kuroda, O'Connor, Toyofuku, Yim, Young, Anderson, Henderson and Rohlfing,
Managers on the part of the Senate.

Conf. Com. Rep. No. 21 on S.B. No. 1645

The purpose of this bill is to appropriate funds for collective bargaining cost items relating to contracts negotiated with certain collective bargaining units and for salary adjustments of certain other public officials and employees.

In the form amended by the House, the bill appropriates funds for collective bargaining cost items negotiated in the contracts with exclusive bargaining representatives of bargaining units 1 through 10 and 13 and of certain other officers and employees excluded from these bargaining units; salary adjustments for substitute teachers; salary adjustments for department heads, deputies, and certain officers and employees in the executive branch; salary adjustments for judges and the administrative director of the courts; and salary adjustments for permanent employees of the legislature and the legislative service agencies.

In reviewing the entire matter of pay adjustments for the officials and employees of the three branches of government, your Committee determined that it is first necessary to establish a vertical ranking of officials and employees as well as to establish a horizontal relationship of officials and employees acorss the three branches of government. In establishing the vertical rankings and horizontal relationships, your Committee considered several principal factors, including (1) the relative importance of the positions of the officials and employees; (2) the nature and scope of responsibilities of the positions; and (3) the degree of independence of action or discretionary authority which is required of the positions. The results of your Committee's vertical ranking of the positions and determinations of horizontal relationships are shown in Table 1 attached.

Also displayed in Table 1 are the maximum salaries assigned to each position. In establishing the pay levels for the positions, your Committee considered a number of factors including (1) the relationship between the salaries of elected officials and officers appointed by the governor and the legislature with the salaries of other government employees; (2) the relationship between the salaries of heads of State agencies and subordinate employees of State agencies; and (3) the relationship between the salaries of State officials and those of City and County of Honolulu officials. Also a factor in your Committee's salary determinations is the consideration that salaries should be sufficient to attract competent individuals to serve in top positions in government.

Your Committee strongly recommends that should S.B. No. 161, H.D. 1 be enacted into law, that the State government commission consider further the relationship of salaries among the officers and employees of the State and the concerns expressed by your Committee.

The bill has been amended to conform to the salary determinations made by your Committee as displayed in Table 1. Your Committee has also added bargaining unit 11 to section 1 and increased the special fund appropriation for this addition.

Your Committee has further amended the bill to specify the salaries of certain officials of the Department of Education and the University of Hawaii. The salaries of the Superintendent of Education and the President of the University shall continue to be set by the Board of Education and the Board of Regents, respectively.

With respect to other top officials in the Department of Education, your Committee has also specified that the maximum salaries of assistant superintendents, including the State Librarian, and the district superintendents shall be the same as the maximum salaries of second deputies to executive department heads.

In addition, your Committee has amended this bill to adjust the pay rate of substitute

teachers.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1645, S.D. 1, H.D. 1, C.D. 1.

Representatives Suwa, Inaba, Kihano, Kiyabu, Kondo, Kunimura, Lee, Lunasco, Machida, Mizuguchi, Morioka, Peters, Amaral, Hakoda, Fong, Ikeda, Oda and Santos, Managers on the part of the House.

Senators Wong, Hara, Hulten, King, Kuroda, O'Connor, Toyofuku, Yamasaki, Yim, Young, Anderson, Henderson and Rohlfing, Managers on the part of the Senate.

(Senators King, Anderson, Henderson and Rohlfing did not sign the report.)

TABLE 1

SALARIES OF EXECUTIVE, JUDICIAL, AND LEGISLATIVE OFFICIALS PROVIDED FOR IN S.B. 1645, S.D. 1, H.D. 1, C.D. 1

Salary		% of Governor's Salary	Executive	Judicial	Legislative
July 1, 1975	Jan. 1, 1976				
$46,000	$50,000		Governor		
45,125	47,500	95%		Chief Justice	
41,400	45,000	90%	Lt. Governor	Associate Justices of the Supreme Court	
39,100	42,500	85%	Department heads and executive officers Chairman, Hawaii Public Employment Relations Board (1) Chairman, Labor and Industrial Relations Appeals Board (1) Administrative Director of the State	Circuit Court Judges	Ombudsman (2) Legislative Auditor (2) Director of Legislative Reference Bureau (2)
36,800	40,000	80%	First deputies to department heads	Administrative Director of the Courts District Court Judges and District Family Court Judges	
34,500	37,500	75%	Second deputies to department heads State Public Defender Director of the Office of Consumer Protection Motor Vehicle Insurance Commissioner Assistant Superintendent of Education District Superintendents of Education		
32,200	35,000	70%	Deputy District Superintendents of Education		
29,900	32,500	65%	Federal Programs Coordinator Marine Affairs Coordinator Executive Director, Hawaii Public Broadcasting Authority Deputy Commissioners of Credit Unions		

Salary		% of Governor's Salary	Executive	Judicial	Legislative
July 1, 1975	Jan. 1, 1975				
$23,000	$25,000	50%			Revisor of Statutes
20,700	22,500	45%			Assistant Revisor of Statutes
16,100	17,500	35%	Sheriff		
13,800	15,000	30%	First Deputy Sheriff		

(1) Members of the Hawaii Public Employment Relations Board and the Labor and Industrial Relations Appeals Board will receive 95% of the salary of the respective chairman of each board.

(2) First deputies to the Ombudsman, Legislative Auditor, and Director of the Legislative Reference Bureau will receive not more than 95% of the salary of the respective head of each agency.

Conf. Com. Rep. No. 22 on H.B. No. 372

The purpose of this bill is to increase the maximum amount of bid deposits acceptable from banks, to accompany bids received by the State for the performance of public contracts.

This bill also provides for additional expenditures of public moneys through public contracts. Specifically the bill provides:

1. For the expansion of the Fisheries New Vessel Construction Loan Program into a program which will provide for the purchase, renovation, maintenance, and repair of such vessels in addition to the construction of such vessels. $500,000 has been appropriated for this program.

2. For the creation of a Hawaii Commercial Fishing Vessel Maintenance and Repair Loan Program which will provide for the maintenance of the smaller fishing vessels which make up Hawaii's fleet. The program provides that the Director of Planning and Economic Development may make loans up to $50,000 for a 10-year period for five and one-half per cent interest. $500,000 has been appropriated for this program.

3. For a seed distribution program by the creation of a revolving fund to be used for the cultivation and production of seeds and for research and developmental purposes directly related to their cultivation and production. The program is to be administered by the College of Tropical Agriculture. $35,000 has been appropriated to the fund.

4. For further appropriations in the amount of $1,000,000 for the State Farm Loan Program; $500,000 for the new farm loan program; and $1,000,000 for the capital loan program.

Your Committee on Conference has amended this bill in three respects:

1. The appropriation of $63,582 for administration for the Hawaii fishing vessel program has been deleted since administrative funds have been provided in the State operating budget.

2. The $5 million appropriation for the repair, alteration, and maintenance of public facilities has been deleted.

3. Sections 18 through 21 of the bill have been renumbered sections 17 through 20.

Your Committee on Conference is in accord with the intent and purpose of H.B. No.

372, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 372, S.D. 1, C.D. 1.

Representatives Suwa, Akizaki, Inaba, Kihano, Kondo, Kiyabu, Kunimura, Lunasco, Mizuguchi, Morioka, Peters, Ajifu, Amaral, Clarke, Hakoda and Kamalii,
Managers on the part of the House.

Senators Wong, Yamasaki and Henderson,
Managers on the part of the Senate.

Conf. Com. Rep. No. 23 on H.B. No. 1870

The purpose of this bill is to provide reform of Hawaii's land use law which will: (1) establish procedures intended to insure the effective application of established State land use policies by the Land Use Commission through an adversary process in which diverse interests will have an opportunity to compete in an open and orderly manner and public participation and citizen input will be encouraged; and (2) provide for an interim statewide land use policy to be applied by the Land Use Commission prior to the enactment of a State policy plan and a State general plan.

This bill repeals existing quasi-legislative procedures presently followed by the Land Use Commission and substitutes therefor the contested case or quasi-judicial procedures of the Hawaii Administrative Procedure Act. Your Committee believes that the judicial process offers the best opportunities for effective citizen participation as well as sound land use decisions in the public interest. There are many advantages to the judicial process which meet today's concerns. These advantages are discussed at length in Senate Standing Committee Report No. 708 dated March 24, 1975 which is incorporated herein by reference.

Your Committee has made the following amendments to H.B. No. 1870, H.D. 1, S.D. 3:

(1) Your Committee has amended section 2 of the bill to make it express that six affirmative votes are required for the Commission to amend any land use district boundary. This amendment brings the bill into conformity with the existing provision of the land use law in this regard. Your Committee believes that a simple majority should be sufficient for the Commission to take actions such as the adoption of procedural rules and regulations.

(2) Your Committee has amended section 5 of the bill to provide that the notice of hearing be published at least 30 rather than 20 days prior to the hearing. This is to insure that potential applicants for intervention have sufficient time to get their applications in prior to the hearing.

(3) Your Committee has amended section 5 of the bill at page 13, lines 8 through 10, to provide that in addition to the grounds for reversal or modification set forth in section 91-14, Hawaii Revised Statutes, a court may reverse or modify a finding of the Commission if such finding appears to be contrary to the clear preponderance of the evidence.

(4) Your Committee has amended section 10 of the bill at page 16, line 14, to delete the phrase "insofar as practicable" and substitute therefor the phrase "except where the Commission finds that an inequity or injustice will result". This amendment is intended to insure that the interim statewide land use guidance policies are followed except in cases where a clear preponderance of the evidence demonstrates that an inequity or injustice will result.

(5) Your Committee has also amended section 10 of the bill at page 16a, line 3, to substitute the word "petitioner" for the word "government". In most cases the Commission can and does require the landowner and/or developer to provide public services and facilities at this cost. This amendment makes it clear that this practice should continue.

(6) Your Committee has amended section 11 of the bill at page 16b, lines 8 and 9, to provide that the interim policy shall remain in full force and effect until the effective date of a State plan.

(7) Your Committee has amended the bill to add a new section to provide that upon enactment of a State plan by the legislature, no amendment to any land use district boundary nor any other action by the Land Use Commission shall be adopted unless it conforms to such State plan.

(8) Your Committee has deleted section 12 of the bill in its entirety. That section, as it appeared in Senate Draft 3, provided for the adoption of a permanent statewide land use guidance policy. Such policy was to have been developed by the Department of Planning and Economic Development and submitted to the Legislature for action during its 1977 session. These provisions have been deleted from this bill because they will be set forth in another measure, House Bill No. 677, H.D. 1, S.D. 1, C.D. 1, presently under consideration by a conference committee. That bill will call for a State plan consisting of a State policy plan and a State general plan. Such State plan will be submitted to the Legislature during its 1977 Regular Session and will contain a component relating to land use policies and criteria to be followed by the Commission in amending land use district boundaries.

Your Committee has made other minor stylistic and grammatical amendments.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1870, H.D. 1, S.D. 3, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1870, H.D. 1, S.D. 3, C.D. 1.

Representatives Kawakami, Roehrig, Uechi, Yap, Fong and Larsen,
Managers on the part of the House.

Senators Wong, Ching, Hulten, Yamasaki and Saiki,
Managers on the part of the Senate.

Conf. Com. Rep. No. 24 on H.B. No. 677

The purpose of this bill is to create a new State plan which shall serve as a guide for the future long-range development of the State.

Under this bill, the Department of Planning and Economic Development is charged with the responsibility of drafting a long-range, comprehensive State plan. The State plan shall contain statements of the general, social, economic, environmental, physical, and design objectives to be achieved for the general welfare and prosperity of the people of the State. This plan shall include, but not be limited to, a statewide land use guidance policy.

Your Committee feels that there is no need to create a separate and autonomous State policy plan and a State general plan, since a comprehensive State plan mandates both these elements. Therefore, your Committee has redefined the State plan accordingly, in order to avoid confusion caused by labeling.

In previous drafts of the bill, the membership of the policy council totaled more than twenty-five members. Your Committee finds that this number is cumbersome and unwieldy, and has reduced the number of members in the policy council accordingly. Your Committee feels that this should in no way limit input, since the Director shall have the powers to coordinate all State and county agencies in matters concerning the comprehensive State plan.

Section -21 has been amended by adding a new sub-paragraph to provide guidelines in developing the State plan.

Your Committee deleted the sections calling for evaluation of the plan by both the legislative auditor and by the counties. In these times of financial austerity, your Committee feels that this is a costly exercise in both funds and time expended. Your Committee feels that if the legislature finds that a legislative audit is required, or is necessary, then it has the prerogative to so mandate. Therefore, the safeguards and accountability of this section are still inherently intact, yet at less expense to the State and county governments.

The future of this State is too important for the legislature, as the policy makers of the State, to once again abrogate its responsibilities. It must provide the direction for the future of the State. Accordingly, your Committee has further amended the

bill to provide for an interim report in 1976 in order that the legislature be constantly advised as to the progress and direction of the development of a State plan.

In further reviewing the bill, your Committee has made several other changes to clarify language in the bill and to delete or modify paragraphs that may be in conflict with the goals and objectives of the bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 677, H.D. 1, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 677, H.D. 1, S.D. 2, C.D. 1.

Representatives Kawakami, Kihano, Yap, Abercrombie, Clarke and Larsen,
Managers on the part of the House.

Senators F. Wong, Hulten, Ching, King, Yamasaki, Henderson and Saiki,
Managers on the part of the Senate.

Conf. Com. Rep. No. 25 on S.B. No. 42

The purpose of this bill is to establish special interim management of developments within an area along the shoreline while a general coastal zone management program is being developed.

The Congress of the United States enacted a Coastal Zone Management Act of 1972, Public Law 92-583, which authorized grants to the State to plan and develop programs with the cooperation of Federal agencies to set policies and processes for the effective control of the coastal areas. Accordingly, the legislature in 1973 passed Chapter 205A, Hawaii Revised Statutes, Coastal Zone Management, a program which shall be prepared by the Department of Planning and Economic Development and will set forth objectives and policies in conformity with the Federal Act, and which will serve as a guide to all State and county agencies in exercising their authority to implement programs in the State's coastal zones.

However, your Committee finds that since the Coastal Zone Management program will not be finished until 1978, there is a need for interim controls before permanent losses of valuable resources and management options occur.

Under this bill, each county will establish a special management area and administer a permit system therein. The special management area shall extend not less than 100 yards from the shoreline and certain bodies of surface water. Your Committee has defined the special management area to include Kawainui Swamp and Heeia Meadows on Oahu, Wailoa River/Waiakea Fish Pond area in Hilo, Hanalei and Huleia Rivers on Kauai, and similar situations. Your Committee has excluded from the special management area lands abutting inland bodies of water such as Ala Wai Canal, Kapalama Stream and Kuapa Pond unless they are also within the specified distance from the seashore shoreline.

Your Committee, upon further consideration, has made the following amendments to S.B. No. 42, S.D. 2, H.D. 2:

The definition of "special management area" has been amended to clarify the intent.

In paragraph (5) on page 3, the word "structures" was qualified by adding "of a substantial nature" to make clear that structures such as telephone lines, pipes, etc. such as are installed in the Kawainui Swamp area will not exclude the area from the special management area.

The date for delineation of the special management boundary and for promulgation of the rules and regulations is 12/1/75. After that date, all developments within the designated area will be required to obtain the permit.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 42, S.D. 2, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 42, S.D. 2, H.D. 2, C.D. 1.

Representatives Blair, Cayetano, Cobb, Ho, Inaba, Kawakami, Kihano, Kondo, Machida, Clarke, Kamalii, Larsen and Oda,
Managers on the part of the House.

Senators R. Wong, Hulten, King, Yamasaki, George and Henderson,
Managers on the part of the Senate.

Conf. Com. Rep. No. 26 on H.B. No. 55

The purpose of this bill is to regulate the residential lease rent renegotiation process by imposing specific restrictions on the amount which residential lease rent may increase.

Your Committee on Housing has found, through numerous witnesses testifying during the course of the legislative session and through other sources, that renegotiated residential lease rentals have increased to such extreme levels such that the public health, safety and welfare of the people of Hawaii are severely and substantially affected and threatened, resulting in immediate, continuous, and irreparable harm. These effects have been brought about by the fact that leasehold residential developments have dominated the housing market on Oahu from the 1950's. This has compelled thousands of people in the State to accept, without any meaningful choice, leasehold residences to satisfy their housing needs, and this trend is likely to continue unabated in view of the limited availability of land for residential purposes. The initial lease rents charged the residents of leasehold property were low and within the range which the public could afford. However, in recent years renegotiation of rents have increased tremendously and have been unconscionably imposed upon these lessees by the lessors.

The lessees are seriously affected by the unequal bargaining power between themselves and the lessors who bargain in a context of a market place which is less than free. In instances, lessor's terms are peremptorily submitted to the lessee in ultimatum form through letters rather than through any actual bargaining process. This unequal bargaining relationship exists today despite the rights granted to lessees under Part III of Act 307, passed some seven years ago. The unequal bargaining power is mainly due to the oligopolistic land ownership in this State. This oligopolistic market has contributed to the lack of competitive bargaining and has foreclosed a free market.

The legislative findings contained in this bill set forth these reasons and others in declaring an emergency in order to protect the public health, safety and welfare of the people of Hawaii.

The provisions contained in this bill shall affect all residential land leases in existence on the enactment of this bill and those leases entered into thereafter which contractually provide for a reopening of the renegotiation of the lease rent terms.

Your Committee on Conference, upon consideration of this bill, recommends the following amendments:

1. Section 1 of this bill be amended to substantially expand the finding and purpose of the legislature and also declare a social emergency for the reasons set forth in this particular section.

2. Section 2 of this bill be amended to stipulate that lease rent renegotiations shall not be scheduled more frequently than once every fifteen years; provided that these reopenings are not scheduled prior to the fifteenth year following the initial date of the lease.

3. Section 2 of this bill be further amended to limit the renegotiated lease rent by four percent multiplied by the "owner's basis". Your Committee on Conference has concluded that the four percent figure is an equitable one considering the fifteen year stipulation and the rising land values inherent in an oligopolistic land market.

4. Section 2 of this bill be further amended to provide a definition of "owner's basis" to mean current fair market value of the lot, excluding onsite improvements, valued as if the fee title were unencumbered, less

a sum equal to whichever is the greater of the lessee's share, if any, of the current replacement cost of providing existing offsite improvements attributable to the lot (which shall include an overhead and profit not exceeding twenty percent of the current replacement cost of the existing offsite improvements) or the original lot development credit to the lessee.

5. Section 2 of this bill be further amended to provide definition for "offsite improvements" and "onsite improvements".

6. Section 2 of this bill be further amended to exclude renegotiations applicable under Section 516-66 arising out of a lease extension under Section 516-65. These sections, presently existing in the Hawaii Revised Statutes, are intended to provide the lessee with a choice to extend the lease with a formula to determine lease rentals when requesting such an extension of the lessor. It is not the intent of this bill to disturb Section 516-66.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 55, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 55, H.D. 1, S.D. 1, C.D. 1.

Representatives Shito, Blair, Kondo and Oda,
Managers on the part of the House.

Senators Young, Nishimura, Toyofuku and Henderson,
Managers on the part of the Senate.

Conf. Com. Rep. No. 27 on S.B. No. 1200

The purpose of this bill is to make more equitable and convenient the opportunity for the conversion of residential leasehold lands to fee simple ownership, and to clarify the rights and responsibilities of the parties to these procedures.

To accomplish the purpose of the bill, your Committee has generally made the following amendments to S.B. No. 1200, S.D. 2, H.D. 1:

A. The findings and purposes of Act 307, Session Laws of Hawaii 1967, have been reaffirmed and modified to accentuate the importance of land to the lives of all residents of the State. The need for well-planned State action under its police power to accomplish a series of public purposes necessitated by increasingly difficult conditions arising from the leasehold system of land tenancy, and the importance of broadening the opportunity to acquire fee simple ownership in the State have been further specified.

B. Redefinition and expansion of the means to expedite the involuntary transfer of the fee ownership of single family residential houselots primarily to existing lessees who take advantage of this opportunity, and provide conditions, including a ten year buy back right of the Hawaii Housing Authority. These proposals include:

(1) Authorization for the Hawaii Housing Authority to condemn all or part of a development tract for persons truly willing and able to obtain fee ownership in their residential leasehold lots, in conjunction with the increased requirements for participation of lessees desiring to obtain fee interests. This provision, further, will work to minimize the authority's potential role as lessor. Section 516-22 has been amended to simplify the designation of development tracts for acquisition, in that either twenty-five or more lessees, or fifty per cent or more of the lessees of the residential lease lots within the development tract, whichever requires fewer lessees, may petition the authority to seek acquisition of the leased fee interest.

(2) A method for computing the compensation to be awarded to the lessor whose interest has been condemned. Such compensation is to be based on a simplified formula, which provides for payment of the current fair market value of the lot valued as though the title were unencumbered, including offsite improvements, with adjustments for the current value of such improvements credited to the lessor and/or lessee, depending on who actually paid for such improvements plus the unpaid balance owing to the lessor by the lessee as reimbursement other than as a part of the lease rent for the actual offsite improvement costs paid by the lessor. This formula will not take into account the present worth of the future rental income stream or of the lessor's reversionary interest.

As an example, assume (1) that the fair market value of the lot at the date the lot is designated for acquisition is $50,000, (2) that the actual cost of existing offsite improvements at the commencement date of the lease was $10,000 to be equally paid for by the lessor and the lessee and that at the time of acquisition the lessee had paid three-fourths of his equal share of $5,000 or $3,750, to the lessor, and (3) that the current replacement cost of such offsite improvements was $20,000. The compensation to be awarded would be determined in three steps as follows:

Step 1.	Current fair market value	$ 50,000
Step 2.	Less: the lessee's share of the current replacement cost of existing offsite improvements	10,000
		$ 40,000
Step 3.	Plus: unpaid balance of the lessee's share of the actual cost of existing offsite improvements	1,250
	Compensation:	$ 41,250

Under a like example, the actual cost of existing offsite improvements was entirely paid by the lessor, with repayment by the lesses over the term of the lease. Repayment by the lessee other than as a part of lease rent is assumed to be $3,750 at the date the lot is designated for acquisition. Compensation will be adjusted as follows:

Step 1.		$ 50,000
Step 2.		20,000
		$ 30,000
Step 3.		6,250
	Compensation:	$ 36,250

Under a like example, the actual cost of existing offsite improvements was entirely paid by the lessee at the commencement date of the lease. Compensation will be adjusted as follows:

Step 1.		$ 50,000
Step 2.		20,000
		$ 30,000
Step 3.		-0-
	Compensation	$ 30,000

(3) The buy back provision, coupled with the provisions which establish clearly-worded requirements for potential purchasers and which clarifies the powers of the Hawaii Housing Authority in providing assistance to such purchasers, represents a major support for broadening fee ownership in the State, as well as providing antispeculation protection.

(4) Financing of the acquisition of fee interest by the State through general obligation bonds.

C. Permit owners of residential improvements to recover the value of their onsite improvements upon the termination or expiration of the leases. Your Committee feels that this will provide an equitable solution for both lessees seeking equity at lease termination, and for lessors seeking to redevelop lands to contemporary use.

D. Permit public lands acquired under Chapter 171, Hawaii Revised Statutes, to be exchanged for development tracts in accordance with certain amendments proposed in this bill. Several of the current statutory provisions regarding land exchanges are overly specific or inappropriate to the exchanges contemplated by this bill, and are inapplicable in this case. Another added amendment will prohibit the exchange of public conservation lands for residential leasehold lands.

E. Provide that no trustee, officer, or agent of a lessor shall be deemed to have committed a breach of trust while acting in accordance with the provisions of chapter 516. Your Committee deems this amendment vital, owing to the compelling public purposes serving as catalysts for State action in this area, and the possibility that exercise of the provisions as proposed by this bill may conflict with internal provisions of lessor institutions.

F. Provided that, in the case of extension during the first twenty years of a lease, the annual lease rent for the first thirty years of the lease term shall be computed using one hundred per cent of the prior existing fixed rent, as a credit to the lessee against the new, adjusted lease rent.

G. Other style and technical amendments have been made.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1200, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1200, S.D. 2, H.D. 1, C.D. 1.

Representatives Shito, Blair, Kondo and Oda,
Managers on the part of the House.

Senators Young, Nishimura, Toyofuku and Henderson,
Managers on the part of the Senate.

Conf. Com. Rep. No. 28 on S.B. No. 535

The purpose of this bill is to appropriate funds for government programs for the 1975-77 fiscal biennium.

BACKGROUND TO THE BUDGET

ECONOMIC AND FISCAL CONSIDERATIONS

The economic and fiscal factors which affect the State at the present time have led your Committee to conclude that the prudent course is to enact a budget which holds proposed expenditures to current revenue sources and conserves State credit. The resultant budget is one which restores to needed levels those government services which deteriorated during the austerity period of recent years, authorizes new programs or program levels only in cases of clearly demonstrated need, and defers to a later period those major capital investments which are not immediately required.

The economic outlook is mixed at best, with the weight of economic opinion holding that the recovery from recession will be slow and sluggish. This accounts for the urgency which is attached to the implementation of a tax cut at the federal level at the national policy of stimulating the economy through tax rebates and reductions will be successful, and it is not certain how the Hawaiian economy will be specifically affected. The legislature will need to closely monitor the local economy in the months ahead, and it should be prepared to take whatever action may be necessary to assure a stable economy, particularly if national policies fail to halt the economic decline. Meanwhile, through this budget as well as in other legislattion, steps have been taken to shore up vital sectors of the economy and to expand employment opportunities. Given the many near-term uncertainties, your Committee believes that the prudent guidelines at this time is that government programs and operations dependent on general revenues must be funded from existing sources.

As for the long-term financing needed to construct public facilities, it is quite clear that if the legislature were to authorize all of the capital investment proposals recommended by the executive for each of the two fiscal years of the biennium, this would move the State's legal debt positions close to the constitutional debt ceiling. This would leave little or no margin for any emergency authorizations which an uncertain economy might require. The interim solution to this problem, and the one which your Committee has pursued, is to authorize at this time the executive's capital investment proposals only for fiscal year 1975-76 and to defer until the 1976 session consideration of the appropriations recommended for 1976-77.

Over the longer term, it is evident that the State's debt policies need to be reviewed so that a determination can be made as to what debt margin should be preserved as a reasonable margin of safety and what action should be applied against older authoriza-

tions which have not been implemented. Your Committee expects this review to be conducted during the next interim period, and in the meanwhile, it calls on the executive to formulate its recommendations as to the debt margin to be preserved and to disclose its intentions with respect to specific project authorizations made in the past.

SPECIAL PROVISIONS FOR LEGISLATIVE CONTROLS

In the conduct of its review of the proposed budget and executive performance in executing prior budgets and other program appropriations, your Committee has made a special effort to determine how the executive branch can be held more accountable to the legislature in the exercise of its fiscal powers and authority. Over the years, it has become increasingly apparent that the legislature's traditional power of the purse has been eroded. This is partly because of the executive branch's inattention to legislative priorities and partly because the appropriation acts, in response to representations that budget flexibility was required, accorded substantial latitude to the executive branch. Whatever might have been the reason and however valid might have been the arguments for maximum flexibility in the past, the time has come for the legislature to reassert its powers through the appropriations process and to establish new controls to ensure that the policies and intent are adhered to. Therefore, your Committee has included as an integral part of the general appropriations act a number of special provisions. These provisions would provide the executive with some flexibility and at the same time provide for legislative controls.

PROGRAM APPROPRIATIONS, CONCERNS, AND INTENT

In this section of the committee report, your Committee reviews some of the major program appropriations, program concerns, and legislative guidelines. The review here is by no means exhaustive. More specific legislative intent with respect to program appropriations is to be found in specific program provisions contained in the bill itself, and less formally, legislative guidelines have also been expressed to the executive agencies during the course of hearings on the budget.

THE LEGISLATIVE PROGRAM FOR EMPLOYMENT AND ECONOMIC DEVELOPMENT

The uncertain course of national fiscal and economic trends in the last several years, veering between the twin evils of recession and inflation, has had serious effects on the economy of Hawaii. This is evidenced by the fact that inflation has undermined the earnings of large groups of people and rendered their future uncertain. Unemployment stands at a high level and promises to continue to be high even if the current recession is curbed during the next twelve months.

In view of the severe decline in Hawaii's and the national economies, the legislature is of the firm conviction that to preserve the income security and economic well-being of Hawaii's people, forceful government intervention is required to immediately boost those segments of the economy which have been adversely affected and which must be maintained if Hawaii is to achieve a stable and diversified economic base. The legislature is aware that prompt action during the current session is needed to meet this serious situation. Consequently, the legislature has developed programs aimed at stimulating the economy. The programs included in the budget are geared to expand employment and economic opportunities on a statewide basis and to allow the State to continue its efforts at diversifying its economic base.

As formulated, the programs provide added resources to several critical and interrelated segments of the economy. They include a State program which supplements the federal public service employment program as established in the Federal Comprehensive Employment and Training Act (CETA). The purpose of the program is to develop additional public service employment opportunities to assist the unemployed, underemployed and disadvantaged and to provide subsidies and loans to private employers to participate in employment programs involving the training and hiring of unemployed persons. Other programs which comprise the legislative program for employment and economic development include additional funds for the repair, alterations, and maintenance of public facilities to stimulate the construction industry and provide contract employment for small contractors and subcontractors; an augmented farm loan program to assist in developing diversified agriculture as a viable industry; new resources for the capital loan program to provide financial assistance to local

businesses, particularly those businesses which cannot qualify for loans from regular lending institutions; and a new vessel construction loan program to meet the demands for construction loans as well as repair and maintenance loans to meet the needs of Hawaii's fishing fleet. Funds for these programs have been provided in the budget and in other legislation.

State CETA	$ 12,133,500
Repair, Alterations, maintenance	5,000,000
Farm loan	1,000,000
New farmers loan	500,000
Capital loan	1,000, 000
New vessel/repair and maintenace loan fund	1,000,000
	$ 20,633,500

Committee to reduce unemployment. In addition to the foregoing immediate action programs and in response to the possibility that high unemployment rates may persist for some time to come, the leigslature has provided, through the adoption by both houses of HCR 81, H.D. 1, for the establishment of a committee to examine Hawaii's unemployment problem and to propose methods and programs by which the unemployment rate may be decreased. The committee is also to convene a statewide conference which will advise the committee on matters to be examined. Funds have been included to assure that the committee can proceed with this important effort to reduce unemployment.

Office of public employment relations. The government sector plays a vital part in the economy, and public employment is important to employment stability generally. It is evident that the issues of collective bargaining are so important that a more formal mechanism needs to be established to assist the governor in discharging the duties set forth in the collective bargaining law. Therefore, funds have been provided to establish an office of public employment relations to be headed by a chief negotiator.

LOWER EDUCATION

Public education of high quality and easy accessibility has been one of the most enduring and acclaimed public policy commitments of the State of Hawaii. In the last two decades, the State has made considerable progress toward satisfying this commitment. However, the past few years have seen a slowdown in this progress due to the State's fiscal austerity. The public education system has had to bear its share of budget restrictions and the resulting hardships. The legislature has empathized with students, teachers, and parents over how they have had to "make do" with what was available. While the economic picture may still be uncertain, your Committee believes that some of the reductions imposed on lower educatin in the past few years can be restored in the next biennium and new programs which have been held in abeyance can now be cautiously funded. We believed that it is now time to more systematically seek an educational system which is truly responsive to the individual student or community. We wish to see our educational system become one where school is an enjoyable place for all and schooling is an experience, not for a student merely to pass through or spend time in, but one which stimulates interest and inquiry. Accordingly, we have attempted to reemphasize schools as that level in the educational system where we believe funds could be put to most effective use in overcoming the cultural, economic, geographic, and other artificial barriers which prevent the fullest achievement of educational success and satisfaction.

Alternative schools. There are many students who, for various reasons, are not being reached by traditional teaching methods and organizations. A commitment to individual students means that we must provide for alternatives to the general education program. Some of these alternatives have been initiated by concerned individuals independly of the school system and have already shown some success. Other alternatives have emerged from the programs of compensatory education. Whatever their origin or current status, your Committee believes that many of these alternative schools and programs offer real hope for those students for whom the traditional educational methods have failed. It is our expectation that the department

of education will do everything possible to facilitate the transfer of these students into alternative programs and schools and their return, if and when desirable, to the traditional schools. The new funds provided for alternative schools permit the program to reach many more students than are currently being reached.

Vocational education. Your Committee supports the contention of many that some schools have swung too far in the direction of encouraging their students to attend college and have thus neglected the very vital provision of more vocationally oriented programs. We believe that the meaningfulness of education can be enhanced greatly by the provision of not only more, but also more relevant, vocational educational courses. Funds have been provided to enable such implementation to occur and thus to make available more alternatives for all students within the general, traditional educational system.

Special education. The commitment to the individual student extends also to those "special" students who are handicapped by mental, emotional, or physical conditions which necessitate special educational arrangements and services of many types. For too long the State has not fully implemented its policy commitment that all children have the right to education. This is to be corrected by making available those programs which these students need.

Diagnostic-prescriptive teams. Diagnostic-prescriptive teams and reevaluation procedures for students are currently inadequate to assure that children are placed properly and receive the needed educational prescription. Complaints about the long delays between teacher referral and testing and placement are numerous. Funds have therefore been appropriated to increase the number of teams serving the schools.

Gifted and talented students. For several years now, no special effort has been expended on behalf of the gifted and talented students as an identifiable group. We believe this to be wrong. As a category of "special" students, albeit "special" in a different way, the gifted and talented have been deleted from consideration in the recently completed State plan for special education. Yet, these students clearly deserve and require special attention, even though your Committee does not advocate separate facilities or tracks. Funds have been included so that a proper program can be designed and to provide the inservice training necessary to get a program under way.

Counseling. Throughout the State, students, parents, and teachers have called for a stronger counseling program. Your Committee recognizes the significance of the counseling program for the personal-social growth and educational-career development of students, and it is also cognizant that there is a need for counseling services in the early formative years. Therefore, funds have been provided to expand the counseling program at the elementary level.

Reading specialists. Reading is a basic tool for almost all other learning skills, and as such, reading programs deserve the highest priority. It is alarming, therefore, when statistics reveal that many school children are falling below minimum competence levels on reading tests. To help remedy this situation, funds have been included to hire additional reading specialists to serve the schools, including non-Title I schools.

Hawaii English program. The Hawaii English program has been represented to be a successful individualized program of language arts for the majority of the students in the program. To the extent that it allows for some individual differences in the pace of learning as well as the manner in which a student learns, your Committee believes that it conforms to the commitment to the individual student. Funds have been provided for its vertical expansion as well as for the alleviation of difficulties encountered in the shared utilization of materials and for more adequate inservice training of teachers. It is the intent of the Committee that teacher and parent feedback be seriously considered in any adjustments in the program and that flexibility to meet the needs of individual students be encouraged. Your Committee reiterates prior guidelines that additional personnel provided for the more effective management of the program be engaged in professional, and not clerical or delivery services.

Art, music, and physical education specialists. Your Committee recognizes that, at the elementary level, the teacher is more often than not a generalist in subject matter preparation. If he is a specialist at all, he is more likely to be a specialist in language arts. This is perfectly reasonable, and perhaps even highly desirable. However, the very nature of the general preparation or the language arts preparation precludes the elementary teacher from attaining the kind of expertise in art, music,

and physical education that is attained by specialists in those fields. Your Committee believes that more needs to be done in the development of the tactile and visual senses and the motor skills of children. Accordingly, funds have been appropriated for arts, music, and physical education teams to be assigned to the district offices to serve the schools directly on some equitable basis.

Musical instruments. In a related area, the instrumental music program, your Committee has been made aware of the need for more instruments to enable students to participate in this program. Currently, many students have to rent or purchase their own instruments if they want to participate at all. This situation not only imposes a financial burden on the families who must rent or purchase instruments, but for those students whose families are without the economic means, this program is closed off to them completely. Funds have been appropriated for the purchase of new band instruments for the schools, with the intent of removing any economic barriers to the instrumental music program.

Sports for girls. The sports program in the schools has traditionally focused on sports for boys. However, with the increasing interest in sports activities expressed by girls and the conviction that equality of educational opportunity extends to athletics, your Committee has included funds to provide more opportunities for girls to develop their interests.

Campus violence. Students, parents and school personnel have made known to legislators their concern over the level of violence prevalent on many school campuses. It has been alarming to receive reports of school grounds and facilities made inaccessible to certain groups of students, of dangerous weapons being on the campus, of the inability of school personnel to cope with the situation, and of the department's reluctance to recognize the existence of a critical situation. To be sure, the department now shares the concern expressed here, but it is readily apparent that, while some schools have managed to curb campus violence, many have not. The department is requested to put special effort in identifying the causes of campus violence and in seeking ways of improving the campus environment. Students, school personnel, parents and members of the community should be enlisted in this cause. The department is also requested to monitor the security guard program to assure that the caliber of guards is of the desired quality, that they are performing their duties in a responsible manner, and that the program is effective.

Reading ability and comprehension. Graduates of Hawaii's school system should be able to read and comprehend at a level that will allow them to lead productive and satisfying lives. The department should carefully evaluate the results of its programs, particularly in those situations where reading ability and comprehension appear to vary with geographical areas. If such is the case, the department must assess its present reading programs in areas of low student achievement with a view toward formulating alternative learning methods if present methods are inadequate.

Departmental reorganization. A strong recommendation of the Booz, Allen and Hamilton report was the strengthening of the office of the superintendent by the transfer to it of certain support functions. The superintendent's administrative and decision-making capabilities would be enhanced by such a transfer. The department has chosen not to implement the recommendation. Your Committee believes that the recommendation is sound, and it requests the board of education to review the matter, including the development of alternative methods to achieve the intent expressed here.

Testing. The department has reported that it is now engaged in the development of a testing program that will fairly evaluate the performance levels of students. This development is welcome. The test instruments currently employed, STEP and SCAT, are some twenty years old. Your Committee encourages the department to reformulate the testing program, but it adds the caution that in the effort to make instruments relevant and applicable to Hawaii's students, this should be achieved without losing the national perspective essential to the evaluation of the State's instructional offerings with those of other areas in the country.

HIGHER EDUCATION

Instructional programs, Manoa campus. As the most essential component in fulfilling the basic purposes of public higher education, the quality and types of instructional programs at the Manoa campus have a direct effect on the general economic and social health of our State. Students who receive instruction and training

at the University are destined to leave the campus and contribute their resources and talent to our community. In light of recent statewide fiscal austerity, these instructional programs have suffered reductions in funding and it is the feeling of your Committee that these programs should not go on without adequate staffing and operating expenses. Your Committee has therefore restored funding to Manoa campus instructional programs in order to maintain a basic level of operations.

Your Committee concurs with the Administration's request for additional instructional positions in the College of Business Administration for workload increases which would allow the College to meet accreditation standards. It is also the feeling of your Committee that of the various instructional programs particularly hampered by recent cutbacks, the freshman composition program is in special need of funding support and resources. The English composition program is on the verge of collapse, having lost over a third of the participating faculty and facing a backlog of upperclassmen who have not been able to meet their English requirements. In its attempt to provide students with the necessary skills to cope with present day society's increasing complexities and demands, it is incumbent upon the University to provide the means whereby effective skills in articulation, expression, and communication can be developed. Therefore, your Committee has included funds for the English composition program.

Law School. Your Committee finds that since the establishment of a Law School at the University of Hawaii through Act 146, SLH 1971, and its implementation in 1973, the law program has been successfully meeting legislative intent and purpose. Your Committee finds that the need to meet increasing community interest in law, and to make quality legal education available in the community for Hawaii's residents has been substantiated through reports and the admissions records of the Law School. The Law School reports that since its opening in 1973 nearly 1300 applicants have been received for 117 entering positions, and over 1200 applications for the 1975 fall term alone is anticipated. Further, the Law School reports that all but 2 of the 117 students admitted were residents of the State, coming from each island in the State.

Law School programs beyond the Juris Doctor Program include the establishment of a special pre-admission program designed to expand law study opportunities for disadvantaged groups which are underrepresented in the Hawaii Bar. Also in the developmental stages are plans for training legal paraprofessionals at the community college level. Your Committee is in full support of the Law School as a whole, and would like to emphasize its particular support of programs that reach sectors of our community that would not, due to economic or employment constraint, otherwise have access to legal training opportunities. Your Committee believes that it is to the benefit of our State to have a law school that provides legal training for State residents in addition to facilitating general public understanding of the increasingly complex legal processes in Hawaii. However, your Committee has determined, and the appropriations for the law school are made with the intent, that there shall be established a ceiling of 222 students in the next year to be served by the program, of which 10 are intended for the preadmissions program, and a ceiling of 230 students in the following year.

Medical School. Your Committee believes that the School of Medicine is moving steadily towards (1) providing trained health care professionals for the new and expanded demands upon the system in Hawaii; (2) improving health care delivery in Hawaii now and in the future; and (3) increasing the educational and career opportunities for young men and women of Hawaii.

In addition to serving as a catalyst in improving general health care delivery systems in various communities, the School of Medicine has provided special consideration and rigorous guidance to socio-economically deprived individuals through such programs as Imi Ho'ola (Those Who Seek to Heal). Benefits to students are already apparent; benefits to the people of Hawaii are only beginning to accrue.

Your Committee has noted that the request for the School of Medicine's budget is consistent with the six-year projection made in 1973, and that the School has been most responsive to legislative directives with regard to the pattern of hospital affiliations and the development of a curriculum oriented to the needs of the State. Your Committee continues to support legislative commitment to the M.D. degree-granting School of Medicine. Your Committee finds that some expansion in the number of positions at the school is justified at this time, and has provided funds for expansion, though not to the extent requested by the University. While the medical school is receiving additional funds for the biennium, it is the intent of your Committee that a ceiling of 274 be established as the ceiling for the number of students in the M.D. program.

Hawaii Open Program. Your Committee has long been committed to the concept of equal educational opportunity and the principle of life-long educational opportunity. Despite the successful development of the Community Colleges and the College of Continuing Education, resulting in broadened higher education opportunities, a sizable segment of Hawaii's population remains untouched because of a job or family responsibilities, geographical isolation, institutionalization or various handicaps or disadvantages. Your Committee believes that an alternative means of achieving a baccalaureate degree must be offered to these people. Your Committee is cognizant of the research and development phase of the Hawaii Open Program for the Excluded. Development of the Open Program is in its final stages. Curricula and delivery mechanisms designed to extend university offerings to students who have been excluded from campus opportunities are ready to be implemented. Further research and development are needed only to establish durable standards for lifework experience credits. Your Committee has included funds for the further development of this program.

Kapiolani Community College. Your Committee is aware that in 1975-76 many applicants were denied admission to Kapiolani Community College because the Pensacola site was operating at its maximum enrollment capacity. Since the 1965 "Kapiolani Community College Site Selection Study," Fort Ruger has been recognized as the best site for a community college located in East Honolulu. Plans were drawn up in the late 1960's to exchange State lands for the federally owned land at Fort Ruger. Two laws were passed by Congress, Public Law 91-564 in December 1970 and Public Law 93-166 in November 1973, to facilitate conveyance of the Fort Ruger land to the State of Hawaii at the appraised fair market value. Six million dollars had previously been appropriated, Act 155 of 1969 and Act 187 of 1970, for the purchase of the Fort Ruger land, reflecting the seriousness with which the legislature viewed the proposed move from present facilities to the larger Fort Ruger site.

On January 20, 1972 the Board of Regents stated "that Kapiolani Community College will eventually be discontinued at its present site through a phased transfer of programs to East Honolulu Community College." Your Committee is in agreement with this policy that reflects the long held view of the legislature that a new site is necessary.

Your Committee supports the proposed three-phase transfer of services and programs from the present Kapiolani site to Fort Ruger. The three phases are: (1) initial construction of East Honolulu Community College on 5.3 acres of Fort Ruger land allowing the transfer of liberal arts and allied health programs; (2) transfer of the Business Education program; and (3) transfer of the hotel-restaurant program.

West Oahu College. Funds have been appropriated for the implementation of the third and fourth year programs of West Oahu College.

Custodial services. Additional funds and positions have been provided to meet the increasing custodial service workload requirements. These additional funds and positions are intended for custodial staffing and for no other purpose.

College of Tropical Agriculture. The College of Tropical Agriculture is requested to submit updated program and financial plans to the legislature as early as possible, including plans for the Hawaii Agricultural Experiment Station and for the Cooperative Extension Service. Such plans should be responsive to the following concerns:

(1) The College currently responds to numerous requests for service by individuals. Service, of course, is a primary reason for the existence of the programs, but it is questioned whether so much individual services should be provided as free services. There is statistical evidence which indicates that the non-farmer is the largest benefactor of the service-to-individuals program. Some analysis should be conducted to determine whether the service-to-individuals program should be more self-sufficient.

(2) The College's plan to fund its many individual positions is unusual. While joint appointments or joint funding of positions might be reasonable or even necessary it is not clear that all of the joint funding arrangements are justifiable or necessary. It is not clear, for example, what service is rendered to the Extension Service by the numerous individuals who receive 10%, 25%, 20%, or 18% of their salaries from the Extension Service. Similar examples show that the same people are paid from research or instruction budgets of the College. An explanation should be presented showing the rationale for joint fundings arrangements.

College of Arts and Sciences. The College should present its reorganizations plans

to the legislature as quickly as possible. Such plans should fully delineate the College's relationship with the various support programs as well as the roles of the instructional departments.

Undergraduate programs. As other committees have in the past, your Committee emphasizes its concern over the relative priority of undergraduate education in the university system. It is the intent of the legislature that the first and foremost concern of the university should be undergraduate programs and that the allocation of university resources should reflect that intent.

Evaluation. A periodic evaluation of any institution is a necessity, and the time is appropriate for the board of regents to commission an evaluation of the university. A comprehensive evaluation of the university's management systems, organization, policies, programs and processes, would establish a base from which the operations of the university can be viewed as a whole. Evaluation might also lead to analysis, the examination of alternative ways to accomplish objectives. There are other agencies in government which could be directed to conduct the evaluation, but the board of regents should first be given the opportunity to take the initiative in this area.

Library services. There is little to indicate that the university's library program has been reviewed, and, therefore, the university is requested to conduct such a review. The study should consider the roles of the various campuses, systemwide acquisition and retention policies, automation and its implications, book and periodical storage problems, intra-system communication and delivery problems, etc. If a long range view of the library system could be developed now, there is a greater likelihood that duplication or overly-ambitious acquisition practices can be avoided.

Learning resource centers. It has been learned that there are organizational units on the Manoa campus operating what are commonly called learning resource centers. While these centers are intended to assist students by making available audiovisual equipment and supplies, the establishment of various units engaged in instructional delivery is not necessarily the best or the most efficient way to operate. A more coordinated approach to the problem of learning resource delivery should be developed so that more efficient use can be made of equipment, materials and supplies.

TRANSPORTATION AND ENERGY

Energy conservation by State agencies. Your Committee, cognizant of the demonstrated need to reduce energy consumption, believes that the State government should take the leadership to promote energy conservation measures by reducing energy consumption of its own agencies. As an initial step, a five percent reduction in energy consumption over the biennium is a reasonable goal, and your Committee requests the department of planning and economic development to coordinate the efforts of State agencies to meet this goal.

There is also a need to restrict the purchase of State vehicles to those sizes and types adequate to perform the tasks required. Increased fuel consumption and the purchase costs of unnecessarily large and over-equipped government vehicles cannot be condoned or continued. The department of accounting and general services is requested to review the guidelines for the purchase of motor vehicles, determine what practices actually exist, and formulate new guidelines, if necessary, to effectuate legislative intent that government vehicles and their equipment conform to their intended use, and no more.

Mass transit. The need for some form of mass transit for Honolulu has been clearly expressed. State funds in the amount of $6 million have been included to assist in the planning and construction of a mass transit system. State assistance is to be matched by the City and County of Honolulu, and the appropriation is made provided that the Urban Mass Transportation Administration grants 80 percent federal funding for the transit system and the City and County of Honolulu agrees with the Metropolitan Planning Organization (MPO) established in other legislation.

Ferry system. In recognition that an alternative form of inter-island transportation holds promise of assisting the State's economy, an appropriation of $4 million has been included for an inter-island ferry system.

Highway fund. Action has been taken in other legislative measures to meet the problem of the projected insolvency of the highway fund. However, the solution

is but an interim solution, designed to meet anticipated deficits over the next biennium. The problem is likely to surface again, and for this reason, your Committee expects the department of transportation, in consultation with the department of budget and finance, to do a rigorous analysis of the problem so that a longer-term solution can be found.

Small boat harbors. Your Committee is concerned about meeting the needs of land-based boats which require adequate launching facilities. The problem of adequate facilities is especially critical in the leeward district of Oahu which has the largest number of launchings in the State but only one public launching facility available at Pokai Bay. In 1970, this facility had over 21,000 boat launchings. The situation is hardly better at Keehi Lagoon which had over 20,000 launchings in 1970. There are no other public boat launching facilities in the approximately 20 miles of shoreline separating these two sites. Thus, your Committee emphasizes its intent that priority should be given in the recreational boating program to meeting the needs of land-based boats, especially in such areas as leeward Oahu.

Airports. It is noted that the Airport-Airline lease agreement is scheduled for renegotiation in 1977. The time is appropriate for the legislative committees to begin to conduct a thorough review of airport systems financing and to examine the existing agreement to determine the legislative policies which should be considered in any renegotiation. To assist the legislature in its review, the legislative auditor is requested to conduct an audit of airports systems financing and to submit his findings and recommendations to the 1976 regular session.

HEALTH

School health services. Funds for the expansion of the school health services project have been provided. This program, which delivers health services to students through a health aide at each school supported by a school nurse who supervises several health aides, was found by the legislative auditor, in his program audit of the school health services pilot project, to be a cost-effective approach in providing emergency health assistance services. The decision to expand the program is supported by the evaluation findings of the legislative auditor who has reported that there is a definite need for readily accessible health assistance services in the schools.

The expansion of the program is to proceed under a systematic four-year installation schedule. In the first two years, the program will be extended to all of the elementary public schools in Hawaii. The department of health is requested to submit an implementation plan, and a supplemental funding request, for the second year expansion of the program for the remaining elementary public schools and also an implementation plan to expand the program to all other public schools in the third and fourth years.

The health aide and health aide substitute staffing positions are to be contract positions until such time as the program is fully implemented. At that time, a decision can be made as to whether the positions should continue to be contract positions or whether they should be civil service positions.

In the implementation of the statewide expansion of the program as well as in the continuance of the program in those schools covered by the pilot project, your Committee expects the department of health and the department of education, within their respective responsibilities, to take corrective action to remove those deficiencies in the program identified in the evaluation report. These include records showing that many students are not in compliance with immunization and tuberculin testing requirements, unclear accident reporting criteria and procedures, poor maintenance of health records at higher grade levels, doubtful value of height and weight screening as currently conducted, and other operational problems. Your Committee expects the Governor's Advisory Committee for the School Health Services Pilot Project to monitor corrective action by the departments and to submit its assessment of progress made by the agencies to the 1976 Regular Session.

It is legislative intent that the health aides provided for by the appropriation shall be utilized only for health-related duties, except in those situations where the size of the school is such that the health care activities would not occupy the full time of the health aide. However, in no instance should other duties take precedence. In a related aspect of health services, it is also legislative intent that the free immunization program of the department of health be administered without any means qualification.

State/county hospitals. The high cost of hospital care continually brings forth the question of how to meet high costs under conditions of low volume of patient days at many of the neighbor island hospitals. The need for general fund support of these hospitals appears to be inevitable if quality medical care within reasonable costs is to be made available to all of the people of the State. However, it is the concern of your Committee that the Act 97 hospitals do everything within their control to reduce operational costs through better management practices.

Under P.L. 92-603, Sec. 233, the Federal government will reimburse the hospitals based on the usual and customary or reasonable charges, whichever is lower, beginning July 1, 1975. For this reason, the department of health must increase hospital rates, as current rates are based on 1972 costs and there will be a substantial loss in federal funds if rates are not adjusted. Your Committee understands that the department is adjusting the rates to be effective on July 1, 1975, and the budget for the hospitals reflect these adjustments.

Leprosy. Because the State is committed to provide care and facilities for leprosy patients at Kalaupapa, there is a need for patients to be served by adequate facilities. However, because of recent advances in medical treatment of leprosy patients and the administration's testimony of possible phasing out of Kalaupapa in 15 to 20 years, further inquiry should be made to determine the feasibility of upgrading the present facilities to meet the required needs. Your Committee also understands that an analytical study is being conducted and that the administration's implementation of new capital investments at Kalaupapa is contingent upon its evaluation of the findings of that study. With respect to Hale Mohalu, in the event that plans for phasing out Hale Mohalu are made over the next biennium, it is intended that the vacant positions accrued (currently five positions) shall be restricted from filling.

Mental health. It is a matter of great legislative concern to upgrade and improve mental health care at the Hawaii State Hospital as well as at the various mental health centers throughout the State. Staffing has been increased to strengthen the program. Even as the legislature proceeds to provide additional funds for the mental health program, it is badly in need of information to guide the future development of the program. A program evaluation is clearly needed, and your Committee requests the department of health, in consultation with the department of budget and finance, to conduct an evaluation of program effectiveness of the mental health centers for both children and adults and the effectiveness of the treatment program at the Hawaii State Hospital.

The objective of the internship training program for mental health is to help assure the continuing availability of qualified program specialists. Inasmuch as the program is entirely State funded, interns should be trained to benefit the State. Therefore, the department of health is directed to contract with the interns so that they are obligated to work for the State for at least two years upon completion of their training.

Services for the mentally retarded. The mental retardation program has been strengthened. Personnel for the program have been substantially increased. It is the intent of your Committee to improve and upgrade the facilities and care at the Waimano Training School and Hospital. It is also the intent to support the decentralization of Waimano and to provide the required personnel and facilities at the neighbor island hospitals for the care and treatment of patients from the neighbor islands.

With respect to the program for Early Identification and Treatment for the Mentally Retarded, the program is intended to minimize the effects of mental retardation by providing early identification, evaluation, and treatment of developmental disabilities. Sufficient funds have been appropriated to staff the Jefferson Orthopedic School and infant development services, and to provide for services at the Variety Club School.

PUBLIC ASSISTANCE AND HUMAN SERVICES

Budget guidelines and purchase of services. It is the legislature's intent that future budgets submitted by the governor should include all funds budgeted by the State including donated funds and federal funds which the department of social services and housing and the department of health use when purchasing social services. It is also the legislature's intent that budgets submitted by the governor show total statewide target groups for all social services by PPBS classification and indicate which segments of such target groups are addressed by expenditure of State funds (including federal matching funds) and which are addressed by expenditure of donated

funds (including federal matching funds). Finally, it is the legislature's intent that additional civil service positions for social services should not be requested by the department of social services and housing and the department of health without an explanation of why such services could not be better provided through purchase of services.

Management and computer capabilities for public welfare administration. The legislature desires that the department develop its computer capability to the extent that manual calculations of public assistance grants be automated. The legislature desires that the department report annually to the legislature concerning quality control errors in the AFDC, GA, Medicaid, and Food Stamp programs and how the department plans to reduce errors. The legislature also desires that the department report annually to the legislature concerning (1) the average time for processing food stamp, public assistance, and medical assistance applications by county; (2) the nature of welfare applicants including but not limited to the length of time they have lived in Hawaii, why they came to Hawaii (if applicable), where they came from originally (if applicable), their employment skills, their income and its sources (if any), and if they have been on welfare before and if so how long; and (3) the nature of families leaving the welfare rolls and the reasons that they were not able to do so.

Public assistance reform. Adequate funds have been appropriated to implement the public assistance reforms embodied in H.B. No. 35, H.D. 2, S.D. 1, passed earlier by the legislature. In that bill, legislative determinations were made as to the maximum public assistance grants. The bill specifies the dollar amount each person or a family can receive for (1) basic needs allowance, and (2) shelter allowance under general assistance, aid to families with dependent children, and supplemental security income. The establishment of maximum public assistance grants will provide for an equitable way of making payments to all recipients, and it will simplify the administration of the State's public assistance program. There has been, especially in recent years, great concern over rising public assistance costs and over projections of continued increases under the old system. Although there is need for additional funds to implement the concept of maximum public assistance grants, over the long term, the new system will enable future costs of the problem to be placed under greater scrutiny and control by the legislature.

Social problems - family discord. The family discord program of the department of social services and housing is intended to reduce the harmful effects of family discord and breakup and to keep the family unit intact by alleviating the causes of discord within troubled families. The legislature needs information as to how successful this program is and as to the future direction of the program. Your Committee notes that the department has reported that it is in the process of implementing an information system which will provide accurate data on the number served and the type of services provided as well as information on the effectiveness of services in meeting the objectives of this program. Therefore, your Committee requests the department of social services and housing to submit an evaluation report of the program to the 1976 regular session, and it requests the department of budget and finance to assure that the evaluation is conducted under an appropriate evaluation design.

PUBLIC SAFETY

Hawaii state prison. It is the intent of your Committee with respect to the capital investment for projects 111 and 112 that modules identified as module numbers 1 - 9 and module numbers 11 - 16 shall be constructed in strict compliance with the program activities intended for the Oahu intake center/ community correctional facility is submitted to the House Judiciary Committee by the administration, the State law enforcement and juvenile delinquency planning agency, and the department of social services and housing. It is also the intent of your Committee that portions of the modules identified as module numbers 12, 14, 15, and 16 shall contain sufficient floor space inside these specified modules as well as space outside the modules for the Hoomana schools of welding and auto mechancis. Finally, it is the intent of your Committee that the protective custody inmates slated to occupy either module 1 or 2 shall be the first to be transferred to the facilities upon completion.

With regard to the correctional industries program, contingent upon the passage of H.B. 1294, it is intended that all special-funded positions and other expenditures funded by special funds shall be funded through the general fund.

Adult honor camps. Your Committee expects improvements to be made to the adult honor camps program, particularly with respect to the following subprograms: the work furlough program, the farming program, and the vocational program. The department of social services and housing shall plan for and implement improvements and report on its progress to the 1976 regular session. Furthermore, in making appropriations for the adult honor camps program, it is the intent of the legislature not to phase out the Kulani Honor Camp as was proposed in the corrections master plan.

Juvenile correctional facilities. Your Committee believes that it is important to establish a pre-release center program for juveniles. It is the understanding of your Committee that SLEPA/LEAA funds for a boys group home are available and have been approved for fiscal year 1974-75. The boys group home had been held in abeyance pending a review of the juvenile justice system and had originally intended to be administered by the community centers branch of the in-community facilities program. With these matters now resolved, your Committee expects expeditious implementation of the pre-release center program.

Prevention of natural disasters. Among other activities, this program was established to maintain and update a general statewide flood control plan and coordinate all flood control activities in the State. Your Committee is concerned that because of the several levels of government and multiple agencies involved in flood control projects, there may be lack of coordination in planning for and implementing the various projects. The State flood control agency should be the logical coordinating agency, and, therefore, your Committee requests the administration to establish a mechanism whereby the agency will be consulted in reviewing new projects as well as in reviewing implementation plans for projects already authorized.

HOUSING

Residential leaseholds. The Committees on Housing have conducted extensive public hearing on the problems of residential leaseholds, and, in particular, the problems surrounding the implementation of Act 307, The Land Reform Act of 1967. That act provided the basis for State condemnation to enable residential leaseholds in development tracts to be converted to fee simple ownership, pursuant to the legislative policy that it is in the economic and social interest of the State to disperse fee simple ownership as widely as possible. One of the problems which has been identified is the question raised by the State's bond counsel as to whether the issuance of general obligation bonds to finance the conversion to fee simple ownership is constitutional. That question is currently being tested in the courts. In the meanwhile, your Committee is determined to proceed with implementation of the act, and it has, therefore, appropriated general fund revenues for the acquisition of a development tract, thereby surmounting the objection raised by the bond counsel with respect to bond financing. The appropriation under the program, Broadened Homesite Ownership, is intended for the acquisition of a "development tract" as defined in section 516-1, Hawaii Revised Statutes. The expenditure of funds shall include but not be limited to attorney's fees and other expenditures authorized and incurred in fulfilling this provision.

Private housing augmentation. Your Committee has found that the most efficient method of employing qualified development coordinators is through the contractual method using the dwelling unit revolving fund. Therefore, it is intended that the appropriation for the Hawaii Housing Authority authorized in the private housing augmentation program be used to continue the current practice of hiring development coordinators on a contractual basis and not be expended to hire development coordinators permanently.

ENVIRONMENTAL PROTECTION

Mineral resources. This is a new program intended to conserve and enhance, where appropriate, the State's supply of mineral resources. The key activities to be pursued include evaluation of mineral resources and mining on State lands; administering and enforcing laws concerning mineral resources and mining; and establishing guidelines for planning, zoning and regulation of growing conflicts and problems arising from competition between urbanization and the concomitant demand for mineral resources. Funds have been provided to initiate the program.

Pollution control - pesticides. This is a program which was not included in the executive budget for funding, but both the Committee on Environmental Protection

and your Committee have determined that a program is required to reduce direct and indirect pesticide contamination to acceptable levels. Therefore, funds have been included to install the program. The activities to be performed include certification of restricted pesticide users, field inspections of pesticide users, investigation of complaints relating to pesticide misuse, monitoring farm products for pesticide residue, licensing of dealers who sell restricted-use pesticides, sampling of pesticide formulations, and retail outlet enforcement.

Youth conservation corps. Funds have been appropriated to enable the State to qualify for additional matching Federal funds to implement a youth conservation corps program. This program will begin with a five-day resident camp on Hawaii this summer with 30 youths participating (15 boys and 15 girls) between 15-18 years of age.

WATER, LAND, AND NATURAL RESOURCES

Solid waste management demonstration projects. Solid waste disposal has become a critical problem. Existing disposal practices and solid waste management plans have become obsolete. Landfills are rapidly filling up and new landfill sites are becoming scarce due to increasing development and environmental considerations. The greatest potential is in the recycling of wastes for beneficial uses, particularly in agriculture. Other potential benefits of recycling include reduction of atmospheric pollution, generation of electricity from combustible materials, production of fuel gas and oil by pyrolysis and recovery of usable materials or energy from gaseous and liquid wastes. Because recycling holds promise for more economical use of energy and other resources and perhaps for development of new energy sources, funds have been appropriated to establish solid waste management demonstration projects.

Water resources research and development. The maintenance of agriculture requires the provision of an adequate water supply. There is potential for multiple uses for water which would otherwise be wasted, particularly sewage treatment plant effluent and stored stream runoff. The use of such water for agricultural purposes would increase the availability of higher quality groundwater for domestic uses. Funds have been included for the research and development of a project to utilize sewage treatment plant effluent and stored stream runoff for agricultural purposes. The project is to be located at West Loch, and the water is intended to benefit agriculture in the Central Oahu area.

Historical and archaeological places - Iolani Palace. Iolani Palace is the nation's only royal palace, and upon the completion of its restoration it is expected to be a significant attraction for visitors as well as residents. The question remains as to who should operate the Iolani Palace complex. While funds are currently budgeted in the department of land and natural resources to staff Iolani Palace, there are other proposals to be considered, including the proposal of the Friends of Iolani Palace to operate the palace. There are a number of important financial and other considerations, but the legislature lacks a complete analysis of the alternatives. Therefore, your Committee requests the legislative reference bureau to conduct an analysis of this issue and to report to the 1976 regular session.

ORGANIZATION AND COORDINATION OF KEY INDUSTRIES

Improved organization and coordination of agricultural programs. The future of agriculture in Hawaii depends heavily upon the programs of various agencies which provide the necessary resources and support to assist private agencies. The reliance of agriculture in Hawaii on government agencies requires that government resources be coordinated. There are various options in bringing about coordination, but the most viable option is the establishment of a governor's agricultural coordinating committee. Funds have been appropriated to bring about effective coordination of agricultural programs. The result should be stronger statewide coordination in agricultural planning and development at a high level.

Tourism coordination. Tourism occupies a central position in the economy of the State, but it has become increasingly evident that unqualified growth in tourism would be detrimental, not only to the industry itself, but also to the quality of life of the people of this State. State government has a clear responsibility to provide direction for this important industry. Therefore, funds have been appropriated for the purpose of coordinating all state and county agencies and the private sector in

the development of tourist-related activities and resources.

INDIVIDUAL RIGHTS

Protection of the consumer - testing and certification of consumer goods. At the present time, the law gives both the department of agriculture and the department of health jurisdiction over the packaging and labeling of food and drugs. This overlapping jurisdiction has caused inconvenience and confusion for producers and manufacturers as they are subject to the requirements of two agencies which at times have different and conflicting requirements. It is intended by the legislature that the division of weights and measures of the department of agriculture and the food and drug division of the department of health coordinate their activities with regard to their respective jurisdiction over the labeling and packaging of food and drugs and report to the 1976 regular session as to what measures have been taken to effect such coordination.

Administrative redress of grievances - tax appeals board. Your Committee has determined that there is a need for the tax appeals board to be represented by a deputy attorney general where the taxpayer is represented by counsel. Therefore, it is the intent of your Committee that the attorney general shall provide such counsel to the tax appeals board whenever proceedings before the board involve a taxpayer represented by counsel.

ELDERLY AFFAIRS

Coordination of elderly affairs. The problems of administering and delivering services to the aging have been documented in the recently completed master plan on aging. There are serious defects in intergovernmental coordination as well as in coordination among the different agencies of state government. Funds have been appropriated to deal effectively with the problem of coordinating programs for Hawaii's elderly population. This is a necessary step to bring about improved planning, coordination, evaluation and delivery of services to the elderly.

Health services for the elderly. Procuring adequate health services, particularly preventive services, is a major problem for elderly citizens. The success of the multiphasic health screening program now serving selected areas demonstrates that the program should be available to all senior citizens. Funds have been appropriated for the maintenance and expansion of the screening program to cover senior citizens throughout the State.

Increased outreach services for the elderly. In recent years, the elderly population has steadily increased. Many are suffering from deprivation because of the lack of adequate services or the lack of knowledge about the services which are available. Isolation, the desperation of not being able to eat with others, the inability to move freely from place to place, the frustration of trying to meet inflationary costs on fixed incomes, and other problems can be approached on a one-to-one basis through outreach programs. Therefore, funds have been appropriated to provide for the expansion of outreach services, including bilingual outreach counselors for the elderly.

CULTURE AND THE ARTS

The multicultural studies program. The multicultural studies program was initially established to record Hawaii's social and cultural history through collection and preservation of oral and written communications, encouraging the ethnohistorical and multicultural activities of all ethnic groups, and creating a central repository for multicultural studies and materials. However, the program has not progressed to the extent expected under its administration by the Hawaii foundation for history and the humanities. Funds have now been specifically appropriated for the multicultural studies program with the understanding that the program will be transferred to the ethnic studies program of the University of Hawaii.

State foundation of culture and the arts; Hawaii foundation for history and the humanities. These two agencies have been assigned important responsibilities by statute to administer programs for culture, the arts, history and the humanities. The foundation on culture and the arts, in particular, administers a substantial amount of funds under the State's program of appropriating one percent of capital investment appropriations for the acquisition of works of art. Your Committee shares the concern of

the Committee on Culture and the Arts of the House that the two agencies should be reviewed, including a review of financial operations.

GOVERNMENT-WIDE SUPPORT

Services for management systems and accounting and internal systems. Recent audits conducted by the legislative auditor have surfaced numerous problems which exist in various agencies relating to deficiencies in management systems as well as deficiencies in accounting and internal control systems. It is also evident from the legislative auditor's reports that some of the problems are long-standing in nature and that they are rooted in the establishment of systems which were either deficient or unequal to the task in the first place. The auditor has also pointed out that to establish proper management and accounting and internal control systems, the operating agencies need professional assistance. Therefore, your Committee recommends that the department of budget and finance shore up its capability to review the management systems of the various agencies and provide the agencies with assistance in designing and maintaining efficient systems, and that the department of accounting and general services, in turn, refocus its attention from the conduct of routine audits to monitoring the internal control and accounting systems of agencies and to assist the agencies in correcting their systems, and, if necessary, to establish new systems. The appropriation made for AGS 104 is intended for the department of accounting services to monitor and improve the internal control and accounting systems of the various agencies, rather than the conduct of post audits, except in those specific situations where audits are required as a condition for receiving or maintaining federal grants or where a specific audit is required by statute.

BUDGET SUBMISSION OVERVIEW

Your Committee appreciates the efforts which have been made thus far to improve the budgeting system. Overnight success was not expected by the legislature in enacting the new budgeting system, but incremental progress was expected and has taken place. As the director of finance has expressed, improvements will continue to be made. Your Committee has several recommendations which are in the nature of implementation improvements.

First, there should be a limited number of measures of effectiveness. An excessive number of measures convey the notion that each is equally valid in assessing program effectiveness. In addition, the administration should devise effectiveness measures for which data are available or can be acquired. The absence of data bearing on planned levels of effectiveness for a large number of State programs weakens the value of the submissions. In particular, the director of finance should conduct a thorough review as to why the department of transportation and the University of Hawaii continuously submit, year after year, program and financial plans which contain no effectiveness data. Generally, rather than "perfect," or ideal measures, it may be necessary for the director of finance to assist the agencies in developing proxy, interim measures. Further, the measures should reveal the program's contribution to the attainment of the objective, and social and economic indicators had best be reserved only for those programs at the highest levels.

Second, there should be continued refinement of the program structure. Your Committee notes that the structure has been substantially improved. Further review and refinement of the structure should result in the elimination of any remaining structural defects which cause awkward cost allocations and should move the program structure closer to the goal, previously stated by the legislature, of a structure which results in 200 to 300 decisional entities at the lowest level.

Third, there should be in the program plan narratives a fuller explanation of the costs of the program, including such information as the number, kinds, and costs of positions being requested. The inclusion of such information in the narratives will alleviate the necessity of burdening the department of budget and finance as well as the operating agencies with providing such information in separate submissions.

Fourth, the format of the Variance Report should be corrected in at least one respect. The first three months' experience of any current fiscal year should be "actual" experience rather than "estimated" as currently labeled in the Variance Report.

Fifth, the latest budget submission is devoid of analytical content. Because analysis

is the crux of the budgeting system, the department of budget and finance is expected to concentrate its efforts in performing program analysis and assisting the agencies with their analytical efforts. As a standing guideline, all new program proposals or proposals to substantially increase the size of ongoing programs should be supported by analysis.

Sixth, future submissions should make correct use of the cost categories specified by statute. For two successive submissions now, the program and financial plans do not contain a single dollar in any of the State programs for the cost category, "research and development." This is the cost category under which costs associated with the design of new programs or major changes to programs should be shown. The utilization of the cost category makes possible the incremental funding of new programs and permits programs to be developed without leaping immediately into the operating phase, as has happened with some programs in the past. There are, of course, any of a number of programs under design, and, therefore, it is not possible that there are no R & D costs in all of State government. Your Committee expects the department of budget and finance to monitor and enforce the correct utilization of the cost categories specified by statute, and in particular, the "research and development" cost category.

RECOMMENDATION

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 535, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 535, H.D. 1, C.D. 1.

Representatives Suwa, Akizaki, Kiyabu, Inaba, Kihano, Kondo, Kunimura, Mizuguchi, Morioka, Peters, Lunasco, Ajifu, Amaral, Clarke, Hakoda and Kamalii,
Managers on the part of the House.

Senators R. Wong, Yamasaki, Hara, Hulten, King, Kuroda, O'Connor, Toyofuku, Yim, Young, Anderson, Henderson and Rohlfing,
Managers on the part of the Senate.

Conf. Com. Rep. No. 29 on S.B. No. 1732

The purpose of this Act is to create an educational non-profit, public corporation to be known as the "Center For Cultural And Technical Interchange Between East And West, Inc."

In 1960, through Public Law 86-472, Congress established the Center for Cultural and Technical Interchange Between East and West. The primary purpose of the Center was to promote better relations and understanding between the United States and the nations of Asia and the Pacific.

In recognition of its geographical position and multicultural society, Hawaii was designated by the United States Congress as the natural location for the East-West Center. As a result, a unique cooperative enterprise was developed which has brought many benefits to both the nation and the State of Hawaii for the past fifteen years. During this time, approximately twenty-five thousand people from forty different Asian and Pacific countries and the United States have participated in the Center's programs. Based on its past and current performance, your Committee believes that constant and sincere efforts have been exerted to carry out the purposes set forth by the United States Congress.

While cognizant of the fact that the concept of incorporation is a continuation of such efforts on the part of the University of Hawaii and the United States State Department to further enhance the East-West Center's capabilities as an educational institution, your Committee also recognizes that such a proposal constitutes a unique and innovative undertaking with far-reaching implications for the Center's future growth and development. Therefore, throughout its deliberations, your Committee has been mindful of the need to examine the full implications of incorporation and the effects this would have on the Center's original intent and purposes as set forth by the United States Congress upon its establishment.

Your Committee has determined that there is a need to ensure accountability on the part of those agencies which will play a significant role on the Center's development and operations and yet allow the Center to maintain its own autonomy.

Your Committee also recognizes that the rights and interests of the personnel affected by incorporation require protection, including the right to organize for the purpose of collective bargaining. Further, it is your Committee's belief that clarification of the Center's program purposes, assurance of public meetings, provision for academic freedom, and provisions relating to lands and property are in order.

Your Committee has amended the bill in the context of the aforesaid considerations as follows:

(1) to ensure that those agencies having a significant role in the Center's development and operations will be held accountable and that a proper balance of State and federal participation will be maintained. Moreover, since the Center's operation is dependent upon continued federal funding through grants-in-aid, the use in perpetuity of State lands and the State's assumption of certain educational and institutional support costs, the composition of the Board of Governors of the corporation has been amended to consist of the Governor of the State of Hawaii and the Assistant Secretary of State to serve as ex officio, voting members and the President of the University of Hawaii to serve as an ex officio, non-voting member. Additionally, the Governor and the Secretary of State shall each appoint five members to the Board. It is your Committee's belief that the Board of Governors should embody the concept of the Center as an autonomous entity and has, therefore, provided for the election of five other members by the appointed members of the Board;

(2) to provide for the protection of the rights of interests of University of Hawaii employees presently working at the East-West Center who will continue to remain with the Center. Because your Committee recognizes that some of these employees have served the Center for many years and may desire to remain with the Center, three options have been included: (1) To continue as a member of the State Retirement System provided that the corporation shall continue to deposit an amount equal to the employer's contribution and employee's deduction as required by chapter 88, Hawaii Revised Statutes; (2) To cease to be a member of the State Retirement System but receive an annuity and other benefits as provided in chapter 88 and to become a member of the corporation's retirement system; (3) To cease to be a member in the State Retirement System and withdraw his contributions in accordance with chapter 88 and become a member of the corporation's retirement system.

Your Committee realizes that the employees affected by the act of incorporation have no control over their severability from the State Retirement System. If the employees are not provided with an option to continue to participate in the State's Retirement System, they would suffer undeserved dislocation from the system in view of their years of dedicated service. Although your Committee is aware that such a provision may be precedent setting, it regards this unique situation as an extension of benefits previously available to them before incorporation. By affording these employees with this option, it is not your Committee's intention to establish policy on the participation of non-public employees in the State Retirement System. It should also be noted that your Committee was informed that the retention of these employees as participants in the retirement system will not incur additional costs to the State. The East-West Center currently contributes the employer's portion for its employees with federal funds under the State Retirement System and will continue to do so after incorporation.

(3) to clarify that the corporation shall not be considered a department, agency or public instrumentality of the State;

(4) to specify that the adoption, amendment or repeal of by-laws providing for the organization and internal management by the Board of Governors be conducted in meetings open to the public with public notice of such meetings, including an agenda, to be announced at least fourteen days in advance and published at least twice in a newspaper of general circulation. Your Committee also has amended the bill to require that at least half of the number of meetings conducted by the Board of Governors in any year are to be held within the State;

(5) to authorize the Board of Governors to adopt a policy on academic freedom

for the corporation and to emphasize that the corporation not support classified activity or research and that all activities and research shall be available to the public;

(6) to include Lincoln Hall and Hale Manoa as the only two residential dormitories that may be converted to other than residential dormitory use by the corporation for its purposes; and

(7) to provide that lands on the University of Hawaii Manoa Campus made available to the corporation shall be subject to the approval by a majority vote of each house of the legislature in joint session with the exception of the original area of land made available by the University for the East-West Center pursuant to grant-in-aid agreements previously entered into by the University and the Department of State.

Your Committee has further amended the bill to include a severability clause in which, if any provision of the Act is deemed invalid, the invalidity does not affect other provisions of the Act.

While incorporation provides a more flexible basis by which the East-West Center can grow and improve, your Committee is aware that three contractual agreements--i.e., Agreement between the Corporation and the Board of Regents; Agreement between the Corporation and the Department of State; and Agreement between the Board of Regents and the Department of State--will detail the administration and operation of the Centeras well as the working arrangements between the University of Hawaii and the Corporation for cooperative educational programs and other institutional support. It is contemplated under the agreements that the Center shall have no less than three hundred degree-seeking participants at all times. It is your Committee's belief that the Center should maintain such a minimum level so as to provide a base for program participation for the Center. The Corporation should always seek to maintain a fair allocation of students among the various programs leading to baccalaureate, masters and doctoral degrees. Your Committee also recommends that the Board of Regents of the University of Hawaii annually review the programs of the East-West Center and student participation to determine compliance with the above concerns.

Your Committee is also aware that the incorporation will permit the East-West Center to seek funding from foreign governments and other private sources. However necessary or desirable receipt of such funds may be for the purposes of the Corporation, your Committee believes that the Center should not receive funds if such funds are conditioned on the admission of a specifically identified individual who may not otherwise be eligible for admission or for the appointment of a specifically identified individual for membership on the Board of Governors.

The bill also provides in section 9(e) that the full rights of the employees of the Corporation to self-organization, to form, to join, or assist labor organizations to bargain collectively shall be preserved. Inasmuch as the employees of the Corporation are not considered public employees, your Committee intends and believes it to be appropriate that the employees organize collectively under the Hawaii Employment Relations Board as established in chapter 377, Hawaii Revised Statutes. However, the bill does allow employees to choose to be under State or federal jurisdiction.

While mindful of the fact that this measure represents enabling legislation to provide for an autonomous corporate entity through which the Center can operate independently, your Committee maintains that active participation is essential by the University of Hawaii for the furtherance of the objectives set forth in this Act.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1732, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1732, S.D. 1, H.D. 1, C.D. 1.

Representatives Sakima, Ho, Kunimura, Shito, Takamura, Ikeda and Santos,
Managers on the part of the House.

Senators Takitani, Toyofuku, O'Connor, F. Wong, Saiki and Yee,
Managers on the part of the Senate.

Conf. Com. Rep. No. 30 on S.B. No. 637

The purpose of this bill is to eliminate the requirement that a policeman, fireman, or corrections officer be required to attain the age of fifty-five years before retiring without penalty from the police department or fire department of the various counties.

Presently, the retirement formula for general members, including policemen, firemen, and corrections officers, allows them to retire before attaining age fifty-five if they have at least twenty-five years of credited service, but at a reduced benefit rate.

Your Committee has amended the bill to provide that policemen, firemen, and corrections officers can retire with unreduced benefits if the member has at least twenty-five years of credited service.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 637, S.D. 1, H.D. 2, C.D. 1, and recommends its passage on Final Reading.

Representatives Lee, Peters and Kamalii,
Managers on the part of the House.

Senators Toyofuku, Yamasaki and Henderson,
Managers on the part of the Senate.

Conf. Com. Rep. No. 31 on H.B. No. 612

The purpose of this bill is to improve administrative of the Criminal Injuries Compensation Act by:

1. permitting the Criminal Injuries Compensation Commission to hold official hearings in the absence of the chairman so long as two members are present. The present law requires the presence of the chairman to conduct official business.

2. specifically listing in Section 3 of the bill the crimes for which compensation may be awarded. It deletes certain crimes from the list of compensable crimes.

H.B. No. 612, H.D. 1 was amended by the Senate Committee in Judiciary so as to allow the Commission, upon application from the prosecuting attorney or chief of police of the appropriate county, to suspend proceedings under Chapter 351 on the ground that a prosecution for a crime arising out of the act or omission has been commenced or is imminent or that releases of the investigation report would be detrimental to the public interest.

Your Committee on Conference investigated the amendment as reflected in H.B. No. 612, H.D. 1, S.D. 1 and was informed that the Criminal Injuries Compensation Commission has received a letter from Chief Francis Keala of the Honolulu Police Department. Such letter states that the police intends "to cooperate to the fullest extent possible without jeopardizing a successful investigation and prosecution of persons suspected of committing a crime, (in order) that you may perform your duties as required by law".

We are satisfied that previous concerns expressed in this area should, and are being, resolved administratively at this time.

Your Committee, upon further consideration, has amended the bill to correct grammatical errors.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 612, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 612, H.D. 1, S.D. 1, C.D. 1.

Representatives Uechi, Naito and Sutton,
Managers on the part of the House.

Senators Nishimura, Hara and Leopold,
Managers on the part of the Senate.

Conf. Com. Rep. No. 32 on H.B. No. 327

The purpose of this bill is to clarify the present language and format, correct deficiencies and expedite operating procedures, particularly those relating to campaign contributions and expenditures without undermining or unduly complicating the basic intent of the original enactment.

Your Committee upon further consideration has made the following amendments to H.B. No. 327, H.D. 1, S.D. 1:

1. Section 11-191(3)(B) Definitions.

The amendment proposed by your Committee postpones the filing of an organizational report until January 1 of an election year if a person has either received contributions aggregating more than $100, incurred any expenditure or given his consent for any other person to receive contributions or make expenditures in an off-election year. Expenditures made prior to January 1 of an election year are reportable; however, they are not to be charged to a candidate's or committee's expenditure limit except under the circumstances outlined in section 11-206(e). All contributions received between elections for the same office are reportable pursuant to section 11-197(a)(5).

2. Section 11-191(5)(C) Definitions.

Your Committee has deleted this subsection in the belief that the idea contained herein is best expressed in a new section. (See, 11-191(9) below).

3. Section 11-191(9) NEW SECTION Definitions.

The amendment proposed by your Committee recognizes that corporations, trade associations, labor organizations and other people have the right to communicate freely with their respective memberships or stockholders, as the case may be, beyond the strictures of the campaign spending law. This section has been added to define the type of intra-organization communication which will be exempt from the law. The costs associated with publishing this type of communication are exempted in section 11-206.1.

4. Section 11-192 Campaign Spending Commission.

Your Committee has not changed this section. Nevertheless, it must be stressed that the Judicial Council should check with the parties in order to determine whether a prospective commissioner is a qualified party member.

5. Section 11-194 Duties of the Chief Election Officer; Commission.

(a) Your Committee has deleted an amendment to the existing law which would place all duties in connection with the Campaign Spending Law under the Commission. Thus, your Committee has preserved the separation of certain duties between the Chief Election Officer and the Commission as it exists under the present law.

(b) Additionally, your Committee has clarified the duty of the Commission to ascertain that substantially complete reports have been timely filed. This subsection, as modified, requires the Commission to notify a person who has failed to file or who has filed a substantially defective or deficient report and to allow the person notified a reasonable time to respond to the notification before the person may be publicly listed as a delinquent by the Commission. What constitutes a reasonable time may vary depending on the method of notification, location of the candidate and the type of problem involved. If an honest difference of opinion exists concerning a defect, the person will not be listed as a delinquent until the matter is clarified. However, failure to respond to the notification constitutes an

immediate, separate violation.

6. Section 11-195 Filing of reports, generally.

The amendment made by your Committee recognizes that the disclosure of campaign information must be accessible to a candidate's constituency. Therefore, information filed in neighbor island contests will be first available at the county clerk's office on the due dates. Upon receipt of the reports, the county clerk's office will mail the original and one copy to the Campaign Spending Commission. Timely receipt by the county clerk's office on the neighbor islands shall satisfy the requirements of sections 11-207 and 11-208.

7. Section 11-197.1 NEW SECTION Designated Central Committee.

Your Committee recommends adopting this section which would require candidates for a statewide or county office who are supported by more than one committee to designate a Central Committee to coordinate recordkeeping and file a composite report.

8. Section 11-199 Campaign contributions, generally.

Your Committee has modified this section to require the prompt deposit of all monetary contributions (cash or check) in financial institutions qualified to do business in Hawaii. Although the problem of excessive petty cash funds was discussed at length, your Committee has decided not to put a limit on such funds, but rather to stress that checks be drawn against a candidate's campaign account to create the petty cash fund. This will create a record of how much money was transferred to petty cash.

Your Committee has added a new subsection which requires the issuance of a receipt to a donor who contributes in excess of $250 in cash. As in the petty cash situation, the necessity of creating a record is apparent.

9. Section 11-200 Campaign contributions, restrictions against transfer.

Your Committee has added a new subsection which allows a candidate, campaign treasurer or committee to purchase from campaign funds up to two tickets for another person or party's fund raiser.

This section, as originally conceived, was intended to prevent the use of contributions for purposes not directly related to a candidate's own campaign. This intent is preserved with the provision that candidates, campaign treasurer, or committees may use contributed funds to purchase two tickets for each fund raiser held by another candidate, committee, or party. Under the present law, no such tickets can be purchased from contributed funds although the candidate may purchase them using personal funds.

10. Section 11-203 Testimonial affairs.

Your Committee has amended this section to permit any person seeking statewide office to hold one testimonial affair in each ounty. This addition allows persons seeking offices with the highest spending limits an opportunity to solicit funds through testimonial affairs in each county. The numerical limit is in effect until the person holding the testimonial affairs runs successfully or unsuccessfully for office. There is no numerical limit for party sponsored testimonial affairs for the general benefit of the party.

Next, your Committee has set an upper limit on cost exemptions for coffee hours at $25 for the office of State Representative and $50 for all other offices. As long as the costs attributable to the coffee hours are below this amount, they will not be charged to a candidate's spending limit.

Finally, your Committee has clarified the intent of this section to

allow any person the right to hold any number of fund raising affairs where the cost for attending the affair is less than $15 per person. The only limit on this general rule is that during the election period, persons seeking statewide office may have only two cost-exempt fund raisers of this type in each county, while persons seeking election to other offices may hold either two cost-exempt fund raisers of this type in their districts or one testimonial affair.

11. Section 11-204 Campaign expenditures: authority required.

Your Committee has amended this section to delete a provision which would create a presumption that a committee working in support of a candidate or in opposition to his opponent is a committee directly associated with the candidate for purposes of determining the spending limit. The candidate's disavowal of the committee's activity would rebut the presumption.

Your Committee believes that the problem created by independent committees spending on behalf of a candidate or against his opponent has already been covered in subsection (c) of the present law. This subsection means that in the event any committee makes expenditures without the approval of the candidate or his authorized representative, such expenditure will not count against a candidate's spending limit.

12. Section 11-206 Campaign expenditures: limits as to amounts.

Your Committee has added a 25 cent per voter limitation on spending by an issue-oriented committee. The number of voters can be ascertained by determining whether the issue may be of statewide or county-wide scope. This will help to limit the overall cost of such campaigns. Also, your Committee has added a new subsection to close an apparent loophole in the present law. The loophole is created when a candidate begins to campaign for an office with an expenditure ceiling higher than the office he finally seeks. The amendment provides for expenditures for the former office to count against the limit for the latter office. Finally, your Committee has clarified the language in subsection (c) to more clearly reflect the intent of that subsection.

13. Section 11-206.1 House bulletins.

Your Committee has added this section for the reasons stated in paragraph 3, supra.

14. Section 11-209(b) Disposition of funds.

Your Committee has expanded the list of options open to a candidate, committee or other person who wishes to dispose of excess campaign funds to include non-profit organizations.

15. Section 11-210 Advertising.

Your Committee has deleted references to "printed material" in this section, because of the possible conflict with the definition of "advertisement" in section 11-191(1).

16. Section 11-211 Complaints, investigation, and notice.

Your Committee has added language to subsection (c) which allows a person cited for a violation to call and cross-examine witnesses at the hearing provided in subsection (c) and requires the hearing to be on the record. Also, the cease and desist sanction in subsection (f)(1) has been limited to a temporary order.

Your Committee has also amended the bill to correct minor grammatical and typographical errors.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 327, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 327, H.D. 1, S.D. 1, C.D. 1.

Representatives Roehrig, Uechi, Cobb, Kondo, Yamada, Yap, Fong, Medeiros and Oda,
Managers on the part of the House.

Senators Nishimura, O'Connor, Chong, Taira and George,
Managers on the part of the Senate.

Conf. Com. Rep. No. 33 on H.B. No. 999

The purpose of this bill is to amend state law to conform with the provisions of Public Law 93-641, the National Health Planning and Resources Development Act of 1974.

The federal government enacted Public Law 93-641 in response to growing public concern over the rising cost of health care, the inequitable distribution of health care personnel and facilities, and the lack of uniformly effective means of health care delivery. Efforts to combat these problems have not provided maximum efficiency and effectiveness in the development of health care delivery systems. As a result, the intended effect, controlling the inflationary costs of health care, has been minimal.

The need for comprehensive planning to provide equal access to quality health care at a reasonable cost has been recognized by the Federal Act which addresses itself to the need to facilities the development of a national health planning policy, to augment statewide and areawide health planning efforts, and to authorize financial assistance for the development of health resources and facilities. More specifically, the Act provides for a nationwide network of health systems agencies responsible for the planning of health services, manpower, and facilities within health service areas. At the state level, it requires the designation of a health planning agency which will review and coordinate areawide plans and conduct statewide health planning activities with the assistance of an advisory council consisting of consumer, health care providers, and representatives of the health systems agencies.

The Federal Act also introduces a new, planning-oriented approach to federal support of health care services and facilities by authorizing direct support for health planning activities and making federal funding contingent upon the consistency of proposed services and facilities with health plans. In order to qualify for federal funding for health planning and facilities development, states must amend their laws to meet these requirements.

Your Committee upon further consideration has made the following amendments to H.B. No. 999, H.D. 1, S.D. 2:

(1) SECTION 8, relating to the receipt of federal funds, has been re-worded to meet the requirements of Public Law 93-641.

(2) The State Health Planning and Development Agency is established within the Department of Health, for administrative purposes only.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 999, H.D. 1, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 999, H.D. 1, S.D. 2, C.D. 1.

Representatives Segawa, Naito, Stanley, Takamine, Evans and Santos,
Managers on the part of the House.
(Representative Naito was excused.)

Senators Chong, Saiki, Toyofuku and R. Wong,
Managers on the part of the Senate.

Conf. Com. Rep. No. 34 on H.B. No. 126

The purpose of this bill is to declare and provide for implementation of a statewide policy that the formation and conduct of public policy - the discussions, deliberations, decisions, and actions of governmental agencies be conducted as openly as possible.

The bill provides that meetings of public bodies are to be open to the public with prior public notification therefor, except in exceptional circumstances. The bill

also provides standards for the contents of and availability of minutes, provides for voidability of actions taken at meetings failing to meet the requirements of the bill, and for enforcement and penalties.

Your Committee, upon further consideration, has made the following amendments to H.B. No. 126, H.D. 1, S.D. 1:

1. The applicability of the provisions of this law to the State Legislature was clarified by amending the language of section 92-10. The purpose of this was to make explicit the intended deference to the constitutional mandate preserving the rulemaking prerogative to the respective houses of the State Legislature.

2. Attention of your Committee on Conference was brought to H.B. No. 1870, H.D. 1, S.D. 3 which is under contemplation by the Legislature and purports to provide reform to Hawaii's Land Use Law. It is the intent of H.B. No. 126, H.D. 1, S.D. 1, C.D. 1 that the proceedings of the Land Use Commission be governed by its open meeting requirements, notwithstanding section 92-6 which provides for the exclusion of adjudicatory functions from open meeting requirements. Technical amendments required were made.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 126, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 126, H.D. 1, S.D. 1, C.D. 1.

Representatives Roehrig, Yamada and Carroll,
Managers on the part of the House.

Senators Nishimura, Chong and Leopold,
Managers on the part of the Senate.

Conf. Com. Rep. No. 35 on H.B. No. 127

The purpose of this bill is to provide a law wherein lobbyists are required to register, to file timely disclosure reports and to otherwise account for contributions made to them and expenditures made by them in the course of seeking to influence the outcome of legislative or administrative action. The intent of the bill is to make lobbyists accountable for their actions to insure against the exercise of undue or improper influence.

Upon consideration of the bill, your Committee has amended the bill by making numerous changes and deletions. The bill now provides as follows:

1. Definitions are provided for the terms "administrative action", "administrative agency", "contribution", "expenditure", "legislative action", "lobbyist", "lobby", and "person".

Expenses of preparing written testimony or exhibits for a hearing before the legislature or an administrative agency are excluded from the definition of the term "expenditure." This is because it is a requirement of the legislature that written testimony be submitted in conjunction with appearances before the various legislative committees, and because such testimony is primarily presented for the purpose of communicating concerns to the members regarding proposed legislation. The intent of the bill is to identify by disclosure the lobbyist who attempts to influence legislative or administrative action by the use of gifts, gratuities or favors.

2. It is intended that the registration process be simple and as convenient as possible for the public, in order not to discourage public participation and input which is so vital to the legislative process, and yet be able to maintain records and information regarding lobbyists.

Lobbyists are required to register with the clerks of either house and to furnish certified statements including pertinent information as to employment and remuneration. Registration is effective for a period of one year and certain changes in information are to be reported within 10 days.

Certain categories of individuals defined in section 2 of the bill are exempted from registration because of various reasons, such as individuals, officials acting in the official capacity, the media, attorneys advising clients on construction or effect of proposed legislation, and expert witnesses.

3. Your Committee concluded that the public should be able, not only to identify lobbyists, but also be able to obtain adequate insight into the extent which amounts of money are being expended toward the primary objective of influencing legislative and administrative actions, the nature of such expenditures, and the recipients of such expenditures.

Recognizing that requiring comprehensive reporting of every dollar being spent would be cumbersome and impractical, your Committee decided that persons whose expenditures reached certain threshholds would be required to provide a detailed report while a short-form expenditure report would be allowed for lobbyists not reaching such threshholds.

The certified statement is to be filed with the Legislative Auditor and is to cover the periods from January 1 to June 30, and from July 1 to December 31 of each year.

In this regard, your Committee requests the Legislative Auditor to prepare appropriate forms, including a short form for use by lobbyists not required to submit the full range of information.

4. The Legislative Auditor is required to maintain the statement provided for in this bill for a period of 4 years. The statements shall be public records, open for public inspection.

5. Providing that a lobbyist cannot accept employment as a lobbyist for a fee contingent upon the outcome of legislative or administrative action.

6. Providing that a wilful failure to file a statement or wilfully filing a statement containing false information constitutes a petty misdemeanor.

7. Providing that the Office of Legislative Auditor shall have administrative responsibility for investigation of the activities of a lobbyist upon a verified complaint of a person.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 127, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 127, H.D. 1, S.D. 1, C.D. 1.

Representatives Roehrig, Uechi, Yamada, Stanley, Lee, Kondo, Carroll, Medeiros and Oda,
Managers on the part of the House.

Senators Nishimura, O'Connor, Taira, Kawasaki, Chong and George,
Managers on the part of the Senate.

Conf. Com. Rep. No. 36 on H.B. No. 1779 (Majority)

The purpose of this bill is to change the rate of regular interest in the Employees' Retirement System Law from 4-1/2 percent to 4-3/4 percent.

Your Committee has amended this bill to provide that the average final compensation of a legislator under the Employees' Retirement System Law is to be computed as being an amount equal to two and one-half times the actual annual salary of a member of the legislature.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1779, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1779, H.D. 2, S.D. 1, C.D. 1.

Representatives Lee, Takamine, Yuen, Akizaki, Kihano, Peters, Kamalii, Fong and Santos,
Managers on the part of the House.
(Representative Fong did not concur.)

Senators R. Wong, Yamasaki and Anderson,
Managers on the part of the Senate.
(Senator Anderson did not sign the report.)