

## CONFERENCE COMMITTEE REPORTS

Conf. Com. Rep. No. 1 on H.B. No. 2166-78

The purpose of this bill is to transfer the functions of the Energy Resources Coordinator from the office of the Governor to the Department of Planning and Economic Development and, further, to provide the Energy Resources Coordinator with rule-making powers.

Your Committee has amended the bill to provide that the rules be submitted for legislative review.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2166-78, 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. 2166-78, H.D. 2, S.D. 1, C.D. 1.

Representatives Cayetano, Dods, Say and Medeiros,  
Managers on the part of the House.

Senators Yim, Kuroda and George,  
Managers on the part of the Senate.

Conf. Com. Rep. No. 2 on H.B. No. 2756-78

The purpose of this bill is to provide a more flexible and efficient method of processing special permits by county planning commissions pursuant to Section 205-6, Hawaii Revised Statutes, and to avoid unnecessary delays by allowing each county to establish its own time requirements for processing and acting upon special permits.

Your Committee has amended the bill to mandate the planning commission, rather than the central coordinating agency, of each county after consultation with the central coordinating agency of said county to establish rules setting time limits upon the hearing and action on special permit petitions. In the case where the county planning commission is an advisory body then the central coordinating agency of said county shall establish said rules.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2756-78, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2756-78, S.D. 2, C.D. 1.

Representatives Kawakami, Lunasco, Uechi and Fong,  
Managers on the part of the House.

Senators F, Wong, Hulten and Soares,  
Managers on the part of the Senate.

Conf. Com. Rep. No. 3 on H.B. No. 3012-78

The purpose of this bill is to require returning United States citizens who have resided five or more years in a foreign country, territory, or possession of the United States with high occurrence of communicable diseases to submit an examination report to the Department of Health.

Presently, individuals who are citizens by birth but have lived abroad for several years and individuals who were born abroad but attain citizenship through United States parentage can enter or re-enter this State without going through the visa process which requires a health examination, including a chest x-ray. The Department of Health testified that when these individuals are screened by the department's tuberculosis screening program, the rate of incidence of this communicable disease was found to be similar with that of the immigrants.

This bill will help safeguard the health of our people by requiring certain individuals who have lived abroad in areas of high occurrence of communicable diseases to submit a medical examination report to the Department of Health.

Your Committee on Conference has amended this bill to require the submission of a tuberculin skin test or a chest x-ray to the Department of Health. In the event

that the skin test is positive, a chest x-ray report shall be required.

Your Committee on Conference feels that the Department of Health should request a chest x-ray report whenever possible.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3012-78, 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. 3012-78, H.D. 1, S.D. 1, C.D. 1.

Representatives Segawa, Aki, Shito and Sutton,  
Managers on the part of the House.

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

Conf. Com. Rep. No. 4 on H.B. No. 2689-78

The purpose of this bill is to provide needed flexibility for proper land utilization within agricultural use districts by permitting the counties to allow exceptions to the minimum lot size specified by law.

Your Committee is of the opinion that providing the counties with the power to allow lot sizes less than the legal minimum lot size, as a result of a consolidation and resubdivision under certain conditions, will permit more flexibility and insure the proper and optimum utilization of our agricultural lands. However, your Committee further finds that it is the intent of this Legislature that conforming agricultural lots remain conforming. Accordingly, your Committee has amended the bill by the inclusion of the following proviso on page 2, line 4: "provided further, that in no event shall a lot, which is equal to or exceeds the minimum lot size of one acre be less than that minimum after the consolidation and resubdivision action".

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2689-78, 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. 2689-78, H.D. 1, S.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 5 on H.B. No. 2248-78

The purpose of this bill is to amend Section 46-17, Hawaii Revised Statutes, relating to regulation of certain public nuisances to clear up an apparent conflict in the statutes. A further purpose of this bill is to amend the existing statutes relating to parks and playgrounds for subdivisions.

In 1972, the Legislature enacted Chapter 342 to regulate activities affecting environmental quality, which among other things, granted to the Department of Health authority to promulgate rules and regulations regulating conduct of activities that affect the environment and authority to grant permits to conduct such activities under controlled conditions.

In 1974, Section 46-17 was enacted providing authority to the counties to adopt ordinances regulating or prohibiting noise, smoke, dust, vibration or odors which constitute a public nuisance. The section provided that no ordinance would be held invalid on the ground that it was covered by other statutes or rules, and that in case of conflict, the law which afforded the most protection to the public should apply.

The last proviso is too restrictive and places unreasonable constraints on cane field burning, and the bill therefore provides that permit for agricultural burning granted by the Department of Health or to the extent it subjects to fine or injunction, or declares to be a public nuisance any agricultural burning being conducted in accordance with such a permit.

The bill would also limit the amount of money required to be contributed by a subdivider

for park or playground purposes to a maximum of \$500 per dwelling or lodging unit. The maximum limit set by the bill reflects a concern that one of the many factors contributing to the high cost of housing in the City and County of Honolulu is the park dedication ordinance, and also reflects concern because of the apparent disparity in the amount of cash contributions required by each county under the various park dedication ordinances, and also because of the great disparity in required contributions between different developments.

Your Committee believes that the matter of requiring subdividers and developers to contribute to playground and park development is a complex one which requires further study. It is the understanding of your Committee that H.R. No. 34, H.D. 2, Requesting the House Committee on Water, Land Use, Development, and Hawaiian Homes, and the House Committee on Housing to review the park dedication statute, the county park dedication ordinances, and the rules and regulations implementing the county park dedication ordinances is to be adopted. The resolution requests the counties to reevaluate their duties under Section 46-6 so as to ensure that the park dedication statute is being implemented equitably and efficiently in each county. The counties are also requested to forward their reevaluations to the House committees, and the committees are required to hold a joint public hearing to review the park dedication problems. The committees are required to submit a report containing findings and recommendations to the Legislature at least 20 days prior to convening of the next Legislature. It is the further understanding of your Committee that the resolution is to be amended to invite participation by the Senate committees on Housing and Hawaiian Homes, on Ecology, Environment and Recreation, and on Inter-Government Relations.

Your Committee upon further consideration has amended H.B. No. 2248-78, S.D. 2, by deleting Section 2 in its entirety, and by renumbering Sections 3 and 4.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2248-78, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2248-78, S.D. 2, C.D. 1.

Representatives Garcia, K. Yamada, Blair, Cobb, Nakamura, Uechi,  
Uwaine, D. Yamada, Medeiros and Fong,  
Managers on the part of the House.

Senators Nishimura, Hulten, Taira, Takitani and Saiki,  
Managers on the part of the Senate.

Conf. Com. Rep. No. 6 on H.B. No. 2054-78

The purpose of this bill is to require the tenant, in any legal dispute over the payment or nonpayment of rent, to pay into a special court-administered fund any rent as it becomes due, pending final determination of the dispute.

Your Committee finds that this bill would give the courts the power, in any lawsuit where the payment or nonpayment of rent is an issue, to order, at the request of either party, that the tenant make rental payments into a fund. When a final decision has been reached, the rental moneys in the fund will be paid out by the court.

At the present time, if a dispute regarding rent arises and the tenant refuses to pay all rents, the landlord has no recourse but to commence lengthy eviction proceedings. However, eviction will not compensate the landlord for rent accrued while the tenant was in possession.

Under this bill, if a tenant does not have the money to pay rent into the fund as it becomes due, the landlord is entitled to immediate judgment for possession and execution of the eviction order.

The bill also provides for the payment of interest if the court determines that the issue of nonpayment was raised in bad faith.

Your Committee has amended H.B. No. 2054-78, H.D. 1, S.D. 1, to delete the phrase "either is precluded from raising the issues under subsection (b) or" from Section 2 (c), as this phrase is inconsistent with the bill in its present form.

Your Committee upon further consideration has also amended H.B. No. 2054-78,

H.D.1, S.D.1 by deleting Section 3 and Section 4 of the Senate draft. Section 3, which provided statutory authority for counterclaim by the landlord, was found to be unnecessary by your Committee, as case law already has clarified this point. Your Committee deleted Section 4, which withheld the right of trial by jury from landlord-tenant actions arising under Chapter 521, Hawaii Revised Statutes, on the grounds that such denial is unconstitutional.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2054-78, 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. 2054-78, H.D. 1, S.D. 1, C.D. 1.

Representatives Shito, Aki, Nakamura, Segawa, Ueoka and Narvaes,  
Managers on the part of the House.

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

Conf. Com. Rep. No. 7 on H.B. No. 2764-78

The purpose of this bill is to allow the Office of the Lieutenant Governor to furnish session laws, supplements, and replacement volumes of the revised statutes free of charge to public officials. "Public officials" are defined as officials of the Hawaii Congressional delegation, of the United States District Court in Hawaii, of the United States Attorney's Office in Hawaii, and of the Legal Aid Society.

Your Committee upon further consideration has made the following amendments to H.B. No. 2764-78, H.D. 2, S.D. 1:

- (1) State and county officials were included in the definition of "public officials".
- (2) The officials of Legal Aid Society were deleted from the definition of "public officials".

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2764-78, 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. 2764-78, H.D. 2, S.D. 1, C.D. 1.

Representatives Garcia, Morioka and Medeiros,  
Managers on the part of the House.

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

Conf. Com. Rep. No. 8 on H.B. No. 1879-78

The purpose of this bill is to decriminalize traffic offenses, other than those of a serious nature, to the status of violations.

The bill reserves the criminal penalties of imprisonment, probation and restitution for traffic offenses such as those concerning accidents involving death, personal injury or property damage, failure to give information and render aid, making false reports, improper overtaking and other offenses enumerated in Section 291C-161(c).

The bill also decriminalizes offenses contained in other traffic-related statutes, deleting provisions relating to imprisonment from Chapter 286, Highway Safety; Chapter 286G, Driver Education and Training Fund; and Chapter 291, Traffic Violations.

The bill further amends Section 291C-23 relating to "obedience to police officers" by making it a misdemeanor for any person to wilfully fail or refuse to comply with lawful orders or directions of police officers.

Your Committee upon further consideration has amended the penalty provision of Section 291C-23 by making it a petty misdemeanor and has made technical, non-substantive amendments to the bill which do not affect its intent and purpose.

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



1879-78, 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. 1879-78, H.D. 1, S.D. 1, C.D. 1.

Representatives Garcia, Nakamura, Uwaine and Medeiros,  
Managers on the part of the House.

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

Conf. Com. Rep. No. 9 on S.B. No. 2005-78

The purpose of this bill is to provide supplementary loans to be expended by the department of agriculture to independent sugar growers by amending Act 19, Special Session Laws of Hawaii 1977. However, no appropriation has been made and the determination of appropriation has been left to the Committee on Ways and Means, as a part of the supplemental budget.

Your Committee has amended this bill to provide for an appropriation of \$750,000 for the purposes of making farm loans to independent sugar growers.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2005-78, 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. 2005-78, S.D. 1, H.D. 1, C.D. 1.

Representatives Uechi, Caldito, Inaba, K. Yamada and Poepoe,  
Managers on the part of the House.

Senators F. Wong, R. Wong and Soares,  
Managers on the part of the Senate.

Conf. Com. Rep. No. 10 on S.B. No. 1643-78

The purpose of this bill is to enable the Department of Health to issue certified copies of vital records by whatever system appears simplest and least expensive in cost and clerical time.

Your Committee amended the bill by making technical changes to line 13, page 1, which do not affect the substance of the bill.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1643-78, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1643-78, H.D. 2, C.D. 1.

Representatives Segawa, Baker, Campbell and Narvaes,  
Managers on the part of the House.

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

Conf. Com. Rep. No. 11 on H.B. No. 2170-78

The purpose of this bill is to (1) consolidate funds by function and source; (2) standardize terms; (3) add new funds as a depository for interest charges, borrowed money and gifts bequeathed to the Department of Hawaiian Home Lands; (4) define parameters of use; and (5) increase the loan guarantee amount.

Seven revolving funds and seven special funds are established. These changes will facilitate efforts to maintain orderly and accurate accounting; establish a framework for mortgage financing without cost to the State to pursue private moneys; and enable maximum use of all moneys of the department.

The existing ceiling of \$5 million on funds from state cane and water leases transferred into the additional receipts account was reached in May, 1976. Your Committee on Conference has amended this bill to raise the ceiling on additional receipts to \$7.5 million. The increase of \$2.5 million shall take effect on July 1, 1979, with the additional provisions in the bill to take effect upon approval. The maximum amount shall not be construed to mean \$12,500,000.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2170-78, 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. 2170-78, H.D. 2, S.D. 1, C.D. 1.

Representatives Kawakami, Caldito, Morioka and Poepoe,  
Managers on the part of the House.

Senators R. Wong, Yim, Young and Soares,  
Managers on the part of the Senate.

Conf. Com. Rep. No. 12 on S.B. No. 2523-78

The purpose of this bill is to maximize the visitor satisfaction by clarifying the relationships between guests and keeper of hotels.

The bill clarifies the relationships between guests and keepers of hotels by repealing existing provisions of the Hawaii Revised Statutes relating thereto and adding a new chapter containing more comprehensive and expansive provisions relating to the rights, liabilities and responsibilities of keepers of hotels and guests thereof.

Your Committee upon further consideration has made the following amendments to S.B. No. 2523-78, S.D. 2, H.D. 2:

1. Sec. -1 Definitions  
Expanded definition of "guests" and "valuables".
2. Sec. -2 Hotelkeepers lien on baggage, etc., of guests; summary ejectment of delinquents.  
Eliminate requirements for a two day written notice to eject all parties indebted for rooms or board in a hotel.
3. Sec. -4 Safe for valuables; limitation of liability for deposited valuables.  
Eliminate all references to "or traveler", and have updated the term "railroad or steamship tickets" to "transportation tickets".
4. Sec. -5 Hotelkeeper's liability for personal property.  
Eliminate all references to "or traveler".
5. Sec. -6 Hotelkeeper's responsibility in case of fire, etc.  
Eliminate reference to "or traveler", and update term referring to "railroad or steamship tickets".
6. Sec. -7 Posting copy of law; damages recoverable by guests.  
Eliminate requirements to post all meal charges and have added the term "intentional" referring to the violation of this provision.
7. Sec. -8 Extension of stay provision.  
Amended this section to read as follows: "Any guest who intentionally continues to occupy an assigned bedroom beyond the scheduled departure without the prior written approval of the keeper, shall be deemed a trespasser".
8. Sec. -9 Valuation of property.  
Adding a new section relating to "Valuation of property" to be determined under sections -4 and -5.
9. Sec. -10 Registration required.  
Adding a new section relating to maintenance of a register for a period of not less than six months.

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

2523-78, 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. 2523-78, S.D. 2, H.D. 2, C.D. 1.

Representatives Machida, Blair, Dods, Mizuguchi, D. Yamada and  
Medeiros,  
Managers on the part of the House.

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

Conf. Com. Rep. No. 13 on S.B. No. 2386-78

The purpose of this bill is to establish and maintain a state comprehensive emergency medical services system by providing a framework for the implementation of a fully integrated, cohesive network of components designed to assure the provision of emergency medical services consistent with the needs of the people of this State.

Your Committee upon further consideration has amended the bill to insert an appropriation for a grant-in-aid of \$687,000 to the Hawaii Medical Association for the continuation of the HMA/EMS program in 1978-79, including a statement of required components for the HMA/EMS program to ensure continuation of training, continuing and public education, evaluation, data collection, and research and development. The effective date of the bill has also been amended to reflect the appropriation.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2386-78, 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. 2386-78, S.D. 2, H.D. 2, C.D. 1.

Representatives Segawa, Aki, Nakamura, Narvaes and Peters,  
Managers on the part of the House.

Senators R. wong, Chong and Saiki,  
Managers on the part of the Senate.

Conf. Com. Rep. No. 14 on H.B. No. 2293-78

The purpose of this bill is to delineate more clearly the authority and responsibilities of the Office of Environmental Quality Control.

Your Committee has amended this bill to remove, from the Director of Environmental Quality Control, the responsibility of arranging for and coordinating the monitoring of ecological, environmental, and social conditions in the State under Sec. 341-4(b), as it is already covered by Sec. 341-4(a).

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2293-78, 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. 2293-78, H.D. 2, S.D. 1, C.D. 1.

Representatives Blair, Larsen, Lunasco and Poepoe,  
Managers on the part of the House.

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

Conf. Com. Rep. No. 15 on S.B. 893

The purpose of this bill is to provide for a system of state pilotage in order (1) to provide maximum safety for vessels navigating in state waters; and (2) to maintain a state pilotage system of the highest standard of efficiency; and (3) to insure an adequate supply of qualified pilots for the discharge of their duties in aid of commerce and navigation.

Your Committee finds that the present system, under which the pilots are civil servants, subject to civil service regulations, has proved awkward in practice and does not utilize the highly trained pilots effectively.

This bill establishes a state pilotage system in Hawaii, utilizing state licensed pilots to provide pilotage services as private contractors, regulated by the State through

a Board of Pilot Commissioners. This would establish a pilotage service in Hawaii ports similar to the services being provided in ports of all the other coastal states of the United States and on the Great Lakes.

The bill further requires that the pilot association maintain liability insurance coverage for acts or omissions of an association pilot and to clarify the department of transportation's responsibility for the safety of all ports and shore waters in the state.

The Hawaii Port Pilots Association, in compliance with Chapter 26H, Hawaii Revised Statutes, as amended, ("Sunset Law") has submitted a lengthy and detailed "regulatory impact statement" which supports the need for creating a regulatory board of pilot commissioners to be placed within the department of regulatory agencies.

Your Committee notes that the creation of a regulatory board is a necessary complement to the transfer of regulatory functions from the department of transportation to the department of regulatory agencies. The board of pilot commissioners will continue the regulation and supervision of pilots now being provided by the department of transportation.

Your Committee has also considered the statutes of some twenty-three states and federal regulation of the Great Lakes region. At present, Hawaii is the only state which requires pilots to be state employees. Only the City of Los Angeles has pilots who are civil servants at present.

Thus, your Committee upon further consideration of the bill, the impact statement, and the legislative policies set forth in the Sunset Law has made the following amendments to S.B. No. 893, S.D. 2, H.D. 1:

- (1) The broad power of the board to establish rates of pilotage has been replaced with a detailed new section providing for an administrative hearing in accordance with chapter 91 before rates can be increased, lowered or altered.
- (2) The limitation of licenses section has been modified to require a chapter 91 hearing before the number of pilots can be increased or decreased.
- (3) The board's power to hear and decide pilots' complaints against vessel personnel has been deleted.
- (4) The provision which would allow a pro-ratio of the licensing fees has been deleted.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 893, 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. 893, S.D. 2, H.D. 1, C.D. 1,

Representatives Suwa, Peters and Sutton,  
Managers on the part of the House.

Senators R. Wong, O'Connor and Anderson,  
Managers on the part of the Senate.

Conf. Com. Rep. No. 16 on S.B. No. 1622-78

The purpose of this bill is to appropriate funds for the payment of claims filed for refund of taxes, court-approved judgments and settlements against the State, and other claims.

Section 37-77, Hawaii Revised Statutes, provides that claims for refunds, reimbursements, or other payments shall, as a condition to their being considered by the legislature, be filed with the director of finance. The director is required to refer claims to the agency concerned for investigation and recommendation. All claims and supporting data are then transmitted to the legislature in an appropriate bill form.

The director of finance has submitted this bill to provide for such payments of claims against the State.

Your Committee upon further consideration and on the recommendation of the director to make certain additions to this bill, has amended this bill to provide for such claim additions. As a result of these additions the bill now incorporates 64 claims totaling

\$1,074,754.68. Your Committee has further corrected the date of judgment for the Blankenship claim on page 4 of the bill as received.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1622-78, 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. 1622-78, S.D. 1, H.D. 1, C.D. 1.

Representatives Suwa, Kunimura and Narvaes,  
Managers on the part of the House.

Senators R. Wong, Nishimura and Soares,  
Managers on the part of the Senate.

Conf. Com. Rep. No. 17 on H.B. No. 3049-78

The purpose of this bill is to transfer the functions of the State Fire Marshal to the respective counties, to abolish the Office of the State Fire Marshal, and to place all functions relative to the protection of persons and property from fire with the respective county governments.

This bill provides for the establishment of a State Fire Council comprised of the fire chiefs of the various counties and the Chief of the Fire Prevention Bureau of the City and County of Honolulu. The Fire Council is charged with the responsibility of adopting a State Fire Code which is then to be submitted to the various county councils for adoption by ordinance. The councils are given the latitude to adopt more stringent provisions relating to the protection of persons and property from fire but cannot adopt provisions less restrictive than those of the State Fire Code without the prior approval of the State Fire Council.

Your Committee has amended the bill for the purpose of clarifying and emphasizing the fact that the State Fire Code is to be used as a model for the counties, that it does not have the force and effect of law, and that it is given such force and effect in a county only when enacted by ordinance by the county council of such county.

In addition, your Committee has made minor technical amendments which in no way affect the bill's substantive provisions.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3049-78, 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. 3049-78, H.D. 1, S.D. 2, C.D. 1.

Representatives D. Yamada, Cobb, Ueoka, K. Yamada and Ikeda,  
Managers on the part of the House.

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

Conf. Com. Rep. No. 18 on S.B. No. 2464-78

The purpose of this bill is to amend the Hawaii Revised Statutes so that noise pollution caused by boats and ships will be regulated.

Your Committee finds that boats are not subject to the noise controls contained in Part IV of Chapter 342, Hawaii Revised Statutes.

Under the present law, the Director of Health has the power to control vehicular noise and to establish other specific areas for control of excessive noise. This bill clarifies the authority given to the Director of Health to include the control of noise emitted by boats and ships by adding a definition of "vehicle" to include boats and ships in Section 342-41, Hawaii Revised Statutes.

It is the intent of your Committee that the Department of Health, in cooperation with the Department of Transportation, develop regulations governing boat noise emissions that are as close as practicable to the limits in the Community Noise Code for Oahu.

This bill also amends Section 342-42 to allow the Director of Health to commission, in addition to actually conducting, state educational and training programs on noise

prevention, control, and abatement, including the preparation and distribution of information relating to excessive noise and its effect on people.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2464-78, 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. 2464-78, S.D. 2, H.D. 1, C.D. 1.

Representatives Blair, Caldito, Larsen and Fong,  
Managers on the part of the House.

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

Conf. Com. Rep. No. 19 on H.B. No. 491

The purpose of this bill is to hold students and their parents responsible for the students' acts of vandalism against any public school building, facility, or grounds. This bill provides a legal framework for the enforcement of responsibility and restitution on the part of the student and his or her parents.

Your Committee finds that the public schools have been experiencing a large number of acts of vandalism. Last year, nearly \$425,000 worth of school property was damaged by acts of vandalism and if current trends continue this year's total will exceed that amount. Therefore, your Committee feels that proper legislation is necessary to deter willful destruction of school property.

Under current statutes, the State can pursue claims against any person responsible for damages to school property in a court of proper jurisdiction. However, many times these cases are not pursued because of the long, cumbersome, and costly process involved in a court settlement. This bill provides for a hearing procedure to settle contested cases involving a student accused of committing an act of vandalism against school property. Your Committee feels that this bill sets forth another means in which a settlement can be reached that is fair, expedient, and enforceable.

Your Committee has made several amendments to the bill to protect the rights of pupils and to avoid a possible violation of the thirteenth amendment to the U. S. Constitution. A thirteenth amendment violation may result from requiring the pupil to make restitution for destruction to school property through a work program. The work program alternative was therefore deleted and the provision was amended to permit restitution in any manner, including monetary restitution. The amendment will also permit the school principal greater flexibility in designing restitution programs for specific cases and pupils. A work program may be used, but only if the pupil and parents agree to such a program.

To protect the rights of students, your Committee has amended the bill by requiring that the pupil and his or her parents be given notice and an opportunity to be heard on any charges of vandalism against the pupil without regard to the amount of damages involved. The distinction between vandalism involving less than \$100.00 and vandalism involving more than \$100.00 but less than \$2,000.00 is deleted. The \$2,000.00 maximum amount of liability to which the parties can agree is retained. The notice and hearing requirement is intended to be less formal and expensive than a contested case hearing under Chapter 91, but sufficient to protect the rights of the student with minimal administrative cost.

The bill is further amended to provide that in the event that the pupil and parents cannot reach agreement as to the manner of restitution, the matter may then be submitted to the district superintendent for further action. The amendment permits the superintendent to take any appropriate action, including the conducting of a hearing on the matter as a contested case pursuant to Chapter 91.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 491, 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. 491, H.D. 2, S.D. 1, C.D. 1.

Representatives Mizuguchi, Campbell, Mina, Say, Shito and Poepoe,  
Managers on the part of the House.

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

Conf. Com. Rep. No. 20 on H.B. No. 3060-78

The purpose of this bill is to improve the functioning of the Medical Claim Conciliation Panel by (1) allowing a licensed attorney experienced in trial practice to be a member thereof; (2) creating a separate panel for each case filed; and (3) increasing the number of days from the completion of a hearing in which such panel must file its decision.

Upon consideration of this measure, your Committee has made technical amendments for the purpose of attaining consistency between subsection (b) of section 671-11 and subsection (a) of section 671-15, Hawaii Revised Statutes.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3060-78, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3060-78, S.D. 1, C.D. 1.

Representatives D. Yamada, Baker, Ueoka, Uwaine and Fong,  
Managers on the part of the House.

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

Conf. Com. Rep. No. 21 on H.B. No. 1838-78

The purpose of this bill is to amend the Hawaii Penal Code by making it a felonious crime to promote child abuse. The bill makes it a Class B felony for one to "produce, direct or participate" in the preparation of proscribed material or to engage in a proscribed performance, and a Class C felony for dissemination of proscribed material.

Your Committee finds that the new section will fill a void in the criminal laws which has existed since the Hawaii Penal Code became effective in 1973. Your Committee believes that exploitation of children as objects of sexual avarice must be curbed. The bill places the offense under Chapter 707 of the Hawaii Revised Statutes relating to offenses against the person rather than Chapter 712 relating to pornography since this bill is directed toward action which involves sexual conduct by a minor and does not attempt to define the offense in terms of pornography. This bill makes it a criminal offense to engage in such conduct where the material or performance involves a minor engaging in sexual conduct whether or not the material or performance is also pornographic.

The bill provides that a person falls within this law when he knows or has reason to know the character and content of the material and performance, and engages in the proscribed conduct for compensation.

"Sexual conduct" is defined as acts of masturbation, bestiality, homosexuality, lesbianism, deviate sexual intercourse, sexual intercourse, and sadomasochistic abuse.

"Minor" is defined as any person less than sixteen years old.

The bill provides that the fact that a person engages in the proscribed conduct is prima facie evidence that he did so with knowledge of the character and content of the material or the performance produced, directed, or participated in, and further that the fact that the person employed, used or otherwise contained in the material or performance was in fact a minor, is prima facie evidence that the defendant knew the person to be a minor.

Your Committee upon further consideration has made the following amendments to H.B. No. 1838-78, H.D. 2, S.D. 1:

1. The term "wire" recording has been substituted for "live" recording, on line 1 of page 2, and line 18 of page 3, to make the section consistent with use of this term in Section 712-1210 of the Hawaii Revised Statutes.
2. The definition of "disseminate" has been amended by placing a period after the word "same" on line 12 of page 3, and by deleting the rest of the sentence, because your Committee believes that the exemption provided for was too broad.
3. The definition of "performance" on line 20 of page 3 has been deleted, as the term is not used in this section.



4. The words "for compensation" have been deleted from the bill on line 8 of page 1 and line 5 of page 3. It is the intent of your Committee that the coverage of this bill not be limited only to persons who engage in the proscribed conduct for compensation, but also include those who do it for any other reasons as well. Your Committee further believes that inclusion of the phrase would seriously hamper prosecution of this offense.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1838-78, 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. 1838-78, H.D. 2, S.D. 1, C.D. 1.

Representatives Aki, K. Yamada, Baker, Cobb, Garcia, Shito, Ikeda,  
Medeiros and Sutton,  
Managers on the part of the House.

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

Conf. Com. Rep. No. 22 on H.B. No. 2403-78

The purpose of this bill is to simplify the language contained in section 514A-66, Hawaii Revised Statutes, relating to the right of a purchaser of a condominium apartment to a refund of moneys paid if the final public report is not issued within one year from the date of the preliminary report.

Your Committee finds that the bill (1) is unclear in that it does not specify when the thirty-day time period within which a purchaser seeking a refund must act begins to toll, and (2) reduces the protection afforded such purchasers because it eliminates the present requirement that the report be delivered to him and that he be notified in writing of his right to a refund and the consequence of failing to act within the thirty-day period.

Accordingly, your Committee has amended the bill for the purpose of specifying that the purchaser has thirty days from the date of delivery of the final report within which to exercise his right to a refund and requiring that the report be delivered and the purchaser notified in writing of such right and the possible waiver thereof.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2403-78, 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. 2403-78, H.D. 1, S.D. 1, C.D. 1.

Representatives D. Yamada, Cobb, Ueoka, Naito and Medeiros,  
Managers on the part of the House.

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

Conf. Com. Rep. No. 23 on H.B. No. 1939-78

The purpose of this bill is to require a party in cases involving a water carrier to file a motion for reconsideration stating all of the points of error committed by the Public Utilities Commission (PUC) in its initial decision prior to taking an appeal to the Supreme Court.

Presently, there are no provisions in the water carrier laws allowing parties affected by a decision and order to file a motion for reconsideration or rehearing with the PUC. Your Committee finds that by providing for a reconsideration or rehearing and requiring it prior to a judicial appeal, the PUC is given an opportunity to correct any deficiencies or errors it may have made in its initial decision, and the parties and the PUC are allowed to concentrate on major areas of disagreement in what usually are voluminous records. Also, the moving party is forced to exhaust all administrative remedies and the Supreme Court is assured that the record below is as complete as possible with the issues as sharply defined as possible.

Your Committee on Conference is in agreement with the intent and purpose of H.B. No. 1939-78, H.D. 1, S.D. 1, but finds upon review of the bill that an automatic stay provision should be provided when a motion for reconsideration is filed from a final decision and order granting a rate increase or decrease.

Accordingly, your Committee on Conference has made the following amendment:

In Section 1, 271G- (a), page 1, the last sentence beginning on line 15 has been deleted and an automatic stay provision has been added.

Your Committee notes that this bill and H.B. No. 1938-78, H.D. 1, S.D. 1, are to provide uniform appeal procedures for parties in water carrier and public utility cases before the PUC. In essence, these bills require that a motion for reconsideration must be filed prior to taking an appeal to the Supreme Court. Under existing law, only motor carriers are required to file a motion for reconsideration prior to taking an appeal.

One of the reasons this bill was introduced was to remove the ambiguity raised by a Supreme Court's order to the Commission in In re Hawaii Electric Light Company, Inc. No. 6111 filed February 19, 1976. The order stayed a Commission's order granting a rate increase until the motion for reconsideration was disposed of. Since that time, the Commission's final orders relating to rate cases have been given an effective date in excess of ten days from the date the decision and order is served. This permits any party to file, if he chooses to, a motion for reconsideration before the decision and order takes effect.

Your Committee believes that when a party files a motion for reconsideration from a final decision and order granting a rate increase or decrease, the decision and order should be automatically stayed so that the Commission must review its final decision once more before permitting the change in rates to take effect. This automatic stay provision has been limited to rate cases because they have the greatest impact to the consuming public. We believe the automatic stay provision is not unreasonable to the water carriers or the consumers since, for good cause shown to the Commission, the stay may be set aside. Further, the Commission must dispose of the motion for reconsideration within twenty days from the filing date of the motion, otherwise the motion is deemed denied.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1939-78, 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. 1939-78, H.D. 1, S.D. 1, C.D. 1.

Representatives D. Yamada, Blair, Uechi, K. Yamada and Ikeda,  
Managers on the part of the House.

Senators Taira, Takitani and Anderson,  
Managers on the part of the Senate.

Conf. Com. Rep. No. 24 on H.B. No. 2085-78

The purpose of this bill is to curb unlicensed contracting activities by requiring counties to follow stricter procedures in issuing a building permit to any contractor.

Your Committee has amended the bill for the purposes of providing that if an applicant for a building permit claims to be exempt from the provisions of chapter 444, Hawaii Revised Statutes, by reason of the exemption contained in section 444-2(7), Hawaii Revised Statutes, he shall be required to certify that the building or structure which he is building or improving is for his personal use and not for use or occupancy by the general public.

It is the concern of your Committee that this particular exemption to said chapter 444 and the provisions contained therein, the so-called "homeowner/builder" exemption, has been abused to the extent where individuals are applying for building permits and claiming such exemption notwithstanding the fact that the buildings involved are large condominiums, office buildings, and structures otherwise frequented by the public. Your Committee feels that the exemption needs to be clarified and is of the opinion that the foregoing amendment will effectively make clear the intent and purpose of such exemption.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2085-78, 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. 2085-78, H.D. 1, S.D. 1, C.D. 1.

Representatives D. Yamada, Cobb, Nakamura, K. Yamada and Medeiros,  
Managers on the part of the House.

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

Conf. Com. Rep. No. 25 on H.B. No. 992

The purpose of this bill is to correct an inequity in the application of the general excise tax on commissions of insurance general agents, subagents, and solicitors by reducing the excise tax currently set at 4 percent for general agents and subagents and 2 percent for solicitors and by raising the rates for the premium tax payable by certain insurers to cover any loss in revenue.

Under present law, those in the insurance profession are taxed at similar rates as other occupations which operate on commissions. Unlike these other occupations, however, the insurance agent (including solicitors) is prohibited by State law from passing on the excise tax to his customer and is therefore liable for an actual tax burden of 4 percent while those other taxpayers who can and do pass on the excise tax are liable for an actual tax burden of only .15 percent. This .15 percent figure is obtained by determining the actual amount a taxpayer would have to pay (at 4 percent) after passing on most of the excise tax on to the customer.

This bill would (1) reduce the excise tax for insurance agents and solicitors from 4 and 2 percent to .15 percent, (2) increase the premium tax rates for certain types of insurance, and (3) require the Insurance Commissioner upon proper application therefor, to increase the rate of premium for each authorized insurer to include a tax increase whenever the premium tax rates are increased.

Your Committee finds that this bill would effectively correct the inequities in the application of the general excise tax vis-a-vis insurance agents and solicitors while at the same time minimizing revenue loss to the State by raising the premium tax rates on insurance companies for certain types of insurance.

Your Committee finds, however, that the proposed amendment to chapter 431, Hawaii Revised Statutes, which would add a new section requiring the Insurance Commissioner to increase the rate of premium to include a premium tax rate increase and specifying the formula to be used to compute the increase in the rate of premium, is not necessary because present law provides for a procedure whereby an increase in the tax rate would be considered in an application to increase the rate of premium. Accordingly, your Committee has amended the bill by deleting the proposed section.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 992, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 992, S.D. 2, C.D. 1.

Representatives D. Yamada, Suwa and Fong,  
Managers on the part of the House.

Senators R. Wong, Yim, Toyofuku and Anderson.

Conf. Com. Rep. No. 26 on H. B. No. 2185-78

The State of Hawaii maintains through payments to individuals and institutions a system of boarding and care homes for disabled and indigent persons who require residential or domiciliary care. These institutions consist of residences housing one to four persons and typically operated by the owner of the residence, although some chain operations are in existence. Over time, a variety of abuses and inequitable practices involving both home operators and the State government have grown up, now requiring correction by regulation and licensing.

It has come to the attention of your Committee that in certain homes patients are abused, being confined or mistreated. Such persons have little possibility of relief or assistance, as social workers responsible for them visit but infrequently, and such licensing operations as now exist are insufficiently supported by inspections or do not adequately cover operators.

At the same time, currently licensed care and boarding home operators themselves have compelling complaints against the State.

Persons are assigned to care and boarding homes by the Department of Social Services and Housing and are placed in one of several levels of care according to the severity of their condition. From time to time the Department of Social Services and Housing review these cases to determine whether the level of care is appropriate.

Information available to your Committee shows that the general trend is from less intensive to more intensive care. In other cases, however, the Department may downgrade care on the grounds that the individual no longer requires such intensive care.

Operators of homes justifiably complain that the latter case amounts to a disincentive for the improvement of the care or boarding home resident.

The purpose of this bill is to provide an initial framework for correcting the abuses incident to care and boarding home operation and to provide incentives for improving the conditions of individuals in domiciliary care.

Accordingly, the bill contains provisions establishing a requirement for licensing of all care and boarding homes, recognizing that particularly in rural areas, there may be need for temporary relief in the case of individual homes.

The bill also mandates minimum training requirements for care and boarding home operators, and charges the Departments of Health (which has the licensing responsibility for care homes) and Social Services and Housing (which has the responsibility for boarding homes) with providing such training.

The bill further establishes a system of visitations of care and boarding home residents by social workers not less frequently than each quarter, and provides incentives to operators and residents for improvement by permitting residents to remain at the rate of payment to which originally assigned.

Your Committee discussed this latter point extensively as to financial implications and concluded that there are no adverse implications. However, it does appear that there may be substantial savings available in the whole spectrum of care facilities, if the Department of Social Services and Housing will exert leadership and develop a completely integrated care system.

Although the subject of this bill is boarding and care homes, the full spectrum of care for indigent and disabled individuals actually extends to sophisticated care in skilled nursing facilities (SNF) and intermediate care facilities (ICF), which are subject to extensive regulation by the Federal government. The enforcement agency is the State Medicaid agency, located within the Department of Social Services and Housing.

There may well be individuals who are receiving care in SNF's or ICF's who actually should be placed in care and boarding homes, or who initially required SNF/ICF care, but subsequently should be placed in lesser level of care. Given the payment levels applicable to SNF/ICF care, such transfers would result in quite substantial savings to the State. Furthermore, the State may become subject to Federal penalties if such transfers are not made.

This modality may be furthered by fuller use of other existing programs for the population at risk, namely home health care services, elderly day care programs and chore and homemaker services. These programs may serve as alternatives to care and boarding homes.

Your Committee therefore urges the Department of Social Services and Housing to exert itself to develop an integrated care system which minimizes referral to intensive care facilities, takes appropriate advantage of the strengths of care and boarding homes and increases use of in-home care arrangements through day care, home health care and homemaker services.

Your Committee is convinced that not only will this approach to care services yield better, more responsive and more humane system of care, but that significant financial savings will accrue.

Further toward this end, your Committee urges the Department of Social Services and Housing to speedily implement Federal regulations pursuant to the Keys amendment (PL 94-566), requiring adoption of standards for care facilities and delineation of relationships among facilities and standards. It is the intent of your Committee that the Department strive for comprehensiveness and integration of components of the care system, with

a view to redressing abuses suffered by care facility residents and the adoption of regular procedures of inspection and visitation to achieve this goal.

Your Committee has amended the bill in the following ways:

- (1) The Department of Social Services and Housing is required to provide for quarterly visits to persons placed in adult family boarding homes and care homes.
- (2) The Department of Social Services and Housing and the Department of Health are required to provide training to operators and staff of adult family boarding homes and care homes where the placement was made by the State or paid for under a program administered by the State, including as a minimum, first aid and cardiopulmonary resuscitation. All training required of operators shall be at the expense of the State.
- (3) The rate of payment at which level a recipient enters an adult family boarding home or care home licensed pursuant to the provisions of this bill shall remain the same for as long as the recipient resides in that adult family boarding home or care home. As an example, a resident who improves from a Level III to a Level II level of care shall remain at the Level III level of payment. This removes the disincentive that now exists where an operator improves a resident's condition. There are safeguards written into the amendment to prevent operators from abusing the rate structure as provided in this bill as amended. Where an operator does not provide the level of care consistent with the needs of the individual as determined by the Department of Social Services and Housing, the Department may reduce the rate of payment, adjust the level of care or remove the recipient to another facility in accordance with rules promulgated pursuant to Chapter 91.
- (4) The director of social services is prohibited from removing a recipient from an adult family boarding home or care home when the recipient and operator both disagree to such removal, except when the recipient requires a higher level of care than provided in the facility (an example being as described in the paragraph above regarding abuse of the rate structure, or where there is need for SNF or ICF, and so on), or when the recipient no longer needs domiciliary care.
- (5) Section 321-15.5 of the Hawaii Revised Statutes is repealed to conform with the mandatory licensing provisions of the bill.
- (6) "Other similar institutions" has been included in the definition of adult family boarding homes in Section 346. And as defined means "any family home operated as a business providing twenty-four hour living accommodations to one to three adults unrelated to the family, who are in need of minimal assistance and supervision in their living activities".
- (7) The appropriation has been increased by \$16,000 to cover the personnel cost for two social worker aides to handle the additional resident visitation workload as required by the bill.

Your Committee notes that consideration of the possibility of future integration of functions in the Department of Social Services and Housing and the Department of Health has been made in provisions of responsibility for training programs in this bill, and that the issues of integration will be before the 1979 Legislature through the findings of the Legislative Reference Bureau as specified by Senate Resolution.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2185-78, 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. 2185-78, H.D. 2, S.D. 1, C.D. 1.

Representatives Aki, Baker, Mina, Shito and Narvaes,  
Managers on the part of the House.

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

Conf. Com. Rep. No. 27 on H.B. No. 2118-78

The purpose of this bill is to provide that a person commits the offense of disorderly conduct if the person impedes or obstructs any person in any public place or in any place open to the public with the intent to cause physical inconvenience or alarm by a member or members of the public, or recklessly creating a risk thereof.

This bill also provides that each council shall adopt ordinances not inconsistent with any law regulating the conduct of business of all persons licensed to peddle merchandise, prohibiting the "impeding, obstructing, or otherwise inconveniencing the general public or any member thereof in any public place or in any place open to the public".

This bill further provides that no person shall, in soliciting contributions or the sale of goods for a charitable organization or other entity governed by this chapter, impede, obstruct, or otherwise inconvenience the general public or any member thereof in any public place or in any place open to the public.

Your Committee on Conference upon further consideration amended the bill by adding the phrase "for the purpose of begging" on page 2 to clarify the conduct which is to be regulated. The conduct which your Committee believes should be regulated is the impeding and obstructing while begging in a public place or place open to the public. Your Committee does not find that the specific conduct of begging alone is offensive but begging done in the specified manner which is offensive to the public and should be regulated.

Your Committee further amended the bill by adding the phrase "with the intent to physically inconvenience" on page 2 and page 5 so as to be more specific in the intent needed and the type of inconvenience that results from the prohibited conduct. This amendment also makes the provisions consistent with the type of inconvenience in the existing disorderly conduct statute.

Your Committee recognizes the First Amendment rights of an individual to freedom of expression and religion. The intent of this bill is not to infringe unreasonably on these constitutionally protected rights. However, in the public interest, the welfare of others is equally important and your Committee recognizes that reasonable regulations may be imposed to preserve that right.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2118-78, 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. 2118-78, H.D. 1, S.D. 1, C.D. 1.

Representatives Garcia, K. Yamada, Nakamura, Ueoka and Ikeda,  
Managers on the part of the House.

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

Conf. Com. Rep. No. 28 on H.B. No. 425

The purpose of this bill is to allow a homeowner to personally perform certain emergency repair work on his plumbing system in his principal place of residence.

After due consideration and full discussion, your Committee has amended the bill to allow any person to perform emergency repair work in a plumbing system in his principal place of residence, thus, allowing a person renting or leasing such residence to also perform such work. Your Committee feels that given the intent and purpose of this bill, a differentiation between one who owns his home and one who rents or leases his home is irrelevant.

In addition, your Committee has amended this bill for technical reasons without affecting any of the substantive provisions therein.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 425, 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. 425, H.D. 1, S.D. 1, C.D. 1.

Representatives D. Yamada, Cobb, Naito, Uwaine and Medeiros,  
Managers on the part of the House.

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

Conf. Com. Rep. No. 29 on H.B. No. 429



The purpose of this bill is to increase the maximum amount of the estimated cost of a privately owned or controlled residential building which may be constructed without a stamp of certification by an architect or engineer from \$35,000 to \$50,000 for such a building of one story and from \$30,000 to \$45,000 for such a building of two stories.

Under present law, both residential and nonresidential privately owned or controlled buildings, the estimated cost of which does not exceed \$35,000 and \$30,000, respectively, are exempt from the provisions of chapter 464, Hawaii Revised Statutes. This bill would increase the exempted estimated cost limits only for residential buildings.

After much discussion, your Committee finds that while the rising costs of construction suggest raising such limits to align them with current cost factors, the exemption itself should be limited only to residential buildings. Your Committee feels that, for safety and other reasons, builders of nonresidential structures be required to obtain a stamp of certification notwithstanding the estimated cost of construction.

Accordingly, your Committee has amended the bill by raising such estimated cost limits from \$35,000 to \$50,000 and \$30,000 to \$45,000 and making clear that the exemption itself applies only to residential buildings.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 429, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 429, S.D. 1, C.D. 1.

Representatives D. Yamada, Baker, Cobb, Uwaine and Fong,  
Managers on the part of the House.

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

Conf. Com. Rep. No. 30 on H.B. No. 2312-78

The purpose of this bill is to clarify certain ambiguities in the Uniform Probate Code (Chapter 560, Hawaii Revised Statutes) and to increase the jurisdictional limits for certain expedient methods for the collection of a decedent's property. The specific purpose of the amendment of each section is set out below:

1. Section 1 amends Section 560:3-1201 so as to increase the jurisdictional limit for affidavit collection of a decedent's personal property and debts owed to a decedent without court supervision from \$100 to \$500.

2. Section 2 amends Section 560:3-1213 so as to increase the jurisdictional limit for estates where circuit court clerks are authorized to collect and distribute assets of a decedent's estate without court supervision from \$700 to \$2,000. The \$700 figure has been the limit for over a decade, and its relevance has been significantly reduced by inflation.

3. Section 3 amends Section 560:1-201(24) to merely clarify the point in time at which a person ceases to have any interest in a decedent's estate and, for instance, ceases to have the right to demand notice of pleadings and hearings.

4. Section 4 amends Section 560:2-201(b) to clarify that Hawaii law governs all interests in Hawaii realty. This has always been the intent of the Legislature, but attorneys for title companies have expressed the concern that the present language of 2-201(b) could be construed to have title to Hawaii realty affected by the law of the decedent's domicile at death.

5. Section 5 amends Section 560:2-401 to clarify that the homestead allowance may be paid in cash rather than in property. Again, this has always been the Legislature's intent.

6. Section 6 amends Section 560:2-504 to clarify that the self-proving affidavit used for the purpose of proving the validity of the execution of a will need not be exactly in the statutory form. In addition, certain grammatical changes are made in the suggested form of affidavit. These changes should permit greater use of out-of-state self-proving affidavits.

7. Section 7 amends Section 560:3-204 to require that a person demanding copies



of probate pleadings must reimburse the estate for its costs actually incurred in making the copies. Your Committee wishes to make clear, however, that a person entitled to copies under Section 560:1-401 is not required to pay for the cost thereof.

8. Section 8 amends Section 560:2-801 so as (a) to permit the renunciation of non-testamentary transfers of property, (b) to extend the period within which renunciations must be made from six to nine months so as to conform to the amendments to the Internal Revenue Code by the Tax Reform Act of 1976, and (c) to permit a surviving joint tenant or tenant by the entireties to renounce any property or interest devolving to him by right of survivorship.

Permitting the renunciation of non-testamentary transfers of property (e.g. joint tenancies, trust payments, etc.) corrects a legislative oversight which occurred when the Uniform Disposition of Property Interests Act was repealed as duplicating Section 560:2-801, when in fact the former included non-testamentary transfers while the latter did not.

Your Committee, upon further consideration, has made the following amendments to H.B. No. 2312-78, H.D. 1, S.D. 1:

1. Section 1 has been amended to further increase the jurisdictional limits for collection by affidavit from \$500 to \$1,000. Your Committee believes that this will permit and expand the more expedient and less costly handling of very small estates.

2. Section 4 has been amended to specifically include interests under agreements of sale as being governed by Hawaii law.

3. Section 8 has been amended to permit the personal representative of a decedent to renounce the decedent's interest with the written consent of all persons affected by the renunciation. Your Committee was informed that the IRS has just recently announced that it will accept a renunciation by an executor under New York law, and your Committee believes that such an amendment is reasonable and appropriate. Language derived from Internal Revenue Code Section 2518(b)(3) was added to make clear that renunciation may not occur after the person renouncing has already accepted the property or interest to be renounced, but your Committee does not construe a person's mere occupancy of realty to be an acceptance which precludes renunciation. In addition, your Committee amended the section to require that the renunciation of an interest in realty must be made of record in the Land Court or the Bureau of Conveyances before it is effective so as to protect land titles.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2312-78, 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. 2312-78, H.D. 1, S.D. 1, C.D. 1.

Representatives Garcia, K. Yamada, Ueoka and Ikeda,  
Managers on the part of the House.

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

Conf. Com. Rep. No. 31 on H.B. No. 3039-78

The purpose of this Supplemental Appropriations Bill is to amend the General Appropriations Act of 1977.

#### FINANCIAL AND BUDGETARY OUTLOOK

In his budget message to the legislature the governor stated that a supplemental budget submission was considered necessary for the following purposes: to cover anticipated deficits in certain vital program areas; to continue to fund programs for which appropriations were not authorized for the fiscal year 1978-79; to cope with unforeseen program requirements; and to fund other urgent program requirements.

Your Committee agrees with the necessity for a supplemental appropriations bill for the purpose of considering and accommodating the governor's budgetary recommendations, reordering budgetary priorities, and amending appropriations previously made. Your Committee has analyzed the budget recommendations of the Governor, and, by and large, the recommendations have been incorporated in the Supplemental Appropriations

Bill. One significant request for an additional appropriation to fund an extension of the State's comprehensive employment and training (SCET) program is being provided for through separate legislation. In addition to reviewing and incorporating executive budget recommendations, your Committee also reviewed existing appropriations for the current biennium. Where it seems reasonably clear that caseload or workload levels will not reach the levels originally anticipated, or where federal revenue sources are likely to exceed previous estimates, reductions in general fund appropriations have been made in order to accommodate the executive branch's request and to reorder other priorities. The amendments made by this bill to the regular program appropriations for the biennium include a number of special program appropriations. For convenience, these special program appropriations are identified in an attachment to this committee report. It is legislative intent that these special program appropriations will be implemented in the same manner as appropriations which have been provided to fund the recommendations of the executive branch.

The revenue experience in the current fiscal year has been erratic, but the latest information on general fund tax collections provided to your Committee indicates that the cumulative tax receipts through March are now running slightly higher than the anticipated 8.3% growth rate for the current year. While this is a hopeful sign, your Committee believes restraint in making appropriations must still be exercised, and other noteworthy programs which have not been funded will need to be considered in the budget for the next ensuing biennium. Restraint also needs to be exercised in the authorization of debt. The appropriations which are to be made from the general obligation bond fund amount to \$117,211,000. This is to be compared with the official debt margin of \$371,739,625 reported to be available for additional authorizations.

In the remainder of this report, your Committee summarizes some of the program appropriations and expresses legislative intent, concern and direction to executive agencies.

#### ECONOMIC DEVELOPMENT

Aquaculture. Your Committee has provided \$750,000 to the department of planning and economic development, of which \$202,000 is intended for the Anuenue Fisheries projects for the development of the prawn industry, and the remaining \$548,000 for various other aquaculture research and development projects. Through these appropriations, it is hoped that new major industries, such as those for prawns and oysters, will expand so as to be able to meet local demand and to develop their potential as export products.

Energy. The development of Hawaii's energy resources to achieve greater energy self-sufficiency is a major legislative goal. As evidence of the legislature's commitment, your Committee has provided \$612,600 for energy research and development projects, and by a separate bill, an additional \$3.8 million in related capital improvement projects. In this bill, your Committee also has provided \$5 million for research facilities to develop alternative energy sources which may be matched with possible future federal and private funds. Funds have been provided for new facilities for research and development of the conversion of alga to fuel oil; non-electrical applications to deliver geothermal fluids in Puna, Hawaii; other alternative energy sources; the modification of plant facilities for the production of alcohol from sugar cane; and the construction of the natural energy laboratory at Ke-ahole Point, Hawaii, for the support of energy research projects.

Tourism. Your Committee has provided \$2.5 million for Waikiki improvements. This supplements \$9 million provided by the legislature in 1971. The additional funds are for such improvements as underground utility wiring, sidewalk development and beautification, mini-park acquisitions, and traffic improvements.

Manganese Nodules. Your Committee finds that there is great economic potential in the development of a manganese nodule processing industry in Hawaii. Funds have been provided to allow the State to promote itself and attract the various manganese consortia to the advantages of locating an environmentally clean industrial operation in Hawaii.

Kakaako Development Project. Your Committee has provided \$190,626 to administer the Kakaako Development Project and to implement various incremental phases of the project. The development of Kakaako represents a cornerstone in the development of central Honolulu, and the funds which have been provided are intended to implement the project in a planned and systematic manner.

## HEALTH

Emergency Medical Services. It is a matter of great legislative concern that a fully integrated, comprehensive emergency medical services (EMS) system be established and maintained throughout the State. Funds are provided to the department of health designed to assist in the development of county EMS systems; in specific, by contracting for emergency ambulance services on Maui, developing a central dispatch on Maui, providing for the statewide maintenance of the Medicom system, and extending the "911" emergency phone system to Maui and Kauai. Inasmuch as a planned electronic switching center is yet to be implemented for Hilo, the extension of the "911" system to the County of Hawaii needs to await necessary network rearrangements.

Your Committee fully supports the continuation of the excellent and nationally recognized life-saving training services provided by the Hawaii Medical Association-Emergency Medical Services (HMA-EMS) program and concurs in the separate legislation appropriating a grant-in-aid to the HMA-EMS program.

Hawaii Medical Library. Your Committee recognizes the need of Hawaii's health professionals for expanded current medical literature and has thus provided a grant-in-aid to the Hawaii Medical Library. It is legislative intent that these funds be used exclusively for library acquisitions.

Vision and Hearing Screening Program. Your Committee finds that in the past year of its operation, the vision and hearing screening program has demonstrated its effectiveness in identifying sensory deficiencies in Hawaii's school children and in providing prompt referral and follow-up services for the corrective medical treatment of such deficiencies, and, therefore, funds have been included for the program's continuation.

Hospital Care. The upgrading of state-administered hospitals has received special attention, and funds have been included to provide improved medical facilities. Hilo and Kona Hospitals, Kauai Veterans Memorial Hospital, and Samuel Mahelona Memorial Hospital have also been authorized additional positions required to further extend health care services in those areas. Maui Memorial Hospital has been the focus of a stepped-up recruitment program to meet the special needs in that community. In addition, \$2 million has been provided for the planning of a new Hilo Hospital facility to meet the health needs of that community.

Community-Based Services for Mental Health. Your Committee has provided additional funds to continue contracts with private providers who render services to that segment of the public suffering from alcoholism or drug abuse.

School Health Services. The provision of first aid and emergency care in the schools has been undertaken on a pilot basis since 1970, with gradual expansion in the number of schools with health aides. That expansion will now be completed, as your Committee has provided funds by a separate bill for the coverage of all schools.

## SOCIAL PROBLEMS

Public Assistance. Additional funds to meet the anticipated needs in the income maintenance and medical payment programs have been appropriated by your Committee.

Your Committee fully supports a study of the public welfare program which is proposed to be conducted by the legislative auditor's office, and is hopeful that the major issues of the public welfare problem will be addressed and that viable cost containment alternatives will be analyzed.

Mindful of legislation enacted by the current session of the legislature limiting benefits to certain general assistance recipients and applicants, your Committee desires information as to the implementation of S.B. 1782-78, H.D. 1. The department of social services and housing shall report to the legislature on the numbers of individuals affected by the legislation, identified as to current caseload and new applicants, and savings from general assistance program current expenditure levels, not later than 20 days prior to the convening of the regular session of 1979.

Medicaid. The State's program for medical assistance has become the fastest-growing cost factor in public assistance, and your Committee supports stronger enforcement; closer controls, and implementation of alternative available strategies. A Medicaid fraud unit in the department of the attorney general has been provided for. In addition,

the department of social services and housing is requested to implement such cost control measures as the adoption of a drug formulary, listing the prescription items and the specific over-the-counter (OTC) preparations covered by Medicaid. Such a formulary would list generic drugs and would include brand names only when the generic equivalent is not available.

It is timely and important for the department of social services and housing to review available strategies to control costs, including, but not limited to, appropriate transfers of individuals from skilled nursing facilities and intermediate care facilities to lesser levels of care, alternatives to use of hospital emergency rooms for illness amenable to outpatient treatment, and more extensive utilization of home health care and similar services. The department shall prepare recommendations for such alternative strategies and submit them to the legislature not later than 20 days prior to the convening of the regular session of 1979.

Information System. With respect to the modified management information system and data base mandated in Act 10 of the Special Session of 1977, the department of social services and housing and the department of budget and finance shall complete development of the MIS, amplifying information on medical insurance payments which take precedence over Medicaid payments.

Food Stamps. Your Committee requests the department of social services and housing to provide the legislature with a status report on implementation of new federal food stamp legislation, including experience with emergency applications and mail delivery of benefits.

#### LOWER EDUCATION

Special Needs Funds. Your Committee has continued its focus on individual schools through the appropriations of \$1.6 million in special needs funds for individual school programs for the second year of this biennium. Strong support for this approach to recognizing the unique needs of each school and the effective use of funds by schools convinced your Committee that it should be maintained by the same formula as last year, with the addition of special education students in regular schools. From all reports, the decisions on the use of the special needs funds were made in accordance with legislative intent to minimize paperwork and to provide schools with latitude in determining their own needs, and your Committee maintains this intent.

Special Education. Hawaii has been in the forefront in providing educational services to handicapped children, but with the enactment of P.L. 94-142, which mandates equal educational opportunity for all handicapped children, the State must provide services at a faster rate than it has. Accordingly, your Committee has greatly expanded the appropriation for special education to comply with the federal mandate and to fulfill the State's own commitment to equal educational opportunity.

Counseling. Your Committee last year recognized the need for additional counselors, especially at the elementary schools, in order to take a more preventive approach to students' problems with personal adjustment. To give greater stability to the program, your Committee this year has again provided for the additional 35 elementary counselors.

Competency Testing. A great deal of attention has been focused during this session on the proposals of the department of education to require students to pass a minimum competency test as a condition for graduation from high school. A legislative established citizens' advisory committee reported, among other points, that the department's purpose for competency testing was not clear, the plans did not provide for sufficient test development, and there was not enough detail in the plans for helping those students who may not pass initially. The legislature agrees with the advisory committee that the potential implications of minimum competency testing have not been thoroughly thought through. While the legislature shares the department's concern that students become competent in the basic skills, it is not convinced that minimum competency testing for graduation is the appropriate means to bring about such competency. To prevent potential excesses in the conduct of competency testing, a specific provision has been included in the bill.

Improvements in Curriculum Planning and Management. In the hierarchy of the department of education, the state office is supposed to take the leadership in statewide curriculum improvements, the districts are to take a coordinative and management role, and the schools are to implement. However, delineation of the respective roles and responsibilities of each of the levels has not been clear, particularly with respect

to the state program specialists. The extent to which they in fact determine curriculum weaknesses, initiate curriculum reform, and plan for curriculum change in a systematic manner has not improved, despite a dramatic increase in their numbers over the past decade--an increase disproportionate to the number of schools, students enrolled, and scope of curriculum. Program specialist positions have been created for every conceivable sub-speciality of a subject area without perceivable increases in services to schools.

Schools have been left to cope with curriculum changes without the support which should have resulted from the expansion of positions in the state office of instructional services. Decentralization of these positions to give direct support services to school personnel from school district levels would make these curriculum personnel more accessible than they are now, enable them to derive a more direct and realistic picture of what is going on in the schools, and place them in a position of providing direct support to school principals and teachers.

The redeployment of OIS positions to management and coordinative positions at the school district level does not mean that the department would be left without a mechanism for statewide curriculum planning. On the contrary, curriculum planning could be improved through the establishment of ad hoc curriculum commissions, a concept which was advanced by the DOE in its 1968 report, Toward a General Plan for Public Education in Hawaii. Under this approach, the exercise of curriculum review and formulations functions would not be done by state program specialists but by curriculum commissions, each commission consisting of specialists in the curriculum area under examination and drawn from the district and school levels and from outside the DOE. The role of the curriculum commissions, to be established as required, would be to review the ongoing programs, determine needs, consider new developments, in the field, analyze program options and recommend program changes. Such curriculum groups are not expected to be continuous bodies but are to be convened on a periodic basis. They would make for a far more effective system of reviewing and recommending changes to the curriculum than the present virtually impossible task of single persons in OIS attempting to keep abreast with developments in any particular field.

Accordingly, the DOE shall submit a preliminary plan 20 days prior to the convening of the 1979 regular session of the legislature that shall include:

- (1) A decentralization of all positions in the office of instructional services to the seven district offices, identified by position title and number, with the following exceptions:
  - (a) Those federally funded positions required by federal regulations to be retained in the state office shall be identified by such regulation and placed temporarily in the office of the superintendent.
  - (b) Program specialist and clerical positions dealing with student athletics shall be placed in the office of business services.
  - (c) Those positions determined to be absolutely essential for statewide curriculum leadership on a sustained and continuing basis (but not those positions whose functions can be assumed by curriculum commissions). Full justifications for any state office retention of such positions shall be provided, and the provision of this exception shall not be used to circumvent the decentralization plan.
- (2) Clear statements which provide for the creation of curriculum commissions and task forces, as the need arises, to develop curriculum on a statewide basis. Membership on these commissions and task forces shall be drawn from district and school staffs as well as from non-DOE ranks.
- (3) Clear statements of roles and responsibilities in curriculum management and implementation by districts and schools.

#### HIGHER EDUCATION

Extended Degree Program. Funds have been provided for the establishment of an extended degree program which would offer educational opportunities to those who find it difficult to enroll at regular campus-based facilities. Your Committee believes that the delivery of educational programs from community-based facilities is a trend



with such tremendous potential that it intends to closely monitor the university's efforts to develop and implement the program.

Other Programs. Other new programs funded at the level requested by the university and the governor include the Marine Option Program, the Center for Labor Education and Research, the Joint Tsunami Research Project, and the Demonstration Project on Kona Coffee.

Student Help. The employment of students on a part-time basis continues to be beneficial both to the students and the University of Hawaii. With the statutory raising of the minimum wage, your Committee did not want to jeopardize such employment of student help, and thus has provided additional funds to maintain these employees on the new wage scales.

Athletics. Your Committee supports the university's athletic program as an integral part of the total educational process. Funds have been provided to support current services and expand the women's athletic program. In addition, \$10.2 million has been included for physical education, intramural and athletic facilities at the Manoa campus, with the understanding that students will be given expanded opportunities to use the facilities. Your Committee notes that the construction of this facility will necessitate relocation of the ROTC and AFROTC buildings. It is your Committee's position that in the relocation of the buildings to the proposed isolated makai-Diamond Head corner of the quarry area, the university resolve the problem of potential dust and vandalism. Your Committee is aware of the proposed second relocation when the law school moves to permanent quarters. The university administration should begin planning for permanent quarters for the ROTC and AFROTC programs while considering expansion of the athletic facilities.

Selective Excellence. Your Committee agrees with the university that it cannot be "all things to all people" and recognizes the need for emphasis on areas in which the university has special competence or potential for excellence. However, with the exception of the possible development of the proposed institute of tropical agriculture as an area of selective excellence, your Committee wishes to express its concern with the progress being made in the implementation of the concept in other areas and requests that increased leadership be exerted.

Transfer of Center for Governmental Development. Your Committee recognizes the need for staff development and related in-service training programs but finds that there are currently three related in-service training units in state government. To avoid continuation of the duplication of functions, your Committee has included appropriate provisos to provide for the orderly transfer of funds should the legislature effect the transfer of the functions of the center for government development.

Additional Legal Services. Funds have been provided to pay for additional legal services supplied by the office of the attorney general to meet the emergency needs of the university. Your Committee believes that the circumstances warrant the provision of funds on a one-time-only basis, and it is not intended for such funds to be provided in the next fiscal biennium.

#### CULTURE AND RECREATION

Parks. Your Committee has provided funds for operation and maintenance of existing state parks and coordinating the acquisition, planning and development of additional parks. Included are funds for 12 park caretaker positions in parks which are newly developed.

A total of \$7.245 million in capital improvement program funds have been appropriated for the enhancement and expansion of our State's park system. This will not only provide for more recreational facilities but also ensure and enhance our open space.

Public Television. Your Committee recognizes the valuable service provided by public television and has appropriated funds for additional staff and for the refurbishment of the television tower in Hilo to improve reception.

Iolani Palace. Funds have been provided for the operations of Iolani Palace which has been restored and is scheduled to be opened shortly to the public for educational, historical, and cultural purposes.

#### PUBLIC SAFETY

Hawaii Commission on Crime. Funds have been provided by separate legislation to enable the crime commission to continue its operations.

Other Programs. Your Committee has also provided funds for Liliha House II, a program to assist inmates in making the transition to living in a community setting; the Furlough Release Program, which will permit inmates to participate in work and educational release programs; and temporary adult corrections officers, to operate the Hawaii State Prison Annex during the construction phase of the new correctional facilities and to staff several inmate residential modules that are scheduled for completion and occupancy in 1979.

#### GOVERNMENT-WIDE SUPPORT

Constitutional Convention. Your Committee has appropriated \$1.0 million to the office of the governor to meet the expenses of the 1978 constitutional convention. This appropriation is supplementary to the \$1.5 million provided by the legislature last year. Of the sum appropriated, \$240,547 may be contracted to the legislative reference bureau for the following purposes: \$200,000 for a citizen education program which will provide the public with objective information on the pros and cons of the various constitutional issues and \$40,547 for staff services for the constitutional convention delegates.

Overall State Planning. Funds to establish the Hawaii community development authority to administer and oversee all project activities have been provided. Funds have also been provided to implement the State Plan upon its enactment.

Taxation. Assessment of real property by a common base will provide relief to taxpayers who are currently being taxed at different bases. Accordingly, funds have been provided to bring together the different real property bases into one base for uniform building appraisal. Funds have also been provided for an annual update of chapter 235, Hawaii Revised Statutes, for the purpose of conforming to changes in the Internal Revenue Code.

Information and Delivery of Government Services. Your Committee feels that it is not enough that government establishes and maintains services to the public. It must also assure that citizens are made fully aware of the availability of the services, and that access to these services be made in such fashion as to be effective, efficient, and convenient to all who may need them.

To this end, the legislative auditor is requested to consider the conduct of a study of the present structure of the State's system or systems for informing the public of the services available to them, and to determine alternatives for providing such assistance more effectively, efficiently, and conveniently, if such is found to be needed.

#### RECOMMENDATION

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3039-78, 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. 3039-78, H.D. 1, S.D. 1, C.D. 1.

Representatives Suwa, Caldito, Dods, Inaba, Kunimura, Lunasco, Mina, Morioka, Peters, Larsen, Takamura, Narvaes and Sutton,  
Managers on the part of the House.

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

Conf. Com. Rep. No. 32 on S.B. No. 2202-78

The purpose of this bill is to appropriate or authorize, as the case may be, funds for the financing of general public improvements for the fiscal year 1978-79.

The projects herein contained are believed to be adequate to accommodate the current capital improvement requirements of the State. We have reflected the legislature's continued commitment to projects which contribute to the educational, health, transportation, economic development, cultural and recreational goals of the State.

From all indications, the State is beginning to recover from a prolonged period of



economic slowdown. Generally, the appropriate governmental response to such a condition is to speed the recovery by pursuing a counter-cyclical action of injecting additional capital investment funds to stimulate the economy. Through the supplemental budget, as well as this measure, the State is being authorized to undertake a wide range of projects, of value in themselves, but with the objective of having a healthy effect on the economy.

While capital investment expenditures can generally contribute to economic health, your Committee believes that attention should be directed particularly to those programs and projects which are directly designed to broaden the economic base of the State and contribute to economic development. Therefore, the principal component of this bill is a potentially far-reaching statewide economic development program of nearly \$4 million to be applied against a number of projects and programs designed to assist specific sectors of the economy. These authorized projects include the following:

- . Warehousing and manufacturing facilities to be leased to manufacturers of Hawaiian products.
- . A state fishery freezing and cooling facility for the Hawaii fishing industry.
- . Experimental cargo transport for interisland movement of agricultural, floral, and other Hawaiian products to establish methods of extending the shelf-life of such products.
- . Financing for economic development bonds to alleviate unemployment and to provide assistance for the development of the State's economy.
- . Foreign Trade Zone Annex facilities in the counties of Hawaii, Maui, and Kauai to facilitate the assembly operations of exported and imported goods and utilize the local labor market.

In addition to the projects which comprise the statewide economic development program, other capital investment needs to benefit the people of Hawaii have been provided. Projects of major statewide interest and significance include the following:

- . Grants-in-aid of \$2.3 million for the improvement of various hospitals on Oahu and the neighbor islands.
- . Funds totaling \$2.6 million for the development of water and irrigation systems and water treatment facilities throughout the State.
- . Nearly \$3 million for the development of state parks throughout the State to ensure our people recreational facilities and open space.

Your Committee has also provided for various projects of local and community interest throughout the State.

The total general obligation bond authorizations provided for by this bill is \$54.9 million. Your Committee recognizes the importance of preserving the favorable bond market rating of the State and controlling rising debt service costs. In this and other measures authorizing general obligation bonds, we have sought to maintain the authorization level well below the state debt ceiling.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2202-78, 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. 2202-78, S.D. 1, H.D. 1, C.D. 1.

Representatives Suwa, Peters, Caldito, Dods, Inaba, Kunimura, Larsen,  
Lunasco, Mina, Morioka, Takamura, Narvaes and Sutton,  
Managers on the part of the House.

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

Conf. Com. Rep. No. 33 on H.B. No. 1779-78

The purpose of this bill is to provide supplemental funding to the Judiciary for the fiscal biennium July 1, 1977 to June 30, 1979.

The bill represents the proposed supplemental budget of the Judiciary adjusted for salary turnover savings, deletion of non-essential positions, and other minor adjustments. Some of the more significant items are: two Circuit Court Judge positions to alleviate case backlogs accumulated from FY 71-72, funds for the Hawaii Criminal Justice Information System Data Center, the establishment of two additional circuit court divisions to cope with the increase in civil cases in the First Circuit, and a full-time District Court Judge for the Kona District. In addition, \$200,000 has been provided to finance the cost-sharing agreement between the Judiciary and Department of Budget and Finance for use of electronic data processing division computer resources.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1779-78, 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. 1779-78, H.D. 1, S.D. 2, C.D. 1.

Representatives Suwa, Caldito, Dods, Inaba, Kunimura, Lunasco,  
Mina, Morioka, Peters, Takamura, Larsen, Narvaes and Sutton,  
Managers on the part of the House.

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

Conf. Com. Rep. No. 34 on H.B. No. 1987-78

The purpose of this bill, as received by your Committee, is to amend the provisions of chapter 516, Hawaii Revised Statutes, Residential Leasehold, to extend the applicability of the chapter to leases of terms of thirty-five years or more, for leases made prior to June 24, 1967, and to leases executed subsequently for terms of twenty years or more. The bill also makes substantive changes in the administrative procedures found in chapter 516.

At the present time, leases must exceed thirty-five years or exceed twenty years to fall within the purview of chapter 516. Your Committee finds that this creates an inequitable situation for those individuals holding leases for terms of exactly thirty-five or exactly twenty years, as they are deprived, by a day, of the benefits and protection accorded by law. This bill is intended to redress this inequity.

Your Committee on Conference has amended H.B. No. 1987-78, H.D. 1, S.D. 1, by deleting Sections 2 through 4 of the bill.

Your Committee on Conference has, upon further consideration, amended H.B. No. 1987-78, H.D. 1, S.D. 1 by amending Sections 5 and 6 as follows:

That portion of Section 5 which amends Section 516-33(2) Hawaii Revised Statutes is amended to read, "is a bona fide resident of the State [and] or has a bona fide intent to reside in the development tract if successful in purchasing the lot."

Your Committee believes this provision will permit owners of leasehold property in Hawaii to purchase the fee even if they are, as a result of employment or occupation, required to live outside the State.

That portion of Section 5 which amends 516-33(3) has been deleted, as have lines 8 through 10 on page 9.

That portion of Section 6 which adds a new section to 516 has been amended to require that no deposit need be made more than 180, rather than 30, days prior to the condemnation date.

Subparagraph (c) of Section 6 has been deleted.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1987-78, 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. 1987-78, H.D. 1, S.D. 1, C.D. 1.

Representatives Shito, Aki, Nakamura, Segawa, Ueoka and Narvaes,  
Managers on the part of the House.

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

Conf. Com. Rep. No. 35 on H.B. No. 227

The purpose of this bill is to amend and clarify the existing Hawaii Franchise Investment law and to bring it more in line with the laws of other states on this subject.

Your Committee has proposed the following amendments to the existing Hawaii Franchise Investment law:

1. Section 482E-2, Hawaii Revised Statutes, has been amended to clarify which activity will bring a franchise offering within the jurisdiction of the State of Hawaii.

Your Committee has amended this bill by deleting the requirement of the payment of a \$100 or more franchise fee from the definition of "franchise". Your Committee has also amended this bill by deleting the reference as to what constitutes a sale of a franchise within this State in lines 12-23 on page 2 and in lines 1-8 on page 3. Your Committee feels that the existing definition "sale or sell" should remain intact.

2. Section 482E-3, Hawaii Revised Statutes, has been amended by deleting the requirement that a franchise offer be registered. Instead, this Section makes it unlawful to sell a franchise unless the seller has presented to the prospective franchisee a detailed offering circular at least seven days prior to the date the sale is consummated. The offering circular for the most part must contain the same information presently required to be set forth in the application for registration. Your Committee feels that the requirement that the offering circular be submitted to the franchisee is sufficient and that registration is not required for his protection since individual notice of all relevant information will still be made in the offering circular.

This bill also authorizes the Director of Regulatory Agencies to accept circulars from other jurisdictions which substantially meet the requirements of the Hawaii law.

Your Committee has amended this bill by including in the offering circular a statement of the number of franchise businesses which has been cancelled or terminated or has not been renewed by the franchisees. A new subparagraph E has been added to disclose the number of franchises sold or transferred by franchisees during the preceeding three years.

The bill has been amended to include within the offering circular the list of names and addresses of all franchisees of the franchisors situated within the State of Hawaii.

The bill has also been amended to provide that a copy of the offering circular or amended offering circular shall be on file with the Director of Regulatory Agencies at least seven days prior to the date of the sale of a franchise.

3. Section 482E-4, Hawaii Revised Statutes, which presently sets forth exemptions from the registration requirements of the Hawaii Franchise Investment law, has been extensively revised to reflect the repeal of the registration requirement. As amended by your Committee, this Section provides that Sections 482E-3, 482E-5(a), and 482E-5(c), Hawaii Revised Statutes, shall not be applicable to the exemptions enumerated therein.

4. Section 482E-5, Hawaii Revised Statutes, has been amended to delete the requirement that any advertisement offering a franchise be filed with the Director of Regulatory Agencies. Since registration is no longer required, review of advertising offering does not appear necessary.

5. Section 482E-6(2), Hawaii Revised Statutes, which governs the relationship between franchisors or subfranchisors and franchisees, has been amended. Franchisors have long argued that Hawaii current law is vague and invites litigation and introduces into the franchise relationship much uncertainty as to the legal rights of the parties. Because of ambiguities, harsh penalties for violation, and general unfairness to franchisors, many substantial and reputable franchisors have refrained from franchising in Hawaii since the law became effective. The proposed amendments clarify many of the ambiguities in the law and eliminate many of the provisions that franchisors consider to be unfair, without depriving franchisees of the protections already provided them under the Hawaii Franchise Investment law.

As amended by your Committee, this bill provides that it shall be an unfair or deceptive act or practice or an unfair method of competition for a franchisor or subfranchisor to:

"(A) Restrict the right of the franchisees to join an association of franchisees."

This amendment removes the liability of a franchisor for actions or words which might subjectively "inhibit" a franchisee from expressing his right to join an association.

"(B) Require a franchisee to purchase or lease goods or services of the franchisor or from designated sources of supply unless such restrictive purchasing agreements are reasonably necessary for a lawful purpose justified on business grounds. Suppliers suggested or approved by a franchisor as meeting its standards and requirements shall not be deemed designated sources of supply."

This amendment clarifies the right of franchisors to maintain standards of quality through systems of suggested or approved suppliers. It also removes the burden of proof from the franchisor.

"(C) Discriminate between franchisees in the charges offered or made for royalties, goods, services, equipment, rentals, advertising services, or in any other business dealing, unless and to the extent that any classification of or discrimination between franchisees is:

- (i) based on franchises granted at materially different times, and such discrimination is reasonably related to such differences in time;
- (ii) is related to one or more programs for making franchises available to persons with insufficient capital, training, business experience, education or lacking other qualifications;
- (iii) is related to local or regional experimentation with or variations in product or service lines or business formats or designs;
- (iv) is related to efforts by one or more franchisees to cure deficiencies in the operation of franchise businesses or defaults in franchise agreements; or
- (v) is based on other reasonable distinctions considering the purposes of this chapter and is not arbitrary."

This amendment enumerates some of the conditions under which discrimination may be permitted.

"(D) Obtain money, goods, services, anything of value, or any other benefit from any other person with whom the franchisee does business on account of such business unless the franchisor advises the franchisee in advance of the franchisor's intention to receive such benefit."

This amendment allows the franchisor to derive commissions or any other benefits from vendors dealing with franchisees; provided that he advises the franchisee of the relationship before the franchisee enters into such transaction. The existing subparagraph (D) has been repealed which prohibits the sale or offer of products or services at more than a fair and reasonable price. The term "fair and reasonable" may be vague and ambiguous.

"(E) Establish a similar business or to grant a franchise for the establishment of a similar business at a location within a geographical area specifically designated as the exclusive territory in a franchise previously granted to another franchisee in a currently effective agreement, except under the circumstances or conditions prescribed in such agreement. The fact that other franchisees or the franchisor may solicit business or sell goods or services to people residing in such geographical territory shall not constitute the establishment of a similar business within the exclusive territory."

This amendment clarifies the prohibition against a franchisor, competing in a franchisee's exclusive territory, and removes the franchisor's potential liability from advertising and transshipping activities which franchisors are forbidden to control by the Federal antitrust laws. The existing subparagraph (F) has been repealed.

"(F) Require a franchisee at the time of entering into a franchise to assent to a

release, assignment, novation, or waiver which would relieve any person from liability imposed by this chapter. Any condition, stipulation or provision binding any person acquiring any franchise to waive compliance with any provision of this chapter or a rule promulgated hereunder shall be void. This paragraph shall not bar or affect the settlement of disputes, claims or civil suits arising or brought under this chapter."

This amendment clarifies the prohibition of a franchisor from requiring franchisees to waive their rights under the Hawaii Franchise Investment law as a condition to entering a franchise relationship. It does not prohibit a franchisor and a franchisee from settling or arbitrating lawsuits brought under the Hawaii Franchise Investment law or any other law.

"(G) Impose on a franchisee by contract, rule, or regulation, whether written or oral, any unreasonable and arbitrary standard of conduct."

This amendment eliminates the franchisor's burden of proving the reasonableness and the necessity of his contractual and other business requirements.

"(H) Terminate or refuse to renew a franchise except for good cause, or in accordance with the current terms and standards established by the franchisor then equally applicable to all franchisees, unless and to the extent that the franchisor satisfies the burden of proving that any classification of or discrimination between franchisees is reasonable, is based on proper and justifiable distinctions considering the purposes of this chapter, and is not arbitrary. For purposes of this paragraph, good cause in a termination case shall include, but not be limited to, the failure of the franchisee to comply with any lawful, material provision of the franchise agreement after having been given written notice thereof and an opportunity to cure the failure within a reasonable period of time."

This amendment states that a franchisor may not terminate or fail to renew a franchise without good cause or in accordance with the terms and standards established by the franchisor then equally applicable to all franchisees. This bill defines "good cause" in a termination case. The existing subparagraph (I) has been repealed and combined with the new subparagraph (H).

"(I) Refuse to permit a transfer of ownership of a franchise, or of a proprietorship, partnership, corporation or other business entity that is a franchisee or subfranchisor, except for good cause. For purposes of this paragraph good cause shall include, but not be limited to:

- (i) the failure of a proposed transferee to meet any of the franchisor's or subfranchisor's reasonable qualifications or standards then in effect for a franchisee or subfranchisor;
- (ii) the fact that the proposed transferee or any affiliated person of the proposed transferee is a competitor of the franchisor or subfranchisor;
- (iii) the inability or unwillingness of the proposed transferee to agree in writing to comply with and be bound by all lawful obligations imposed by the franchise, including without limitation all instruction and training obligations, and to sign the current form of franchise agreement used by the franchisor or subfranchisor; and
- (iv) the failure of the franchisee or proposed transferee to pay any sums owing to the franchisor and to cure any default in the franchise agreement or other agreements with the franchisor existing at the time of the proposed transfer.

A franchisor or subfranchisor shall have thirty days after being notified in writing of a proposed transfer to approve or disapprove in writing a proposed transfer of ownership or control of a franchise, or of a proprietorship, partnership, corporation or other business entity that is a franchisee or subfranchisor, stating its reason for disapproval. If a franchisor or subfranchisor fails to approve or disapprove a proposed transfer in writing within such period, the franchisor or subfranchisor shall be deemed to have approved such transfer."

This amendment enumerates the conditions under which a transfer of ownership may be permitted.

6. Section 482-6, Hawaii Revised Statutes, is amended by adding a new paragraph (3) to read as follows:

"(3) Upon termination or refusal to renew the franchise the franchisee shall be compensated for the fair market value, at the time of the termination or expiration of the franchise, of the franchisee's inventory, supplies, equipment and furnishings purchased from the franchisor or a supplier designated by the franchisor; provided that personalized materials which have no value to the franchisor need not be compensated for. If the franchisor refuses to renew a franchise for the purpose of converting the franchisee's business to one owned and operated by the franchisor, the franchisor, in addition to the remedies provided in this paragraph, shall compensate the franchisee for the loss of goodwill. The franchisor may deduct from such compensation reasonable costs incurred in removing, transporting and disposing of the franchisee's inventory, supplies, equipment, and furnishings pursuant to this requirement and may offset from such compensation any moneys due the franchisor."

This amendment provides the conditions under which the franchisor must compensate the franchisee upon termination or refusal to renew a franchise.

7. Section 482E-7, Hawaii Revised Statutes, has been repealed because the registration requirement under said Section 482E-3 has been eliminated.

8. Section 482E-8, Hawaii Revised Statutes, has been amended to grant the Director of Regulatory Agencies more discretionary powers to issue stop order prohibiting the sale of a franchise.

9. Section 482E-9, Hawaii Revised Statutes, has been amended for technical reasons without affecting any of the substantive provisions therein.

10. Section 482E-10, Hawaii Revised Statutes, enumerates the penalties which may be imposed for violation of certain provisions of Chapter 482E, Hawaii Revised Statutes. Your Committee has amended this bill by deleting the word "wilfully" from Section 482E-10(b), Hawaii Revised Statutes.

11. Section 482E-11, Hawaii Revised Statutes, relating to fees, has been amended by providing that there shall be a filing fee of \$50 whenever an offering circular or amended offering circular is filed with the Director of Regulatory Agencies. All other fees have been eliminated.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 227, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 227, S.D. 1, C.D. 1.

Representatives D. Yamada, Cobb, Ueoka, K. Yamada and Ikeda,  
Managers on the part of the House.

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

Conf. Com. Rep. No. 36 on H.B. No. 2895-78

The purpose of this bill is to further clarify the exemption provisions of the attachment and execution laws of the State of Hawaii and, in particular, to clarify that such exemption provisions apply only to attachment and execution.

Your Committee, while in agreement with the provisions of this bill, believes that the April 15, 1979 effective date for sections 11, 12 and 13 of the bill may provide an insufficient period of time within which to correct any problems in the interpretation or implementation of the amendments contained in these sections that may be pointed out in the 1979 Legislative Session.

Accordingly, your Committee has amended the bill for the purpose of changing the effective date for these sections from April 15, 1979 to July 1, 1979.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2895-78, 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. 2895-78, H.D. 1, S.D. 1, C.D. 1.

Representatives D. Yamada, Cobb, Blair, Garcia, Nakamura and Fong,  
Managers on the part of the House.



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

Conf. Com. Rep. No. 37 on H.B. No. 2611-78

The purpose of this bill is to further improve and modernize selected provisions of the Hawaii Corporate Law.

After much discussion, your Committee amended the bill in the following manner:

- (1) Section 416-11, Hawaii Revised Statutes. The bill deleted this section in its entirety and substituted in lieu thereof a new section 416-11. Your Committee restored all existing provisions of the section except for the minimum number of persons required to form a corporation which your Committee reduced from three to one and deleted the new section 416-11.
- (2) Section 416-15, Hawaii Revised Statutes. The bill deleted this section in its entirety. Your Committee restored all existing provisions of the section.
- (3) Section 416-16, Hawaii Revised Statutes. The bill deleted this section in its entirety. Your Committee restored all existing provisions of this section.
- (4) Section 416-17, Hawaii Revised Statutes. The bill deleted this section in its entirety. Your Committee restored all existing provisions of this section.

Your Committee finds that present law contained in these sections effectively protect a corporation's and its shareholder's, as well as the public's, interests and that their repeal would, a fortiori, reduce the protection so afforded. Accordingly, your Committee instituted the foregoing amendments.

In addition, your Committee has made technical amendments for the purpose of achieving consistency in the phrases used within the various sections being amended without substantively affecting the provisions of the bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2611-78, 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. 2611-78, H.D. 1, S.D. 1, C.D. 1.

Representatives D. Yamada, Naito, Nakamura, Ueoka and Fong,  
Managers on the part of the House.

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

Conf. Com. Rep. No. 38 on H.B. No. 2102-78

The purpose of this bill is to defray the administrative cost of collecting the state vehicle registration fee and the state vehicle weight tax, to eliminate inequities, and to provide for the imposition of penalties in relation to the collection thereof.

The bill provides that the state motor vehicle registration fee and the state motor vehicle weight tax shall be paid to the Director of Finance of the county in which the respective vehicle is registered, together with all other taxes and fees levied in Chapter 249, Hawaii Revised Statutes. This will result in the collection of sufficient revenues for the State Highway Fund in a timely and efficient manner. The bill also provides for penalties in case of failure or delinquency in paying the fee or tax levied.

The bill further provides that all vehicles shall be subject to a \$1 state vehicle registration fee, and that the vehicle weight tax is limited to a maximum of \$36 per vehicle.

The bill additionally provides that any vehicle with a net vehicle weight of 6,000 pounds or over used for agricultural purposes may be refunded all taxes imposed by section 249-33, Hawaii Revised Statutes, and for 1978 only, all gross weight fees.

The bill repeals the gross weight fee provision found in section 286-215, Hawaii Revised Statutes, which has been replaced by the state vehicle weight tax set forth in section 249-33, Hawaii Revised Statutes.



The bill also allows the Department of Transportation to expend funds from the State Highway Fund to defray the costs of the motor vehicle safety office.

The bill provides that exemptions for the state registration fee and the state vehicle weight tax are the same.

The bill has been amended to delete a partial exemption from the state vehicle weight tax for certain motor vehicles owned by handicapped persons. Your Committee finds that the Legislature has in this Session approved a measure increasing the income tax exemption for blind, deaf or totally disabled persons from \$5,000 to \$7,000 to compensate for loss of spending power due to inflation and that further exemption from the state vehicle weight tax is therefore presently unnecessary.

Your Committee has also amended section 3 of the bill to provide a rate scale for levying the state motor vehicle weight tax. Under current laws, motor vehicles, including trucks, weighing from 6,000 to 9,000 pounds net weight are taxed excessively compared to much heavier vehicles. Your Committee finds that implementation of a sliding scale of decreasing rates to increasing weights is fair and equitable.

Your Committee has also made other style and technical amendments.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2102-78, 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. 2102-78, H.D. 2, S.D. 1, C.D. 1.

Representatives Cayetano, Mina, Peters, Say, Takamura and Ikeda;  
Managers on the part of the House.

Senators R. Wong, O'Connor and Anderson,  
Managers on the part of the Senate.

Conf. Com. Rep. No. 39 on H.B. No. 3046-78

The purpose of this bill is to increase the examination fee of psychologists.

Your Committee has made a technical amendment not affecting the bill's substantive provision.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3046-78, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3046-78, S.D. 2, C.D. 1.

Representatives D. Yamada, Baker, Cobb, Uwaine and Medeiros,  
Managers on the part of the House.

Senators R. Wong, Nishimura and Soares,  
Managers on the part of the Senate.

Conf. Com. Rep. No. 40 on H.B. No. 514

The purpose of this bill is to provide that the rate and tax for a truck shall be the same as provided for a passenger motor vehicle, if the truck has a gross weight of 5,000 pounds or less and if proof is submitted that the truck is not operated for compensation or commercial purposes. The bill also provides that false submittal of proof of noncommercial use is a petty misdemeanor.

Under present tax law, each county is empowered to set the motor vehicle tax rate. The rate is set on a cost per pound basis and differentiates between categories of motor vehicles. For example, a truck is assessed at a higher rate than a passenger motor vehicle.

Your Committee finds that there is no compelling reason for taxing noncommercial trucks at a different rate from passenger motor vehicles under the motor vehicle weight tax law. This bill amends the present law accordingly.

Your Committee finds that in recent years there has been increasing use of enclosed vans for personal, noncommercial purposes. "Vans" are not separately defined in

this Chapter, but, rather, are included in the definition of "trucks" or "motor vehicles."

To ensure that vans are included under the provisions of this bill, your Committee has amended the bill to apply to trucks and noncommercial motor vehicles and has changed the maximum weight requirements from a gross weight of 5,000 pounds or less to a net weight of 6,500 or less.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 514, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 514, S.D. 1, C.D. 1.

Representatives Cayetano, Dods, Machida, Say and Medeiros,  
Managers on the part of the House.

Senators R. Wong, O'Connor and Henderson,  
Managers on the part of the Senate.

Conf. Com. Rep. No. 41 on H.B. No. 1920-78

The purposes of this bill are (1) to clarify the definition of boards which regulate professions and businesses and to allow such boards to initiate their own complaints against licensees and to take further disciplinary action against a licensee who fails or refuses to comply with an order of a board, including suspending or revoking a license or seeking injunctive relief; and (2) to extend the effective date of repeal of chapters 438 (relating to the Practice of Barbering) and 452 (relating to Massage and Hawaiian Lomilomi), Hawaii Revised Statutes, to December 31, 1984.

Your Committee has amended the bill for the purpose of limiting the extension of the effective dates of repeal for Chapter 438 (Board of Barbers) from December 31, 1984 to December 31, 1980 and for chapter 452 (Board of Massage) from December 31, 1984 to December 31, 1979.

Act 70, Session Laws of 1977, the "Sunset Law", provides for the repeal of chapter 438 (Board of Barbers) and chapter 452 (Board of Massage) in 1978. However, your Committee feels that further studies should be made to determine whether the public interest will be affected detrimentally by the repeal of these chapters before they are repealed.

For instance, with respect to the Board of Massage, your Committee finds that chapter 452, Hawaii Revised Statutes, contains provisions relating to the Department of Health and health laws. Since it not being your Committee's intention to repeal such laws, your Committee feels that any repeal of such chapter cannot be effected unless and until a determination is made as to the possible deleterious impact upon the public health and welfare.

In addition, with respect to the Board of Barbers, a recommendation was made that one board be authorized to regulate both barbers and cosmetologists. Accordingly, your Committee feels that this recommendation may be potentially meritorious and that the Legislature should consider such a recommendation before repealing either of the individual boards.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1920-78, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1920-78, S.D. 1, C.D. 1.

Representatives D. Yamada, Blair, Cobb, Ueoka and Ikeda,  
Managers on the part of the House.

Senators Nishimura, Hara, Taira, Takitani and George,  
Managers on the part of the Senate.

Conf. Com. Rep. No. 42 on H.B. No. 2319-78

The purpose of this bill is to repeal in its entirety the existing law relating to the county committees on the status of women. The bill would require each county to provide for a committee on the status of women to advise the county and the State commission on the status of women and to make recommendations on matters affecting the status

of women. Each county would also be required to ensure the participation, involvement and input of governmental agencies and private individuals, and broad-based public participation. The repeal would take effect upon approval of the bill, provided that county committees already in existence may function until December 31, 1978, unless the committees provided for under the bill are appointed earlier.

Your Committee believes that each of the respective counties should be allowed to determine for themselves whether or not to provide for a committee on the status of women.

Your Committee upon further consideration has made the following amendments to H.B. No. 2319-78, H.D. 1, S.D. 2:

(1) Giving each county the option to provide for a committee on the status of women.

(2) Amending the last sentence of Section 1 to provide that in the event that a county provides for a committee on the status of women, the county would be required to ensure participation, involvement and input as stated above.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2319-78, 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. 2319-78, H.D. 1, S.D. 2, C.D. 1.

Representatives Garcia, Blair, Cobb, Lunasco and Medeiros,  
Managers on the part of the House.

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

Conf. Com. Rep. No. 43 on H.B. No. 1938-78

The purpose of this bill is to require a party in cases involving a public utility to file a motion for reconsideration stating all of the points of error committed by the Public Utilities Commission (PUC) in its initial decision prior to taking an appeal to the Supreme Court.

Presently, there are no provisions in the public utility laws allowing parties affected by a decision and order to file a motion for reconsideration or rehearing with the PUC. Your Committee finds that by providing for a reconsideration or rehearing and requiring it prior to a judicial appeal, the PUC is given an opportunity to correct any deficiencies or errors it may have made in its initial decision, and the parties and the PUC are allowed to concentrate on major areas of disagreement in what usually are voluminous records. Also, the moving party is forced to exhaust all administrative remedies and the Supreme Court is assured that the record below is as complete as possible with the issues as sharply defined as possible.

Your Committee on Conference is in agreement with the intent and purpose of H.B. No. 1938-78, H.D. 1, S.D. 1, but finds upon review of the bill that an automatic stay provision should be provided when a motion for reconsideration is filed from a final decision and order granting a rate increase or decrease.

Accordingly, your Committee on Conference has made the following amendment:

In Section 2, 269- (a) the sentence beginning on line 12 has been deleted and an automatic stay provision has been added.

One of the reasons this bill was introduced was to remove the ambiguity raised by a Supreme Court's order to the Commission in In re Hawaii Electric Light Company, Inc. No. 6111 filed February 19, 1976. The order stayed a Commission's order granting a rate increase until the motion for reconsideration was disposed of. Since that time, the Commission's final orders relating to rate cases have been given an effective date in excess of ten days from the date the decision and order is served. This permits any party to file, if he chooses to, a motion for reconsideration before the decision and order takes effect.

Your Committee believes that when a party files a motion for reconsideration from a final decision and order granting a rate increase or decrease, the decision and order should be automatically stayed so that the Commission must review its final decision

once more before permitting the change in rates to take effect. This automatic stay provision has been limited to rate cases because they have the greatest impact to the consuming public. We believe the automatic stay provision is not unreasonable to the utility or the consumers since, for good cause shown to the Commission, the stay may be set aside. Further, the Commission must dispose of the motion for reconsideration within twenty days from the filing date of the motion, otherwise the motion is deemed denied.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1938-78, 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. 1938-78, H.D. 1, S.D. 1, C.D. 1.

Representatives K. Yamada, Blair, Uechi, K. Yamada and Ikeda,  
Managers on the part of the House.

Senators Taira, Takitani and Anderson,  
Managers on the part of the Senate.

Conf. Com. Rep. No. 44 on S.B. No. 2436-78

The purpose of this bill is to permit the sale of beverages in containers using pressure sensitive tape to cover the opening of the container and further requires at the time of purchase a deposit and a refund value of not less than 5 cents on each plastic beverage container.

Your Committee finds that a resolution is being adopted this session which calls upon the Department of Planning and Economic Development to study the impact of deposit legislation and your Committee feels that a better decision as to requiring deposits can be made after the results of the study are available.

Your Committee, therefore, has deleted subsections (b) and (c) in lines 10 through 18 on page 1, which refer to deposit and refund requirements for plastic beverage containers and penalties for violations of those requirements.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2436-78, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2436-78, H.D. 1, C.D. 1.

Representatives Blair, Caldito, Larsen and Poepoe,  
Managers on the part of the House.

Senators King, Chong and Soares,  
Managers on the part of the Senate.

Conf. Com. Rep. No. 45 on H.B. No. 1937-78

The purpose of this bill is to establish statutory guidelines aimed at simplifying the procedure for reconsideration or rehearing of a Public Utilities Commission's (PUC) decision and order in a motor carrier matter and insuring that such a motion for reconsideration or rehearing is affirmatively determined by the PUC.

The present reconsideration procedure has certain cumbersome features contained therein and allows the PUC's non-determination of a pending matter to be taken as a final decision thereof. Your Committee is in agreement with the testimony received that, with a full-time Commission, a simple procedure that can dispose of a motion for reconsideration or rehearing expeditiously and completely is not only desirable but feasible and essential. Your Committee finds that this bill effectively simplifies the application for reconsideration or rehearing process by deleting superfluous provisions currently in the statute.

Your Committee on Conference is in agreement with the intent and purpose of H.B. No. 1937-78, H.D. 1, S.D. 1, but finds upon review of the bill that an automatic stay provision should be provided when a motion for reconsideration is filed from a final decision and order granting a rate increase or decrease.

Accordingly, your Committee on Conference has made the following amendment:

In Section 1, page 2, section 271-32(b), lines 3 through 5, have been deleted and an automatic stay provision has been added.

Your Committee wishes to note that H.B. No. 1938-78, H.D. 1, S.D. 1, and H.B. No. 1939-78, H.D. 1, S.D. 1, before the Senate, are bills which are attempting to establish uniform appeal procedures for water carriers and public utilities that are contained in Section 271-32 of the Motor Carrier Law. Under existing law, the requirement of filing a motion for reconsideration prior to taking an appeal is applicable only to motor carriers. To this end your Committee is revising these bills so that the procedures will be uniform.

One of the reasons this bill was introduced was to remove the ambiguity raised by a Supreme Court's order to the Commission in In re Hawaii Electric Light Company, Inc. No. 6111 filed February 19, 1976. The order stayed a Commission's order granting a rate increase until the motion for reconsideration was disposed of. Since that time, the Commission's final orders relating to rate cases have been given an effective date in excess of ten days from the date the decision and order is served. This permits any party to file, if he chooses to, a motion for reconsideration before the decision and order takes effect.

Your Committee believes that when a party files a motion for reconsideration from a final decision and order granting a rate increase or decrease, the decision and order should be automatically stayed so that the Commission must review its final decision once more before permitting the change in rates to take effect. This automatic stay provision has been limited to rate cases because they have the greatest impact to the consuming public. We believe the automatic stay provision is not unreasonable to the motor carriers or the consumers since, for good cause shown to the Commission, the stay may be set aside. Further, the Commission must dispose of the motion for reconsideration within twenty days from the filing date of the motion, otherwise the motion is deemed denied.

Your Conference Committee is in accord with the intent and purpose of H.B. No. 1937-78, 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. 1937-78, H.D. 1, S.D. 1, C.D. 1.

Representatives D. Yamada, Blair, Uechi, K. Yamada and Ikeda,  
Managers on the part of the House.

Senators Taira, Takitani and Anderson,  
Managers on the part of the Senate.

Conf. Com. Rep. No. 46 on H.B. No. 2850-78

The purpose of this bill is to statutorily designate the Hawaiian language as the native language of Hawaii by amending Chapter 5 of the Hawaii Revised Statutes. Such a designation would encourage the use of the Hawaiian language on all emblems and symbols of the State and its political subdivisions.

The amendment made by your Committee clarifies the intent and purpose of the bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2850-78, 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. 2850-78, H.D. 1, S.D. 1, C.D. 1.

Representatives Say, Toguchi, Ushijima and Poepoe,  
Managers on the part of the House.

Senators Hara, Yim and Anderson,  
Managers on the part of the Senate.

Conf. Com. Rep. No. 47 on S.B. No. 782

The purpose of this bill is to provide for the definition and regulation of a device to be known as a "moped."

Your Committee finds that because of the increased popularity and use of mopeds, regulation and control is necessary in the interest of safety and traffic efficiency.

Your Committee has amended the definition of "moped" to provide that it is a "device" instead of a "vehicle". In your Committee's discussion, it was found that the use of the term "device" would distinguish "mopeds" as a classification distinct from "vehicle" and bicycle".

The bill, as received, provides for a new "moped" classification under motor vehicle, deleting existing language in the law relating to motor-driven bicycles; redefines the terms "bicycle", "vehicle" and "motor vehicle"; provides for registration and taxing of mopeds, seizure and sale of mopeds without the required tags or decals; and amends provisions of the traffic code relating to bicycles.

The bill also amends Chapter 291C, Hawaii Revised Statutes, by adding a new part to be entitled "Special Rules for Mopeds" and which makes the following provisions:

1. Provides a penalty for violation of the Rules and holds parents or guardians responsible for the actions of minors.
2. Subjects moped drivers to traffic laws applicable to motor vehicles, except as noted.
3. Requires a moped operator to have a valid driver's license which must be exhibited upon the demand of a police officer.
4. Establishes a minimum age of fifteen years for moped drivers; prohibits the carrying of passengers.
5. Regulates the driving of mopeds on roadways and prohibits driving of mopeds on sidewalks.
6. Requires mopeds to use bike lanes where provided unless prohibited by the Director of Transportation.
7. Establishes a maximum operating speed of 35 miles per hour.
8. Prohibits a moped operator from attaching himself or the vehicle to any other vehicle, bicycle, coaster, sled, toy vehicle or person on roller skates.
9. Prescribes lighting requirements for mopeds.
10. Provides requirements for renting or selling mopeds.
11. Sets equipment requirements for mopeds:
  - a. Motor having maximum power output of 1-1/2 hp measured at the motor output shaft in accordance with S.A.E. standards.
  - b. Maximum piston or rotor displacement of 3.05 cubic inches.
  - c. Direct or automatic power drive system which requires no clutch or gear shaft by the driver after the drive system is engaged with the power unit.
  - d. Provides that the Department of Transportation shall develop rules and regulations dealing with further equipment requirements.
12. Requires moped sellers to furnish a certification showing compliance with equipment requirements.
13. Provides penalty for the defacing, destroying, or altering of serial numbers or identifying marks on mopeds.
14. Prohibits the possession of a moped or moped part on which the serial number or identifying mark has been changed, altered, erased or mutilated.
15. Restricts the modification of a moped motor and makes violation a petty misdemeanor.

Your Committee has further amended the bill by inserting "moped" provisions to Section 249-16 and Section 249-17, Hawaii Revised Statutes, to conform these sections of the present law to the provisions of this bill.



Your Committee has amended Section 13 of the bill "Special Rules for Mopeds", as follows:

1. Page 16, lines 21-23:  
Changed "misdemeanor" to "violation", except as otherwise provided by law to conform with other action taken by the Legislature this session;
2. Page 18, lines 1-3:  
Provides that no more than one person at a time shall ride a "moped";
3. Page 18, lines 4-7:  
Omits provision prohibiting operation of a "moped" while carrying bundles, or other bulky items;
4. Page 18, line 18:  
Omits "or bicycles" - "mopeds" may use bikelanes under certain conditions;
5. Page 18, lines 19-21:  
Omits 35 miles per hour roadway restriction provision;
6. Page 20, line 13:  
Requires "moped" dealers to provide customers with rules for "mopeds" as approved by the State Department of Transportation;
7. Page 20, line 15:  
Requires every person renting a "moped" to another person to keep registration records for two years;
8. Page 25, lines 5-10:  
Omits certification requirement from an independent testing facility;
9. Page 25, line 14:  
Provides that it is a petty misdemeanor to deface any manufacturer's identification mark on a "moped".

In addition, certain grammatical and style changes have been made.

Your Committee finds that the majority of "moped" accidents involve rented "mopeds", and therefore, your Committee has amended the bill by the inclusion of an additional requirement upon "moped" rental firms of maintaining in effect certain minimum amounts of property damage and liability insurance coverage.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 782, 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. 782, S.D. 1, H.D. 1, C.D. 1.

Representatives Cayetano, Takamura, Abercrombie, Blair, Cobb,  
Dods and Evans,  
Managers on the part of the House,

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

Conf. Com. Rep. No. 48 on H.B. No. 1998-78

The purpose of this bill is to amend Section 343-4, Hawaii Revised Statutes, by adding to the classes of action for which an environmental impact statement shall be required, a new subsection covering all actions by any State or county agency proposing any

water development or diversion project.

Your Committee has amended this bill by changing subsection (F) of Section 2 to include only agency action proposals for water development or diversion which will probably have significant environmental effects.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1998-78, 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. 1998-78, H.D. 1, S.D. 1, C.D. 1.

Representatives Blair, Kawakami, Toguchi and Carroll,  
Managers on the part of the House,

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

Conf. Com. Rep. No. 49 on S.B. No. 2332-78

The purpose of this bill is to clarify the statutory provisions of Hawaii law relating to the mandatory purchase of Hawaii products and to place on the bidder on a government project who intends to use non-Hawaii products in such project the burden of declaring his intentions thereto.

In comparing the selling prices of Hawaii and non-Hawaii products for the purpose of determining whether the purchase of the former is required, present law does not specify what such selling price means or is to include. This bill would specify that selling price is f.o.b. jobsite, unloaded including applicable general excise and use taxes. Your Committee finds that under present practice, the selling price is considered f.o.b. jobsite including duties, the latter being interpreted to include any applicable general excise and use taxes. Thus, this bill would statutorily incorporate the existing practice.

In addition, present statutes allow selling prices of "similar" non-Hawaii products to be compared with Hawaii products. This bill, as amended in S.D. 1, would have provided for "alternate or comparable" instead of "similar" products being compared to Hawaii products. The bill, as amended in H.D. 1, retained the comparison of the selling prices of "similar" products.

Your Committee agrees with the use of the word "similar" in section 103-43, Hawaii Revised Statutes, as provided on page 1 of the bill, as that word specifies the non-Hawaii product which is capable of meeting the same requirements as the Hawaii product.

Finally, current law only requires a government agency to describe Hawaii products which may be used in a public works or repair or maintenance contract. This bill as received would have required a description of both the Hawaii products as well as their "corresponding" classes. Your Committee has amended this bill by substituting the word "established" classes for "corresponding" classes on line 1 on page 4 of the bill, as received. These "established" classes refer to the class I, II, and III Hawaii products under section 103-43.

With respect to placing the burden of declaring his intention to use non-Hawaii products in a government project on the bidder thereto, your Committee finds that under present law the bidder who intends to use Hawaii products is forced to go through much paperwork and red tape in order to receive a credit on the cost of such products on his bid. Your Committee believes that this tends to discourage bidders from using Hawaii products, or at best counteracts the incentive, the credit, to use Hawaii products, contrary to the general intent of the law. This bill would require persons submitting bids based on non-Hawaii, instead of Hawaii, products to specify such products and the values thereof.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2332-78, 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. 2332-78, S.D. 1, H.D. 1, C.D. 1.

Representatives D. Yamada, K. Yamada, Ueoka, Uechi and Ikeda,  
Managers on the part of the House.

Senators R. Wong, O'Connor and Anderson,  
Managers on the part of the Senate.

Conf. Com. Rep. No. 50 on H.B. No. 490

The purpose of this bill is to place the responsibility for the replacement of school books that are broken, damaged, lost, or destroyed with the responsible student or the student's parents.

Your Committee has found that the Department of Education's Rule 14.1 relating to school property damaged, destroyed, or lost provides for payment for damages or losses to be made by the responsible student or the student's parents. However, in many instances the Rule is not enforced. This is primarily due to two reasons: 1) Rule 14.1 does not set forth a uniform procedure for all school administrators to follow; and 2) not all students can make monetary restitution.

This bill provides for a uniform procedure to settle cases involving a student that damages, loses, or destroys school books and allows students and their parents to work out a restitution program with the principal that is agreeable to both parties.

Your Committee has amended the bill by deleting provisions which limit restitution for loss, damage or destruction to school books to either payment of replacement cost, contribution of equivalent work time or a combination of both. The amendment permits the pupil to make restitution in any manner including payment of replacement cost and is intended to permit the school principals greater flexibility in designing restitution programs for specific cases and pupils.

The amendment also avoids a possible constitutional infirmity which may be involved in requiring a pupil to work to pay for the replacement cost of books.

The bill has been further amended to prohibit any action being taken against the pupil unless the pupil has been afforded notice and an opportunity to be heard on any charges of responsibility for the loss, destruction, breakage or damage to school books. The pupil's parents are included in any restitution program designed by the principal by requiring an agreement to make restitution in writing signed by the pupil and his or her parents or guardian.

If restitution is made, the bill requires that all records of the charges be destroyed and all information relating to the charges be kept confidential. If no restitution is made the matter is referred to the district superintendent for further action. The bill was also amended to permit the State to bring any other appropriate action to recover damages.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 490, 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. 490, H.D. 2, S.D. 1, C.D. 1.

Representatives Mizuguchi, Abercromble, Aki, Dods, Kawakami,  
Toguchi and Evans,  
Managers on the part of the House.

Senators Hara, Yim and Anderson,  
Managers on the part of the Senate.

Conf. Com. Rep. No. 51 on S.B. No. 2114-78

The purpose of this bill is to establish a pilot project within the Department of Education that will test the feasibility of job-sharing among certain classes of certified personnel in the public schools of Hawaii.

Your Committee finds that job-sharing, which would allow two half-time positions in place of one full-time position, is an innovation which will increase the available employment options so that people may have the opportunity to be employed on the basis of their financial and other needs, without, perhaps, the necessity of being employed on a full-time basis.

Your Committee further finds that the merits of job-sharing warrant systematic experimentation and that the Department of Education, due to the possibility of expanding the number of jobs and its possible impact upon the disproportionate numbers of unemployed teachers in the State, is an appropriate agency within which to initiate a job-sharing pilot project. Moreover, the implementation of a job-sharing pilot project in the DOE may create more stimulating environments for teachers in their professional capacities, and may also provide additional educational stimulus for students. The augmentation of teachers' skills may also be a result of job sharing in the Department of Education, since teachers would have greater time available to them to pursue additional training and education, further benefiting the educational system of the State.

Your Committee upon further consideration has made the following amendments to S.B. No. 2114-78, H.D. 1.

(1) The duration of the pilot project has been established at three years--1978-79, 1979-80, and 1980-81--provided that the department of education shall not implement the project without first carefully developing its plans, procedures, and guidelines and shall initiate the project to the extent practicable during the 1978-79 academic year. The date of commencement of the pilot project was of great concern to your Committee. There was a substantial interest in getting a very promising project started as soon as possible. However, there was equal concern that the necessary planning be undertaken. Your Committee consulted with representatives of the teacher's bargaining unit, the department of education, and interested teachers. All agreed that the above proviso allowed sufficient flexibility to ensure that the project would be begun at the earliest possible date consistent with adequate planning.

(2) The number of full-time participants eligible for the project has been set at no more than 100. There is no minimum number of full-time participants necessary for the program to commence once the requisite planning has been completed.

(3) Reference to a time limit within which the Superintendent of education must announce the pilot project to prospective participants has been deleted. It is the finding of your conference Committee that the previously stated time limit of thirty days had the potential of creating a hardship on the department and might result in a prematurely presented statement.

(4) Similarly, reference to a time limit within which the Department of Education must formulate and adopt guidelines for the implementation of this Act has been deleted, for much the same reasons as stated in (3) above.

(5) The stipulation that in the event of a vacancy, a job sharer may be required to work on a full-time basis has been deleted.

(6) The office of the legislative auditor is requested to monitor and evaluate the pilot project. Because the length of the project has been extended, the legislative auditor has been asked to report on the status of the project to the regular legislative sessions of 1979, 1980, 1981, and 1982.

In addition to the amendments listed above, your Committee wishes to express its intent with regard to the following concerns.

(1) The benefits of each job sharer with regard to unemployment compensation shall be no different from those benefits afforded other employees in the Department of Education.

(2) It is the desire of your Committee that the job-sharing pilot project be included in the department's project management system that it might benefit from an orderly assessment procedure.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2114-78, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2114-78, H.D. 1, C.D. 1.

Representatives Mizuguchi, Stanley, Kiyabu, Machida, Mina, Segawa,  
Uwaine, Ikeda and Poepoe,  
Managers on the part of the House.

Senators Hara, Yim and Anderson,  
Managers on the part of the Senate.

Conf. Com. Rep. No. 52 on H.B. No. 2239-78

The purpose of this bill is to redesignate the Hawaii Commission on Crime as the Hawaii Crime Commission; to extend the life of the commission to June 30, 1980; to appropriate funds for its operation during the 1978-79 fiscal year; and to amend the statutes governing the operations of the commission.

The bill provides for the following:

- (1) Increases the membership of the commission from 11 to 12 members.
- (2) Provides for filling of any vacancy on the commission, except the chairmanship, for the unexpired term, by the Governor with the advice and consent of the Senate.
- (3) Provides for appointment of the chairman for a term commencing July 7, 1979, and ending June 30, 1980, by two-thirds vote of each house in joint session.
- (4) Allows the chairman serving as of the effective date of the bill to continue to serve until a successor is appointed.
- (5) Provides for removal or suspension of the chairman by two-thirds vote of each house in joint session for neglect of duty, misconduct or disability, and also authorizes the legislature to fill any vacancy.
- (6) Allows the chairman to vote only in case of a tie vote.
- (7) Provides for reimbursement of not only the members but also the chairman for reasonable expenses.
- (8) Provides for removal or suspension of any commission member for cause by the Governor after notice and hearing conducted under, rather than subject to Chapter 91.
- (9) Authorizes the commission to receive and use gifts, money, services or assistance from any source.
- (10) Requires the chairman to authorize preliminary inquiry into projects and investigations.
- (11) Provides for hiring of staff by the chairman.
- (12) Clarifies the right of the chairman or commission to contract independently for services.
- (13) Requires the commission to report to the legislature prior to each session on its activities for the past year, and program of action for the coming year.
- (14) Requires the commission to investigate and collect evidence necessary to study criminal activity or the operation of the criminal justice system.
- (15) Authorizes the commission to hold closed hearings when necessary to maintain effectiveness of a study or investigation.
- (16) Requires all other hearings to be held in accordance with Chapters 91 and 92.
- (17) Clarifies the power of the chairman to subpoena witnesses and to require production of documents.
- (18) Requires state and county governments to cooperate with the commission.
- (19) Provides for removal of any commission member who makes an unauthorized disclosure of any confidential information or matter.
- (20) Makes the wilful disclosure or dissemination of confidential information or matter by any commission member, chairman, staff member or employee a misdemeanor.
- (21) Defines "confidential information or matter."

(22) Provides that attorneys employed by the commission would not become deputy attorneys general.

(23) Appropriates \$165,000 for the fiscal year 1978-79.

Your Committee upon further consideration has made the following amendments to H.B. No. 2239-78, H.D. 2, S.D. 2:

(1) Section 843-6 has been amended by clarifying the power of the commission to subpoena witnesses and to require production of documents, etc., and by providing for enforcement of the subpoena powers by the circuit courts.

(2) Section 843-8 has been amended by making the unauthorized and wilful disclosure or dissemination of confidential information or matter a Class C felony because of the potentially grave consequences which might result if certain information is disclosed.

(3) Technical changes were made which do not affect the substance or intent of the bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. 2239-78, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. 2239-78, H.D. 2, S.D. 2, C.D. 1.

Representatives Garcia, Blair, Takamura, Ueoka, Fong and Medeiros,  
Managers on the part of the House.

Senators R. Wong, Kawasaki, Nishimura and Anderson,  
Managers on the part of the Senate.

Conf. Com. Rep. No. 53 on H.B. No. 2827-78

The purpose of this bill is to establish a permanent statewide School Health Services Program within the Department of Health.

The School Health Services Program was initiated under a pilot project established by Act 130, Session Laws 1970 and expanded to all schools thereafter. This program has demonstrated its effectiveness during the past years in providing health care for students in public schools.

Your Committee on Conference has amended the bill in various ways.

Your Committee has amended the implementation of the School Health Services Program to service all public schools. Furthermore, your Committee has amended this bill that the school health aides may provide health related screening services at each public school.

Your Conference Committee recognizes the need for early detection of vision and hearing deficiencies and feels that health aides should assist in screening students in order that initial screening shall be completed by December 31 of each year.

This bill further amends the qualifications of nurses to any registered practical nurse at the entry level or next level that nurses shall be placed at school health complexes established by the Department of Health in consultation with the advisory committee.

The School Health Services Advisory Committee functions have been clarified to be more specific. The composition of the committee has been amended to consist of members from the counties of Hawaii, Kauai, Maui, Honolulu, and statewide members, and will make recommendations on health related services to the Department of Health.

The full-time school health aides compensation has been amended to provide that their salary should be based on a six and one-half hour work day, and the full-time school health aides shall have the same working schedule and leave allowance as school teachers in the Department of Education.

Your Committee has amended the bill by clarifying that those officers and employees transferred to the School Health Services Program include full-time nurses and clerks.

Your Committee has amended the appropriation to \$653,179 and included the position



count for the School Health Services Program to provide for 143.65 health aides derived by multiplying 221 health aides to .65, two Registered Professional Nurse V's, nine Registered Professional Nurse IV's, six Registered Professional Nurse III's, one Secretary II, one Account Clerk IV, one Clerk-Typist and 5.25 Clerk III's. The program presently provides 11 Registered Practical Nurse IV's, 1 Registered Practical Nurse VII, and 1 Account Clerk.

Your Committee has made technical and non-substantive changes to this bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2827-78, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2827-78, H.D. 2, S.D. 2, C.D. 1.

Representatives Segawa, Campbell, Machida, Mizuguchi, Peters, Shito,  
Poepoe and Sutton,  
Managers on the part of the House.

Senators R. Wong, Chong, Hara, Toyofuku and Anderson,  
Managers on the part of the Senate.

Conf. Com. Rep. No. 54 on H.B. No. 1885-78

The purpose of this bill is to increase the number of circuit court judgeships in the first circuit from thirteen to fourteen, and to authorize an additional district court judgeship in the third circuit.

Your Committee was informed that in the last six fiscal years ending with fiscal year 1976-77, the number of cases filed in the First Circuit Court has exceeded the number of cases terminated, and that as a result, a backlog of cases has been steadily building from 10,835 cases at the end of fiscal 1971-72 to 14,297 cases at the end of fiscal 1976-77. During the latter fiscal year, 5,870 cases were terminated. However, the backlog is now over two times as large as the number of cases disposed of.

Your Committee upon further consideration has made the following amendments to H.B. No. 1885-78, H.D. 2, S.D. 2:

(1) The number of circuit court judgeships in the first circuit has been increased from thirteen to fifteen, because your Committee finds that the increasing caseload and backlog justifies creation of the additional positions.

(2) Section 604-1 has been amended to give the district courts in the first circuit greater flexibility by allowing any one of the district judges to be assigned to hear landlord-tenant and small claims matters, rather than requiring the twelfth judge to handle such matters as is presently required. Your Committee finds that a situation existed at the time the position for the twelfth judge was authorized, in which there were numerous complaints as to the unevenness in the decisions rendered in landlord-tenant cases. At the time of the establishment of the twelfth judgeship, it was the intent of this legislature that written decisions be prepared in landlord-tenant matters. It is your Committee's understanding that a body of written decisions has been compiled supplementing the landlord-tenant code, and your Committee believes that the problem as it existed at the time of establishment of the twelfth judgeship has been substantially reduced. Your Committee is still cognizant of the fact that the small claims judge requires special skills in dealing with human problems, even more so than with legal problems. It is the intent of your Committee to continue to monitor the activities of the small claims court. Your Committee intends to see whether or not the rotation of the judges, as your Committee understands it, on a three month assignment, serves the public interest.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1885-78, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1885-78, H.D. 2, S.D. 2, C.D. 1.

Representatives Garcia, K. Yamada, Blair, Morioka, Nakamura, Uechi,  
and Ikeda,  
Managers on the part of the House.

Senators R. Wong, Nishimura and Soares,  
Managers on the part of the Senate.

Conf. Com. Rep. No. 55 on S.B. No. 1820-78

The purpose of this bill is to amend Chapter 84, Hawaii Revised Statutes, to strengthen the financial disclosure provisions by identifying those State officers and employees whose powers most significantly and directly affect the operations of government and requiring that they file financial disclosure statements with the State Ethics Commission. In addition, the disclosures of the highest-ranking officers and employees will be made matters of public record.

Another purpose of this bill is to limit the application of Section 84-14, Hawaii Revised Statutes, the conflicts of interest provision, as it affects those members of boards and commissions who are appointed as experts. While these members will continue to be restricted from taking action that specifically affects their business interests they will be permitted to take action that generally affects the particular field they have been asked to represent.

This bill further proposes to amend the provision regulating contracts between businesses in which employees and legislators hold controlling interests and State agencies by substituting a more flexible procedure while at the same time making this process more public.

The bill strengthens the ethics code by improving the disclosure process as it affects the highest-ranking employees while at the same time lessening the code's impact on board and commission members who have been unfairly burdened by certain of its provisions.

Your Committee upon further consideration has made the following amendments to S. B. No. 1820-78, S. D. 2, H. D. 1:

(1) The words "any dependent" have been deleted from the definition of "financial interest" in Section 1 of the bill. To require the disclosure of the financial interest of all dependents is an unreasonable invasion of the privacy of those dependents. However, this Section has also been amended to require the disclosure of the financial interests of dependent children.

(2) Section 3 of the bill, amending the contracts provision, has been amended for clarity and will provide that contracts between State agencies and businesses in which an employee or a legislator holds a controlling interest must be awarded through an open, public process. To be open and public, a process need not include formal competitive bidding but must provide all qualified persons or businesses an equal opportunity to gain State contracts. State agencies may enter into contracts that are not susceptible of competition without adhering to the open, public process requirement but the agency's action must be justified in writing and must be filed with the State Ethics Commission.

(3) The subsections within Section 84-17 have been rearranged for clarity and have been amended as follows:

Your Committee was of the opinion that the delegates to the Constitutional Convention could not be required to file financial disclosure statements and this requirement has therefore been deleted from Section 84-17(c)(1), Hawaii Revised Statutes. Your Committee feels nevertheless that disclosure by all officials who exercise significant powers is essential if public confidence in government is to be maintained and promoted. Your Committee urges the Constitutional Convention to adopt a financial disclosure requirement for its members.

Section 84-17(c)(3), Hawaii Revised Statutes, has been amended to delete the requirement that all non-clerical employees of the legislature file financial disclosure forms. Part-time legislative employees work for short periods and do not have significant discretionary powers. Placing the burden of disclosure upon them would not be justified. Permanent employees of the legislature and its service agencies will be subject to the disclosure requirement.

To clarify Section 84-17(c)(4), Hawaii Revised Statutes, the administrative director of the State is specifically listed among those persons who must file disclosures.

The words "department of education" has been substituted for "schools" in line 17 on page 9 of the bill. This amendment clarifies that Subsection (7) is requiring the superintendent, the deputy superintendent, the assistant superintendents, and the district superintendents of the Department of Education to file an annual disclosure

of financial interests. A conforming amendment was made on page 10 of the bill.

Section 84-17(b), Hawaii Revised Statutes, has been amended to delete the reference to the delegates to the Constitutional Convention.

Section 84-17(f), Hawaii Revised Statutes, has been amended to conform with the amendment to the definition of financial interest by deleting the reference to "other dependents".

Your Committee has added the words "and the value" to Section 84-17(f)(5), Hawaii Revised Statutes, to clarify that the value of interests in real property must be disclosed; this amendment also clarifies an intent of Section 84-17(f)(4), Hawaii Revised Statutes, to require the reporting of mortgages. The value of real property may be reported in any reasonable manner and the use of the assessed valuation of the property as a guide in determining value would be acceptable under the language of the bill.

Your Committee has further amended the disclosure provision to provide for public inspection of the statements of the following State officers and employees:

- (a) The governor, the lieutenant governor, and the members of the legislature.
- (b) The directors of the state departments and their first and second deputies.
- (c) The administrative director of the State.
- (d) The president, the vice-presidents and the chancellors of the University of Hawaii.
- (e) The superintendent and the deputy superintendent of the department of education.

The disclosure provision has been further amended by adding a new subsection to provide that disclosure statements shall be confidential and shall not be made public except as permitted by Chapter 84, Hawaii Revised Statutes.

(4) Your Committee has amended the provisions of Section 5 of the bill by requiring the State Ethics Commission to maintain a list of all persons who examine the financial disclosure statements of any person enumerated in Section 84-17(g), Hawaii Revised Statutes, filed with the Commission. Such list shall specify the name of the person examining the record, the name of the person whose record was examined and the date of examination. Such list shall be confidential; provided that the commission shall notify the person whose financial disclosure statement was examined of the name of the person who examined the financial disclosure statement. The State Ethics Commission may adopt rules pursuant to Chapter 91 to implement this section. If the list were open to public inspection a group of persons could make repeated requests to review the financial disclosure statement of a legislator or employee and thereby create the appearance that the legislator or employee had done something improper. The amending language requires the State Ethics Commission to report to a legislator or an employee the names of those persons who have inspected his or her statement.

(5) Section 6 of the bill has been deleted. Your Committee firmly feels and advocates that each of the counties should adopt disclosure provisions that are substantially the same as that set out in the bill. Your Committee is of the opinion, however, that Article XIV, Section 5 of the State Constitution prohibits the legislature from applying the State ethics provisions to the political subdivisions of the State.

Your Committee on Conference is in accord with the intent and purpose of S. B. No. 1820-78, 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. 1820-78, S. D. 2, H. D. 1, C. D. 1.

Representatives Stanley, Garcia, Cayetano, Kunitura, Uwayne,  
D. Yamada, Fong and Ikeda,  
Managers on the part of the House.

Senators Nishimura, O'Connor, Ching, Chong, Hara, Kawasaki,  
Taira, Takitani, F. Wong, George, Leopold and Saiki,  
Managers on the part of the Senate.

Conf. Com. Rep. No. 56 on S.B. No. 2595-78

The purpose of this bill is to amend the Hawaii Penal Code by providing for a new offense known as "obstruction of justice" and clarifying said offense as a class C felony.

Your Committee upon further consideration has made the following amendment to S. B. No. 2595-78, S. D. 1, H. D. 1 by substituting the words "to testify or be qualified as a witness" for the words "so to do". This is a technical language change to clarify that the offense is a refusal to testify or be qualified as a witness after having been granted immunity pursuant to Chapter 621C.

It is the intent of your Committee that Section 710-1077(h), Hawaii Revised Statutes, shall apply only to situations involving a witness who refuses to testify or be qualified as a witness without a grant of immunity and shall not apply to a situation where a witness refuses to testify or be qualified as a witness after having been granted immunity. The latter situation shall be governed by "obstruction of justice".

Your Committee on Conference is in accord with the intent and purpose of S. B. No. 2595-78, 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. 2595-78, S. D. 1, H. D. 1, C. D. 1.

Representatives Garcia, K. Yamada, Blair, Uwayne and Medeiros,  
Managers on the part of the House.

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

Conf. Com. Rep. No. 57 on H.B. No. 1803-78

The purpose of this bill is to extend the State Comprehensive Employment and Training component (SCET) of the State Program for the Unemployed (SPU) from June 30, 1978 to June 30, 1979 by appropriating \$2.5 million for statewide public service employment.

Your Committee upon further consideration has amended H.B. No. 1803-78, H.D. 2, S.D. 1 by increasing the appropriation for SCET to \$4 million and carrying over the unencumbered funds to June 30, 1979. This is to insure that the current level of 1,000 SCET participants can be sustained until June 30, 1979.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1803-78, 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. 1803-78, H.D. 2, S.D. 1, C.D. 1.

Representatives Takamine, Machida, Mina, Peters and Ikeda,  
Managers on the part of the House.

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

Conf. Com. Rep. No. 58 on S.B. No. 2581-78

The purpose of this bill is to amend the Horizontal Property Regimes Law to promote equitable condominium management and governance.

This bill proposes a change to Section 514A-82(12), Hawaii Revised Statutes. It provides that the first meeting of the association of apartment owners shall be held 180 days after the recordation of the first apartment conveyance, provided that 40 per cent or more of the project has been sold and recorded. If the project is not 40 per cent or more sold and recorded at the end of one year, an annual meeting must be called if 10 per cent of the owners so request.

Your Committee has amended Section 514A-82(12), Hawaii Revised Statutes, for purposes of clarity without affecting any of the substantive provisions therein. Said Section 514A-82(12) reads as follows:

"...recordation of the first apartment conveyance; provided forty per cent or more of the project has been sold and recorded. If forty per cent of the project is not sold and recorded at the end of one year, an annual meeting shall be called; provided

ten per cent of the apartment owners so request."

Section 514A-82(14), Hawaii Revised Statutes, has been amended by inserting the words "or cast proxy" so that it would read: "A director shall not vote or cast proxy at any board meeting on any issue in which he has a conflict of interest.". This amendment prevents a director from circumventing this paragraph which prohibits him from voting on any matter when he has a conflict of interest.

Section 514A-82(18), Hawaii Revised Statutes, has been amended to clarify that the apartment owner may designate any person as his proxy and may limit the powers of the proxy so long as the apartment owner desires and indicates.

A new paragraph (23) has been added to Section 514A-82 as follows: "(23) Notice of the annual board meeting shall be given in a reasonable manner at least fourteen days, if practicable, prior to such meeting.". This provision will afford apartment owners reasonable notice of the annual board meeting.

The existing paragraph (23) has been renumbered as paragraph (24).

Section 514A-61(3) is amended to mandate that the developer must include on the abstract furnished to each prospective initial purchaser a statement that if no warranties exist, the developer shall state that no warranties exist.

Your Committee on Conference is in accord with the intent and purpose of S. B. No. 2581-78, 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. 2581-78, S. D. 2, H. D. 1, C. D. 1.

Representatives D. Yamada, Blair, Ueoka, Uwayne and Ikeda,  
Managers on the part of the House.

Senators Nishimura, O'Connor, Young, Chong, Takitani, George and  
Leopold,  
Managers on the part of the Senate.

Conf. Com. Rep. No. 59 on H.B. No. 2618-78

The purpose of this bill is to allow the Hawaii Housing Authority to issue revenue bonds for the financing of FHA-insured rental housing projects which the authority has received notification of selection of preliminary proposal under a federal rent subsidy program. The bill also establishes a revenue bond special fund for the use in conjunction with such bonds.

Your Committee finds that the Hawaii Housing Authority has been informed that unless it secures long-term financing for the rental projects it has proposed, the sums allocated for its use in the Section 8 program will lapse as of April 30, 1978. Accordingly, this bill is necessary to ensure the realization of such projects.

Upon full consideration of H.B. No. 261878, H.D. 1, S.D. 2, your Committee has made the following amendments:

- 1) page 2, line 7 - The sum of \$5,000,000 has been changed to \$22,500,000.
- 2) page 2, lines 8 and 9 The phrase, "which will be insured by the federal housing administration and" has been deleted.

It is felt that this phrase is contrary to Article VI, Section 3 of the State Constitution which reads: "...the term "revenue bonds" means all bonds payable solely from and secured solely by the revenues, or user taxes, or any combination of both, or a public undertaking, improvement or system."

- 3) A new Section 3 has been added to the bill.

This addition removes housing revenue bonds from the mandate of 103-7, Hawaii Revised Statutes, and permits bonds to be issued with the governor's approval. This provision is necessary to permit Hawaii Housing Authority to exercise maximum flexibility to take advantage of all Federal appropriations.

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

2618-78, 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. 2618-78, H.D. 1, S.D. 2, C.D. 1.

Representatives Shito, Aki, Nakamura, Segawa, Suwa, Ueoka and Ikeda,  
Managers on the part of the House.

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

Conf. Com. Rep. No. 60 on H.B. No. 2173-78

The purpose of this bill is to establish a statewide planning process as a means toward setting a quality future for the State of Hawaii. Part I of the bill sets forth the overall theme, goals, and policies for Hawaii. Part II of the bill establishes the processes and components of the statewide planning system. Part III of the bill contains priority directions for the State.

After lengthy debate and discussion, your Conference Committee recommends that the overall statewide planning structure and system primarily consist of:

#### The State Plan

- (1) Overall Theme, Goals, Objectives, and Policies. This part sets forth comprehensive long-range directions for the State.
- (2) Priority Directions. This part sets forth what the Legislature believes to be the priority statewide concerns. Broad implementing actions to address these concerns are included in Part III, but are not listed in order of priority. The effective date of this Part has been set for May 1, 1979 in order to allow the State to gain further public input on this portion of the State Plan.

#### The Statewide Planning Components

- (1) State Functional Plans. The bill requires that functional plans conform to the State Plan, be formulated using County General Plans as a basis, and be submitted to the Legislature for adoption by concurrent resolution.
- (2) County General Plans. County General Plans are required to conform to the State Plan by 1982 and be formulated using State functional plans adopted by the Legislature as a basis.
- (3) State Programs. All State programs are required to conform to the State Plan.
- (4) Advisory Committees. Advisory Committees are established to assist respective state agencies in preparing functional plans.
- (5) Policy Council. A Policy Council is established to advise the Legislature on overall planning concerns, the operational effectiveness of the overall planning system and any State and County planning conflicts. Staff assistance to the Policy Council will be provided by the Department of Planning and Economic Development.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2173-78, H.D. 3, S.D. 3, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2173-78, H.D. 3, S.D. 3, C.D. 1.

Representatives Kiyabu, Abercrombie, Cayetano, Dods, Kunimura, Machida, Mina, Mizuguchi, Peters, Ikeda and Medeiros,  
Managers on the part of the House.

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



## SPECIAL COMMITTEE REPORTS

Spec. Com. Rep. No. 1

Your Committee on Credentials begs leave to report that it has thoroughly considered the matter of the seating of the members of the House of Representatives of the Ninth Legislature of the State of Hawaii, Regular Session of 1978, and finds that the following members are duly qualified to sit as members of the House of Representatives, to wit:

First District:	Jack K. Suwa
Second District:	Herbert A. Segawa Katsuya Yamada
Third District	Yoshito Takamine
Fourth District:	Minoru Inaba
Fifth District	Richard L. Caldito, Jr. Gerald K. Machida
Sixth District:	Ronald Y. Kondo Meyer M. Ueoka
Seventh District :	Robert D. Dods Donna R. Ikeda
Eighth District:	Steve Cobb Jack Larsen
Ninth District:	Ted T. Morioka Calvin K.Y. Say
Tenth District:	Ken Kiyabu Lisa Naito
Eleventh District:	John S. Carroll Kinau Boyd Kamalii
Twelfth District:	Carl T. Takamura Clifford T. Uwaine
Thirteenth District:	Neil Abercrombie Hiram K. Fong, Jr. Charles T. Ushijima
Fourteenth District:	Russell Blair Kathleen Stanley
Fifteenth District:	Byron W. Baker Richard Ike Sutton
Sixteenth District:	Ted Mina Tony Narvaes
Seventeenth District:	Charles M. Campbell Richard Garcia
Eighteenth District:	Mitsuo Uechi James H. Wakatsuki
Nineteenth District:	Benjamin J. Cayetano Norman Mizuguchi
Twentieth District:	Daniel J. Kihano Mitsuo Shito
Twenty-First District:	James Aki Henry Haalilio Peters

Twenty-Second District:	Oliver Lunasco Yoshiro Nakamura
Twenty-Third District:	Charles T. Toguchi
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 Peters, D. Yamada, Dods, Kiyabu, Mizuguchi, Takamine, Takamura, Fong, Kamalii and Medeiros.

Spec. Com. Rep. No. 2 (Majority)

Your Joint Interim Committee, consisting of the members of the Senate Judiciary Committee and the House Committee on Consumer Protection and Commerce, was formed pursuant to the provisions of Act 70, Session Laws of Hawaii 1977--the "Sunset" Law--for the purpose of reviewing regulatory "impact" statements filed with respect to six regulatory laws scheduled for repeal this year. Your Joint Committee begs leave to report as follows:

The following regulatory laws will be repealed effective December 31 of this year unless at the upcoming session the Legislature takes action to extend their life:

- (1) Chapter 438, Hawaii Revised Statutes  
(Board of Barbers)
- (2) Chapter 448A, Hawaii Revised Statutes  
(Escort Agencies)
- (3) Chapter 452, Hawaii Revised Statutes  
(Board of Massage)
- (4) Chapter 455, Hawaii Revised Statutes  
(Board of Examiners in Naturopathy)
- (5) Chapter 462, Hawaii Revised Statutes  
(Board of Photography)
- (6) Chapter 463E, Hawaii Revised Statutes  
(Podiatry)

Each of the foregoing boards and the Director Regulatory Agencies with respect to photographers and escort agencies filed an "impact" statement pursuant to Section 5 of the Sunset Law. Your Joint Committee reviewed the statements and held a public hearing thereon. It also requested the Legislative Auditor to review them and to afford the Committee his views as to whether the statements indicated compliance with the Legislative policies set forth in the Sunset Law. These policies are as follows:

- "(1) The regulation and licensing of professions and vocations by the State shall be undertaken only where reasonably necessary to protect the health, safety or welfare of consumers of the services; the purpose of regulation shall be the protection of the public welfare and not that of the regulated profession or vocation;
- (2) Even where regulation of professions and vocations is reasonably necessary to protect consumers, government interference should be minimized; if less restrictive alternatives to full licensure are available, they should be adopted;
- (3) Professional and vocational regulation shall not be imposed except where necessary to protect relatively large numbers of consumers who because of a variety of circumstances may be at a disadvantage in choosing or relying on

the provider of the service;

- (4) Evidence of abuses by providers of the service shall be accorded great weight in determining whether government supervision is desirable;
- (5) Professional and vocational regulation which artificially increases the costs of goods and services to the consumer should be avoided;
- (6) Professional and vocational regulation should be eliminated where its benefits to consumers are outweighed by its costs to taxpayers; and
- (7) Regulation shall not unreasonably restrict entry into professions and vocations by all qualified persons."

Your Committee makes the following comments, conclusions and recommendations concerning the measures subject to repeal:

1. Escort Agencies

Escort Agencies are regulated by Chapter 448A, Hawaii Revised Statutes, which provides for the licensing of those engaged in the business of "...providing escorts or companions for social occasions..." Since the enactment of the Escort Agencies Law in 1969, just three agencies have been licensed. The only substantive requirement is that the licensee obtain a \$5,000 bond. There has never been a consumer complaint filed with the Department of Regulatory Agencies concerning an escort agency. Both the Director of Regulatory Agencies and the Legislative Auditor have recommended that the Escort Agencies Law be repealed. Your Committee finds that the regulation of escort agencies has not been demonstrated to be necessary to protect the health, safety or welfare of consumers of this service. Accordingly, your Committee recommends that this law be permitted to expire on December 31, 1978.

2. Board of Photography

The Board of Photography has never been formed and its enabling law, Chapter 462, Hawaii Revised Statutes, has never been implemented. This was based on a Hawaii Supreme Court decision in 1935 holding the law unconstitutional on the grounds that the regulation of photographers is not necessary to protect the public health and welfare. The Legislature reenacted the law in 1957 but it again was not implemented based on an attorney general's opinion reaching the same conclusion as the earlier court case. Apart from the court decision, your Committee knows of no reason why the public interest would be served by regulating photographers. Accordingly, your Committee recommends that the Photography Law, Chapter 462, Hawaii Revised Statutes, be permitted to expire on December 31, 1978.

3. Board of Barbers

Barbers are regulated by Chapter 438, Hawaii Revised Statutes, which provides for the licensing of any person engaged in the practice of barbering. Barbering is defined as "...shaving, cutting, trimming, singeing, shampooing, arranging, dressing, curling, or waving (other than permanent waving) the hair or beard or applying oils, creams, lotions or other preparation to the face, scalp, or neck, either by hand or mechanical appliances..." The impact statement filed by the Board of Barbers recommended that the enabling statute be extended for a period of six years. The Board contended that such extension is necessary and that its continued existence is required to protect the health, safety and welfare of the public. The Board stated that regulation and examination helped assure the competency of barbers. The Board asserted that its strict standards assured that only the most capable applicants were allowed to perform barbering.

The Legislative Auditor in criticizing the impact statement filed by the Board of Barbers indicated that the statement did not adequately address or show compliance with all of the legislative policies set forth in Section 2 of the Sunset Law. In particular, the Legislative Auditor questioned whether the impact statement met legislative policy No. 4 ("Evidence of abuses by providers of the service shall be accorded great weight in determining whether government supervision is desirable"), pointing out that there have been 18 complaints in the past five years against barbers and that 11 of these pertained to unlicensed practice. The Legislative Auditor noted that no revocation or suspension of a license had occurred in the past five years. The Legislative Auditor further pointed out that the impact statement failed to demonstrate the validity or reliability of the examinations or explain the wide disparity of percentage of applicants passing the barbers examination.

With respect to the Board of Barbers, your Committee has concluded that further study or investigation will be desirable before making a final determination at the upcoming session. Accordingly your Committee recommends that the Board of Barbers be requested to respond to the criticisms made by the Legislative Auditor and be afforded a further opportunity to document its case that regulation is necessary to protect the consumers of barbering services.

4. Board of Massage

Massage, regulated by Chapter 452, Hawaii Revised Statutes, means "...any method of treatment of the superficial soft parts of the body, consisting of rubbing, stroking, tapping, or kneading with the hands, feet, or elbow, and whether or not aided by any mechanical or electrical apparatus, appliances, or supplementary aids such as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointments, or other similar preparations commonly used in this practice." The Massage Board recommends that its life be extended for a period of six years. It contends that if massage is rendered incompetently the customer could suffer physical injuries such as pinched nerves, bruises and strained muscles which could cause discomfort. The Board also argues that trained masseurs are necessary in order to recognize problems unresponsive to massage treatment. Under the law's requirement applicants for massage licenses must qualify in both the written and practical examinations. No licenses have been revoked or suspended by the Massage Board during the past five years. A chief reason offered by the Board for its continuance is that the present statutes and rules insure that only persons with good moral background free of criminal convictions can qualify for licensure. This is obviously a reference to the prostitution problem which is intertwined with the question of the need for regulation and should be thoroughly analyzed.

The Legislative Auditor, after review of the Massage Board's impact statement, indicated that it does not adequately address or show compliance with the legislative policies set forth in the Sunset Law. The Auditor points out that there have been 30 complaints against masseurs in the past five years of which ten were dismissed. The impact statement indicates that there was only one complaint in FY 1976-77. The Legislative Auditor also states that the impact statement contains no information to document consumer benefits resulting from regulation. He further points out that the impact statement does not present information documenting the validity and reliability of the examinations administered. The Legislative Auditor concludes that the impact statement does not fully support the recommendation that the enabling statutes be extended for a period of six years.

With respect to the Board of Massage, your Committee finds that further analysis and study will be required at the upcoming session. Specifically, your Committee recommends that the Board of Massage be requested to respond to the criticisms of the Legislative Auditor and to more adequately address the concerns raised by him.

5. Board of Naturopathy Examiners

Chapter 455, Hawaii Revised Statutes, provides for the licensing of naturopaths. Naturopathy is defined as "...scientific application of air, light, sunshine, water, earth, cold and heat, electricity, hygiene and sanitation, dietetics, biochemic system, psychotherapy, meahanical movements, manipulations and appliances, specifically to eliminate toxic conditions from the human body, to promote the quality, quantity and flow of the vital fluids without the use of drugs, aiding nature with natural and congenial agents or means either tangible or intangible to restore and maintain normal functioning...." The impact statement filed by the Naturopathy Board recommended that the enabling statute be extended for a period of six years. The Board contended that such extension was necessary and that the continued existence of regulation is necessary to protect the health, safety and welfare of consumers of this service. The Board asserted that regulation was necessary to insure against the dangers of (1) unlicensed, unqualified and untrained individuals flooding the profession and (2) unscrupulous individuals victimizing sick patients. The Board asserts that in the absence of regulation, the unqualified will administer the sick in this State. It argues that deregulation would be a backward step for Hawaii. The Board further contends that there are no less restrictive alternatives to full licensure.

In reviewing the Board's impact statement, the Legislative Auditor commented that the impact statement reported only four complaints in the past five years, three of which involved complaints about unlicensed activity. He pointed out that no revocation or suspension has taken place within the past five years. The Auditor further pointed out that the impact statement failed to document the consumer benefits arising from regulation. He concluded that it did not fully support the recommendation that the

enabling statute be extended for six years.

Your Committee believes that further study and investigation of the need for the regulation of naturopaths is necessary. Specifically, your Committee recommends that the Naturopathy Board be requested to respond to the criticisms of the Legislative Auditor and to more adequately address the concerns raised by him.

5. Board of Naturopathy Examiners

Chapter 455, Hawaii Revised Statutes, provides for the licensing of naturopaths. Naturopathy is defined as "...scientific application of air, light, sunshine, water, earth, cold and heat, electricity, hygiene and sanitation, dietetics, biochemic system, psychotherapy, mechanical movements, manipulations and appliances, specifically to eliminate toxic conditions from the human body, to promote the quality, quantity and flow of the vital fluids without the use of drugs, aiding nature with natural and congenial agents or means either tangible or intangible to restore and maintain normal functioning..." The impact statement filed by the Naturopathy Board recommended that the enabling statute be extended for a period of six years. The Board contended that such extension was necessary and that the continued existence of regulation is necessary to protect the health, safety and welfare of consumers of this service. The Board asserted that regulation was necessary to insure against the dangers of (1) unlicensed, unqualified and untrained individuals flooding the profession and (2) unscrupulous individuals victimizing sick patients. The Board asserts that in the absence of regulation, the unqualified will administer the sick in this State. It argues that deregulation would be a backward step for Hawaii. The Board further contends that there are no less restrictive alternatives to full licensure.

In reviewing the Board's impact statement, the Legislative Auditor commented that the impact statement reported only four complaints in the past five years, three of which involved complaints about unlicensed activity. He pointed out that no revocation or suspension has taken place within the past five years. The Auditor further pointed out that the impact statement failed to document the consumer benefits arising from regulation. He concluded that it did not fully support the recommendation that the enabling statute be extended for six years.

Your Committee believes that further study and investigation of the need for regulation of naturopaths is necessary. Specifically, your Committee recommends that the Naturopathy Board be requested to respond to the criticisms of the Legislative Auditor and to more adequately address the concerns raised by him.

6. Podiatry

Podiatry is defined as "...the medical, surgical, mechanical, manipulative, and electrical diagnosis and treatment of the human foot, including the non-surgical treatment of the muscles and tendons of the leg governing the functions of the foot, but does not include any amputation, treatment of systematic conditions, or the use of any anesthetic except local anesthetic." Podiatry is regulated by Chapter 463E, Hawaii Revised Statutes, which places the responsibility for such regulation in the Board of Medical Examiners. The Board recommended that the Podiatry Law be extended for a period of six years. The basis for its recommendation was that the professional services rendered involved medical treatment of the human body and that incompetent or negligent treatment has potential for great harm to consumers. For this reason, the Board felt it essential that examinations test the competence of practitioners. The Board asserted that less restrictive alternatives to full licensure would not accomplish this public interest objective. The Board pointed out that responsibility for licensing of podiatrists was in the Board of Medical Examiners whose main function is to license and regulate physicians and surgeons under Chapter 453, Hawaii Revised Statutes. The Board also pointed out that no provision was made for a podiatrist member on the Board, and that regulatory boards normally have members of the profession being regulated. For this reason the Board recommended that Chapter 453 be amended to provide for at least one podiatrist to vote only on matters pertaining to podiatry. In alternative, the Board recommended that a three-member separate Board of Podiatry be established with two podiatrists and one lay member.

The Legislative Auditor, in reviewing the impact statement, commented that it disclosed that there have been no consumer complaints against podiatrists in the past four years. The Legislative Auditor further indicated that the impact statement failed to document consumer benefits derived from regulation. He concluded that the impact statement did not support the recommendation that the enabling statute be extended for a period of six years.

With respect to four regulatory programs recommended for further investigation and study, your Committee recommends that each of these four Boards be given full and adequate opportunity to justify their position at the upcoming regular session. In this regard, your Committee recommends the preparation of bills extending the life of each of these Boards. It also recommends that each of the respective Houses hold hearings on each such bill. Your Committee finds, as the Legislative Auditor points out, that the impact statements at this stage fail to justify continued regulation. To some extent, this is to be expected because thorough investigation and critical scrutiny of the impact statements which are desirable if the sunset process is to work have not yet been completed. Your Committee believes, however, that such investigation can be completed during the upcoming session.

Signed by Representatives D. Yamada, Cobb, Baker, Blair, Garcia, Naito, Nakamura, Uechi, Ueoka, Uwaine, K. Yamada, Fong and Ikeda.

Signed by Senators Nishimura, O'Connor, Ching, Chong, Hara, Kawasaki, Taira, Takitani, F. Wong, George, Leopold, Saiki and Medeiros.  
(Senator Kawasaki did not concur.)

#### Spec. Com. Rep. No. 3 (Majority)

Your House Committee on State General Planning requested to review the State's entry and exit census program, begs leave to report as follows:

#### COMMITTEE APPROACH

A subcommittee was appointed to undertake this review. The subcommittee was chaired by Representative Ken Kiyabu, and membership included Representatives Dods; Tony Kunimura; Gerald Machida; Ted Mina; Norman Mizuguchi; Calvin Say; Jack Suwa; and Donna Ikeda.

#### BACKGROUND

In 1975, the Hawaii State Legislature took the bold step of calling for the development of a State Plan through Act 189, SLH 1975. This action was in recognition of the need for planning in State government to chart the future growth and direction of a State facing non-finite population growth and a changing economic base with finite resources. An essential ingredient of planning is population data - trends, patterns, projections, and analysis. However, population in Hawaii is measured only intermittently. Population growth rates in Hawaii is measured only intermittently. Population growth rates in Hawaii and the requirement of such data for planning far exceeds present available data. The causes and effects of migration can only be ascertained through comprehensive data gathering and analysis.

Act 103, SLH 1973 mandated the Department of Planning and Economic Development (DPED) to implement an entry and exit census program. Statistics on visitors, in- and out-migration, and out-of-state travel by Hawaii residents can be used for the State Plan, the formulation of State policies on tourism and selective growth, for monitoring the progress of the visitor industry, and for numerous administrative, analytic, and planning purposes.

At the 1977 Regular Session of the Legislature, House Resolution No. 363 was introduced which requested the DPED to submit a report on the entry and exit census program required by Act 103, SLH 1973 to the Legislature prior to the last day of the 1977 session. The House Committee on State General Planning held a hearing on H.R. No. 363 in March, 1977, and learned that Act 103 had never been implemented. Therefore, your Committee on State General Planning through its subcommittee was formed to investigate the matter and identify existing problems and practices and submit a progress report to the 1978 Regular Session of the Legislature.

A public hearing was held on October 21, 1977, to solicit base information and testimony from the DPED, the Department of Agriculture (DOA), the Hawaii Visitors Bureau (HVB), the Honolulu Airlines Committee (HAC), the Air Transport Association of Hawaii, and private airline carriers.

#### FINDINGS AND RECOMMENDATIONS

Your Committee found that the State primarily relies on the entry and exit statistics of the HVB, the U.S. Immigration and Naturalization Service, and the Hawaii Health Surveillance Program.



U.S. Immigration and Naturalization Service data is limited to fiscal year totals of immigrant arrivals by nationality. The Hawaii Health Surveillance Program information is based on place of residence for the previous year with no information on visitors or gross out-migration lows. The HVB Basic Data Survey for visitor and migrant information is obtained through the State Agricultural Declaration form. Printing of the combined form is financed by the HVB.

Public agencies which also report on exit and entry movement include the Department of Labor and Industrial Relations (DLIR) which publishes annual totals on the inter-state movements of jobseekers and the Department of Social Services and Housing (DSSH) which occasionally investigates the migration status of public welfare recipients.

The only body of exit and entry data carrying any potential use for effective planning is the HVB survey. However, in testimony before the committee, several problems with the HVB survey were identified:

- (1) It is submitted only to passengers arriving from the mainland United States. Arrivals from most of Asia and all of the South Pacific as well as all departing flights are not surveyed. Efforts to extend the HVB survey to passengers arriving from Canada and Japan has had limited success.
- (2) Prior to 1970, all passengers were required to file the Agricultural Declaration, whether plants and restricted materials were being carried or not. However, when the DOA required the form to be completed only by those with materials to declare, the response rate on the attached HVB survey dropped. In 1976, less than half of the passengers on flights westbound to Hawaii completed the survey.
- (3) Since 1950, HVB survey forms have been distributed and collected by airlines on a voluntary basis. The completed forms are returned to the HAC office at the airport where they are picked up by the HVB. Although the HAC asks the carriers to participate in the survey, it cannot force the airlines to comply. Because it is not required, some carriers or routes are not as diligent as others in distributing and returning the survey forms. On occasion, the HAC will learn from the HVB which flights were missed and will approach the carrier for an explanation.

It was further learned that Act 103 itself carries certain limitations. The State cannot demand the airlines' compliance since Act 103 does not clearly define the role of the carriers in conducting the mandated entry-exit census. Act 103 states that "provisions for completion of the forms through transportation carriers bringing persons into or taking persons out of the State may be made."

Another weakness of Act 103 is that its requirement of anonymity makes it impossible to use the State Agricultural Declaration form which requires signatures as a vehicle for collecting the data.

DPED also explained that a test of the exit census revealed serious operational problems in the return of the completed surveys. Under the Civil Aeronautics Act, a state cannot regulate the operations of domestic carriers once they have departed from its airports.

The Honolulu Airlines Committee stated that they were opposed to being required by law or by any airport lease to distribute and collect the survey forms as it could lead to the other 49 states enacting similar legislation. A multiplicity of state census requirements could create operational problems, increase costs and affect contract negotiations with the labor unions. It was indicated that the constitutionality of Act 103 would be challenged if implemented, and its repeal was recommended.

On March 18, 1974, the Attorney General's office submitted a legal memorandum on the "Constitutionality of H.B. No. 2200-74". H.B. No. 2200-74 contained amendments to Act 103 deleting the anonymity requirement. The contention was that non-anonymity of entry or exit forms would not only violate the Fourth, Fifth, and Fourteenth Amendments to the U.S. Constitution but also the right to travel as established in Shapiro v. Thompson, 394 U.S. 618 (1969).

The Attorney General's memorandum found "no reported case that invalidated a statute authorizing a census on any of these constitutional grounds. On the contrary, the courts appear to regard censuses as a necessary and important tool of government." It was further agreed that the State could easily show the importance of the entry and exit data for use in monitoring the visitor industry and in planning for needed jobs and facilities due to population increases caused by in-migration.

The memorandum cited the rejection of a Fourth Amendment challenge claiming illegal search and seizure of property (information) as being without merit in 1972 by the Ninth Circuit Court of Appeals in United States v. Steele, 461 F. 2d 1148, 1150 n. 3 (9th Cir. 1972). In view of the summary dismissal of the Fourth Amendment challenge, the Attorney General's office believed that a Fifth Amendment challenge on the grounds of deprivation of property without due process of law would also be unsuccessful. It stated further that there is even less likelihood of a successful Fifth or Fourteenth Amendment challenge as the completion of the entry or exit form by passengers is not mandatory.

The Attorney General's office believed that the claim of infringement on the right to travel would also be rejected by the courts. In Shapiro v. Thompson, a waiting period requirement for welfare benefits to nonresidents was struck down because the specific objective of the provisions was to inhibit migration by needy persons. The memorandum states: "Since the Entry or Exit Census forms are to be distributed to all passengers, whether residents, visitors, or in-migrants, and since the visitor industry is of paramount importance to the economic well-being of this State, we believe that the purpose of the Entry or Exit Census forms can clearly be shown to be the gathering of necessary information and not the inhibiting of travel to or from the State."

The Attorney General's office recognized possible problems, however, with the commerce clause of the U.S. Constitution which protects carriers from State regulations and leaves sole power to regulate interstate commerce with Congress. But in Nippert v. City of Richmond 327 U.S. 416, 425 (1946), the court found that "not all burdens upon commerce, but only undue or discriminatory ones are forbidden." Because Hawaii is the only State not connected by land with the other states, the memorandum explains that "the threat of diverse and conflicting regulation, in the matter of entry or exit censuses, is virtually nonexistent." Hawaii's unique situation could not only be the basis for a defense against a commerce clause challenge, but could also be used to obtain a Civil Aeronautics Board (CAB) exemption.

While Act 103 may meet all constitutional challenges, a CAB exemption and the airlines' cooperation would be vital if the State is to conduct an effective inbound survey. Alternatives such as distributing and collecting the forms after arrival are deemed impractical. For example, there is one plane with an average of 300 passengers arriving every nine minutes during peak hours and passengers are more concerned about picking up baggage, making arrangements for ground transportation or tours, and meeting friends than voluntarily participating in a survey.

The various parties affected and involved in the entry and exit census program made a number of suggestions. Your Committee has reviewed these proposals and recommends the following alternative courses of action for consideration at the 1978 Regular Session:

- (1) Revise the present DOA-HVB survey forms and resume 100 percent coverage.
- (2) Repeal Act 103, SLH 1973, in view of its inherent weaknesses as cited above.
- (3) Strengthen Act 103, SLH 1973, by clarifying the role of carriers in conducting entry and exit census and repeal its requirement of anonymity. At the same time, an exemption from the CAB interstate commerce clause should be actively sought.

In addition, it was learned that the DOA has recently printed new forms to be filled by all passengers once again and which will be distributed to the airlines as they deplete their stocks of old forms. However, if 100 percent coverage is to be resumed, it was suggested that the form be further revised to explain why it is important to the State to obtain the survey data. An example was given of how HVB developed a flyer for the recent American Legionnaire Convention explaining the need for Hawaii's agricultural inspection and the HVB survey data which resulted in an improved response rate. Furthermore, the agricultural declaration portion of the form carries the words "Notice, Penalty" in large, red letters which detract from Hawaii's aloha spirit. It was also suggested that passengers could be given incentives to complete the forms. One possibility is to choose a completed survey at random and send the lucky respondent a box of anthuriums or pineapples. Not only would this encourage people to complete the survey, but it would also help to promote Hawaiian products.

Signed by Representatives Kiyabu, Mina, Abercrombie, Cayetano, Cobb, Dods, Kunimura, Machida, Mizuguchi, Peters, Say, Stanley, Suwa, Takamine, Takamura, Uwaine, Evans, Ikeda and Medeiros.  
(Representative Abercrombie did not concur.)

Spec. Com. Rep. No. 4

Your House Committee on State General Planning requested to review the process and products of the Hawaii State Plan policies and implementation program to ensure that the concerns of the Legislature are adequately met and responded to, begs leave to report as follows:

#### COMMITTEE APPROACH

A subcommittee was appointed to undertake this evaluation and was chaired by Representative Ken Kiyabu. The members of the subcommittee included Representatives Robert Dods, Tony Kunimura, Gerald Machida, Ted Mina, Norman Mizuguchi, Henry Peters, Calvin Say, Kathleen Stanley, Jack Suwa and John Medeiros. In accordance with H.R. No. 161-77 and H.R. No. 159-77, H.D. 1, the subcommittee undertook the following tasks:

- (1) Review and evaluate the progress of the development of the Hawaii State Plan and the program to implement the Plan; and
- (2) Elicit the views of the counties and the private sector on the Hawaii State Plan.

In addition, the subcommittee further reviewed the Department of Planning and Economic Development's progress in incorporating into the finalization of the Hawaii State Plan those specific concerns expressed by the Legislature in H.R. No. 685-77, H.D. 1.

Upon review of the State Plan documents, two public meetings were held with the counties, the state and the private sector. The first was held on November 1, 1977 with representatives of the county councils and planning agencies and state agencies and departments. All four counties, the Department of Planning and Economic Development, the Department of Transportation, the Department of Education, the Office of Environmental Quality Control, and the State Land Use Commission were represented at the first meeting. On November 2, 1977, the subcommittee met with professional planners, architects, and legislative advocates as well as representatives of major banks and corporations. Organizations represented included the American Institute of Architects; the American Institute of Planners; Muroda and Associates, Incorporated; EDAW, Incorporated; Construction Industry Legislative Organization; Oahu Development Conference; Chamber of Commerce; First Hawaiian Bank; Bank of Hawaii; Dillingham Corporation; and C. Brewer and Company.

#### BACKGROUND

In 1975, the Legislature adopted the Hawaii State Plan Policy Act (Act 189, SLH 1975) in recognition of the need to coordinate and maintain a comprehensive planning program for the State, to increase the effectiveness of programs and projects undertaken by public agencies and private companies, and to facilitate coordination among the various agencies of the State and county. The Act mandated the State Department of Planning and Economic Development to develop a comprehensive plan including a set of policies which would serve as a blueprint for Hawaii's future. Although the State Plan was to be presented to the 1977 legislature for adoption. The deadline was later extended to 1978.

During the 1977 session, the DPED submitted a progress report to the Legislature on the development of the State Plan. Legislative workshops and hearings were held on the draft documents submitted with the report. According to this report, the completed State Plan will attempt to:

- (1) Identify the goals, objectives, and policies of the State of Hawaii;
- (2) Provide a basis for determining priorities and allocating the State's limited resources; and
- (3) Assure coordination of State and county plans, programs, projects, and regulatory measures.

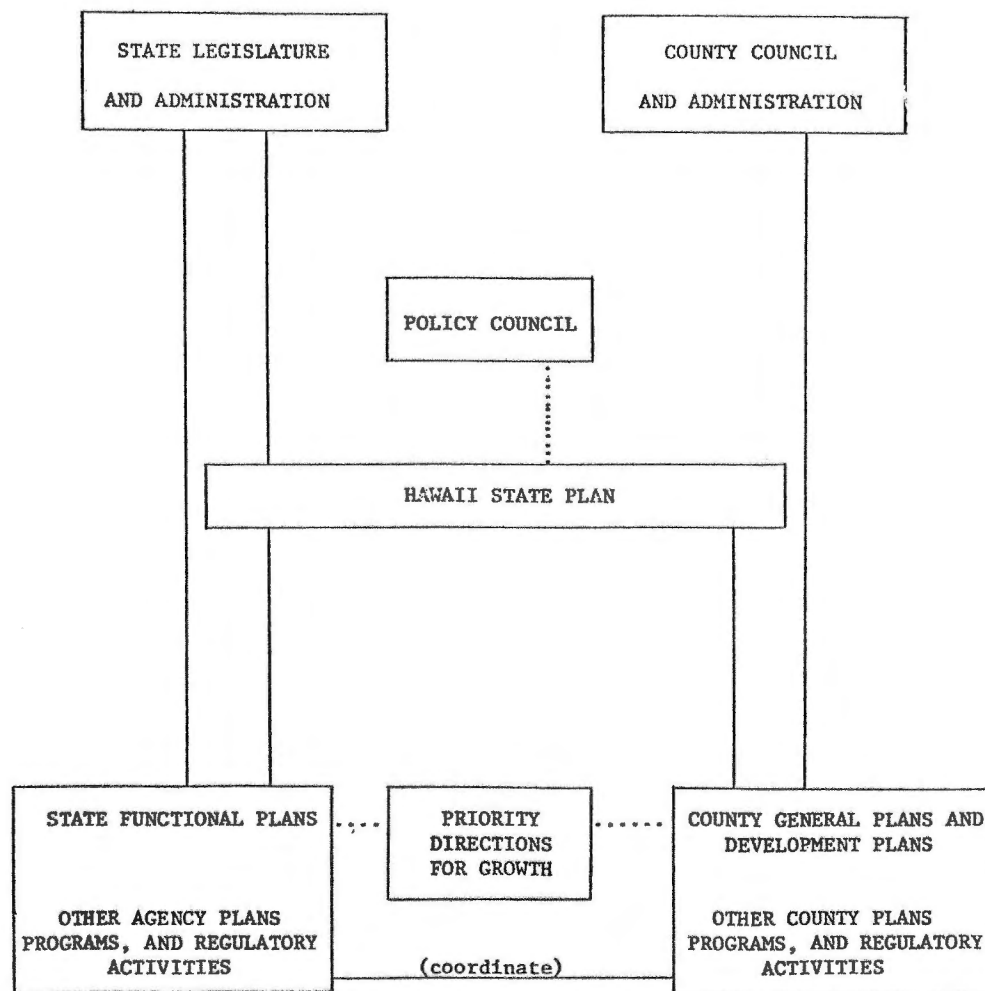
Upon completing the evaluation of the progress report, the House adopted H.R. No. 685-77, H.D. 1, which outlined their concerns regarding the State Plan and requested the House Committee on State General Planning to continue to monitor the formulation of the State Plan during the 1977 legislative interim pursuant to H.R. No. 161-77 and H.R. No. 159-77, H.D. 1.

#### FINDINGS

- (1) REVIEW OF PROGRESS OF THE HAWAII STATE PLAN.

- (a) Goals, Objectives, and Policies. Comprised of broad and general statements on what is desired for the State.
- (b) Priority Directions for Growth. Consists of policies and actions on immediate problem areas.
- (c) Functional Plans. Contains the policies, programs, and projects designed to meet the objectives of a specific field of activity such as tourism or agriculture.
- (d) Implementation Program. Specifies the roles and relationships of governmental agencies and plans to carry out the specified policies of the above plan elements. (See Figure 1)

STATEWIDE PLANNING STRUCTURE



Your Committee finds that DPED has specified the goals, objectives, and policies for the State and some of the priority directions for Hawaii's growth. DPED reports that the functional plans and the implementation program have not been fully developed due to inherent difficulties in clearly delineating the authority and responsibilities among the various agencies of the state and city and county governments. In addition, major differences among the counties and the state regarding specific programs in tourism, agriculture, population growth, energy and many other programs somewhat hampered progress on the functional plans which are envisioned as the major devices which implement the State Plan.

Difficulties in establishment of the functional plans were attributed also the need to develop these plans concurrently rather than individually with one plan having priority over another. The plans are so intertwined that the development of a single functional plan involved other separate program areas.

Your Committee finds that the DPED considers the development of a program to implement the State Plan policies is a vital part of the State Plan. In this regard, testimony before your Committee indicated a need for an implementation program which takes into consideration the coordination of the State's and the counties' goals and objectives as being necessary to a full understanding of the State General Plan. Thus, in addition to the development of functional plan, there is a need for a mechanism such as a clearinghouse to ensure coordination of plans among the counties and the State government.

(2) VIEWS OF THE COUNTIES AND PRIVATE SECTOR ON THE HAWAII STATE PLAN.

(a) County Views of the State Plan. The counties have stated that the State Plan's broad goals and objectives were acceptable to the counties and that the counties find sufficient latitude to proceed with their county general plans; however, implementation of the State Plan by means of the functional plans could conflict with the counties' implementation of their general plans and generally poses a major threat to the counties' right to home rule.

Most of the counties stated that their county general plans should not be equal to or subordinate in authority to the State's functional plans. Rather, the functional plans must emanate from and be subordinate to the county general plans. In defense of their position, the counties stated that they are in better position to respond to local needs and desires than the State. They further stated that a practical problem would exist for them if functional plans are deemed superior to their general plans. Amendments to general plans would have to be made each time a functional plan conflicts with the county general plan.

Although the counties agreed that there are areas falling under State jurisdiction, the counties argued that there are areas which are uniquely under county jurisdiction which in the interest and protection of home rule cannot be relinquished to the State. There are also areas which overlap, in which case, the counties believe that there is a need for coordinated direction.

In response to the counties' contention, the DPED stated that the problems pointed out by the counties can be alleviated by working together in developing the State's functional plans. Your Committee was presented an example of such cooperative effort in the development of the tourism functional plan which clearly conformed to the counties' general plans with respect to designation of destination areas for future resort development. The counties, nevertheless, expressed the view that future functional plans developed by the State would usurp the counties' control.

The counties have also criticized the structure to implement the State Plan as lacking a means of resolving the many potential conflicts that may arise between the counties and the State with respect to priorities.

The DPED stated that the conflicts between the counties and the State may be resolved by the State Plan Policy Council, however, the counties stated that the council may be underrepresented by the counties at the present time and may lack the authority to resolve conflicts as the council is primarily an advisory body. The DPED also stated that if the Policy Council is unable to resolve any differences, the matter will have to be resolved by the Legislative or the Executive branches of the government.

(b) Private Sector Views of the State Plan. Representatives of the private sector are in agreement that a State Plan is necessary and that the objectives and goals established in the plan are laudable. Of primary concern to the private sector is the implementation of the plan and the resolution of State and county conflicts. They all

are in agreement that State and county cooperation is necessary but recognize that it may be necessary for the State to take the lead with respect to the future of the entire State.

However, testimony before your Committee indicated that some members of the private sector believed that the State Plan may be too general without any directions for its implementation. The Plan was criticized as being "just nice words and wishful thinking." Three major questions were then raised by the participants from the private sector as follows:

(1) Will it be necessary to further increase taxes in order to achieve the goals and objectives outlined in the State Plan?

(2) Are the State's present practices in conformity with the goals and objectives of the State Plan? One example of a practice which may be inconsistent with the State Plan's objective of encouraging more federal expenditures is the movement in the State to regain the Island of Kahoolawe which presently serves as a prime military training area.

(3) Can the State in fact control its destiny by establishing egalitarian goals and objectives when the truth of the matter is that the national and international economic market as well as the decisions made in Washington, D.C. are the controlling forces on our fragile economic base of military spending, sugar, pineapple and tourism?

The participants also believed that while the State Plan should establish general directions for the long-range future, the use of priority issue papers may keep it in tune with current issues and may allow the refinement and revision of the Plan as necessary.

Private sector participants also stated that population growth was the most controversial issue of the State Plan. Although they agreed with the Plan that some growth is necessary, several participants questioned the Plan's policy of directing future growth toward the neighbor islands. In their estimation, Oahu will continue to attract people and jobs. Furthermore, the neighbor islands are apparently reluctant to accommodate the growth. One participant voiced the opinion that the major portion of urbanization should be confined to Oahu (Honolulu in particular) to retain the contrast between Oahu and the neighbor islands so that the latter can maintain and focus on their particular non-urban qualities.

Another major concern of the private sector was the time period for county plans to conform to the State Plan. If the state functional plans are to be equal or superior to the county plans, then the mandate to have county general plans conform to the State Plan within two years may be unreasonable because the functional plans have not been completed as yet.

All parties agreed that state and county cooperation is necessary in the development of plans for the State. However, it was pointed out that while plans can be developed with state-county cooperation, some counties do not have the resources or manpower to be as comprehensive or expedient as desired. Increased state funding may be necessary to rectify this situation.

The private sector planners believed that the functional plans must be developed concurrently and cannot be prioritized as they are so intertwined. Even with state and county cooperation, however, different plans are prepared by different departments so a clearinghouse or overseer may be necessary to ensure coordination. It was suggested that an agency or the Policy Council serve as the overseer. The DPED clarified the Policy Council's status, however, stressing that it was an advisory body only, had no staff, and could not be proposed as a decision making body. The Policy Council fills the need to have conflicts caught early in the development of plans.

In reference to the State Plan's proposed economic policies, private sector participants further stated that to build up the economy, Hawaii would have to borrow capital from outside of Hawaii or get new businesses to locate here. Because of this, we must demonstrate to others that Hawaii is a good place to invest. One of the most important factors businesses considered was not short-term tax exemptions, but the general level of taxation in a state. The private sector also suggested that more intensive training programs may also induce new industries to locate in Hawaii.

#### RECOMMENDATIONS

Based on the above findings, your Committee acknowledges the importance of a State Plan and recommends its adoption in 1978. To meet this deadline, your Committee recommends that the Legislature continue to press the Department of Planning and Economic



Development to fully develop functional plans, a clear and concise program to implement the plans, and resolve the conflicts and differences with the several counties.

Your Committee further recommends that the Legislature request from the Department of Planning and Economic Development periodic reports on its progress in the development of a fully completed State Plan in order to be fully apprised of the progress on the complex and important State Plan.

It is further recommended that the legislative vigorously pursue this matter during the 1978 Regular Session and may initially proceed by reviewing your Committee's findings and recommendations.

Signed by Representatives Kiyabu, Mina, Abercrombie, Cayetano, Cobb, Dods, Kunimura, Machida, Mizuguchi, Peters, Say, Stanley, Suwa, Takamine, Takamura, Uwaine, Evans, Ikeda and Medeiros.

#### Spec. Com. Rep. No. 5

Your House Committee on Energy and Transportation pursuant to H.R. No. 391, H.D. 1, adopted by the Regular Session of 1977 and directed to review the 1995 Honolulu Harbor Master Plan, begs leave to report as follows:

#### Committee Approach and Activities

The interim subcommittee on the 1995 Honolulu Harbor Master Plan consisted of members from the House Committee on Energy and Transportation and included: Representative Carl Takamura, chairman; Robert Dods; Tony Kunimura; Gerald Machida; Henry Peters; Calvin Say; Jack Suwa; Yoshito Takamine; and Faith Evans.

The Subcommittee's purpose was to review all information necessary to legislative deliberation on the 1995 Honolulu Harbor Master Plan which calls for the redevelopment of Honolulu Harbor and the development of a second Oahu deep draft harbor. Since the State of Hawaii imports approximately 80% of its necessary goods, 98% of which comes by way of water transportation, it was deemed prudent to collect and review all pertinent information available for legislative consideration of proposed improvements to Oahu's harbor system.

All concerned parties were provided an opportunity to present their views, to respond to other points of view, and respond to questions from subcommittee members. Three public information meetings were held. On November 4, a visitation to the proposed Barbers Point site for a deep draft harbor and a tour of Honolulu Harbor facilities was conducted, and a presentation by the Department of Transportation on the background and current status of the 1995 Honolulu Harbor Master Plan was received. On November 17, major users of Honolulu Harbor responded to the 1995 Honolulu Harbor Master Plan. On November 25, the Subcommittee reviewed the history, current status, and development timetable for the proposed second Oahu deep draft harbor at Barbers Point.

The Subcommittee's tour of the proposed Barbers Point deep draft harbor included the operations of an existing on-site 9-acre privately constructed and owned barge harbor. An examination of Sand Island followed, including the proposed site of expanded container facilities and storage yards. The construction of the county's Sand Island sewage treatment plant and the development of state recreational facilities were also examined. Honolulu Harbor facilities were viewed from a ship tour of the harbor including the narrow width of the harbor and its attendant access problems, the Sand Island draw bridge, military operations and facilities, and the University of Hawaii's waterfront oceanographic facilities.

#### Background

A 1985 Master Plan for Honolulu Harbor, developed by a Department of Transportation Harbor Task Force in 1969, served as the basis for the 1995 Honolulu Harbor Master Plan, developed by the Chamber of Commerce, Maritime Affairs Committee and the Honolulu Harbor Multi-Modal Task Force. Most of the 1985 Master Plan has been incorporated in the 1995 Master Plan, which has been approved by the Governor and is now being incorporated into the Statewide Transportation Plan. The Statewide Transportation Plan is to be submitted to the State Legislature in 1978.

Honolulu Harbor, as considered in the master plan, extends from Fort Armstrong's Pier 1 Diamond Head Terminal, along the Honolulu waterfront area including Kapalama channel and basin, to the University of Hawaii's Snug Harbor facilities and all of Sand Island. As part of the proposed improvements to existing Honolulu Harbor facilities,

the 1995 Master Plan calls for the development of a 157-acre Sand Island container handling and storage facility and sets out a detailed and prioritized schedule of construction and relocation activities for the consolidation of commercial and scientific maritime activities in Honolulu Harbor. It also speaks of the "development of supplementary port facilities at Barbers Point in accordance with needs of the Leeward area and to accommodate the total Oahu and statewide water borne commerce requirements."

According to DOT, all existing major harbor users participated in the development of the 1995 Master Plan, and have agreed to a time table outlining the movement of commercial activities from one harbor location to another, including specific displacement and final tenancy of each business.

Even with the implementation of the master plan, DOT anticipates water borne freight to exceed Honolulu Harbor's freight handling capacity by the mid-1990's. To operate within the time frame of the master plan, the department has proposed a \$31.4 million expenditure for improvements and redevelopment to existing Honolulu Harbor facilities. Within the context of Hawaii's existing and future total statewide water borne requirements, the department anticipates another \$52.4 million for the construction of a second Oahu deep draft harbor at Barbers Point. However, the \$52.4 million is subject to construction requirements of the harbor's final design.

The notion of a second harbor is based on the department's anticipated need to accommodate excess tonnage from Honolulu Harbor, the projected development of Leeward Oahu into the island's second major residential and commercial center, and the existence and availability of a 9-acre barge harbor facility in the Leeward area. Section 88A(C) of Act 218, SLH 1973 appropriated \$200,000 to the Department of Transportation for the incremental development of a second deep draft harbor for Oahu at Barbers Point, contingent upon the State obtaining an agreement from the land owner that the land required for the harbor, less dredge spoils, and back-up areas be given to the State at no cost. The details of the land acquisition and its relationship to the State's eminent domain powers raised several questions at the 1977 legislative session. Questions on the role of the second Oahu harbor in the overall statewide water transportation needs were also raised. Therefore, a more indepth interim review of the 1995 Honolulu Harbor Master Plan was decided upon.

#### Findings

In reviewing the 1995 Honolulu Harbor Master Plan, your Committee found that a number of commercial activities in Honolulu Harbor are scheduled for movement from one harbor location to another. Of particular concern are the proposed relocation of facilities and uses of Sand Island, the relocation of military operations and facilities to Pearl Harbor, the consolidation of University of Hawaii oceanographic activities from Honolulu Harbor to Sand Island, and the needs of major cargo carriers and users of harbor facilities.

In reviewing the master plan's proposed second Oahu harbor, your Committee focused on the department's environmental impact statement findings, the relationship of a second harbor development to overall statewide growth patterns, the existence and value of archaeological sites in and around Barber's Point, and land use plans of Campbell Estate, owner of coastal lands in the Barbers Point harbor area.

Sand Island. Your Committee found that the development of a 157-acre Sand Island container handling and storage facility under the master plan will affect an estimated 52 businesses. These businesses employ over 600 employees and maintain an approximate annual payroll of \$8 million. Annual gross company revenues are estimated at approximately \$25 million, including some revenues generated off-site. All businesses presently operate on month-to-month revocable permits, generating approximately \$450,000 annual revenues to the State. The department is not allowing subleasing of any existing lease nor the creation of new tenancies on Sand Island lands under DOT jurisdiction and is investigating the availability of other state lands for relocation of existing tenants. It is not clear as to what course of action will be taken by the State if these businesses are not able to find similar, suitable locations once displaced by implementation of the 1995 Master Plan.

Relocation of Military Operations. At the present time, Honolulu Harbor houses military pier and storage facilities at Kapalama Military Reservation and U.S. Coast Guard facilities at Pier 4 and on Sand Island. The 157-acre container facility site on Sand Island under the master plan includes a portion of the Coast Guard's present 46-acre facility, which has been agreed to by the U.S. Coast Guard. The master plan itself does not call for any relocation of military facilities.

However, your Committee reviewed the possibility of relocation of such facilities to Pearl Harbor and found that such a move poses several problems. Your Committee also explored the possibility of joint civilian military use of Pearl Harbor. The federal government

is not favorable to the idea of consolidating Coast Guard and military storage facilities and services in Pearl Harbor, and the United States Navy will not permit joint civilian-military use of Pearl Harbor due to security reasons, hazardous congestion, blast zone safety and navigational problem.

Your Committee also investigated transferring military storage facilities at the Kapalama Military Reservation to Pearl Harbor. The DOT testified that the Kapalama Reservation could be purchased by the State if the Federal Government declared the property surplus and no other federal agency required the area. The fair market value of the land is currently estimated at between \$30 and \$40 million, exclusive of the improvements for which compensation would also be required.

University of Hawaii Oceanographic Facilities. The University of Hawaii's oceanographic facilities occupies 16 acres at Snug Harbor which have been developed at a cost of approximately \$3.4 million. Although the master plan does not call for the relocation of these facilities, your Committee explored this possibility. It found that relocation of all U.H. oceanographic facilities from Snug Harbor to Sand Island would require utilizing Sand Island's makai shoreline, an area already planned for the Sand Island Park. Furthermore, 2.8 acres of the Snug Harbor facility is governed by a covenant between the federal government and the university which restricts the use of this acreage to only UH oceanographic activities. Any change in the use of this portion of the Snug Harbor property would require an act of Congress. According to DOT, the university would also have to be reimbursed at fair market value for the previously restricted portion of the property, if it were to be used for commercial maritime purposes.

Carriers and Users Needs. Major cargo carriers and users of harbor facilities were in general agreement and support of the 1995 Master Plan but stressed the importance of keeping within its implementation timetable, as any delays or diversion of funds would severely hamper inbound and outbound freight movements for the State.

According to Matson Navigation Company, the major cargo carrier from the West Coast to Hawaii, the implementation of the 1995 Master Plan will meet Matson's containerization needs through the year 2000, and depending on actual population increases, would be sufficient for many years after. With the master plan's implementation and consolidation of container operations on Sand Island, Matson would not have use for a second Oahu harbor since the operating expenses of split facilities are considered to be exorbitant. Presently, Matson maintains split operations between the Fort Armstrong Diamond Head Terminal and Pier 51B at Sand Island resulting in an additional operating cost of \$500,000 to \$750,000 annually. To have operations on Sand Island and a second Oahu harbor would involve an even larger additional operating expense.

As an example of the immediate need to improve existing facilities at Honolulu Harbor, Matson cited its experience with the Diamond Head Terminal. The Diamond Head Terminal was designed to accommodate approximately 100,000 containers annually. It now handles in excess of 200,000 Matson containers annually. The Diamond Head Terminal now contains 2,200 ground container slots. By mid-1978, new Matson container ships will have a carrying capacity of over 1,000 containers and will require a total of 3,800 container slots to efficiently accommodate 2 ships of this class expected to dock on a weekly basis. Existing vacant structures could be demolished and the land paved over to provide additional slots. DOT explained that Matson's temporary tenancy has prevented the department from expending funds to provide additional 1,600 container ground slots.

Dillingham Maritime Pacific Division expressed concern that funding, construction, relocation of businesses and services, and exchange of land and facilities under the master plan must take place in "lock step," because even minor delays would have long-term adverse effects on the increasing volumes of in-bound and out-bound freight. To stay within the framework of the master plan, the need for improved vehicular access to Sand Island was highlighted. The construction of a second bridge at Sand Island was considered far more important than the construction of a second, deep draft harbor for Oahu. While not opposed to the concept of a future, second deep water harbor for Oahu, Dillingham emphasized that Honolulu Harbor's immediate problems require far greater priority. Dillingham's greatest concern over the Barbers Point proposal is that it might divert or delay attention and funds from Honolulu Harbor.

The Honolulu Chamber of Commerce Maritime Affairs Committee stressed the importance of Honolulu Harbor as the primary means of moving cargo to and from Oahu. Similar concerns over existing Sand Island bridge facilities were expressed. These being inadequate to handle projected volume peaks of approximately 1,600 vehicles per hour when the Sand Island container facility is fully operational. Additional lanes to the existing bridge or the construction of a second bridge was suggested.

Davis Marine Agencies represented State Lines, the major common carrier of ocean freight from the Orient to Hawaii, in expressing support of the 1995 Master Plan. The plan calls for the relocation of State Lines to Pier 2. According to Davies Marine, this move will be favorable to upgrading foreign cargo security and assisting the U.S. Customs Services, since it would allow the discharge of foreign cargo adjacent to the proposed Foreign Trade Zone site in Pier 2-C.

Davies Marine found the master plan to be deficient in addressing the problem of fuel berthing facilities. Presently, fuel berthing facilities for major carriers using Honolulu Harbor are located on Sand Island. The location of these facilities are considered to be inefficient since it requires carriers to unload or load at waterfront pier facilities, and then move over to Sand Island for fueling incurring the attendant costs of tugs and lost time. A conservative growth factor of 5% annual increase in cargo volume from the Orient to Hawaii is foreseen and the only condition under which a second Oahu harbor would be used is if all other facilities were at maximum expansion and use. The added cost of shifting vessels, stevedore transportation and extra time from one place to another would be avoided whenever possible. Davies observed that the intermodal nature of container transportation over such short hauls as exist on Oahu make the "extraordinary expense" of duplicated port facilities unnecessary and that all available funds should be dedicated to performing needed improvements in Honolulu Harbor.

Hawaiian Marine Lines, a subsidiary of Crowley Maritime Corporation, provides twice monthly barge service to the Pacific North West for bulk freight products such as lumber, plywood, linerboard, newsprint and automobiles. Existing facilities at Pier 40 are presently used by Hawaiian Marine Lines on a shared basis with U.S. Lines. Pier 40 is considered to be barely adequate for Hawaiian Marine Lines, resulting in double handling of containers at an additional manpower charge of \$23.32 per hour, a cost usually passed on to the consumer. The relocation of U.S. Lines to Pier 2 under the master plan would allow Hawaiian Marine Lines exclusive use of Pier 40, therefore minimizing labor charges and maximizing efficient cargo handling.

Environmental Impact Statement. An environmental impact statement was prepared for the Barbers Point deep draft harbor by the Department of Transportation in conjunction with the U.S. Army Corps of Engineers in September, 1977. It was reviewed by the University of Hawaii's Environmental Center which regularly reviews such documents. The Environmental Center found the Barbers Point EIS to be incomplete in a number of areas. According to the center, the severity of certain natural hazards, tsunamis, and wave surge patterns was not adequately addressed in the EIS. The University of Hawaii Environmental Center stated that technological tests to properly assess the impact of these elements on the use of the harbor have not yet been conducted.

The harbor's efficiency of unloading petroleum products was also questioned. Presently, petroleum products are unloaded at sea, off of the Barbers Point harbor because of the location of two oil refineries in that area. However, the assumption of a five-fold increase in petroleum imports over the next 50 years is questionable, in view of decreasing world petroleum reserves, increasing petroleum prices, and the exploration of alternative sources of energy.

Harbor Development and Controlled Growth. A number of concerns were raised on whether the development of a second Oahu harbor had been adequately considered within the State's overall growth policies. The UH Environmental Center noted that the construction of a second harbor facility at Barbers Point would mean a cut back in surrounding cane operations and stimulate industrial and housing development in the area. Although increased urbanization is consistent with county plans for the Leeward area, there is concern over whether the economic viability of sugar operations as well as economic alternatives had been considered. Induced development of the surrounding area will increase demands for government services and facilities, and it is not clear whether the State Plan or the Statewide Transportation Plan has taken this into consideration.

In their review of the State's Barbers Point draft EIS, the UH Environmental Center noted that although Barbers Point harbor construction will reduce the State's unemployment rate, it may also have the net effect of producing a temporary, over-stimulation of the construction industry. Over-stimulation of any segment of Hawaii's economy should be avoided to prevent a "boom-and-bust" cycle from occurring in any industry and to insure that phasing of all state construction projects will support the State's efforts to maintain a controlled and uniform growth rate.

Archaeological Survey. At the request of the Army Corps of Engineers, the Bernice P. Bishop Museum conducted a Cultural Resources Survey of Campbell Estate Lands at Barbers Point which would be directly affected by the proposed harbor's construction.



Prior to this survey, which identified 92 archaeological sites ranging from stone mounds to modified enclosures, the Barbers Point area was considered to be of marginal historical and archaeological value. The Bishop Museum stated that while further investigation is necessary to fully evaluate the historical and cultural significance of the 92 sites, the importance of the area lies more in the paleontological value of fossil birdbones, with the recovery of nearly complete bird skeletons thus far indicating a high probability of similar finds in the survey area.

According to Dr. Storrs Olson, avian paleontologist with the Smithsonian Institute: "The various limestone sinks on the raised reef at Barbers Point, Oahu, contain probably the most extensive fossil avifauna in Hawaii with many new species endemic to the island. Such fossils have not and probably cannot be found anywhere else on the island. Furthermore, the nature of the preservation is such as to insure that virtually complete skeletons can probably be assembled for most species. Thus, there is much highly significant and totally new biological and paleontological information that can be obtained only at the Barbers Point site."

Land Use Plans of Campbell Estate. The James Campbell Estate is the owner of the present 9-acre shallow draft barge harbor at Barbers Point. The conversion of this shallow-draft harbor to a deep draft harbor is viewed as vital to the estate's long range land use planning. The U.S. Army Corps of Engineers has maintained that the development of the harbor would complement an already growing commercial center consisting of the State's two oil refineries, the only steel mill, four of six major lumber suppliers, most of the State's heavy industries, and two cement plants,

By agreement with the DOT, under Act 218, SLH 1973, upon condemnation by the State, Campbell Estate will convey adequate area for construction of a deep draft harbor and support facilities. This agreement was submitted to the court for approval. A hearing was held, all beneficiaries of the estate notified, testimony considered by the court, and court approval granted to the trustees to enter into such a contract. Campbell's percentage of spoil sales and the increased value of adjacent estate lands over time is estimated, at the present worth basis, to approximate the value of land conveyed to the State for harbor construction and back-up facilities.

According to Campbell, timing and phasing of Barbers Point harbor development is uncertain at this time. President Carter's decision not to approve any new major water projects has delayed funding for the Barbers Point harbor. The estate is hopeful that the 1978 Congress will fund the federal portion of harbor construction. Should this happen, and if the President approves the project, the harbor could be fully dredged in three years time. With firm state support and expeditious construction of shoreside facilities, the harbor could be ready to receive shipping in three to five years from now.

The question was raised as to whether dredged material from the harbor, consisting mostly of coral, constituted a mineral and therefore reserved to the State under its mineral rights law. The Attorney General's office responded by explaining that coral could not be considered a mineral since minerals are the result of natural inorganic processes whereas coral is the skeletal deposit produced by coral (organic) polyps which are animal.

According to the Campbell Estate, the plan developed by the State Department of Transportation provides for the development of a needed second harbor at minimum cost to the State, and the Barbers Point harbor development has been approved by the City Council, is shown on the City's General Plan, and is endorsed by the U.S. Army Corps of Engineers and Hawaii's Congressional delegation. The estate has also pursued federal funding for the project, and despite President Carter's intended non-action on any new, major water projects, it is hopeful that federal funds will be appropriated by the 1978 Congress.

#### Recommendations

Hawaii's dependence on water borne transportation to supply the major portion of our necessary commodities means that the condition of the State's economy is closely related to the condition of our harbors. Honolulu Harbor is and will remain the State's major port of entry. All parties involved and affected by the 1995 Honolulu Harbor Master Plan are in agreement with its provisions and more importantly, agree that Honolulu Harbor improvements are the most immediate and pressing task within the State's water transportation system. It is clear that Honolulu Harbor improvements should have priority over all other state harbor projects and that construction of a second harbor to supplement Honolulu Harbor should commence only after all Honolulu Harbor facilities are efficiently and maximally utilized. Your Committee's recommendations address specific areas of each project whose impact should be considered within the context of providing sufficient capacity for the state to meet its water-borne cargo requirements.

In regard to the 1995 Master Plan proposals for Honolulu Harbor, the full committee at the 1978 Regular Session should:

(1) Request DOT and DLNR to investigate the availability of State lands for the relocation of existing Sand Island tenants. The DOT should report to the Committee on the social and economic impact Honolulu Harbor's redevelopment will have on Sand Island businesses and the Committees on Energy and Transportation and Water, Land Use Development, and Hawaiian Homes should jointly investigate relocation of displaced individuals and businesses.

(2) Request DOT to expedite improvements to bridge facilities at Sand Island and support DOT funding requests for design and planning for a second Sand Island bridge in FY 1978-1979 and construction funds for the 1979-1981 biennium in order for the second bridge to be in service by FY 1982.

(3) Request DOT to expedite the relocation of harbor users as stipulated in the Harbor Master Plan and to report on the status of relocation activities. Since the movement of any individual harbor user is contingent upon the relocation of another user, the DOT should work with all parties to avoid any delays or problems in relocation. The DOT should also insure the equitable apportionment of the cost of temporary facilities and services required by harbor users prior to their final relocation. A case in point is Matson's temporary usage of the Diamond Head Terminal and the cost of improvements required to provide additional container spaces to handle increased cargo requirements there. Until Matson relocates to Sand Island, which would allow U.S. Lines to move from Pier 40 and leave Pier 40 for the use of Hawaiian Marine Lines, Matson's additional container needs must be accommodated at the Diamond Head Terminal.

(4) Request DOT to examine the fuel berthing needs of major carriers in the Master Plan.

(5) Request DOT to report on the status of Honolulu Harbor Waterfront redevelopment plans and the impact such projects will have on efficient and maximum commercial utilization of Honolulu Harbor. The DOT's conceptual plan for Honolulu Harbor stresses a "people oriented" approach to "marry the downtown with the waterfront" in a manner similar to San Francisco's Fishermen's Wharf. Harbor users have criticized the plan as not providing for the needs of commercial maritime interests, who as major users should be accommodated.

In regards to the 1995 Honolulu Harbor Master Plan's proposal for a second Oahu deep draft harbor, your Committee recognizes that such a project has been under consideration for the past 20 years and appreciates the enormous amount of time and effort expended on the project; however, because of the proposed harbor's extensive social, economic, and environmental impact, your Committee believes that the project necessitates further clarification and continued legislative review. The full committee at the 1978 Regular Session should:

(1) Request DOT to report on the tsunami, wave amplification and surge questions raised by the UH Environmental Center relating to the design of the proposed harbor. The DOT should also respond to the Environmental Center's question relating to a projected five-fold increase in the State's petroleum imports.

(2) Request DOT to report on a comparison of the cost of improvements to Honolulu Harbor relative to the cost of constructing a wholly new harbor, and the impact on the need of a second harbor if all existing inadequacies at Honolulu Harbor are remedied. The report should include a cumulative comparison of operations and maintenance costs and projected revenues for each facility over the next two decades. The absence of such a comparison was noted by the UH Environmental Center in their review of the State's Barbers Point draft EIS.

(3) Request that in developing the Statewide Transportation Plan as a functional plan of the State General Plan, the DOT report on the impact of Barbers Point harbor construction on the State's controlled growth policy and on the construction industry.

(4) Request DOT to discuss in greater detail the terms of the proposed land exchange with Campbell Estate to insure that the terms are equitable for all parties. Although the State Attorney General has rendered an opinion that coral spoils from harbor construction are not subject to the State's mineral rights, the Committee believes that further discussion is needed to clarify the question of ownership of coral spoils. Further, DOT should investigate the purchase in fee through condemnation of necessary Campbell Estate lands, which the estate has described as its preferred means of purchase, rather than a land exchange for coral spoils. In its examination of terms, the DOT should include a comparison of



the fair market purchase price relative to revenues from coral spoils. The DOT should also address questions raised regarding certain provisions in the agreement relating to the State's flexibility in its uses of harbor lands.

According to testimony by major Honolulu Harbor users, the redevelopment of Honolulu Harbor to its maximum capacity and utilization should be given immediate priority over all other harbor projects. In particular, Dillingham's greatest concern over the Barbers Point proposal is that it might divert or delay attention and funds away from Honolulu Harbor's redevelopment. While your Committee recognizes that development of a second, supplemental Oahu harbor may indeed be required in the future, timing and phasing of the actual construction of such a harbor is of critical concern and must be subject to careful and ongoing legislative review.

Premature construction of a second Oahu harbor could result in insufficient revenues to cover operations and maintenance costs should harbor users choose to utilize Honolulu Harbor exclusively. The DOT has testified that it has no plans to compel the use of a second Oahu harbor by carriers, although various carriers have highlighted the unwanted additional cost of split operations between Honolulu and a second Oahu harbor. While federal funding will cover over 90% of the harbor's construction cost, the State will be responsible for operations and maintenance costs. Your Committee believes that an ongoing review of the proposed Barbers Point harbor should include an assessment of how redevelopment of Honolulu Harbor will affect the demand for and design and capacity of a second Oahu harbor. Your Committee is also aware that this approach will require the State to closely monitor the relationship between Honolulu Harbor's redevelopment, projected increases in Oahu's water-borne cargo requirements and Honolulu Harbor's remaining capacity, in order to allow for sufficient lead time to phase in a second Oahu harbor without disrupting water-borne carrier operations.

Signed by Representatives Cayetano, Takamura, Abercrombie, Cobb, Dods, Kiyabu, Kunimura, Machida, Mina, Mizuguchi, Peters, Say, Stanley, Suwa, Takamine, Uwaine, Evans, Ikeda and Medeiros.

#### Spec. Com. Rep. No. 6

Your House Committee on Culture and the Arts, pursuant to H.R. No. 712, adopted by the Regular Session of 1977, and directed to review the restoration of the Iolani Palace complex and examine proposed policies and plans for its management and operations, begs leave to report as follows:

#### APPROACH TAKEN

A Culture and Arts interim subcommittee on Iolani Palace was appointed to undertake this review and consisted of members from the House Standing Committee on Culture and the Arts and included Representatives Calvin Say, chairman; Neil Abercrombie; Richard Kawakami; Gerald Machida; Mitsuo Shito; Yoshito Takamine; Charles Toguchi; Charles Ushijima; and Faith Evans.

The subcommittee held a public hearing to receive information and testimony from governmental and private agencies and organizations on the restoration, management and operations of the palace complex. The subcommittee also conducted an on-site visitation of Iolani Palace.

Testimony was received from the Department of Land and Natural Resources; Friends of Iolani Palace; Hawaiian Historical Society; The Council of Hawaiian Organizations; Hawaii Council for Culture and the Arts; Association of Hawaiian Civic Clubs; Hawaii Museum Association; Hawaii Foundation for History and the Humanities; Historic Hawaii Foundation; Waianae Coast Culture and the Arts Society, Incorporated; Hawaii Sightseeing Association; and other individuals.

The subcommittee submitted a report on its findings and recommendations to the full House Committee on Culture and the Arts. This report was adopted by your Committee and is submitted herein.

#### BACKGROUND

Restoration. The preservation and restoration of the Iolani Palace complex was an integral part of discussions and reports in the early 1960's relating to the Honolulu Civic Center district and the proposed new state capitol building. A Citizen's Advisory Committee on the Hawaii State Capitol Complex Master Plan was established and with the Junior League

of Honolulu, hired a consultant in 1965 who made the following recommendations regarding the Palace's restoration and preservation: (1) an Iolani Palace Commission should be created to serve as a policy and program body; (2) a private organization should work with the State in restoring the Palace; and (3) an Iolani Palace Register should be established to provide material and information on the Palace. While a commission was not established a private organization called the Friends of Iolani Palace (FIP) was formed in 1965 and incorporated in 1966 as a nonprofit, private corporation to conduct charitable, scientific and educational works of historic and cultural benefit as it related to the Palace, and to restore and refurbish the Palace itself.

Up until 1968, the jurisdiction of the Palace was with the Department of Accounting and General Services. It was transferred to the Department of Land and Natural Resources, pursuant to Act 254, SLH 1967. This Act established a comprehensive program for historic preservation, and transferred the jurisdiction of certain state historic areas and buildings from the Department of Accounting and General Services to the Department of Land and Natural Resources. Presently, DLNR has assumed responsibility for the Palace grounds and all facilities except for the Archives Building, the Kana'ina Building, and the parking area. The use and control of these later facilities is maintained by the Department of Accounting and General Services subject to any request for a change in jurisdiction by the Department of Land and Natural Resources.

The Iolani Palace complex itself is an eleven-acre site located in the State Capitol District, bounded by Ricahards, King, and Likelike Streets and the State Capitol mall. The complex presently includes: Iolani Palace, Iolani Barracks, the Coronation Stand, the former Royal Tombs, and the Kana'ina Building. The Archives Building (Kekauluohi Building) is also located within this complex but is not a part of the Iolani Palace restoration project. The complex is listed in both the National and Hawaii Registers of Historic Places and is therefore governed by the rules and regulations of the National Preservation Act of 1966 and Act 104, Session Laws of Hawaii 1976, relating to historic preservation.

In 1969, a museum consultant was hired by the State parks division of the Department of Land and Natural Resources, to work with the FIP on restoration planning for the Palace and the barracks. DLNR has negotiated eight separate contracts totaling about \$5.95 million with the FIP to restore the Iolani Palace complex to the Monarchy Period (1882-1893). These contracts involve \$5.6 million in state funds and \$300,000 in federal funds.

With the completion of the eighth phase, the physical restoration of the Iolani Palace structure will be completed. The eighth phase had been scheduled for completion by the end of 1977. It is still in process and involves extensive restoration work of state owned Palace artifacts and furnishings. The FIP has acquired, mostly by donation, original Palace contents valued at nearly \$400,000. These artifacts and furnishings are FIP property and also require extensive restoration.

Additional facility work is also needed to complete the restoration or renovation of the barracks, the Coronation Stand, and the grounds of the IP complex. A 1976 cost estimate prepared by FIP for the remaining work for the complex is approximately \$2.1 million. This estimate is based on an August 1, 1977 bid date.

Management. During the restoration of the IP complex, different plans have been developed for its management and operation. In 1970, the FIP prepared a preliminary restoration planning report entitled: A Report: Iolani Palace Restoration Project; Planning, Phase I. The Hawaiian Historical Society was requested by DLNR to review the report and found that it did not provide the basic components for a comprehensive plan for the complex. Another report in 1972 entitled: Iolani Palace Restoration Architectural Report recommended the installation of a sophisticated building automation system to provide security for Iolani Palace. Other planning studies provided either details on only certain facilities or proposed uses of the IP complex facilities that conflicted with uses proposed by other studies.

None of the above plans, nor any other comprehensive planning and management plan, has been officially adopted by DLNR or the Board of Land and Natural Resources. The issue of who and how the complex is to be managed has escalated as the completion date for the project restoration draws nearer. Various arguments raised regarding the manner in which the complex should be managed invariably involve the related problem of what its purpose and function is or should be and how the project's restoration and management is supposed to take place within declared objectives.

#### FINDINGS AND RECOMMENDATIONS

While it is important to pursue the restoration and preservation of a historic facility such as the Iolani Palace, it is equally important to determine at the same time, the ultimate use

or purpose of the restoration. The nature and extent of the restoration will largely be governed by whether it will serve as a cultural showcase, historic museum, a tourist attraction, or an educational center.

As cited above, the department has not adopted any comprehensive policy or plan that would provide direction and guidance for the restoration and operations of the IP complex. While the 1970 FIP planning report was dismissed because of its lack of basic comprehensive planning components, no other comprehensive planning document was adopted or exists to date. The 1972 Architectural Report recommending a sophisticated security system resulted in the system being installed and functionally limiting the type of program that could be developed for the Palace.

The implementation of certain plans for the complex restoration have, over a period of time, become de facto policy guidelines. Restoration as well as management has proceeded on an incremental basis, with decisions being made as they become necessary during the formulation of contracts for each phase of the project. Proceeding in this manner, alternatives and long-range planning decisions have not been meaningfully considered and with each contract's implementation, the activity and the contracts themselves determined policies and direction for the IP complex restoration. None of the several planning studies, taken individually or collectively, amount to what can be considered a comprehensive or master plan for the IP complex restoration.

It was further found that the FIP has, on several occasions, presented proposals and plans to the Board of Land and Natural Resources and stressed the need for establishing policies and plans for IP restoration and operations. As a result, the FIP has assumed much of the responsibility for proceeding in its own direction on the restoration and program development for the complex. For example, it contracted with a well known museum expert to develop an interpretive and operative plan to manage the Palace as a historical museum; organize a training program; establish a program to acquire original Palace objects; and conduct research on Palace objects and furnishings.

Without a comprehensive or master plan, the DLNR is unable to anticipate and coordinate the structural restoration with objects and artifacts. The acquisition and restoration of artifacts, collections, and furnishings with the restoration of the Palace structure itself has not been coordinated. While the structure is near completion, it will suffer further delays from interior furnishings acquisition and restoration.

A 1977 Legislative Reference Bureau Report entitled: Iolani Palace Complex: Some Direction for its Future cited these same deficiencies in the Palace restoration and operation project. Your Committee concurs with the recommendations made in this report, which are as follows:

- (1) Specific physical area, facilities, and objects of the IP complex restoration project, should be identified to determine which specific facilities are to be restored and what the subsequent uses of these facilities will be after restoration;
- (2) The type of programs and services to be established should be determined based on the type of audience being served, and the relationship of the IP complex to other state historic sites. It is not clearly established whether the IP complex will operate as part of a state system of historic sites, or operate as an independent facility due to its uniqueness and its recognition as a popular site for visitors and residents; and
- (3) The management and operations of the IP complex should be determined along with the translation of these policies into staffing, hours of operations, admission fees, concessions, special uses, and financing arrangements (i.e., self sufficient, partial subsidy).

Regarding the management and operations of the Palace complex, testimony presented by the DLNR and private organizations representing historical, cultural, and community groups favored the establishment of Iolani Palace as a history museum and education center for residents and visitors alike. Admission fees with free admission on certain days for residents, was also favored.

An appointed commission or the Friends of Iolani Palace was regarded by testifiers as an appropriate organizational structure for the management and operation of the IP complex. An appointed commission would be established by state law and consist of representatives from the state, FIP, and historical, cultural, and community organizations. It would be responsible for the development of management and operational policies and would administer the implementation of these policies upon adoption by the BLNR.

DLNR and several community organizations cited the extensive knowledge and expertise acquired by the FIP in the restoration of the Palace, thereby making FIP the most appropriate organization to operate the IP complex. FIP planning efforts to develop operational programs and services were also cited as reasons for having FIP act as managers of the IP complex. An interim management contract is presently being negotiated between DLNR and the FIP. The department expects to finalize an interim management contract with FIP by the end of December 1977, with the Palace opening to the public in January 1978. The DLNR timetable for finalizing the negotiations is considered to be overly optimistic by FIP.

Your Committee also found that although cost increases and delays in the IP complex restoration project are linked to overall fiscal constraints, it is also related to the lack of clear project direction and policies. The FIP's 1970 Phase I planning report estimate called for a 2-year project costing \$2.5 million. However, the project has taken nearly 7 years to complete and has cost the State \$5.65 million. This disparity between the estimated and actual cost and completion time are partly due to delays in the release of state funds for new contracts. However, it is also attributable to delays in the execution of contracts between DLNR and FIP, with each new phase being planned as the project moved along without any clearly imposed limitations on funding or extent of restoration. When planning costs and time for completion does not occur within an overall framework, an escalation in expenses and scope is not an unexpected result.

Your Committee therefore recommends the following:

(1) DLNR should be requested to formulate and adopt a master plan for the restoration and operations of the Iolani Palace Complex which will incorporate the above recommendations made in the 1977 Legislative Reference Bureau Report and which will act as a policy guideline for the completion of the project. Such a plan should be designed to prevent incremental decision making, provide alternatives and facilitate long-range planning decisions, avoid contractors with the state from having to determine their own direction and approach to implementation of the project, and facilitate the coordination of such project elements as structural restoration, interior furnishings, landscaping, and related facilities.

(2) Ad Hoc Committee composed of representatives from the State and Friends of Iolani Palace be appointed immediately by the Governor for the purpose of developing restoration and management policies and monitoring the operations of the IP complex until a permanent Iolani Palace Complex Commission can be established. This permanent commission should also include representatives from state, FIP, and community and professional groups. It would be given the responsibility to administer the IP complex restoration and operations, as well as develop policies as they become necessary. Policies developed by the Ad Hoc Committee and the permanent commission would be presented to the Board of Land and Natural Resources for final adoption since the Board has jurisdiction of the IP complex.

(3) A moratorium should be imposed on the restoration of related facilities and areas of the Iolani Palace complex. A moratorium would prevent any new, substantial physical restoration of facilities and areas, and additional expenditures, without a master plan governing the scope and cost of the IP complex. It will insure that no restoration activity of a substantial nature will be undertaken during the development of a master plan. However, the restoration of the physical objects and furnishings of the Iolani Palace structure itself, would not be affected by such a moratorium since this is already in process.

Signed by Representatives Say, Stanley, Abercrombie, Aki, Campbell, Cayetano, Kawakami, Kiyabu, Machida, Mizuguchi, Segawa, Shito, Takamine, Toguchi, Ushijima, Carroll, Evans and Poepoe.

Spec. Com. Rep. No. 7

Your House Committee on Health, pursuant to H.R. No. 712, adopted by the Regular Session of 1977, and directed to review and assess the adequacy of the programs and services of the State's community mental health centers, begs leave to report as follows:

#### APPROACH TAKEN

A Health interim subcommittee on community mental health centers was appointed to undertake this review and assessment. The subcommittee consisted of members from the House standing Committee on Health which included: Representatives Mitsuo Shito, chairman; Byron Baker; Meyer Ueoka; and Tony Narvaes. The subcommittee conducted

a public hearing and a field trip to the Central Oahu mental health center facility. Testimonies were received from public and private health agencies and organizations providing mental health services with emphasis on the state mental health center programs.

The subcommittee submitted a report on its findings and recommendations to the full House Committee on Health. This report was adopted by your Committee and is submitted herein.

#### BACKGROUND

The state mental health program which includes community mental health centers is administered and operated by the Department of Health pursuant to Chapters 321 and 324, Hawaii Revised Statutes, and P.L. 94-63, Title I, Special Health Revenue Sharing Act of 1975, and Title III, Community Mental Center Amendments of 1975. The state mental health program is implemented through mental health centers and satellite clinics located in eight geographical regions designated as catchment areas.

The catchment areas include Leeward Oahu, Central Oahu, Windward Oahu, Kalihi-Palama for urban Honolulu, Diamond Head for Urban Honolulu-Hawaii Kai and the counties of Maui, Kauai, and Hawaii. Each state mental health center is required to offer the following range of mental health services: inpatient services; outpatient services; day care services and partial hospitalization; emergency care; follow-up services; consultation; education; screening; and children's mental health services.

(1) Outpatient Services. Diagnostic and treatment services are available to individuals at community health centers and satellite clinics. Some of the satellite clinics located in rural areas operate on a full-time basis, while others located in more remote areas such as Puna, Waimea, Honokaa and Kohala in Hawaii County operate on a regularly scheduled part-time basis.

(2) Partial Hospitalization and Day Care Services. Partial hospitalization services involve a planned therapeutic program for clients requiring less than 24-hour a day care but more than outpatient care. Therapeutic day activities assist clients in developing daily living, social and pre-vocational skills. Social club services are also provided to promote companionship and recreational activities. These clubs are located in the community and may be a part of a center or operated by a private group work or recreation agency.

(3) Emergency Services. Immediate mental health care and evaluation of individuals in emergency situations on a 24-hour, 7-day basis are offered by all centers. On Oahu, non-working hour, weekend, and holiday emergency services are provided through contractual agreement with the Suicide and Crisis Center. The center utilizes outreach teams and a 24-hour telephone service in conjunction with on-call psychiatrists provided by the DOH. Neighbor Islands emergency services are provided only by a group of psychiatrists available on an on-call basis.

(4) Follow-up Care Services. Contact with individuals receiving mental health and substance abuse services, particularly those discharged from psychiatric inpatient facilities are maintained by each community mental health center.

(5) Consultation and Education Services. Professional and technical consultation and guidance on problems relating to mental health, emotional distress, mental illness, and substance abuse as a general service of each center is provided. Mental health education and information to individuals, groups, and agencies in the community is another component of this category of service.

(6) Screening Services. Community mental health centers and satellite clinics conducted assessments of an individual's problems and needs for the purpose of identifying and determining the need for mental health care. Screening also aids in the prevention of inappropriate hospitalization of those individuals being considered for inpatient care and treatment.

(7) Children's Mental Health Services. Children's mental health services teams are administratively placed in the community mental health centers. These teams provide preventive treatment and rehabilitative services for children and youth in the area where each center is located.

While most mental health services are provided at the centers and clinics, other essential services, particularly inpatient and transitional residential care, are provided to clients through contractual and cooperative arrangements with private organizations and other private agencies. For example, the Kalihi-Palama Community Mental Health Center has



contracted with Queen's Medical Center, St. Francis Hospital, and Children's Hospital to provide short-term inpatient psychiatric care for children, youth and adults. Windward Oahu Mental Health Center utilizes Castle Memorial Hospital to accommodate short-term inpatient psychiatric care for its clients. Similar services on the neighbor islands are provided by county/state hospitals licensed as psychiatric facilities through cooperative agreements with the mental health center in that catchment area.

Transitional and other types of residential care have been provided primarily through cooperative arrangements with privately operated facilities such as care and boarding homes, skilled nursing and intermediate care facilities, "halfway" houses, and special group residential facilities with the Department of Social Services and Housing providing financial assistance to eligible persons residing in such facilities.

#### FINDINGS AND RECOMMENDATIONS

The State Plan for Comprehensive Mental Health Services as updated this year lists the adequacy of the quality and quantity of services provided at each community mental health center in the State. Your Committee basically agrees that this listing can be helpful to the full committee's review of the DOH budget requests at the 1978 legislative session, but only to the extent of action as a guideline. The listing shows that while all centers are providing most of the services they are responsible for, these services are not adequately meeting the mental health needs of the population being served. A detailed listing of each center and the specific services found available but deemed to be inadequate by the report is attached. The most commonly listed services among all centers as inadequate include screening, evaluation, consultation, and emergency care.

The Committee on Health recommends that it examine in depth the basis of what DOH deems to be "adequate" or "inadequate" levels of mental health services for each center, as listed in the 1977 update to the State Plan for Comprehensive Mental Health Services. This is considered critical because of its implications and effects on any DOH budget and program review conducted by the Committee at the 1978 session.

Certain problems relating to support services which are fundamental to community mental health centers and the state's mental health program were also found.

These are as follows:

(1) Inpatient Care. Hospital facilities and staff improvements for inpatient, short-term psychiatric care have been identified by the DOH as major needs at Kona, Hilo Memorial, Maui Memorial, and Samuel Mahelona Memorial hospitals. A related problem to inpatient services is the lack of a clear understanding between the mental health centers and hospitals regarding the role and responsibilities of the mental health center psychiatrist providing inpatient service at hospitals. Under this arrangement, the mental health center psychiatrists are given the responsibility to provide hospital psychiatric services without the necessary authority to plan and implement these services. This situation has caused administrative and operational problems which have affected the quality of patient care. The DOH stated that it is in the process of determining the feasibility of having these hospitals employ their own psychiatrists to operate these programs.

Your Committee recommends that high priority be given by the Department of Health in the establishment of a quality inpatient care program at state operated neighbor island hospitals. Such a program is a major component in the mental health center program to ensure proper and adequate medical assistance for those requiring short-term psychiatric care. Your Committee also recommends that hospitals utilizing the services of the mental health center psychiatrist should better coordinate its psychiatric needs and requirements with the mental health center to minimize administrative and operational problems.

(2) Alternatives to Hospitalization. There is a need for a greater number of facilities and programs to serve as alternatives to hospitalization for mentally ill and seriously emotionally disturbed persons. Specifically, there is a need for facilities to provide brief placement for immediate evaluation and intensive crisis intervention services (diagnostic crisis intervention facility) requiring the person who needs such services to be hospitalized.

Also, there is a need for a greater number of community residential intervention facilities to provide structured, controlled, and continuous intervention services based on individual programmed goals. This would include halfway homes, special group homes for children and youth and residential arrangements for substance abusers. Presently, there are only two privately operated facilities specifically programmed for care of the mentally ill and seriously emotionally disturbed adults throughout the State.



In recognition of the lack of diagnostic crisis intervention and community intervention facilities, your Committee recommends that the State should actively support the development of transitional residential homes as an alternative to placing emotionally and mentally disturbed persons in institutional settings. The proposal of providing economic incentives such as low-interest loan programs for the operation and development of privately operated residential homes should be examined.

The State should also actively pursue the development of diagnostic crisis intervention facilities to minimize the use of hospitalization as the primary method to initially identify and evaluate persons in need of mental health assistance.

(3) Referral and Placement of Persons in Need of Hospitalization. Queen's Medical Center emergency room presently serves as the main facility on Oahu for psychiatric emergencies. There have been instances where Queen's Medical Center staff are faced with the difficult task of determining placement of a patient in need of hospitalization in a situation where Queen's Medical Center cannot accommodate a person in need of psychiatric medical assistance, other hospitals are not appropriate for such an individual, and Hawaii State Hospital refuses the patient because of its admission requirements.

Your Committee recommends that a close review of the referral system for persons requiring inpatient care should be jointly conducted by the DOH and private facilities providing psychiatric inpatient care. A referral system should provide prompt and accurate diagnosis and assistance in determining the needs of a person requiring immediate medical attention.

Signed by Representatives Segawa, Shito, Aki, Campbell, Nakamura, Ueoka, D. Yamada, Narvaes and Sutton.  
Representatives Baker and Ushijima were excused.

#### ATTACHMENT A

The following is a Department of Health assessment of mental health services by catchment areas:

##### KALIHI-PALAMA

Available but inadequate:	consultation, education, training, evaluation (drug abusers only).
Non-existing:	inpatient (drug abusers); partial treatment (12-17 years, alcohol and drug abusers); transitional residential care (0-17 years, drug abusers); rehabilitation services (0-17 years).

##### LEEWARD OAHU

Available but inadequate:	emergency care (0-65 plus year, alcohol and drug abusers); rehabilitation services (0-65 plus years, alcohol and drug abusers); early identification screening (14-65 plus years, alcohol and drug abusers); evaluation and education (0-65 plus years, drug and alcohol abusers).
Non-existing:	transitional residential care (0-4 years).

##### CENTRAL OAHU

Available but inadequate:	outpatient, partial treatment, emergency care, transitional residential care, follow-up, rehabilitation services, screening for early identification, screening for hospitalization, consultation, education, training, evaluation, administration (0-65 plus years, alcohol and drug abusers).
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##### WINDWARD OAHU

Available but inadequate:	inpatient (drug abuse); transitional residential treatment (13-17 years); screening for early identification, screening for hospitalization, consultation, education, training, evaluation (0-65 plus years, alcohol and drug abusers).
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Non-existing: partial treatment (14-17 years);  
rehabilitation services (0-17 years).

#### DIAMOND HEAD

Available but inadequate: rehabilitation services (0-17 years).

#### KAUAI

Available but inadequate: transitional intermediate care (12-65 plus years).

Non-existing: inpatient (0-11 years);  
partial treatment (0-17 years);  
transitional intermediate care (0-11 years, drug abusers);  
rehabilitation services (0-15 years);  
screening for early identification (18-65 plus years, alcohol  
and drug abusers).

#### MAUI

Available but inadequate: inpatient (12-65 plus years, alcohol and drug abusers);  
outpatient, emergency care, follow-up, screening for early  
identification, consultation, education, training, evaluation,  
and administration (0-65 plus years, alcohol and drug abusers);  
transitional intermediate care and partial treatment (18-65  
plus years, alcohol and drug abusers);  
rehabilitation services (14-65 plus years, alcohol and drug  
abusers);  
screening for hospitalization (12-65 plus years, alcohol and  
drug abusers).

Non-existing: inpatient (0-11 years);  
partial treatment (0-17 years);  
transitional intermediate care (0-17 years);  
rehabilitation services (0-13 years);  
screening for hospitalization (0-11 years).

#### HAWAII

Available but inadequate: outpatient, screening for early identification and hospitalization,  
consultation, and education (0-65 plus years, alcohol and drug  
abusers).

Non-existing: partial treatment (0-17 years);  
training, evaluation, and transitional intermediate care  
(0-65 plus years, alcohol and drug abusers).

#### Spec. Com. Rep. No. 8

Your House Committee on Health, pursuant to H.R. No. 712, adopted by the Regular Session of 1977, and directed to review and assess the operation and management of the Maui Memorial Hospital, begs leave to report as follows:

#### APPROACH TAKEN

A Health Interim Subcommittee on Maui Memorial Hospital was appointed to undertake this review and consisted of members from the House Committee on Health which included: Representatives Meyer Ueoka, Chairman; Tony Narvaes; and Herbert Segawa. The subcommittee conducted a public hearing in Kahului, Maui to receive testimony from Maui hospital administrators and staff, public officials, hospital users, and other interested persons. Representatives of the Department of Budget and Finance were requested to appear before the subcommittee, but elected not to testify. The Department of Budget and Finance was notified by personal visit, as well as by telephone and written communication.

The subcommittee submitted a report on its findings and recommendations to the full House Committee on Health. This report was adopted by your Committee and is submitted herein.

#### BACKGROUND

Maui Memorial Hospital is part of the County/State hospital system established pursuant to Act 97, Session Laws of Hawaii 1965, which transferred the operation and maintenance of County-operated hospitals to the State. Prior to 1965, each County was responsible for its own public hospitals. Mounting operating deficits resulted in increased subsidization by the State until finally, through Act 97, these hospitals became the responsibility of the State. Although the Act gave this responsibility to the State, Hospital Managing Committees appointed by County legislative bodies continued to be responsible for the management of the County's hospitals.

Act 203, SLH 1967 replaced the Managing Committees with County Hospital Advisory Councils which served more as advisory, rather than managing, bodies. These councils consisted of members appointed by the Governor, County legislative bodies, and designated representatives from community health groups. As a result of Act 265, SLH 1969, each County presently maintains a nine-member Hospital Management Advisory Committee (MAC) appointed by the Governor. The MAC serves in an advisory capacity to the director of health who is responsible for the operation and maintenance of public hospitals and related medical facilities for each County.

#### FINDINGS

Maui Memorial Hospital is the only acute-care hospital facility on the Island of Maui and provides general medical, surgical, obstetrical, pediatric, and psychiatric care. It also provides intensive care and coronary care, as well as emergency, laboratory, x-ray, pharmacy, and physical therapy services.

It was found that while Maui Memorial Hospital is providing a wide-range of medical and health services, certain inadequacies and problems exist:

(1) Staffing. Hospital administrators and nurses cited a critical shortage of staff in every department of the hospital. The chronic shortage in nursing staff has cost the hospital substantial amounts in overtime pay. Nurses are required to work long hours, without vacation, sick leave, and compensatory time. Nurses are also called back to work unexpectedly and experience uncertain scheduling which often results in nurses working two different shifts within one work week. Physical fatigue and lowered morale were cited as causes of high staff turnover, lowered resistance to illness, and difficulties in providing adequate physical care and psychological support to patients.

Short staffing has also prevented orientation and in-service training programs of the length and quality required. Training and instruction programs have been reduced by at least 50 percent, as nurses are needed on the floors to perform critical services and cannot be released for long periods of time.

Adequate nurse staffing and training was found to be most critical in the intensive care unit (ICU) and the coronary care unit (CCU). Patients in these units require constant care by highly trained personnel. At Hilo Hospital, Queens Medical Center, and Kaiser Hospital, the average nurse/patient contact hours per day ranges from 12 to 16. At Maui Memorial Hospital, the average is 8. Chronic staffing shortage in these units has necessitated "borrowing" of untrained nurses from other floors, a practice considered to be unsafe since these nurses are not trained to operate the complicated life support equipment involved.

Sixteen nurses have signed up for a critical care training course presently being offered at Maui Memorial Hospital. However, the head nurses of the units for which they are presently working are not able to release nine of these nurses even on their days off.

The Hawaii Nurses Association's Council on Education and Practice testified that nurses at Maui Memorial have documented instances of unsafe care and recommend the deletion of critical care units from the services offered at Maui Memorial if safe levels of nursing care for critically ill patients cannot be provided.

Shortages in support services staff, such as housekeepers, lab technicians, and medical record-keepers, have resulted in professional staff performing these maintenance and clerical services. The operation of diagnostic and other equipment at the hospital is also suffering from a lack of personnel. In February 1977, an electroencephalograph was donated to the hospital but has been inoperative due to lack of staff trained in its operation.

Presently, Maui Memorial Hospital has a total of 275 authorized positions. Of these, 151 are nursing positions, including registered nurses, paramedics, and ward clerks. Act 10, of the 1977 Special Session, authorized 29 temporary positions for FY 1977-78 with 4 more for FY 1978-79 for Maui Memorial Hospital. According to the hospital administrator, these 33 temporary positions should be changed to permanent positions, and are immediately

needed for the proper operation of the hospital. The hospital administration has also requested an additional 16 permanent positions for the Intensive and Coronary Care units.

(2) The Emergency Medical Services System (EMS). According to Section 321-151, Hawaii Revised Statutes, the Department of Health is responsible for the coordination of a comprehensive statewide emergency medical services program. On Oahu emergency medical services are provided by private organizations and the City and County of Honolulu, with both activities receiving State subsidies. On the neighbor island counties, the major hospitals have been responsible for operating and funding the EMS program. Although EMS is recognized as an essential community service, it has been a financial burden to the hospitals.

On Maui, the EMS team consists of eight Emergency Medical Technicians, one Medical Intensive Care Technician, one ambulance driver, and two ambulances with one crew on duty at any given time. There is also a privately owned ambulance company which services West Maui. According to the hospital administration, this level of service is inadequate for the Island of Maui, particularly for the Kula and Pukalani areas, and increased funding is needed to achieve improved services.

(3) Facilities. Hospital administrators, physicians, and hospital users testified to the inadequacy of existing hospital facilities. According to the testimony presented, present conditions in some of the units endanger the safety of patients and violate Federal and State health care standards. For example, contrary to Federal and State policies, the psychiatric wing is located in the same ward as pediatrics and geriatrics. Several incidents have occurred where property was destroyed and non-psychiatric patients disturbed and endangered by psychiatric patients wandering about the floor. Construction of a separate psychiatric facility has been authorized, but no interim arrangements have been made to ensure the safety of geriatric and pediatric patients.

(4) Budgetary and staffing authority. Hospital staff and others who testified cited a lack of responsiveness in the allocation of staffing positions. The formulas used by the Department of Budget and Finance to compute hospital staffing needs were found inadequate to ensure the safe operation of the hospital. The health and safety of the people of Maui has been seriously endangered due to restrictions on the number of staffing positions allocated to Maui Memorial Hospital. Many felt that the staffing allocation formulas of the Department of Budget and Finance should be revised to reflect a more accurate assessment of the hospital's needs.

It was also found that the length of time and paperwork required to make budgetary and staffing changes, and the physical distance between the State departments and the County hospital, have compounded the hospital's staffing and money problems. To overcome this, organizational changes were proposed, such as expanding the role of MAC and placing the responsibility for staff and budgetary allocations with the Department of Health's County/State Hospitals Division.

#### RECOMMENDATIONS

Your Committee on Health recommends that it consider the following during the 1978 Session:

(1) Staffing. In order to assure quality health care comparable to that provided by other hospitals in the State and to ensure that the staff will be physically and psychologically able to provide safe and quality health care, the Department of Health should seek to fill the requested nursing and support services staff positions. At the very minimum the 33 temporary positions should be changed to permanent positions and an additional 16 permanent positions should be authorized for the Intensive and Coronary Care units.

It was also suggested that second-year nursing students from Maui Community College and other nurses in the community be hired to work on a part-time basis and on weekends to alleviate shortages in nursing staff. However, such flexible hiring policies are apparently not allowed by the State. The Committee recommends that it determine the nature of the personnel policies which have caused these hiring problems.

(2) Emergency Medical Services. The Committee recommends that it consider assessment of fees for use of the EMS ambulance to alleviate the program's present financial difficulties. The service is currently provided free of charge.

The Committee also recommends that it consider the following alternative methods for improving Maui Memorial Hospital's EMS program:

- (a) transferring management of Maui Hospital's EMS program to the County, with continued State support;
  - (b) establishing a contractual arrangement between the State and the County for EMS services for a six-month trial period, with continued County jurisdiction if the arrangement proves to be successful; and
  - (c) placing the responsibility for the EMS system with either the State or County governments entirely, thereby relieving the County/State hospitals of these administrative responsibilities.
- (3) Facilities. The Committee on Health, as part of its review of the 1978 supplemental budget of the Department of Health, should place high priority on State funds to upgrade Maui Memorial Hospital's facilities in accordance with State and Federal standards. Such action is necessary not only to ensure accreditation of the hospital, but most of all, to improve health care services and conditions for the people of Maui.
- (4) Budgetary and staffing authority. The Committee on Health should seek the revision of allocation formulas used by the Department of Budget and Finance so that hospital staffing needs can be more accurately reflected. The Committee on Health should also explore the possibility of transferring staff allocation decisions to the Department of Health.

The Committee on Health should further examine the feasibility of various organizational alternatives to resolve the staffing and budgetary problems of the hospital. The possibility of granting greater authority to the MAC's should be explored, including the possible restructuring of its responsibilities which would allow it to take a more active role in hospital management decisions.

Signed by Representatives Segawa, Shito, Aki, Campbell, Nakamura, Ueoka, D. Yamada, Narvaes and Sutton.  
Representatives Baker and Ushijima were excused.

Spec. Com. No. 9

Your House Committee on Health pursuant to H.R. No. 89, adopted by the Regular Session of 1977 and directed to review health care financing, begs leave to report as follows:

#### BACKGROUND

The cost of health care and the most appropriate means of health care financing are among the liveliest, most complex and most urgent of contemporary issues.

Health care costs have been increasing very rapidly, and lately have become the leading component of inflation in the consumer price index. Hard-pressed consumers find themselves forced to forego medical services; health care insurance companies echo the consumer's complaint, charging that the medical industry is profiteering. Yet hospitals maintain that they are but the victims of general inflationary trends, subject to rising costs of nursing staff and materials; and physicians cite such factors as costly malpractice insurance and lab charges among their reasons for fee increases.

Nor do public agencies escape the trend. Medicaid costs are the leading element in public assistance costs in the State of Hawaii, and the fastest rising cost in public assistance. Moreover, the operation of the existing Medicaid reimbursement law guarantees order-of-magnitude increases in Medicaid costs approximately one year in four. The trend in Medicaid costs is such that a spending level of \$162 million annually appears likely by 1981, up from \$82.8 million in the current fiscal year.

The Federal and State governments alike are addressing the question of rising health care costs and standards of service. The Carter administration, for instance, has introduced a hospital cost containment measure in Congress and legislation designed to sharply expand child health screening and treatment services, and has been soliciting comments on the most desirable form of national health insurance enabling legislation for which is to be introduced during the next calendar year. Meanwhile the Health Care Financing Administration of the Department of Health, Education and Welfare, with the direct and active support of the Secretary of HEW, is cracking down on fraud in Medicaid/Medicare payments nationally, and insisting that States with Medicaid programs do likewise.

State governments have pursued similar courses. Several States have enacted legislation

establishing hospital cost containment commissions, with considerable variation in the forms of the respective commissions established. The New York Medicaid administration has adopted the practice of overriding professional review organizations to determine liability for Medicaid claims. California has experimented, most unsuccessfully, with health maintenance organizations (HMO's) for the delivery of Medicaid-funded care. Michigan has experimented with more success with community-based clinics operated under the aegis of the Office of Economic Opportunity/Community Action Program (now the Community Services Administration); and along with a small number of other States has undertaken the direct administration of Medicaid claims reimbursement as a cost-savings measure.

Yet it appears that the matter of health care costs and financing and the related issues of quality and scope of services are far from resolved, either at the national or the State levels, and that the debate over various elements of these issues may continue for some time to come. There are a number of reasons, among them that the character of illnesses which the medical industry is occupied with has changed significantly; and that there are serious structural problems in the health care delivery system--some of the health industry's own making, some the incidental result of patterns of urban development and transportation technology.

It is something of a commonplace of the study of comparative health care systems, for instance, that the American health care system features many more specialist physicians and far fewer general practitioners than virtually any other country in the world. Moreover, the health care system is overwhelmingly concentrated in urban areas, as compared to that of other countries, and is heavily hospital-based. Recent analyses by the Health Subcommittee of the Committee on Ways and Means, U. S. House of Representatives, indicate that these trends are continuing, rather than abating.

Of course, it is equally a commonplace that the United States of America is the only developed country in the world that does not have a national health system.

Of more immediate interest and concern, however, are the changing character of illness in the State and the nation, and the impact of demographic and urban change on the delivery of health care services.

During the last half century, epidemic disease has been eliminated as a leading cause of death, to be replaced by heart disease and cancer. Acute care of these illnesses often is characterized by very costly hospitalization and intensive care, requiring exotic radiological and other treatment regimes that demand sophisticated equipment and staffing. The cost of such facilities typically is too great for the rural or community-based hospital or health care facility; sophisticated equipment typically is located at large, central medical centers.

Concurrent with the emergence of these health trends and the development of expensive treatment methodologies, however, has come in the postwar period a very rapid decentralization of urban centers, this the result of postwar expansion of the automobile transportation system, extensive suburbanization and the construction of high capacity, high speed highway networks. On the one hand this pattern of development and transportation has rendered the sophisticated facilities of central medical centers more accessible to outlying populations, which with relative ease may avail themselves of these quality services. On the other hand, the very ease of access which better transportation has conveyed has rendered the rural or community health center the less able to adequately serve the population in its immediate neighborhood. This essentially is because of the relationship between available services and the financial requirements of community hospitals.

The characteristic situation in rural and suburban areas is that private practitioners serve some substantial portion of outpatient and non-acute care needs in the community, while the community-based hospital handles both emergency and acute care needs.

This means that the rural or community-based hospital is at a double disadvantage. It is denied the income stream that would accrue to it if the community's outpatient services were concentrated within it. Yet it must provide emergency services, which are among the most costly forms of care in the whole medical field. Having done so, however, the rural or community-based hospital has scant chance of retaining the seriously ill patient. Because the rural or community-based hospital has but limited facilities, it will necessarily send its most seriously ill patients to a central medical center where they may receive better and more sophisticated care than is available in outlying areas. This, of course, denies the outlying hospital the return it would receive from continued bed occupancy if it were treating a seriously ill patient to the point of recovery.

The net result is that community hospitals in outlying areas generally are not going propositions and depend heavily on some form of subsidy, be it the direct support of



the State-County hospital system or the subsidies extended to such private hospitals as Molokai General or Kahuku. Current trends in small private hospital finance suggest that without subsidies, such facilities soon must disappear.

Furthermore, there are certain current and prospective sanctions against the proliferation and/or expansion of health care facilities and services. The national government in the past has provided substantial funding for hospital and health care facility development, subject to such obligations as free care for the indigent, and Hawaii hospitals have benefited from such spending. More recently, the Federal government's emphasis has been on health planning, with an eye to reducing or eliminating duplication of facilities and services where possible. Accordingly, there has been established in Hawaii the State Health Planning and Development Authority (SHPDA), which has responsibility for preparing a State health plan and for the issuance of certificates of need for development of any significant new health facility. Satisfaction of the certificate of need requirement entails justification of the proposed facility. While SHPDA thus far has not denied any certificate of need, the prospect remains that it will do so, and perhaps increasingly, as the State health plan is completed and health facility applications are found to be in compliance or not, as the case may be. It seems likely that insurance companies, the State Medicaid administration and informed consumers increasingly also will join with SHPDA and one another to oppose unjustified duplication of health care facilities and services because of the costs involved.

#### APPROACH TAKEN

Formal and informal meetings with officials of the State Departments of Health and Social Services and Housing, and with representatives of the Department of Health, the University of Hawaii School of Public Health and the Office of the Legislative Auditor, were held. Additionally, parts of the extensive literature on health care financing and health care delivery which is available were surveyed.

An understanding of the historic structure of health care delivery and financing and the manner in which events and circumstances have modified both in recent years was sought. Contemporary medical care financing structures, including the role of Medicaid spending in hospital finances, and with the assistance of the Legislative Reference Bureau, amendments to the Hawaii Prepaid Health Care Act since its original enactment were reviewed. This act is considered to be one of the nation's better--if not its best--approaches to comprehensive health care financing. In this regard, the recent decision of the United States District Court, Northern District of California, in Standard Oil of California versus Aghsalud, et. al., a challenge of the Hawaii Prepaid Health Act now on appeal was also reviewed.

In addition, the matter of financing of a variety of health care services under Title XX of the Social Security Act, which is administered in Hawaii by the Department of Social Services and Housing was pursued.

The overall objective was to identify those structural elements which make up the public/private health care delivery system; assess the financial contributions made to the support of the health care system; and identify specific issues and problems which have arisen or which may be expected to arise soon. Out of this study, tentative findings and recommendations are herein submitted.

#### FINDINGS

1. Consumer costs of health care are and have been rising rapidly, and are among the leading causes of inflation. Several states have enacted hospital cost containment commissions or similar regulatory agencies to slow the rise in health care costs and others and Congress is considering it.
2. The State government has a vital interest in the cost of health care, as it is a major purchaser of health care services. State government payments for Medicare/Medicaid are the largest and fastest growing element of public assistance, can be expected regularly to increase by orders of magnitude, and constitute an indispensable part of financing to key elements of the health care industry. A number of health care providers could not continue operations without Medicaid reimbursements.
3. A number of factors contribute to the high cost of health care and the difficulties of financing health care of the quality and availability sought by consumers. Among these are the following.
  - a. The leading causes of death have changed radically in the last half-century, with epidemic diseases such as measles, smallpox, plague, cholera and diphtheria being replaced by heart disease and cancer. Heart disease and cancer frequently require lengthy

hospitalization and/or intensive care and the use of costly and sophisticated equipment and treatment regimes.

b. Notwithstanding the long-term shift in the character of the most dangerous illnesses, life expectancy has increased dramatically. People live longer, even when afflicted with handicapping ailments which in primitive society would most likely result in death. Long-term care for victims of diseases associated with aging, as now offered, is extremely expensive--beyond the means of most individuals.

c. During the same half-century in which advances in medicine and public health eliminated or controlled epidemic disease, American society underwent dramatic demographic changes, which were accompanied by equally dramatic--and sometimes associated--changes in the health care delivery system.

From the 1930's, American society rapidly urbanized. Mechanization of agriculture and concentration of land ownership, the Depression, and other factors stripped rural areas of their people, causing a vast migration to the cities.

With the similarly rapid increase in family incomes of the postwar period, much of this urban population gained the increased mobility that an automobile-based transportation system made available and acquired homes in the suburbs.

The comparable changes in the health care delivery system included the disappearance of the rural doctor, the "do anything" general practitioner of American folklore, and virtually all home health care. Health care became hospital and clinic based, featured specialists and group practices in place of general practitioners, and depended on office visits by consumers during office hours only, rather than home visits by physicians.

Persons who had the misfortune to become ill after hours, or who suffered traumatic illness or injury, perforce had to seek the services of hospital or clinic emergency rooms. This, in turn, created large new demands for improved ambulance and other emergency transportation services.

4. The health care industry has produced a variety of responses to the complex of changes in patterns of illness, urbanization, transportation, hospital utilization, access to providers and the inevitable associated costs. These include emergency medical transportation (including mobile intensive care), remote and computer-assisted diagnostics, the use of paramedics, changes in the roles of nursing staff and government subsidies to health care providers (notably, hospitals).

Nevertheless, health care costs are such that there is urgent consumer demand for relief, a concern which government shares, even as the private sector of the health care industry seeks additional support from government to sustain the services which it now offers or to support the additional services that consumer groups believe it should offer.

5. Third party payers for health care--be they private insurance companies or government agencies responsible for the care of the indigent--are urgently seeking relief from the high cost of health care. Toward this end they alike have adopted various audit, review, and cost containment strategies to which health care providers are subject. These strategies appear, among other things, to have contributed to Hawaii having one of the lowest hospital-stay rates (the number of days a patient occupies a hospital bed) in the nation.

6. Judgement suggests that the combination of public and private resources (including private insurance payments) available for financing health care is not adequate to sophisticated central medical centers in urban and suburban areas, and rural centers, of the quality that consumers resident in such areas consider necessary.

7. The nature and functioning of the health care delivery system is such that it does not appear the suburban and rural hospitals can provide the level of services to which they are now committed, far less expanded services, without some form of government subsidy exclusive of Medicaid/Medicare payments. However, there are constitutional questions as to whether such payments may properly be considered to be made for a public purpose; presumably, competitive providers could challenge the granting of such subsidies or seek equal or comparable subsidies.

8. The decentralization of the city, the concentration of sophisticated facilities in the urban center and the changed character of illness and emergencies place a very high premium on swift transportation services for the ill and injured, and early attention by qualified emergency medical practitioners.

9. The use of hospital and clinic emergency rooms for outpatient treatment is an extraordinarily expensive and wasteful method of providing this form of health care. However, there is at the present time no realistic alternative to such emergency room use.

10. Available literature strongly suggests that a number of the illnesses (especially cardiac) which now require sophisticated and intensive treatment may be a result of environmental circumstances such as inadequate exercise, improper diet and substance abuse which education programs could help alter before acute illness occurs.

11. Decriminalization of substance abuse has resulted in demands on community hospitals and clinics for treatment of substance abusers which these facilities are ill-equipped to provide. Moreover, authorized treatment facilities at the present time are in central locations which may not be satisfactorily accessible to police, social workers and others whose referrals constitute the initial treatment for substance abuse.

12. The Federal government's emphasis on community-based treatment of such disorders as handicaps, developmental disability and mental illness, necessarily replicated in the State's treatment arrangements, have created large new demands for community facilities for such treatment, including crisis, follow-up and respite care centers which do not now exist.

13. Funding sources for community-based treatment programs within the State of Hawaii are sharply limited, unless the State government is to support such facilities and programs to a far greater degree than it does at the present time.

Federal funds for these purposes have been drawn largely from demonstration grants from the National Institutes for Mental Health (NIMH) and Title XX of the Social Security Act. NIMH grants now are expiring, and State agencies are seeking alternative funding sources. Title XX has been one of these, but enrollment increases in child care programs also funded by Title XX and additional costs associated with care for the elderly (similarly funded by Title XX) have produced a prospective deficit in the current fiscal year. The Department of Social Services and Housing's efforts to contain the deficit have produced across-the-board reductions in funding and changes in regulations affecting eligibility for child care and elderly services. A number of contracts between the Department of Health and private health care providers are affected.

14. Although the Department of Health, Education and Welfare has conducted a series of hearings throughout the country on national health insurance--generally regarded as the ultimate solution to health care financing problems--and the Carter Administration is expected to introduce enabling legislation next calendar year, many observers doubt that early passage of such legislation is possible. Also, there is much debate over the best structure of national health insurance, and it could well be that when such legislation does pass at the Federal level, important supplemental roles will remain for State government.

15. Pending consideration of national health insurance, the Carter Administration has not proposed substantive changes in the existing Medicaid program, so State options for improvement in the health care delivery and financing systems remain appropriate.

16. Recent legal action, however, places obstacles in the way of direct improvement of health insurance elements of health care financing (at the State government level). Standard Oil of California has sued the State of Hawaii, seeking a determination by the Federal courts whether the Federal Employee Retirement Income Security Act of 1974 (ERISA) pre-empts the State Prepaid Health Care Act of 1974. Standard maintains a self-funded health insurance program for its employees which does not provide some benefits, including coverage for substance abuse, required by Hawaii law; and Standard has not complied with some of the reporting requirements of the Hawaii law. Standard successfully maintained before the United States District Court (Northern California District) that ERISA requirements preempt those of the Hawaii Prepaid Health Care Act, and therefore the company need not comply with the State law. The case is currently being appealed.

The California court found itself dissatisfied with the conclusion that ERISA broadly preempts State health insurance laws, but found no justification for reaching another conclusion. The court itself noted that "the Hawaii Act has been held up as a model for a national health insurance plan which the Federal government should study . . . It troubles the court, as it troubles defendants, that Congress pre-empted State health insurance laws apparently without specific discussion of the need for such a step." Yet the court recommended the State to take its case to the Congress, rather than the courts, for remedy.

#### RECOMMENDATIONS

1. The Committee on Health should consider support of a combination of public health services and support of private health care providers designed to provide a comprehensive Hawaii health care system, including:

- a. designation of community and outlying hospitals as primary intake and transfer points for emergencies;
- b. expanded emergency transportation between outlying health care facilities and central referral hospitals;
- c. expanded home health care services based at community hospitals in cooperation with public health nursing and HMO-based health outreach workers;
- d. concentration of intensive and acute care at central referral hospitals;
- e. location of supportive social workers and appropriate social services at or near community-based hospitals and health care facilities; and
- f. expanded use of remote and computer-aided diagnostic and consultation services and health paraprofessionals.

2. The Committee on Health should consider enactment of legislation creating a hospital cost containment commission.

3. The Committee on Health should weigh the costs and benefits of public versus private interisland emergency transportation services.

4. The Committees on Health and Public Assistance and Human Services should consider offering public outpatient clinic services where appropriate at community-based health care facilities, at least for the Medicaid-eligible population.

5. The Committee on Health and any other appropriate committees should consider public education programs designed to encourage consumer health practices which may help prevent cardiovascular illness.

6. The Committees on Health, Public Assistance and Human Services, Youth and Elderly Affairs, and Housing should consider alterations in the State social services plan, programmatic changes and enabling legislation to permit:

- a. transfer of AFDC child care cases from Title XX to Title IV funding;
- b. transfer of Title XIX-eligible planned parenthood cases from Title XX to Title XIX funding;
- c. substitution of home health care, homemaker and chore services for the elderly for ICF and SNF care; and
- d. substitution, in concert with suitable regulation and payment levels, of Title XX funded boarding home care for Title XIX funded care for elderly persons.

7. The Committees on Health, Public Assistance and Human Services, and Youth and Elderly Affairs should cooperate in resolving funding requirements and new program proposals which involve Title XX funding support.

8. The Committee on Health should seek appropriate action to resolve the conflict between ERISA and the Hawaii Prepaid Health Care Act.

Signed by Representatives Segawa, Shito, Aki, Campbell, Nakamura,  
Ueoka, D. Yamada, Narvaes and Sutton.  
Representatives Baker and Ushijima were excused.

Spec. Com. Rep. No. 10

Your House Committee on Health, pursuant to H.R. No. 86, H.D. 1, adopted by the Regular Session of 1977, and directed to assess the services and programs to the handicapped in Hawaii, begs leave to report as follows:

#### COMMITTEE APPROACH

A Health interim subcommittee on handicapped services was appointed to undertake

this assessment and consisted of members from the House Standing Committee on Health which included: Representatives Charles Campbell, chairman; Herbert Segawa; Byron Baker; and Richard Sutton. The subcommittee set out to accomplish the following tasks:

- (1) Review the role and responsibility of the State and private health care providers in the identification, planning, delivery, and evaluation of health and rehabilitative services to the handicapped;
- (2) Assess the types of health and rehabilitative services and programs provided by public and private agencies and organizations; and
- (3) Identify any problems or inadequacies in handicapped services and programs, including an assessment of public and private efforts in resolving these problems.

The subcommittee conducted a public hearing to receive testimony from public and private agencies and organizations providing health and rehabilitative services and programs for the handicapped. Individuals affected by these services and programs were also invited. The subcommittee also conducted a visitation to the Hawaii Association for Retarded Children -Ruger Facility, Waimano Training School and Hospital, Lanakila Rehabilitation Center, Inc., and the Rehabilitation Hospital of the Pacific.

The subcommittee submitted a report on its findings and recommendations to the full House Committee on Health. This report was adopted by your Committee and is submitted herein.

#### BACKGROUND

Act 204, Session Laws of Hawaii 1977 established the State Commission on the Handicapped to serve as a coordinating body for public and private activities relating to the handicapped, and to establish policy guidelines on the development and direction of handicapped services and programs in Hawaii. This commission is also given the responsibility to administer and allocate funds for public and private handicapped services.

The Department of Health (DOH) has a comprehensive program that offers health and rehabilitative services to the physically and mentally handicapped of all ages. These services include inpatient and outpatient care, emergency care, follow-up, counseling, and early identification screening. Cooperative agreements and contracts with other public agencies and private organizations are maintained by the department to ensure the availability of hospitalization, vocational rehabilitation, special education, and residential community home programs.

The Department of Social Services and Housing (DSSH) assists physically and mentally handicapped persons who are recipients of public assistance and non-recipients to become suitably employed. This assistance includes vocational rehabilitation services which include counseling, physical restoration, pre-vocational and vocational training, job placement, and follow-up services.

Private hospitals, vocational training centers, and residential group homes provide opportunities for handicapped persons to receive health, educational, vocational, and residential living assistance.

While the Department of Education (DOE) does not provide any direct health or rehabilitative services to the handicapped, it conducts identification and assessment of children with handicapped conditions. Private hospital carries out these tasks on a contractual basis including referral of handicapped children to other agencies for treatment and rehabilitation.

#### FINDINGS

The handicapped in Hawaii were found to receive health and rehabilitative services from many public and private agencies and organizations. The State Commission on the Handicapped reported that it is in the process of organizing and it is optimistic that this agency will be able to coordinate and therefore maximize the quality and quantity of the numerous services now offered by both the public and private sector.

There are, however, a number of problems regarding the availability and accessibility of certain programs and services which bear looking into at this time. These are in the areas of mental health, vocational rehabilitation, financial resources, and transportation.

- (1) Mental Health Services. Inpatient services for short-term psychiatric care at Hilo Hospital, Kona Hospital, Maui Memorial Hospital, and Samuel Mahelona Memorial



Hospital were found inadequate in terms of meeting the number of patients requiring this service. Transitional residential homes (i.e., halfway homes, group homes) to serve as alternatives to hospitalization were found to exist only in urban Oahu. These facilities assist in the readjustment and re-socialization of persons with mental handicapped conditions, and constitute a service which rural Oahu and all neighbor islands are presently without. There is also a need to increase the capabilities of the DOH in providing services to the physically disabled having mental health problems.

(2) Vocational Rehabilitation. The state vocational rehabilitation program was found to be suffering from insufficient numbers of counselors and personnel. There is also a growing number of cases requesting vocational rehabilitation services resulting in a waiting list of about 3,000 cases out of 12,544 registered cases during fiscal year 1976-77. This problem is further burdened by federal guidelines which require state vocational rehabilitation programs to give top priority to the severely disabled. As a result, the average length of time for processing and providing rehabilitative services has increased due to both the severe caseload and federal requirements. Since many of the handicapped received welfare assistance the DSSH Vocational Rehabilitation Division has attempted to combine its efforts with the Public Welfare Division in order to reduce the caseload burden and increase services to the handicapped.

Another concern was the trained vocational counselors and an expanded rehabilitation counselor education program at the University of Hawaii. As rehabilitation efforts move toward serving the severely disabled, more expertise will be needed by counselors to provide maximum assistance in rehabilitation and job placement of the handicapped. A lack of vocational rehabilitation centers and workshops was cited as another concern of the handicapped. Presently, most centers and workshops are located in urban areas, thus requiring the handicapped in rural areas to travel greater distances in spite of a number of satellite workshops which have been established in certain rural areas.

(3) Financial Resources. Many private health care providers receive federal assistance. As a result of recent reductions in Title XX Grants to States for Service, these agencies must also reduce their range and number of services to the handicapped. An increase then in the number of persons in the state needing handicapped services is expected.

(4) Transportation Services. Transportation services for the handicapped requiring health, education, and rehabilitation assistance has been and continues to be inadequate in both urban and rural areas of the State.

State and county governments have contracted with private transportation companies to provide transportation services for the handicapped to employment, health, rehabilitation, and recreation centers. However, these services have not had the kind of impact desired, and will require additional expansion of effort since the transportation needs of the handicapped is expected to increase rather than decrease.

Of special concern are the educational needs of handicapped children. The Department of Education (DOE) maintains a contractual agreement with the Department of Accounting and General Services (DAGS) for transportation services for handicapped children attending public and private schools. Parents of handicapped school children cited specific problems such as the absence of adult supervision on school buses, and excessive waiting and riding time on these buses, and an inadequate monitoring system to insure proper safety and convenience for handicapped school children.

#### RECOMMENDATIONS

It is recommended that the Committee on Health at the 1978 legislative session pursue the following courses of action:

(1) Place a high priority on providing accessible and adequate mental health services to the handicapped. Hospital inpatient short-term psychiatric services, particularly at the state's rural hospital facilities, should be examined and appropriate action taken to improve the department's capabilities in providing the level and range of assistance required for all physically handicapped suffering from mental disabilities. The Department of Health should also be required to take a more active role in encouraging and assisting private development of transitional residential living arrangements and boarding homes which serve as attractive alternatives to hospitalization for the handicapped.

(2) Encourage the Vocational Rehabilitation Division and the Public Welfare Division of the Department of Social Services and Housing to continue combining staff and other resources in reducing the vocational rehabilitation caseload. These divisions should



also seek other alternatives to adequately serve the anticipated increase in demand for vocational rehabilitation assistance. The problem of increasing vocational rehabilitation counselor personnel and expanding rehabilitation counselor education and training program, should also be examined.

(3) The impact of cutback in services by private health care providers upon existing and potential numbers of handicapped in the state who would be affected should be made. At the same time, an examination of Title XX grant reductions should be conducted, in order that appropriate federal agencies and Hawaii's congressional delegation can be requested to prevent or minimize these reductions.

(4) Encourage State and county governments to continue the development of transportation services for the handicapped. Specific gaps in services should be identified, with particular emphasis on providing accessible and affordable transportation services for the handicapped to education, employment and health centers. The department of education and the department of accounting and general services should be requested to explore ways to minimize waiting time and riding time for handicapped children. The possibility and cost of employing bus aides to ensure safe and convenient transportation services for handicapped school children should also be looked into.

Signed by Representatives Segawa, Shito, Aki, Campbell, Nakamura, Ueoka, D. Yamada, Narvaes and Sutton.

Representatives Baker and Ushijima were excused.

Spec. Com. Rep. No. 11

Your House Committee on Health, pursuant to H.R. No. 81, H.D. 1, adopted by the Regular Session of 1977, and directed to assess the health care services and needs of rural areas in Hawaii, begs leave to report as follows:

#### Committee Approach

A Health interim subcommittee on rural health care was appointed to undertake this assessment and consisted of members from the House Committee on Health which included: Representatives James Aki, chairman; Yoshiro Nakamura; Charles Ushijima; and Tony Narvaes. The subcommittee set out to accomplish the following tasks:

1. Review the role and responsibility of the State and private health care providers in the identification, planning, delivery, and evaluation of rural health care needs and services;
2. Assess the type and magnitude of health care problems and needs in rural communities including a status of state and private health care efforts in resolving these problems and needs; and
3. Assess the type of existing health care services provided by public and private agencies and organizations to rural areas, including the identification of any gaps in health care services to these areas.

The subcommittee received testimony from public and private agencies and organizations involved in rural health planning and services at a public hearing.

The subcommittee submitted a report on its findings and recommendations to the full House Committee on Health. This report was adopted by your Committee and is submitted herein.

#### Background

The National Health Planning and Resources Development Act of 1974 (PL 93-641) and Act 159, Session Laws of Hawaii 1975, established a state health planning and development agency in Hawaii to develop a comprehensive state health plan and program. This agency, known as the State Health Planning and Development Agency (SHPDA) is responsible for identifying and assessing the health needs and services for Hawaii, and to coordinate and implement public and private health programs and services through a comprehensive state health plan. SHPDA, along with the Department of Health (DOH) and the Subarea Health Planning Councils, carry the responsibility for the planning, development, and delivery of health care programs and services in Hawaii's rural areas.

Act 152, SLH 1976 created subarea health planning councils to establish and coordinate

public participation in the formulation of the state health plan. It was learned that both SHPDA and the subarea councils are in the process of identifying and assessing rural health services and needs as part of their efforts in the development of a state comprehensive master plan. It was also learned that DOH provides a range of health programs and services to rural areas and coordinates its efforts with private health care providers.

#### Findings

For discussion purposes, the State's rural areas were designated to be Hawaii, Maui and Kauai counties and Leeward, Central and Windward Oahu. These areas were found to be lacking in the accessibility and availability of the following specific types of health care: mental health services, dental care, emergency health care, and patient and community health education. DOH criteria in identifying inadequate or adequate levels of health services was also utilized.

Mental Health Services. The non-accessibility to mental health services for rural residents in the State is primarily due to: an insufficient level of available staff and facilities; inadequate public transportation services resulting in considerable travel time between rural residences and mental health resources located in urban centers. Inpatient services at hospitals are available but transitional residential care, such as half-way homes, and education and consultation services are inadequate. This is particularly true of the neighbor islands and Central and Leeward Oahu.

The DOH acknowledges this problem and has established satellite clinics in Waimea, Honokaa, and Puna in Hawaii County, at Pukalani and Lahaina in Maui County, and Hauula on Oahu.

Dental Care. Public health nurses identified adequate dental care as the greatest health need in rural communities. Generally, children residing in rural areas are receiving less dental treatment than the state average, resulting in an increasing number of dental problems in rural areas. Inadequate dental care has been attributed to the lack of accessibility to dentists. DOH efforts to provide greater dental care opportunities for rural areas include the promotion of private practice in rural communities and offering direct dental services through the use of a mobile dental van and satellite dental clinics on Oahu and intermittent dental team visits to certain neighbor island rural communities.

Emergency Medical Services. A major health service found to be available but inadequate in rural areas is a continuous, 24-hour emergency medical service, including ambulance service and emergency patient care. Existing emergency service in rural areas require the time consuming process of transporting major emergency cases over great distances to emergency facilities located in urban areas. In certain areas, the equipment and facilities for emergency cases are inadequate.

Patient and Community Health Education. Patient and community health education was identified as another major health need of rural areas, specifically, in these areas of nutrition and preventive health care for children and adults.

Maldistribution of Health Manpower. The long standing problem of insufficient numbers and distribution of medical professionals such as physicians, dentists and nurses was again cited as a major problem in the delivery of adequate health services to rural communities. To assist rural areas lacking health and medical professionals, the federal government has provided financial assistance to establish health programs and provide medical and health professionals to areas designated by the federal government as medically underserved. For example, Hawaii's North Kohala and Oahu's Waianae areas have been designated as medically underserved areas and therefore qualify for federal assistance. In its efforts to attract private physicians to rural areas designated as economically depressed, the federal government has established a program to give physicians recently graduated from medical school and had received federal loan assistance a partial forgiveness on the federal loan if medical practices is undertaken in an economically depressed area.

Underutilization and Lack of Certain Hospital Services. The maintenance of a variety of hospital services that are required by federal guidelines and the underutilization of certain hospital services in rural areas due to its population size have significantly contributed to increasing hospital costs. Federal guidelines require urban and rural hospitals to maintain similar types of service (i.e., acute care, skilled nursing care, and intermediate care). The same standards are to determine utilization by rural and urban hospitals.

In Hawaii's rural areas, hospitals such as the Kahuku Community Hospital, Lanai Community Hospital, and Molokai General Hospital, have services that have been determined to be underutilized or lacking by federal standards. Non-compliance to federal standards

will result in the loss of federal funds to those hospitals providing services to Medicare and Medicaid patients.

Inadequate Transportation Services. Adequate public transportation and increasing transportation cost of emergency cases were cited as two major problems in providing reasonable and adequate health service to rural areas. For example, emergency ambulance service is presently available but inadequate for emergency cases in the small rural communities of the neighbor islands and Central and Leeward Oahu. Furthermore, transportation costs for neighbor island persons requiring emergency medical treatment on Oahu have substantially increased given the use of a private air ambulance service. The cost of emergency air ambulance service between Hawaii and Oahu is about \$467. Previously, the U.S. Coast Guard provided this service at no charge. However, it was learned that the U.S. Coast Guard has discontinued this service because of a newly established private operation.

#### Recommendations

In recognition of certain rural health needs and problems identified above, your Committee recommends the following:

1. Develop incentives and continue programs to encourage health professionals and personnel to reside and provide health care services in rural communities. The proposal of providing subsidies for living expenses for health care professionals and establishing low-interest programs to finance the development of private health facilities and programs should be explored.
2. Expand mobile health services in order that such services can be provided on a regular basis. Dental care and comprehensive health screening are specific types of health care services that can be accommodated through mobile units on a regularly scheduled basis to rural communities, particularly those located in isolated, geographical areas.
3. Develop and maintain a quality and efficient emergency medical care system utilizing government and private resources. The development of this system should be given high priority in the allocation of resources for rural health care. Adequate facilities and equipment, and an on-going medical training program for rural medical personnel are necessary to insure the development of an effective emergency care system.
4. Rural hospitals that have been determined to have underutilized services and lacking in certain health care services should actively pursue the reallocation of its resources and develop alternatives to provide for the immediate health needs of its community. Rural hospitals should also continue their requests for exemption from federal hospital service and evaluation standards on the basis that these standards do not incorporate the unique features of a rural community and small population base, and have created additional, unnecessary operational costs.
5. Encourage the development of transportation alternatives to improve accessibility to health services. The possibility of economical combinations of public and private transportation services for rural populations is necessary to the problem of accessibility and interchange of general health services for rural areas and specialized health care in urban areas.

Signed by Representatives Segawa, Shito, Aki, Campbell, Nakamura, Ueoka, D. Yamada, Narvaes and Sutton.  
Representatives Baker and Ushijima were excused.

Spec. Com. Rep. No. 12 (Majority)

Your House Committee on Higher Education appointed pursuant to H.C.R. No. 5, adopted by the Regular Session of 1977 to conduct an interim review of the University of Hawaii's athletic program with special attention to its financial aspects and sources of funding, begs leave to report as follows:

In accordance with H.C.R. No. 5, your Committee conducted its interim review jointly with the Senate Committee on Higher Education. Both committees will report their findings and recommendations to the Speaker of the House and the President of the Senate respectively.

#### BACKGROUND

The University of Hawaii at Manoa for many years maintained a limited intercollegiate

athletic program. In the late 1960's a commitment was made to upgrade all aspects of competitive sports at the State's major public higher education institution. One important step taken to implement this commitment was the formation of Ahahui Koa Anuenue in 1967. This non-profit, booster organization's purpose was to raise funds from private sources for athletic scholarships. A period of rapid development followed until 1973 when football and basketball became the major revenue producing sports for the University.

However, from 1974 on, the athletic program's net surplus moved to a deficit in operating funds due to increases in athlete recruitment costs, delays in athletic facilities construction, the impact of inflation on operating expenses and increased personnel costs.

In March 1975, the University administration appointed an ad hoc committee to review the intercollegiate athletic program and assess the implications of these problems on the future of the athletic program. The committee divided into separate task forces on organization, facilities, and finances to determine what aspects of the athletic program should be maintained and further developed.

In November 1975, the ad hoc committee recommended the retention of the current administrative structure under which the Athletic Director reports to the Chancellor of the Manoa Campus, listed major improvements to Manoa's athletic physical facilities and called for a financial analysis of the University's commitment to NCAA Division I competition as well as the fiscal implications of membership in the Western Athletic Conference (WAC) or the Pacific Coast Athletic Association (PCAA).

In July 1976, a report on the financial outlook of the intercollegiate athletics program for the University of Hawaii at Manoa was prepared. It recommended that the University review its sports program and that track, wrestling and gymnastics be deleted as of July 1, 1977, due to unfavorable financial conditions and as a means of meeting the commitments of football and basketball, the University's two highest income producing sports.

Presently, the intercollegiate athletic program at the University of Hawaii at Manoa consists of the following components:

- (1) Varsity competition (Division I) in intercollegiate sports for men in accordance with National Collegiate Athletic Association (NCAA) and University policies. This includes income producing sports such as football and basketball as well as non-income producing sports such as golf and swimming.
- (2) Women's intercollegiate athletics in accordance with Association for Intercollegiate Athletics for Women (IAIW) and as permitted by availability of funds and facilities.
- (3) Supporting activities such as training, equipment, locker room, weight room, athletic dormitory, band and rally squad, as well as administrative, business management, fiscal, promotions and facilities support.

#### APPROACH TAKEN

Your Committee included as part of its review of the financial aspects of the intercollegiate athletic program, a site inspection of the existing athletic facilities; meetings with the athletic program staff; and two days of public hearings which covered concerns ranging from the athletic budget, the proposed athletics facility for Manoa Campus, Ahahui Koa Anuenue and other booster groups, and the development of the women's athletic program. Testimony was received from the Athletic Director of the University of Hawaii, the Associated Students of the University of Hawaii at Manoa (ASUH), and a private businessman. A member of the board of directors of Ahahui Koa Anuenue was also present to respond to questions on the past and current relationship of the booster organization and the intercollegiate athletic program.

#### FINDINGS AND RECOMMENDATIONS

Unlike most University of Hawaii programs, intercollegiate athletics is supported by student fees, TV/radio contracts, Ahahui Koa Anuenue scholarships, aloha stadium stock income, program sales, gate receipts and State general funds. The major share of financial support comes from gate receipts at football, basketball, and baseball games. Because of this, the program has historically centered on these sports. During the time period when revenues generated exceeded actual expenditures, the athletic program grew rapidly. However, more recent program expenditures have exceeded revenues, requiring the University to either limit or curtail non-income generating sports such as golf, sailing, track and field, and wrestling. This curtailment has raised critical questions about the funding of intercollegiate athletics and the University's commitment to non-income generating sports.

The significant financial highlights of the intercollegiate athletics program can be traced back to period of 1970-71 to 1973-74 when program revenues increased from \$597,000 to \$1.37 million or an annual average of 32 per cent while expenditures increased from \$625,000 to \$1.28 million or an annual average of 26 per cent. As a result, surpluses were generated and used to fund scholarships. By 1973-74, the University administration seriously contemplated moving football to Division I status by seeking membership in the Western Athletic Conference (WAC). University basketball was already into a Division I schedule. Also contributing to the program's steady growth during this time was the scheduled completion of Aloha Stadium, which was expected to bring larger crowds and increased gate receipts, and an increase in the number of tuition waivers for athletes by the Legislature. As a result, football, basketball, baseball and other non-income sports expanded rapidly.

In 1974-75, revenues plateaued while expenditures rose by nearly 40 per cent largely due to increased personnel recruitment costs. An overall deficit of \$237,000 was incurred with a net deficit of \$178,000 after depletion of cash reserves. In 1975-76, \$178,000 of the program's budget was used to offset the previous year's deficit. Further, income received from bids for TV/radio contracts came in at \$165,000 as compared to \$304,000 in 1974-75. Other operational expenses as well as added personnel costs and unexpected costs for recruiting a new basketball coaching staff and players required in severe cuts in travel funds for non-income sports.

The 1976-77 program budget assumed a deficit of \$13,660 from 1975-76. However, a \$95,000 increase in TV revenues from \$160,000 to \$255,000 and the suspension of track and field in January and wrestling in June of 1977 resulted in an overall surplus of \$33,028 and a net surplus of \$19,368 carrying over into 1977-78. With the suspension of certain non-income generating sports, there remained six full-fledged intercollegiate sports-- football, basketball, baseball, golf, swimming and tennis. Club sports or those restricted to local, non-collegiate competition such as sailing, soccer, and gymnastics operated on a very limited basis.

During the 1977 legislative session, \$503,000 in supplemental funds was appropriated to support non-income sports for men and women as well as other related athletic concerns. At the same time, legislative displeasure was expressed over the program's cutback and the need to provide a well-balanced athletic program responsive to the varied needs of all student athletes was emphasized.

Your Committee received the University's future program plans during the two-day series of interim hearings. Emphasis was placed on evaluation and reorganization of the athletic department in 1976-77 with the following objectives delineated for the 1977-78 school year: (1) to improve public and student relations; (2) to insure a positive environment for meeting the educational objectives of the University of Hawaii; and (3) to strive to become more competitive in a broad-based program of intercollegiate athletics. The University also provided its budget projections up through 1980-81 which included the financial impact of the University's membership in the Western Athletic Conference (WAC) effective July 1, 1979. Your Committee was informed that a large share of projected revenues is contingent on football and basketball gate receipts which would enable the allocation of more funds toward competitive non-income sports by the University. If revenues do not meet planned expenditures, a reduction in non-income sports is likely.

#### RECOMMENDATIONS

Generally, your Committee believes that the athletic program is a necessary and an effective complement to the academic program of the University of Hawaii at Manoa; however, it also recognizes the economic realities which govern the University of Hawaii's budget and the need to establish priorities. At best, the State can afford only partial support of the athletic program at the present time. Your Committee is aware that the viability of the intercollegiate athletic program is financially contingent on the income generated from football and basketball, and that the revenue projections are encouraging. This upward trend can be traced to the 1976-77 fiscal year when it seemed that revenues would fall short of expenditures. Instead, the program ended the year with a net surplus and this is expected to continue for the current year.

Given the improved financial outlook, your Committee believes that the present method of legislative supplementation of non-income sports when necessary should be maintained. However, your Committee further recommends that the University continue to seek ways to increase its gate receipts for football, basketball and baseball as well as expand and strengthen donations as an additional source of income support.

University of Hawaii athletic facilities have not been a funding priority in the past. Planning moneys of \$472,000 were appropriated in 1970-71 for the sports facilities complex



which has been estimated at \$30 million for a three-phase construction project. These facilities are designed to support the instructional curriculum of the Department of Health and Physical Education and academic requirements of several other colleges, to serve the entire University community of students, faculty and staff by providing opportunities for recreation and intramural competition, and to assist in the development of a vigorous intercollegiate athletics program.

Part of the University's Manoa CIP budget request at the 1977 legislative session included the construction of phase I consisting of two gym complexes with locker-shower facilities, a multi-purpose lecture room, two studios, training facilities, offices and other support areas of the complex. Although this request was approved by the House of Representatives, it was not in the final version of the budget and your Committee recommends that the House maintain its support of the construction of phase I. It is a key element in the delivery of academic and recreational programs for students and faculty as well as the community at large.

Another major area of discussion was the past and future role of Ahahui Koa Anuenue as the University's primary athletic scholarship funding organization. According to a member of the board of directors, the organization was formed after an unsuccessful community-wide effort to raise \$50,000 in 1965 to upgrade the University's intercollegiate athletic program. As stated in its charter, Koa Anuenue provides financial assistance to the University's athletic program in the areas of scholarships and facilities. In the past, student athletes lived in a separate dormitory called Hale Anuenue, which was built through funds raised by Koa Anuenue and maintained by the University. Koa Anuenue also provided varying sums of money, as needed, for athletic scholarships. After the costs incurred in the construction of Hale Anuenue had been paid, it was legally turned over to the University which has since changed its policy on separate housing for student athletes. For the 1977-78 fiscal year, moneys usually donated by Koa Anuenue for scholarships have been used for the renovation of Hale Anuenue, now included as part of the University's general student housing inventory.

Recent criticism over Koa Anuenue's role in intercollegiate athletics was examined. Your Committee has found that these concerns are associated with the individual members involved and not Koa Anuenue as a booster organization. Your Committee has received clarification of the future role of Koa Anuenue in University athletics and believes that Koa Anuenue should be regarded as a booster organization that has contributed to intercollegiate athletics at the University of Hawaii. Your Committee learned that Koa Anuenue has agreed to donate \$300,000 annually in three payments of \$100,000 each for athletic scholarships. Other booster groups include Hui Alakai which raises funds for the basketball program and the Wahines which provides funds to the University Foundation for the women's athletic program.

The women's athletic program has grown significantly and has already received national stature through women's volleyball. General fund support of the women's program for FY 1977-78 was necessary due to the generally austere finances of the University of Hawaii intercollegiate athletic program. To help start the building of the women's program, a full-time women's athletic director was hired for the 1977 fall semester. Your Committee notes that the solid growth pattern of women's athletics is sufficient reason to provide continued financial support for the program. Your Committee further notes that adequate financial support is critical to maintain equal opportunities for women athletes as mandated under Title IX of the Educational Amendments of 1972. It is thus recommended that the University administration support the program accordingly.

Signed by Representatives Ushijima, Abercrombie, Aki, Campbell, Cayetano, Kawakami, Kiyabu, Machida, Mizuguchi, Say, Segawa, Shito, Stanley, Takamine, Toguchi, Carroll, Evans and Poepoe.  
(Representative Abercrombie did not concur.)

Spec. Com. Rep. No. 13

Your Ad Hoc Committee on Kaho'olawe and Similar Hawaiian Concerns appointed by Speaker James Wakatsuki and directed to conduct a comprehensive review of the Kaho'olawe situation, begs leave to report as follows:

#### LEGISLATIVE HISTORY

Interest in Kaho'olawe has simmered for many years. While various individual legislators had been interested in the matter of Kaho'olawe for some time, mass legislative interest was rekindled only after George Helm (of the Protect Kaho'olawe 'Ohana) addressed the



members on the Floor of the House of Representatives during the 1977 legislative session.

The address on the Floor prompted a group of representatives to learn more about the Kaho'olawe issue as explained by George Helm and other members of the 'Ohana. It gave them the opportunity to talk to the 'Ohana as a group and to investigate some of their concerns in subsequent meetings.

Legislative interest remained keen and the representatives continued their investigative meetings. After contact with Hawai'i's congressional delegation an Ad Hoc Committee on Kaho'olawe was appointed by Speaker James Wakatsuki to serve with that appointed by President John Ushijima for the same purpose.

#### ORGANIZATION

Your Committee consisted of Representative Jann L. Yuen, who served as chairman, and the following Representatives who served as members: Representative Richard L. Caldito, Representative Minoru Inaba, Representative Kinau Boyd Kamalii, Representative Richard A. Kawakami, Representative Daniel J. Kihano, Representative Henry Haalilio Peters, and Representative Calvin K. Y. Say.

#### COMMITTEE APPROACH AND OBJECTIVES

The Ad Hoc Committee decided that public input and free communication with interested parties was essential in the understanding of the issue. It agreed to conduct a factual investigation of the issue and to seek objective and valid answers to questions that were usually emotionally posed. Throughout the investigations, the Committee agreed to keep a low profile, conducting research and looking for answers without any publicity.

The Committee then hoped to review the information garnered; determine how damaging, if at all, it may be to the relationship between the military and the local residents; and to transmit this information and relevant recommendations to the President of the United States and the United States Congress for further action.

The publication of an informative document on the issue of Kaho'olawe was intended as a final goal of Committee activity.

#### METHOD

The Committee conducted a series of meetings with people all over the State. Persons of varied ages and different economic, occupational, social, educational, and ethnic backgrounds were included in the meetings. Because of the participants expressed concern over press coverage of the meetings, the meetings were held with very little fanfare in the communities. Community leaders and others interested in the subject were invited to participate. In this way an atmosphere of free and open discussion was created.

Both the military and the 'Ohana members were given separate forums before the Committee in order that other members of the public would not feel "pressured" or "unwilling" to express their sincere opinions because of the presence of parties with notably strong views.

The Committee continuously sought candid discussions on the subject from people representative of the general public and not simply one segment with a particular interest. At the beginning of each meeting, the Chairman explained that the Committee's purpose was to listen to the views being presented without argument or judgment and that the opinions expressed would be recorded and used in the final study.

In addition to the statewide meetings, the Committee conducted a literature search, met with various resource people familiar with the Island (kupuna, archaeologists, historians, foresters, etc.), the Navy, and the 'Ohana. Throughout the study, the Committee's role was one of fact finding and objective investigation of the issue.

The results of the Committee investigations and interim activities are included in the comprehensive study entitled, Kāhō'olawe: Aloha no...A Legislative Study of the Island of Kaho'olawe.

#### FINDINGS AND RECOMMENDATIONS

After conducting numerous meetings throughout the State, and after input from both the Navy and the 'Ohana on the first draft of the study, the majority of the recommendations made by these groups regarding the study were incorporated in the final draft.

The Ad Hoc Committee's major finding is that the Navy has not presented sufficient data to uphold their claim to the entire Island of Kaho'olawe for military use. While the Navy has orally declared their cooperation, they have not provided the Interim Committee with enough hard data. Your Interim Committee finds that when the record is reviewed, the Navy appears contradictory in its positions; and Culebra and Miloli'i are prime examples of these shortcomings.

After a thorough study of this issue, your Ad Hoc Committee makes the following recommendations, with the note that while some may seem rather general at this point, the Ad Hoc Committee holds itself responsible for developing guidelines for the implementation of each recommendation and will oversee progress in these areas. A close working relationship with the executive branch on these matters has already been established and should be conducive to reaching an amicable solution to the problem at an early date.

#### Recommendation 1

Plans for opening a portion of the Island for shared civilian-military use on a limited and controlled basis should begin immediately with a schedule for hunting, fishing, and religious ceremonial use.

#### Recommendation 2

A volunteer program should be established so that the talents of archaeologists, historians, or others may be contributed to the project on a voluntary basis.

#### Recommendation 3

Additional staff should be hired to aid the archaeological team in its investigation of Kaho'olawe; and the use of Hawaiian historians should be encouraged.

#### Recommendation 4

The \$50,000 appropriated by the 1977 legislature for the archaeological study of Kaho'olawe should be released for use by the Department of Land and Natural Resources.

#### Recommendation 5

Archaeological work in the target area should be expedited.

#### Recommendation 6

Processing of applications for registering eligible sites with the National Register of Historic Places should begin immediately rather than waiting until the whole Island has been surveyed.

#### Recommendation 7

Kama'aina witnesses (meaning native born persons familiar with the culture and life-style of an area), selected by the Department of Land and Natural Resources, should be used as resources by the archaeologists and historians. (NOTE: During a visit by the Committee to the Island, one such witness was able to explain things to the archaeologist and to point out matters of interest to the visiting party that may otherwise have gone unnoticed or in some way have been misinterpreted.) The Committee recommends the careful selection of such witnesses and the selective use of their resources by the archaeologists and historians.

#### Recommendation 8

As negotiations progress at the State or Congressional level, keep all concerned citizens informed. Many have stated their interest and deserve to be kept aware of official progress toward a solution.

#### Recommendation 9

The heiau and ko'a on the Island should be preserved and restoration encouraged.

Recommendation 10

A review of the data presented by the Navy indicates that Kaho'olawe is important primarily to the Navy and the Marine Corps. It appears that the Army, the Submarine Force Pacific, the Air Force (other than the Tactical Air Support Squadron), and the Coast Guard could do without the use of Kaho'olawe as a target island. The Committee recommends that the Navy and Marine Corps look into scheduling and coordinating activities in other areas and begin a decrease of training activities on Kaho'olawe because though this is said to be going on now, improved coordination is indicated.

Recommendation 11

The Navy should accurately define the role of Kaho'olawe in terms of its place within the total military training plans in the State.

Recommendation 12

Because of the lack of supporting data, the lack of standard criteria, and the attempt to justify the existing rather than seriously examine alternatives for the future; the Third Fleet study on the Island of Kaho'olawe should no longer be represented to the public and the Congress as a valid study on the military need for Kaho'olawe.

Recommendation 13

Because the stated needs of the military presently require the use of only a portion the Island, plans for clean-up procedures and safety guidelines to permit the opening of other areas of the Island on a shared but controlled use basis should be initiated.

Recommendation 14

When considering alternatives to Kaho'olawe, the Navy should look into a number of different areas which, with the proper scheduling and coordination, could satisfy their total training needs.

Recommendation 15

A compromise, whereby aircraft training need not be moved to San Clemente but shared in other training areas, should be arranged. At the same time, ship bombardment could be concentrated at San Clemente and coordinated, for homeported ships, with cruises.

Recommendation 16

The military should consider increased training by simulator.

Recommendation 17

The Navy should clean-up by increments, moving inland from the seashore areas. Clean-up plans should be expedited.

Recommendation 18

While the bombing continues, the Navy should determine and record the locations of suspected unexploded missiles or other ordnance.

Recommendation 19

Concentrate on clearing those areas which can be opened on a controlled basis for civilian use for such activities as hunting and sustenance fishing, with consideration given to the people of Makena for non-commercial fishing.

Recommendation 20

Immediate plans for the opening of Hanakanaea and Hakioawa beaches for limited and controlled public use, with security measures coordinated with Maui County, should be made.

Recommendation 21

Whenever available, use of military personnel (EOD's) in the clean-up, primarily in the beach areas, should be considered, thus reducing projected costs.

Recommendation 22

Use of the Island for demolition training, not in terms of destruction but in terms of clean-up, including underwater demolition training, and get rid of some of the problem ordnance (unexploded) in the process. Ilio Point is one area that may be considered for this kind of clearance.

Recommendation 23

The Navy should base their projections on the economic impact to Hawai'i of removing Kaho'olawe as a target Island on actual facts and hard data. Otherwise, their projections must be regarded as invalid guess work.

Recommendation 24

A major replanting effort on the Island should begin immediately, with the military supporting State efforts in this area.

Recommendation 25

The State Department of Land and Natural Resources should be given reasonable access to replant and to maintain the replantings.

Recommendation 26

The Department (DLNR) should be provided transportation by the military to and from the Island while planting and then periodically thereafter for maintenance.

Recommendation 27

The planting of native vegetation in the shore areas outside the target range should begin.

Recommendation 28

For elimination of goats, establish a public hunting program in conjunction with Maui County and the Department of Land and Natural Resources and the Navy with the understanding that the hunters go on the Island at their own risk.

Recommendation 29

Consider a live roundup of goats which could later be sold at public auction.

Recommendation 30

Annual environmental impact statements should continue while the Navy retains control of the Island.

Recommendation 31

With the Committee setting guidelines and overseeing procedures, the Navy and representatives of the State should enter into serious negotiations to:

- (a) Establish a schedule of activities concerning Kaho'olawe.
- (b) Determine which areas can be opened for limited, controlled civilian use.
- (c) Reach an amicable settlement and together plan for the future of the Island with public input assured by Committee procedures, such as public hearings.

Recommendation 32

Recognize Kaho'olawe as one of the symbols of the Hawaiian renaissance and a key to the roots of Hawai'i.

Recommendation 33

Oral history studies concerning Kaho'olawe should be continued and suitably recorded.

Recommendation 34

The original Hawaiian place names for various areas of the Island should be maintained.

Example: Hanakanaea, rather than "Smugglers' Cove"

Recommendation 35

As a long-range project, a plan should be developed, utilizing Kaho'olawe as an educational tool for students whereby Hawaiian history and culture may be learned in a first-hand manner with visits to the heiau, ko'a, village sites, religious areas, and so forth.

Recommendation 36

The Committee should look into producing, through grants from agencies like the Hawaii Committee for the Humanities, an educational television program which gives an objective view of the many facets of the Kaho'olawe issue.

Recommendation 37

Recognize the value of the ancient philosophy and concepts as they might apply to the present-day life-style (including ho'oponopono, 'ohana, pule, and others).

Recommendation 38

The Committee should establish guidelines and terms for the negotiating efforts, and otherwise keep a close watch over all proceedings regarding Kaho'olawe and its future. The Committee should provide for procedures whereby community input will be assured, possibly through public hearings.

The concern of the public and that of the members of your Ad Hoc Committee is genuine and clear. In the future, we will continue our efforts toward assuring the clean-up and eventual return of Kaho'olawe to the people of Hawaii.

Signed by Representatives Yuen, Caldito, Inaba, Kamalii, Kawakami, Kihano, Peters and Say.

## Spec. Com. Rep. No. 14

Your House Committee on Culture and the Arts, pursuant to H.R. No. 712, adopted by the Regular Session of 1977, and directed to review the State Archives Program, begs leave to report as follows:

APPROACH TAKEN

An interim subcommittee was appointed during the 1977 interim to review the management and operations of the State Archives and consisted of the following members from the House Committee on Culture and the Arts: Representatives Calvin Say, chairman; James Aki; Richard Kawakami; Gerald Machida; Kathleen Stanley; Mitsuo Shito; Yoshito Takamine; Faith Evans; and Andrew Poepoe. Of particular concern to the Subcommittee's scope was a determination of public accessibility to Archives documents, records, and materials.

A public hearing was conducted to receive testimony from governmental and private agencies and individuals. Testimony was received from the Department of Accounting and General Services; Office of the Ombudsman; Hawaii Museums Association; Hawaiian Historical Society; Kauai Museum; Waioli Mission House Museum; Honolulu Academy of Arts; Alu Like Native Hawaiian Program; Ohana O Hawai'i; and private individuals who are Archives patrons. The Subcommittee also conducted an on-site visitation of the State Archives Building located on the Iolani Palace grounds.

The subcommittee submitted a report on its findings and recommendations to the full House Committee on Culture and the Arts. This report was adopted by your Committee and is submitted herein.

BACKGROUND

The statutory history of the Hawaii State Archives can be traced to 1905, when Hawaii's then territorial government established an archives program by creating a three-member

Board of Commissioners of Public Archives. This commission was charged with the responsibility of collecting all public archives, arranging, classifying and inventorying, preserving, and furnishing information on the archives. By 1949, a record disposal system was created to allow for a systematic determination of which public records should be maintained permanently and which could be discarded. By statute, each agency was required to first obtain approval from a Board of Records Disposal before destroying any records.

The Reorganization Act of 1959 placed the duties for the collection, preservation, and disposal of public records with the Department of Accounting and General Services and eliminated the Board of Commissioners of Public Archives. It also transferred the disposal of State records function to the State comptroller. While the present law does not require the comptroller to consult with the State archivist prior to the disposition of public records, this practice is maintained informally under the State's Archives program.

Presently, the Archives Division of the Department of Accounting and General Services (DAGS) provides logistical, technical and professional support to all State agencies by:

- (1) preserving records of historical value and making these records available to the public and governmental agencies;
- (2) inventorying, evaluating and determining final disposition of records in State agencies; and
- (3) providing facilities and service for microfilming or storing records not currently needed by State agencies.

Organizationally, the division maintains a records service branch and records management branch. The records service branch collects, inventories, and preserves records of historical value and provides reference service to those requiring the use of State documents, records, and materials. The records management branch is responsible for a records center which provides centralized microfilming service to State agencies. It is also responsible for those State records which must be retained for a specific period of time but are not of permanent value such as personal income tax reports, personnel records, workers compensation claims, and vouchers. This branch microfilms only those records having permanent or security value. This would include court cases, real property tax assessment and payment records, high school student records, and vital statistics. In most cases, original records except for vital statistics and land commission records are destroyed after filming.

Over the years, public and governmental use of the Archives has steadily increased. In fiscal year 1973-74, the Archives averaged 28 registered readers a day or 6,274 readers for the year. In three years, this number increased to 8,227 readers a year or 37 per day. According to Archives staff estimates, approximately one-half of these readers are persons of Hawaiian ancestry seeking information on land or family history. Besides servicing register readers, the Archives also receives 20 to 24 letters a month and 75 to 100 telephone calls per month for archival assistance.

#### FINDINGS AND RECOMMENDATIONS

It was found that the adequacy of the State's Archives Program has been challenged in recent years by the proliferation of the number of records created by State agencies and by increasing public and governmental use of archival records and materials. While this program has managed to carry out its statutory responsibilities, problems relating to the adequacy of staffing and facilities, public accessibility to records, and rules governing the Archives' operations exist and have affected the level and quality of its services to the government and the general public.

#### Staffing

The lack of sufficient staff has significantly affected the quality of services provided by the Archives, particularly in regard to record-keeping, reference service and microfilming.

- (1) Record-keeping. The Archives record collection program established in 1905 has expanded from a collection of documents numbering in the thousands to a program responsible for records numbering in the millions. Initially, the Archives retained all public records and indexed each item according to subject and name. The expansion of this record collection into the millions has made indexing all records an impossibility. One remedy was the creation of a system for the destruction of records having no permanent value.



Presently, descriptive inventories of records and some indexing of certain records are used to carry out record-keeping services. The purpose of the record inventory program is to identify and determine which records should be microfilmed, which should be permanently retained, and which should be disposed of after a certain time period. This determination is supposed to be made prior to submittal of these records to the Archives. It was found that the Archives has not been able to satisfactorily make this determination because of staff limitations. Currently, there is only one staff person assigned to these tasks when, according to Archives testimony, three staff members are needed to handle the volume of this responsibility. Budget requests for additional staffing in this area have not been successful.

(2) Reference service. Testimony received from DAGS, historical organizations and other individuals cited weaknesses in the search and retrieval process of State records and documents. According to DAGS, there are thirteen staff members at the Archives Building where permanent records are kept for public use, but only six of the thirteen members are available for reference assistance to the public and government agencies. These six people also carry the additional responsibility of receiving and inventorying records scheduled for permanent storage at the Archives. Inadequate staffing has resulted in delays, inconveniences and a general frustration with government for Archives users.

This general inadequacy is further compounded by increasing numbers of persons of Hawaiian ancestry requesting assistance for geneological information. While the Archives does not conduct geneology searches, it does advise on where such information can be located. The Archives division has requested CETA and SCET workers to assist with its reference service but has not met with any success in obtaining such assistance. The Archives, through DAGS, has also requested Alu Like, a nonprofit organization assisting Hawaiians, to provide a position for reference service through federal funding it is scheduled to receive.

(3) Microfilming. The State records microfilming program was initially established as part of the Archives program to provide centralized microfilming services for all State agencies. The intent was to maximize the use of this unit and ensure quality control in microfilming. It has been found that there is a backlog of records not microfilmed, and that this is due to insufficient staffing and the increasing volume of records to be microfilmed. The microfilming unit was originally established twelve years ago and consists of two photographers and four clerks. Despite an increasing number of records to microfilm, it was learned that the number of clerks has recently been decreased to three. Microfilming generally includes real property, court, vital statistics, and corporation records. Budget requests for additional microfilming staff and equipment have not been successful.

The backlog of records not yet microfilmed has caused agencies to seek other alternatives. The Judiciary Department was authorized funding to establish its own microfilming unit for court records. Other agencies have contracted with private firms for the microfilming of agency documents and records. In some of these instances, the film used has been found to be unacceptable to archival standards.

Your Committee therefore recommends that the Department of Accounting and General Services and the Department of Budget and Finance place higher priority on operational funding for staffing and equipment in the areas of record-keeping, reference services, and microfilming for the State Archives program. The Department of Accounting and General Services and the Department of Budget and Finance should also examine the practice of having agencies microfilm their own documents and provide funds for these types of activities when such services are currently being performed by the State Archives.

Your Committee believes that the Archives should maintain this basic responsibility and that a centralized microfilming service should be pursued rather than a proliferation of microfilming in other agencies and contractual arrangements for private services. Your Committee further believes that the Archives should develop standards and criteria to govern its own microfilming activities as well as others, in order that a consistent quality and format be maintained statewide.

#### Facilities and Equipment

Testimony from DAGS, community groups and individuals using the Archives revealed that user dissatisfaction with Archives services is also related to the lack of certain facilities and equipment. Existing Archives study areas are physically designed to accommodate 20 persons but must sometimes accommodate as many as 70 persons a day. Insufficient

numbers of typewriters and microfilm readers for public use present additional problems to users. Presently, there is only a single, outdated microfilm reader for general use by the public.

Your Committee believes that while it is difficult to expand the study area to accommodate greater numbers of readers, high priority should be given by DAGS and the Department of Budget and Finance to at least increase the number of typewriters and microfilm readers. Without a sufficient number of microfilm readers, the use of microfilmed records and documents will continue to be preventive to the general public desiring information and assistance from the Archives.

#### Accessibility to Archives Records

A determination of the appropriate balance between public accessibility and the preservation of the Archives' record collection was found to be a major issue in the management and operations of the State Archives. The Archives has the responsibility to ensure that permanent records are available for public use and at the same time, ensure that necessary safeguards are taken to preserve those records determined to be of historical value.

The present Archives policy is to make all records available to the public. However, this policy is subject to certain exemptions which would restrict access to certain types of records and materials.

For purposes of confidentiality, records relating to the activities of Hawaii's leper settlements and change of name petitions have been restricted from general public access. Department of Health permission is needed prior to the use of those records relating to leper settlement activities.

Testimony from individuals seeking genealogical information centered on problems relating to the pre-1900's newspaper collection. Archives policy is to restrict access to these newspapers due to their fragile nature, and the view that newspapers are not public records. According to the testimony from the Attorney General's office, the Archives has the right to withdraw physical access to the pre-1900's newspaper collection. However, the public still has the right to the information contained within these newspapers. According to the Archives, microfilmed copies of these newspapers are available at the State library. In instances where microfilmed copies are difficult to read, an Archives staff member will search for the information and make it available to the requester. However, the original document or record will not be made available. Complaints were received from users who found this process not only cumbersome but questioned the adequacy of Archives staff attempts to locate the information being requested.

Your Committee recognizes that an adequate index system for certain records and facilities are major factors affecting public accessibility to certain types of information. It was learned that the absence of a vital statistics index has made it difficult for those seeking genealogical information. It was also learned that because many historical documents are written in Hawaiian, Archives users unable to read Hawaiian seek the assistance of Archives staff personnel. While the Archives employs a person to translate its documents, that person must also assist in translating documents for court cases as well as respond to inquiries and requests for translation assistance by the general public.

Your Committee believes that the criteria in determining public accessibility to public records should recognize the importance of balancing record preservation with public access to information contained in public records and documents. Your Committee recommends that in instances where information is available and readable on microfilmed copies, public access to inspect the original document should be denied. In instances where microfilmed copies are not readable or the physical condition of the original document is not readable, the public should have the opportunity to physically inspect the document to satisfy any questions they may have regarding the information being sought. Procedures should be established to permit the physical inspection and use of the original document under close supervision of a staff member. Public inspection of original records should be permitted until defective microfilmed copies of records are replaced with acceptable copies. Your Committee also recommends that DAGS place a big priority for funding additional staff resources to provide adequate translation services to the public and accelerate its efforts in translating Hawaiian-written documents to English.

#### Rules and Regulations

It was found that while there are written guidelines regarding the use of archival documents, records and materials by the public, these rules have not been formally adopted. Testimony from individuals cited an attorney general's opinion suggesting that the Archives adopt

its patron rules by following the provisions of the Administrative Procedures Act. According to DAGS, the Archives is planning to hold public hearings on these rules in early 1978.

Your Committee recommends that the Archives adopt its patron rules by following the Administrative Procedures Act as soon as possible to ensure proper public use of the State Archives. Your Committee further recommends that these rules clearly establish the scope, level, and degree of its services to the public. Your Committee believes that such rules will minimize what appears to be public confusion regarding the Archives services to its users.

Signed by Representatives Say, Aki, Kawakami, Machida, Stanley, Shito, Takamine, Evans and Poepoe.

Spec. Com. Rep. No. 15

Your House Committee on Energy and Transportation, pursuant to H.R. No. 427, adopted by the Regular Session of 1978, and directed to review the status of the proposed Barbers Point Deep Draft Harbor land exchange between the State of Hawaii and the James Campbell Estate, begs leave to report as follows:

#### Committee Approach

Your Committee was directed to review the status of the proposed land exchange agreement between the State and the James Campbell Estate, whereby approximately 250 acres of Estate land is conveyed, at no cost, to the State for the development of a Barbers Point Deep Draft Harbor. This second Oahu deep draft harbor would handle projected increases in waterborn cargo beyond the capacity of Honolulu Harbor, which now serves as the State's major port of entry and waterborn cargo distribution center.

The complex nature of the proposed land exchange agreement and the lead time needed by the State Department of Transportation (DOT) and Campbell Estate to respond to questions posed by Committee members required that regularly scheduled Committee meetings be utilized to receive and consider written and oral testimony from DOT, Campbell Estate, the Waianae Land Use Concerns Committee, the University of Hawaii Environmental Center and the Ho'Ala Kanawai ("Awakening the Law"). Committee members previously inspected the site of the proposed Barbers Point Deep Draft Harbor during a review of the 1995 Honolulu Harbor Master Plan conducted during the legislative interim prior to the 1978 session.

#### Background and Testimony

The 1995 Honolulu Harbor Master Plan, developed by the Honolulu Harbor Multi-Model Task Force, calls for the redevelopment of Honolulu Harbor to its maximum capacity and usage through the year 1995 and proposes the development of a second Oahu deep draft harbor which would commence operations in 1985 to handle excess Honolulu Harbor cargo volume. Your Committee has filed Special Committee Report No. 5-78 specifying your Committee's concern that Honolulu Harbor's redevelopment should be subject to continuing legislative oversight and believes that a corresponding review of any proposal for a second Oahu deep draft harbor is appropriate.

Prior to the 1995 Honolulu Harbor Master Plan, the Legislature appropriated \$200,000 (Section 88A(c), Act 218, SLH 1973) to the Department of Transportation for the incremental development of a second Oahu deep draft harbor, contingent upon the State obtaining an agreement from the land owner that the land required for the proposed harbor, less dredge spoils, and needed back-up areas be given to the State at no cost. The land exchange agreement under consideration would be the basic document to accomplish such a land transfer.

Testimony presented by the Department of Transportation supported the land exchange agreement as presently drafted. According to the Department of Transportation, purchase of the Estate's lands in fee by the State is not feasible because it does not meet the criteria specified in Act 218-74 Session Laws of Hawaii, and because it would require the State to pay the Estate \$10.1 million for land acquisition and \$6.5 million for the rental of coral stockpile lands. The department noted that Act 218-74, Session Laws of Hawaii, moneys can be appropriated for the development of Barbers Point Harbor only if the State can obtain the land for the harbor, less dredge spoils, at no cost to the State. Consequently, while conducting the negotiations with Campbell Estate, the department has considered that the land itself, plus any dredge spoils from Estate land, belong to the Estate.

The department also testified that under the State's mineral rights law, coral is not

a mineral; and even if it were to be argued that coral is a mineral, the Land Court documents pertaining to the Estate lands in question do not contain any mineral rights' exceptions or reservations. Therefore, the Estate owns any coral or coral spoils derived from Estate lands.

Testimony by James Campbell Estate was in support of the land exchange agreement and described in detail the historical development of plans for a second deep-draft harbor at Barbers Point, Oahu. The Estate described the coral sales contract which it is negotiating with a private coral processor, and estimated that the proceeds from the sale of coral spoils under this contract coupled with an increase in the value of adjacent Estate-owned lands over time would, on a present worth basis, closely equal the value of the land conveyed to the State.

During public hearings, the First Report of the Guardian ad Litem for James Campbell Estate was circulated among your Committee members and the following statements were noted:

"Even if we were to assume that the compensation to the Estate in the form of proceeds from the spoils sales contract does not amount to the fair market value of the land being conveyed, we think that the transaction would still be desirable and valid.... Even if the degree of impact of such a facility were to be speculation only, we do note that in the past, in the State of Hawaii and elsewhere, the development of harbor facilities have resulted in the enhancement of land values for lands surrounding such facilities."

Your Committee noted a discrepancy between the department's contention that the Estate is taking a risk by entering into the coral sales agreement and the Guardian ad Litem's optimism about the expected increases in land enhancement values to adjacent Estate-owned lands.

The Ho'Ala Kanawai ("Awakening the Law") testified in support of a review of the land exchange agreement as it relates to the question of mineral rights. The group testified that in their opinion coral is a mineral defined under Section 181-1, Hawaii Revised Statutes, and all proceeds from the sale of coral spoils are covered under the 5(f) reservation of the Admissions Act. If a corporation is established to oversee the disposition of coral spoils, the Ho'Ala Kanawai requested that it be established pursuant to the Admissions Act reservation of coral sales proceeds to the trust's beneficiaries.

Testimony from the Waianae Land Use Concerns Committee opposed the development of the proposed Barbers Point Harbor and requested a thorough investigation of land enhancement values to Campbell Estate from the construction of the deep-draft harbor. The Land Use Concerns Committee also expressed its concern that the sale of coral spoils from both Campbell Estate lands and State lands may be a violation of the State of Hawaii's Trust for the Hawaiian People established under Section 5(f) of the Admissions Act.

The University of Hawaii Environmental Center raised several questions about the impact of the harbor's construction on surrounding agricultural land use patterns, its relationship to the State's controlled growth policy and possible adverse impacts on the harbor's operation due to long-term surging effects within the harbor as presently designed. The Environmental Center recommended a continuing study of the surge problem by the Army Corps of Engineers, and the Department of Transportation testified that supplemental funding had been requested by the Corps to conduct such a study.

Oral testimony by Mr. Scott Sullivan of the Army Corps of Engineers revealed that the State's matching contribution to the dredging of Barbers Point Harbor is currently authorized at 2.1 percent, or less than one million dollars. The Hawaii Office of the Army Corps of Engineers has submitted a post-authorization memo to the Secretary of the Army which recommends an increase in the State's matching contribution to 4.4 percent. Based upon the amount of benefits which will accrue to non-national interests under the Memorandum of Intent and coral sales agreement outline, the Secretary of the Army has taken a position that the State's matching share should be as high as 9 or 10 percent. If the State's matching contribution to harbor dredging is raised above 4.4 percent, the Department of Transportation has testified that both Congress and the State Legislature will have to appropriate additional funds for harbor dredging.

#### Findings and Recommendations

During an extensive discussion of the land exchange agreement, the Department of Transportation stated that while the State may observe the negotiations by Campbell Estate to establish a coral sales corporation, the State is bound to approve, accept and abide by the terms of the contract unless it is untransportable or not in the best interests of the

State. Your Committee finds that there are significant risks to the State under the land exchange agreement and has made the following recommendations to the Department of Transportation: (1) at a minimum, the State should retain an equal voice with James Campbell Estate in the selection of an administrator to oversee the activities of the coral sales corporation; (2) the State should require that there be a termination provision in the contract in the event that the State finds it necessary or desirable to terminate the agreement; (3) the corporation should be prohibited under the contract from subleasing any of its interests or operations without prior approval by the State; and (4) the House of Representatives should be kept informed about the status of the coral sales contract negotiations.

Your Committee also finds that the population projections used to develop the 1995 Master Plan for Honolulu Harbor have been revised downward by the Department of Planning and Economic Development. Specifically, under the 2-F population series released in March 1978 it is expected that there will be 122,000 less people and 100,000 less jobs on Oahu than projected by the Department of Planning and Economic Development's earlier E-2 projections for the year 2000. Your Committee is deeply concerned about the impact of these revised population and employment projections upon the viability of a second deep-draft harbor on Oahu and has requested the Department of Transportation to submit new and revised harbor development plans and cost/revenue projections based upon the new State population information.

Your Committee believes that the proposed land exchange agreement is a working document that attempts to satisfy both the conditions imposed by prior legislative action and the desire to meet the State's waterborne transportation needs in the most economical and efficient manner. However the concerns raised by committee members deserve careful consideration prior to the finalization of a land exchange agreement.

Signed by Representatives Cayetano, Takamura, Abercrombie, Cobb, Dods, Kiyabu, Kunimura, Machida, Mina, Mizuguchi, Peters, Say, Stanley, Suwa, Takamine, Uwayne, Evans, Ikeda and Medeiros.

Spec. Com. Rep. No. 16

Your House Interim Committee on Employment Opportunities and Labor Relations appointed pursuant to H.R. No. 712, adopted by the Regular Session of 1977, and directed to review the State's unemployment problems, begs leave to report as follows:

#### BACKGROUND

In the late sixties and early seventies some 8,820 persons were unemployed, giving Hawaii a respectable unemployment rate of 3 percent. However, in the mid seventies came the end of the construction boom. In combination with the adverse effects of several maritime dock strikes, the energy crisis, a shortage of credit in the money market and a slowdown in tourism due to nationwide recessionary economic conditions Hawaii's number of unemployed increased significantly to the point where unemployment has become one of the most pressing problems for the State in recent years. In 1974, unemployment in Hawaii reached 7.9 percent or 29,000 unemployed workers. The following year it rose noticeably to 8.3 per cent or 31,850 jobless and then increased drastically to 9.8 percent or 39,000 unemployed in 1976. In 1977, the State's unemployment rate leveled off to 7.4 percent or 30,000 unemployed.

The social and economic impact of continuing high unemployment is further compounded by the uncertain outlook of Hawaii's economy. The unemployment rate is expected to fluctuate between 7 to 8 percent, provided no major strikes or other similar unforeseen circumstances take place. These projections will mean a heavy burden on those public programs and services intended to provide unemployment relief. The unemployment situation is expected to be further compounded by such factors as high interest rates and the resulting tight money situation, as well as a labor force that is expected to exceed job expansion.

#### APPROACH TAKEN

In a three-day series of public hearings held on December 19, 20, and 21, your Committee focused on the following:

(1) A review of the Department of Labor and Industrial Relations' (DLIR) study on the impact of the amendments made to Hawaii's Employment Security Law in Act 157, SLH 1976;



- (2) An examination of financing proposals to achieve solvency in the Unemployment Insurance Trust Fund;
- (3) A review of the State Program for the Unemployed (SPU) and federal Comprehensive Employment and Training programs (CETA) and an examination of the effectiveness of the State Comprehensive Employment and Training (SCET) component of SPU in achieving its goals;
- (4) A review of the Youth Employment and Demonstration Projects Act of 1977 and other proposals to facilitate youth employment; and
- (5) An examination of the relationship between increasing unemployment rates and welfare costs.

Testimonies were received from: the State Department of Labor and Industrial Relations; the State Department of Social Services and Housing; Office of Human Resources and Department of Parks and Recreation, City and County of Honolulu; State Commission on Manpower and Full Employment; University of Hawaii; small and large businesses; labor unions; business and worker associations; and private citizens.

The major findings of your Committee under each area of concern are discussed below.

#### FINDINGS

Act 157, Session Laws of Hawaii 1976. The enactment of the Hawaii Employment Security law in 1937 established the state's unemployment insurance program which is administered by the State Department of Labor and Industrial Relations. The program has received much attention over recent years as widespread and prolonged unemployment continues to drain the unemployment insurance trust fund. The increasing cost of financing unemployment insurance applicants has put the fund into a \$22.5 million deficit and forced the State to borrow heavily from federal unemployment funds. Therefore in 1976, the legislature proceeded to make the law more stringent through eight major amendments including the restriction of unemployment benefits to only those who become unemployed through no fault of their own, improvements for the detection and prevention of fraudulent claims, and means of restoring the trust fund's solvency. In the one year that has lapsed, the Department of Labor and Industrial Relations undertook an evaluation of the impact of the 1976 amendments. The department's findings which were submitted to your Committee, relate to six amendments affecting the administration and operation of the unemployment insurance program:

- (1) Definition of week of employment. In 1976, a new minimum requirement for hours or days constituting a week of work was established. The DLIR reported this amendment as having a negligible effect of 2 percent or less on the amount of benefits saved due to claimant ineligibility.
- (2) Disqualification provisions. Under another amendment, workers would not qualify for unemployment benefits if they caused their own unemployment by quitting voluntarily without good cause, by being discharged or suspended for misconduct, or by failing to apply or accept suitable work. To requalify for unemployment benefits, workers must be reemployed for at least five consecutive weeks and then separated from employment under nondisqualifying conditions. According to DLIR, this amendment has been effective and has resulted in a savings to the State of 7 percent in the annual operating cost of the program.
- (3) Fraud penalty. The penalty for claimant fraud was increased from a disqualification period of a minimum of one to a maximum of 52 weeks to total denial of benefits for 24 months after the determination of fraud is made. The DLIR, indicated that the effectiveness of this amendment is difficult to assess but acknowledged that the severity of the penalty may have had a psychologically deterring effect. Furthermore, the department noted that overpayments amount to less than one-half of one percent of total benefit payments.
- (4) Trust fund contributions by government. The past practice of state and county governments reimbursing the trust fund after benefits are paid to former public employees was amended to require advance payments to the trust fund on a quarterly basis to cover benefit payments of former government employees. The DLIR commented that this is a fairer arrangement and does correct the inequity between private and public employers in financing benefits.
- (5) Elimination of noncharged benefits. Prior to 1976, an employer was not charged



for benefits paid to workers who voluntarily quit, were discharged or suspended for misconduct, or failed to apply or accept suitable work. Under previous law, these workers would only requalify for benefits after serving a disqualification period of three to eight weeks. This was amended to charge benefits paid to such workers to the employer's account thereby more accurately reflecting the unemployment experience record of each employer. The DLIR reported that the effectiveness of this amendment cannot be determined at this time because data on benefit charges and noncharges are available on a calendar year basis, a factor which had delayed the implementation of this particular amendment.

(6) Employer reporting requirements. Previously, information about a person's employment was requested from an employer only at the time an applicant first filed a claim for benefits. Employers are now required to report each hire within five working days of the date of hire and each separation within five working days of the last date of employment. According to DLIR, the mandatory hiring reporting has served as a catalyst for detecting fraudulent overpayments as reflected in the 33 percent increase in the overpayment cases and a 122 percent increase in the number of fraud cases. At the same time however, the separation reporting has generated paperwork of which only 26 percent has been used to process claims.

Generally, your Committee found that private employers and small business organizations feel there is a need for further amendments to the Hawaii Employment Security law which would make the program more restrictive. At the same time, labor unions and other worker organizations believe that the 1976 amendments, particularly the disqualification provisions, already are decided disadvantages for the employee and run contrary to spirit of the law that was designed to establish a major worker benefit program.

Unemployment Insurance Trust Fund. Unemployment benefits are paid from an unemployment insurance trust fund which is maintained by employer contributions, penalties, and earned interest. Generally, each employer's contribution or tax rate is determined by the employer's unemployment experience. Thus, an employer with a large turnover of employees is subject to a higher tax rate than one with a marginal turnover of workers. This method of assessment is used as long as the trust fund's balance remains at more than \$20 million. However, if the total fund balance is less than \$20 million but at least \$15 million at the end of the calendar quarter, the tax rate of all employers is increased by .5 percent. Should the fund balance drop below \$15 million, all employers are assessed the maximum rate of 3 percent.

In April 1975, this emergency 3 percent tax rate went into effect and since then, the fund has continued to decline. During the first six months of 1976, the fund eventually depleted itself and by August 31, 1976, it had reached a negative level of \$22.5 million, requiring the State to borrow this amount from the federal trust fund to meet its benefit payments. To replenish the trust fund and restore its solvency, the 1976 amendments increased the taxable wage base from 90 to 100 percent of the statewide average annual wage and added a .5 percent increase to the employer tax rate for the 1977 calendar year. This established a flat rate of 3.5 percent for all employers which was extended through the 1978 calendar year by Act 169, Session Laws of Hawaii 1977.

Your Committee was informed by DLIR that at the end of 1977, the trust fund balance was \$28.5 million of which \$22.5 million must be returned to the federal government in 1979. The DLIR has projected that at the end of 1978, a \$24.2 million balance is anticipated in excess of \$22.5 million owed to the federal fund.

Given the present period of sustained unemployment and the inability of the trust fund to meet its benefit payment level in the past, your Committee believes there is a need to find alternative means of financing which can generate income sufficient to offset excessive benefit payments during periods of high unemployment. Those who testified, generally agreed that the State should return to the experience rating system of financing, but did not agree on the appropriate formula by which to measure this experience. Presently, employers contribute according to their unemployment experience which is based on the reserve-ratio formula when the trust fund is not in financial danger. A reserve is maintained by each employer which is an account with a balance determined by subtracting the amount paid out in unemployment insurance benefits to former employees from the employer's total contributions to the fund. To compute an employer's reserve-ratio, the reserve is divided by that employer's annual taxable payroll averaged over three years. Once the reserve ratio is determined, it is assigned a tax rate using any one of three schedules which currently range from .2 percent to 3 percent.

Several testimonies supported the conversion from the reserve-ratio to the benefit-ratio formula. Under the latter, only benefits paid to an employer's former employees over the last three years is divided by that employer's taxable payroll for the same period.

The National Federation of Independent Business contended that the benefit-ratio formula is preferable because it is "more responsive to changes in the economy".

Another method of financing, suggested by the Hawaii Business League, calls for both employers and employees to contribute to the funding of unemployment insurance benefits. This would require the establishment of an employer's tax schedule which would be higher than an employee's schedule.

Public Service Employment Programs. The State currently has two major government-funded temporary job programs designed to reduce the high level of unemployment. Created by Public Law 93-203, the federal Comprehensive Employment and Training Act (CETA) was implemented in Hawaii in 1974 to provide employment, training and related services to the unemployed, underemployed, and economically disadvantaged persons. In Hawaii, federal CETA funds are available under five of the seven titles the greatest amount falling under Title II, public service employment. These funds are currently received by the City and County of Honolulu as the administering agency for Oahu and the State of Hawaii as the administering agency for the counties of Kauai, Hawaii, and Maui.

To supplement the federal CETA program, the State established the State Program for the Unemployed (SPU) by Act 151, Session Laws of Hawaii 1975. The public service employment component or the State Comprehensive Employment and Training program (SCET) provides temporary jobs and all forms of job training.

According to DLIR testimony, these programs have provided temporary employment to 5,067 unemployed or underemployed persons in the State. Approximately 3,024 persons were served under CETA and 2,583 under SCET. The State is anticipating \$27.7 million in CETA funds for the FY 1978 with plans to use these funds to employ 3,290 individuals. Twelve million dollars has been appropriated under SCET for the FY 1977-78 to serve 1,584 participants.

Testimony from the University of Hawaii, Office of Human Resources, Department of Parks and Recreation, and the Honolulu Theatre for Youth cited projects that have been developed or expanded under CETA and SCET funds. However, many also registered concerns over operational problems in some of the projects because of the uncertainty of their funding status.

Youth Unemployment. Your Committee was informed by the State Commission on Manpower and Full Employment that in 1975, unemployed teenagers in Hawaii constituted 28.9 percent of all unemployed persons. At the State level as well as nationally, the youth segment of the population has been identified as a major group suffering severe unemployment problems. Federal legislation was recently enacted to provide skills, work experience and jobs through employment, training and demonstration projects for eligible youth.

One of these federal programs planned for Hawaii is the Youth Employment and Demonstration Projects Act of 1977. It is intended to increase youth employment and employability by: coordinating and improving career development, jobs, training programs; encouraging youth to remain in schools; and exploring different approaches to delivering services to youth. The State is to benefit by four new projects under this program:

(1) Youth Incentive Entitlement Pilot Projects. This will include ten to sixteen pilot projects to determine the efficacy of guaranteed part-time employment or a combination of part-time employment and training for teenagers. The project would take place during the school year and summer for those 16-19 who are working towards a high school diploma.

(2) Youth Community Conservation and Improvement Projects. These are intended to be community improvement projects providing employment and training services to unemployed youth, ages 16-19 inclusive.

(3) Youth Employment and Training Programs. These projects will provide a range of employment and training services in coordination with local-youth related activities for those 16-21 and under special conditions, youth between ages 14-15 inclusive. Program services include counseling, occupational and labor market information and job placement and will be made available to all youth. Subsidized work experience or skill training however, will be available only to youths who meet the income requirement.

(4) Young Adult Conservation Corps. The Forestry Division of the Department of Land and Natural Resources has been selected as the agency responsible for implementing conservation projects on public land and waters for unemployed youth ages 16-23 inclusive. These are to be year-round projects developed to provide full-time, day

employment which includes such jobs as trail maintenance, fence mending, road maintenance, and tree trimming. Youth employed in these projects will be paid the minimum wage.

According to DLIR, a total of \$2.7 million will be received under the Youth Employment and Demonstration Projects Act which is expected to accommodate approximately 2,105 youths. Projects under these programs have been scheduled to operate between January and September 1978.

Unemployment and Welfare Costs. The State Department of Social Services and Housing presented your Committee with statistics on unemployment and welfare costs from September 1976 to September 1977. The information showed that as unemployment rates increase, the number of persons on public assistance also increases. Slight decreases in the unemployment rate on a short-term basis does not appear to have any effect on the welfare caseload.

#### RECOMMENDATIONS

Since 1976, laws relating to Hawaii's unemployment compensation insurance program have been examined and changed. Opinions on certain changes such as the disqualification provisions appear to be polarized as are opinions regarding the future direction of the Hawaii Employment Security Act. At one end, small businesses are calling for more restrictions while at the other, organized labor contends that the disqualification provisions are depriving workers of the major employee benefit of income maintenance. These arguments are particularly critical during times of temporary unemployment.

Your Committee believes that further consideration and efforts be pursued to develop satisfactory alternatives at the 1978 legislative session before any action is taken to amend the laws. Your Committee further recommends that any action regarding financing arrangements for the Unemployment Trust Fund be deferred until the completion of a review of the reserve-ratio and benefit-ratio financing systems. This review had been requested of the Legislative Reference Bureau by the 1977 legislature.

Your Committee is encouraged by the favorable testimony on public service employment programs and their value in delivering needed programs and services to the community. Up to now, the emphasis has been on job creation. Your Committee recommends that with projections of a slight drop in future unemployment rates, more attention should be given to job training. At the 1977 legislative session, the State Program for the unemployed was amended to authorize all forms of worker training including institutional, classroom and on-the-job experience. Your Committee therefore recommends that DLIR continue to actively develop all forms of job training. To supplement this effort your Committee also recommends that additional funds be appropriated under the Manpower Development and Training Act as provided in Chapter 394, Hawaii Revised Statutes, and that training funds be made available to growing industries in Hawaii such as garment manufacturing.

Your Committee believes that the four new federally funded programs to stimulate youth employment will be of great assistance to the State. While youth unemployment may not appear to be as urgent a problem as adult unemployment, your Committee strongly believes that the high rate of unemployment has long-range implications for both youth and the State's economy as a whole. This is particularly true when the detrimental social and psychological effects the unemployment cycle can have on Hawaii's youth is considered. Therefore, your Committee recommends that the DLIR continue to work toward developing projects which will increase the employability of youth through education and training.

Although it is difficult to draw a positive correlation between high unemployment rates and increased welfare program costs, your Committee felt it would be beneficial to hear the Department of Social Services and Housing's analysis of the unemployment rate and its effect on the welfare caseload and thereby obtain a broader perspective of the social impact of high unemployment on the State's population.

Your Committee was encouraged by the interest, concern and numerous suggestions received during the 1977 interim hearings. Your Committee believes that although each interest group holds views that are not necessarily compatible, there is recognition and respect among the parties involved.

Signed by Representatives Takamine, Peters, Abercrombie, Cayetano, Cobb, Dods, Kiyabu, Kunitura, Machida, Mina, Mizuguchi, Say, Stanley, Suwa, Takamura, Uwaine, Evans, Ikeda and Medeiros.

Spec. Com. Rep. No. 17 (Majority)

Your House Committee on Housing, pursuant to H.R. No. 112, adopted by the Regular Session of 1977, and directed to review the State's housing program and operations, begs leave to report as follows:

#### APPROACH TAKEN

An interim subcommittee was appointed during the 1977 interim to review the state's housing program and activities consisting of the following members from the House Committee on Housing: Representatives Mitsuo Shito, chairman; James Aki; Yoshiro Nakamura; Herbert Segawa; Meyer Ueoka; and Tony Narvaes. Of particular concern was Hawaii's present and future housing needs and the effectiveness of the state's housing program in meeting these needs. A public hearing was held and testimony received from the Hawaii Housing Authority, a division of the Department of Social Services and Housing.

The subcommittee submitted a report on its findings and recommendations to the full House Committee on Housing. This report was adopted by your Committee and is submitted herein.

#### BACKGROUND

The Hawaii Housing Authority (HHA) was established in 1935 through Act 190 as a public corporate body and operated as a separate agency of the territorial executive branch until 1959. During this period, it was primarily responsible for housing assistance to low-income families and individuals through financial subsidies.

The Hawaii State Government Reorganization Act of 1959 placed HHA in the Department of Social Services and Housing, under the general administrative control of the department's director. HHA housing development activities are governed by a six member commission appointed by the Governor, the DSSH director, and the Governor's special assistant on housing, the latter two individuals serving as ex-officio voting members of the commission.

Presently, HHA administers a variety of housing programs designed to assist low-income households in the rental or purchase of housing units. The rental programs include: public housing, state rent supplements, and teacher housing. Home ownership programs include residential housing development and financial assistance, and land reform.

The difference among the rental programs lies in the degree of government assistance. The public housing rental program consists of federally aided projects, and state-nonsubsidized projects. Federally assisted projects are rental projects developed and constructed for low-income persons and the elderly. Privately owned housing units can also be leased for rental purposes to low-income families by HHA under a contractual agreement with the U.S. Department of Housing and Urban Development (HUD), with HUD paying the difference between the rent charged by the landlord and the amount of rent that can be paid by the tenant. State-nonsubsidized projects consist of state owned rental units where the rental amount is determined by the cost of operating, maintaining, and administering the rental units. The State rent supplement program for low and moderate income families involves private rental units. Under this program, the State pays the difference between the rent charged by the landlord and 20 per cent of the tenant's income, which cannot exceed \$70 per month for each qualified tenant and \$90 per month for those handicapped or 62 years and older. The Authority also provides publicly owned rental housing for teachers assigned to remote areas where adequate housing is not available.

Opportunities for home ownership by low and moderate income families are provided through HHA's Housing Development program as established by Act 105, SLH 1970. This program authorized the State to issue general obligation bonds totaling \$125 million for the development and financing of new housing projects for qualified residents. The Authority was permitted to acquire land and develop on its own or through joint partnership or purchase, housing units for home ownership. It is also permitted to engage in long-term loans; guarantee the top 25 per cent of privately financed mortgages; permit loans for the downpayment required toward the purchase of residential property; and participate with private lenders to provide loans for the purchase of residential property.

HHA is also responsible for implementing the State's land reform program that allows residential, single family dwelling leasehold homeowners to convert their property to fee by acquiring the leasehold interest in their property.

#### FINDINGS AND RECOMMENDATIONS

In reviewing the Hawaii Housing Authority's performance in providing rentals and home ownership for low and moderate income groups, your Committee found that several major factors relating to financing have limited the effectiveness of the state housing programs.

#### State Housing Financial Resources

State housing developments under the broad housing provisions of Act 105 is funded by a \$125 million Dwelling Unit Revolving Fund (DURF). The fund is financed through the sale of state reimbursable general obligation bonds. DURF has been a major source for long-term and short-term HHA construction and home ownership loans and land acquisition for future housing projects. Revenues generated from the sale of HHA sponsored housing are transferred to DURF for future HHA housing development activities and to pay for interest incurred from general obligation bonds that have been authorized to fund DURF. The allocation of DURF moneys as of June 30, 1977 is shown on Figure 1.

Your Committee found that while DURF moneys have been extensively utilized for the development of housing, DURF funding capabilities had been reduced from \$125 million to \$108.771 million as of June 30, 1977. This reduction of \$16.229 million is attributed to housing development project expenses exceeding revenues for the 1975-76 and 1976-77 fiscal years. Major factors contributing to expenditures exceeding revenues were interest payments on general obligation bonds issued for housing developments, unrecoverable project losses on several HHA housing projects and the costs incurred in maintaining and providing security for HHA unsold housing inventory.

Further, while the statutes imply that DURF is to be substantially self-sufficient, your Committee has learned that HHA has not been able to achieve this due to the following factors:

(1) Subsidy Programs. In certain instances, HHA is unable to recover financial assistance it provides through its subsidy programs which includes lowering the purchase price of its housing units or paying townhouse and condominium maintenance fees for limited periods of time. This is a common real estate practice employed by the private sector as incentives to increase the marketability of housing units and to accelerate sales.

(2) Carrying Costs. These costs have been generated by HHA's inability to dispose of housing units within a planned sales period and are generally unrecoverable if original sale prices are not increased. This would include such costs as mortgage payments and security for units until they are sold. HHA has also incurred a substantial carrying cost on land that has been acquired for future development but in the meantime, remains idle. As of June 30, 1977, the interest payments on these lands are approximately \$1.3 million a year.

(3) Unrecovered Loans. These include interim construction and mortgage loans that have not been fully repaid and are not immediately recoverable. While HHA has initiated litigation to recover these loans, DURF moneys allocated for these types of loans in the meantime are not available to fund other HHA housing projects.

(4) Interest Payments. HHA is required by law to pay interest on general obligation bonds used to fund DURF. HHA has been required to make interest payments until 1997 at which time it will have expended \$80,300,000 from its DURF account for interest payments.

Your Committee recommends that HHA place high priority on the use of DURF moneys for activities which will not bind large amounts of funds for long periods of time. Less emphasis should be placed on the use of DURF moneys for long-term commitments and non-revenue producing activities such as land banking or maintaining unsold, vacant housing inventory. Risk ventures that result in unsold housing or undeveloped land for housing should be minimized through the preparation and utilization of market feasibility studies. Along with such studies, aggressive pre-sale of housing units should also be practiced by HHA, prior to any financial commitment of DURF funds. The more prudent use of DURF moneys is strongly recommended to ensure the availability of sufficient funds for housing development activities and to achieve the effective cash flow and circulation of housing funds.

#### Effectiveness of State Housing Programs

The 1975 county-sponsored Housing Assistance Plans (HAP) estimates that 28 per cent of the total number of households in the State are in need of housing assistance. An HHA sponsored study entitled, "Housing for Hawaii's People" places this figure at 45 per cent or 112,000 of the State's total households in need of housing assistance. These estimates include the following need groups:



	<u>HAP</u>	<u>HHA</u>
Low-income Renters	19,430	56,484
Low-income Homeowners	13,154	21,750
Gap Group	33,950	33,950
(Additional population expected to reside)*	2,259	--
	<u>68,793</u>	<u>112,184</u>

Your Committee found that while 11 per cent or 6,385 of the State's estimated number of low-income renters are accommodated through HHA rental program, low-income home owners are not being served by any HHA programs. The gap group consists of households unable to qualify for private conventional, financial assistance and which at the same time are over-qualified for State public housing assistance. This group is a target group under Act 105, and has been the recipient of 2,179 units for purchase between 1974-77 the period during which Act 105 was operating on a full-scale rather than limited basis. This number of home ownership units provided 6 per cent of the total housing needs of the gap group. Although this amount seems low, HHA testimony also revealed that not all households in the gap group desire to become home owners and that as many as 50 per cent of the gap group households may be able to purchase a home without government subsidy.

Your Committee also examined and compared income characteristics of the statewide number of families in the gap group to see what per cent of these families are occupying Act 105 units, as a method of determining the program's effectiveness.

The following is a presentation of this comparison:

<u>Income</u>	<u>Families in Gap Group</u>	<u>Families Occupying Act 105 Units</u>
Less than \$15,000	66%	48.2%
\$15,000 to \$19,000	18%	44.4%
\$20,000+	16%	7.4%

Your Committee found that the Act 105 program is serving a reasonable proportion of the lower income level category (less than \$15,000) where the greatest need exists.

Another major finding of your Committee was that the State's housing program will not have substantial impact on meeting the future housing needs of Hawaii's people. The aforementioned HHA study projected that the needs of low-income renters, low-income home owners and the gap group will increase by 14 per cent or 14,894 households between 1975 and 1980, with low-income renters increasing by 13 per cent or 7,373; low-income home owners increasing by 14 per cent or 3,083; and the gap group increasing by 14 per cent or 4,538. HHA testimony on this matter revealed that while HHA's current and future housing efforts will be focused on the gap group, its production capacity will not be able to reduce the size of the existing and future gap group housing needs to any great extent. As of November 1977, HHA estimated that its 1978 production capability is limited by \$40 million in DURF funds available for new housing projects which would produce only 528 units at approximately \$50,000 per unit. HHA further testified that greater federal and county efforts in developing housing as well as the expansion of the State's existing housing development program will be required to alleviate the existing and projected housing needs of our State.

While your Committee recognizes that HHA cannot adequately nor substantially alleviate the increasing demand for housing, it should continue to work closely with county and federal governments and the private sector to develop new and improved methods of creating affordable and safe housing for Hawaii's people. Your Committee further recommends that HHA continue to strengthen its expertise in housing development and expand its capability to coordinate public and private resources in meeting the housing needs of Hawaii.

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\* County HAP requirement to estimate the number of households expected to move into the county area.



FIGURE 1

ALLOCATION OF DURF FUNDS  
AS OF JUNE 30, 1977  
(In \$1,000's)

PROJECT LOANS

Interim Construction Loans	14,449	
Long Term Loans	<u>10,961</u>	
Total		<u>25,410</u>

INVENTORY

Projects in Progress	380	
Units Available for Sale (357)	11,328	
Rental Units (180)	<u>4,090</u>	
Total		<u>15,798</u>

HOMEOWNERSHIP LOANS

First Mortgages	10,619	
Agreements of Sale and Second Mortgages	<u>5,780</u>	
Total		<u>16,399</u>

LAND

For Development	17,993	
Leased Land	<u>5,173</u>	
Total		<u>23,166</u>

OTHER

Cash and Investments	21,295	
Other Assets	403	
Unallotted Appropriation	6,300	
Losses to Date	<u>16,229</u>	
Total		<u>44,227</u>
Total DURF Funds		<u>125,000</u>
Total DURF Funds		125,000
Less: Losses to Date		<u>16,229</u>
DURF Fund Balance, June 30, 1977		<u>108,771</u>

Signed by Representatives Shito, Nakamura, Aki, Baker, Campbell,  
Segawa, Ueoka, Ushijima, D. Yamada, Narvaes and Sutton.  
(Representative Sutton did not concur.)

Spec. Com. Rep. No. 18

Your House Committee on Employment Opportunities and Labor Relations, pursuant to H.R. No. 712, adopted by the Regular Session of 1977, and directed to review the implementation of the Hawaii Occupational Safety and Health Law (HOSHL), begs leave to report as follows:

COMMITTEE APPROACH

A subcommittee was appointed during the 1977 interim to review the Hawaii Occupational Safety and Health Law (HOSHL), with particular attention to federal-state interrelationships and the impact of the program on employers. The subcommittee was composed of the following members from the House Committee on Employment Opportunities and Labor

Relations: Representatives Henry Peters, chairman; Neil Abercrombie; Robert Dods; Tony Kunimura; Gerald Machida; Ted Mina; Calvin Say; Jack Suwa; Carl Takamura; Clifford Uwayne; Donna Ikeda; and John Medeiros.

The subcommittee conducted a three-day series of public hearings and received testimony from the: U.S. Department of Labor; State Department of Labor and Industrial Relations; Department of Civil Services, City and County of Honolulu; Honolulu Police Department; Hawaii Government Employee's Association; Hawaii State Federation of Labor, AFL-CIO; United Public Workers, AFSCME; Public Safety Program of the Electrical Industry of Hawaii; Hawaii Sugar Planters' Association; General Contractors Association in Hawaii; Home Builders Association; Hawaii Business League; Hawaii Flooring Association; Hawaii Farm Bureau Federation; and interested private citizens.

The subcommittee submitted a report on its findings and recommendations to the full House Committee on Employment Opportunities and Labor Relations. This report was adopted by your Committee and is submitted herein.

#### BACKGROUND

On December 29, 1970, the William-Steiger Occupational Safety and Health Act was signed and became Public Law 91-596. This federal act, known as OSHA, represents landmark labor legislation designed to ensure safe and healthful working conditions for the nation's 57 million workers. It authorizes the U.S. Secretary of Labor to adopt and enforce occupational safety and health standards. The Occupational Safety and Health Administration is the federal agency within the U.S. Department of Labor charged with the responsibility of carrying out the provisions of the Act. Under Section 18 of OSHA, states are permitted to exercise jurisdiction over the occupational safety and health standards of their workers except for those employed in the maritime industry and federal agencies. State programs are to be monitored and approved by the federal Occupational Safety and Health Administration.

On May 16, 1972, the Hawaii State Legislature enacted Act 57 establishing the Hawaii Occupational Safety and Health Law (HOSHL), now Chapter 396, Hawaii Revised Statutes. In accordance with Section 18 of OSHA, a Hawaii Occupational Safety and Health Plan was developed and submitted to the U.S. Secretary of Labor in September 1972. It was approved and became effective in January 1974. The plan contains the State's enabling legislation, regulations, staffing projections, and statement of goals regarding the adoption of safety and health standards, inspections, employee coverage and other related subjects.

Hawaii's existing Division of Industrial Safety in the State Department of Labor and Industrial Relations was reorganized and redesignated as the Division of Occupational Safety and Health (DOSH). Occupational safety and health standards were promulgated and adopted and July 1975 marked the beginning of DOSH's administration and enforcement of safety and health standards in the State of Hawaii.

The prime objective of the Occupational Safety and Health program is to assure a safe and healthy working environment for all employees in the State. To accomplish this, DOSH performs the following activities: inspections to determine compliance with HOSHL and applicability of Occupational Safety and Health Standards; investigations in response to complaints; training and education classes including information dissemination on techniques and procedures for the identification, elimination, and reduction of safety and health hazards; consultation services on occupational safety and health standards; review and revision of standards and adoption of new standards; inspection and certification of all elevators in the State; and inspection of boilers, pressure vessels, amusement rides and other mechanical transport systems. To date, DOSH's operations consist of 70 staff members among its five branches and a budget of \$1.48 million for the fiscal year 1977-78.

#### COMMITTEE FINDINGS

The interim subcommittee focused on two major areas. One is the critical relationship between the federal and state OSHA agencies, particularly since the federal government exercises considerable control over the State's program and 50 percent of DOSH's activities involve federal funds. The other is the impact of the program's administration and operation on employers and employees in the State.

Federal-State Relationship. Testimony presented to the interim subcommittee by the Director of Labor and Industrial Relations described the federal-state relationship as strained by the unwillingness of the federal OSHA agency to recognize the capabilities of the State to administer its own program. The Director of Labor and Industrial Relations

is the "state designee" for the implementation of the Hawaii Occupational Safety and Health plan pursuant to Section 18 of OSHA. Failure of the federal government to allocate funds which would maintain the 50-50 percent federal-state funding basis was also cited.

Under the requirements of the federal OSHA, any state that elects to maintain control over its occupational safety and health program must develop and enforce standards which are equal to or more effective than those developed by the federal Occupational Safety and Health Administration. After a state plan is approved, an active enforcement period of its safety and health standards begins. During this time, the state assumes safety and health standards duties while the federal Occupational Safety and Health Administration assumes the responsibility of monitoring and evaluating the state's effectiveness in enforcing its own standards. One of the regional offices of the federal Occupational Safety and Health Administration conducts semi-annual evaluations during the three-year developmental period and may recommend operational changes. The state may be cited for any enforcement deficiencies by the federal agency during this period.

Once the state has completed the three-year developmental period, the state's plan must be certified by the U.S. Secretary of Labor. Certification means that all the developmental steps leading to the state's plan has been satisfactorily met, after which the federal regional office begins a one-year period of intensive evaluation of the state's plan. Following this, the state's plan must receive final approval from the U.S. Secretary.

The subcommittee found that Hawaii's Occupational Safety and Health Plan was approved in 1974, that the State has completed its developmental period, and that certification from the U.S. Secretary of Labor is presently pending. It was learned that much concern exists in the Department of Labor and Industrial Relations, the business industry, and labor unions over the delay in certification.

This inaction is interpreted by some as the federal OSHA agency's attempt to limit the extent of local autonomy by the states over their respective programs. DOSH contends that Hawaii entered into its last developmental step in August 1976 and has been eligible for certification since January 1977. According to the federal OSHA administration, however, Hawaii completed its last developmental step satisfactorily in January 1978 and is only now eligible for certification.

Testimonies on the federal-state relationship unanimously support the State's administration of HOSHL and its attendant program for the following reasons: (1) DOSH has a better understanding of and willingness to recognize the problems of local industries; (2) the federal OSHA requirements should function as the minimum from which the State can develop stricter and/or more suitable occupational safety and health standards for Hawaii's labor force; and (3) a state-operated program provides greater control over funding and availability of program personnel.

According to the State Director of Labor and Industrial Relations, the Hawaii State Legislature enacted the Hawaii Occupational Safety and Health Law under a federal-state partnership concept and although not specifically stated in the federal Act, there was an understanding that funding would be on a 50-50 basis. Assurances were given that 50 percent federal funding for approved state plans would be available in the future.

In September 1977, the DLIR was informed that congressional action on the federal Occupational Safety and Health Administration budget would result in Hawaii not receiving its expected level of funding. For FY 1977-78, \$615,826 in federal funds was anticipated but only \$594,935 was actually received. This cutback resulted in the loss of three additional authorized positions and perhaps even more damaging, undermined federal-state partnership relations and the spirit and intent under which HOSHL was enacted.

Program Impact under DOSH. According to DLIR statistics, Hawaii's 1975 occupational accident and illness rate was significantly higher than the national rate. For example, the rates for agriculture and construction, the two largest industries, were more than double the national rates. The subcommittee found that generally, the number of accidents and more importantly, the number of fatalities have decreased since DOSH's administration and enforcement of safety and health standards in the State. The subcommittee also found that the business industry and labor unions have been able to work harmoniously with DOSH staff. However, several concerns relating to the administration and operation of the Hawaii Occupational Safety and Health program were raised.

(1) Federal evaluations. There has been some disagreement on the criteria used in federal evaluations. The State has been cited for program deficiencies in past federal evaluations. However, the State Director of Labor testified that the federal OSHA agency has been unwilling "... to evaluate state programs on their merits and achievements,

preferring to judge them only on the degree to which they replicate the federal program." DOSH's administrator added that past attempts at program innovativeness have been thwarted by the federal agency and some of the shortcomings cited in past evaluations are due to "serious errors of fact and interpretation" on several aspects of the state program by federal OSHA monitors and in other instances, "differences of opinion as to the existence or classification of violations" have occurred. However, the subcommittee believes that federal evaluations should not be completely ignored. They contain both positive and negative findings and in general the criteria used seem valid and useful.

(2) Employer paperwork burden. DOSH testimony acknowledged employer paperwork problems particularly where employers are responsible for three forms which require as many as 30 or more entries for each industrial incident. Steps are being taken to ease the paperwork burden on small employers by changing the standards to exempt employers with ten or less employees from having to maintain certain forms, a variety of recordkeeping is still necessary. Both the federal and state governments are conducting a cost/ benefit review of all occupational safety and health standards including those relating to recordkeeping to determine their value.

(3) Employee awareness training program. Testimony presented by a hotel worker indicated that many employees are unaware of their right to a safe and healthful working environment, are uninformed on the provisions of HOSHL, and unaware of safety and health rules and regulations applicable to their respective work situation. The need for DOSH to expand its liaison activities with organized labor to reach workers and establish a working relationship with labor by developing and delivering education and training programs for employees was cited by the Hawaii State Federation of Labor, AFL-CIO. The General Contractors Association of Hawaii also cited the need for safety training programs to improve employee awareness. However, DOSH explained that its education and information branch has done an outstanding job in three years of operation reaching almost 48,000 persons or approximately 15 percent of the State's labor force.

(4) Hawaii Occupational Safety and Health Standards, Rules, and Regulations. Several concerns were raised relating to the rules and regulations adopted and administered by DOSH. A recurring criticism among businessmen was the cumbersome, unreasonable, and complex nature of the rules. The Hawaii Business League elaborated that there are approximately 1,500 pages of regulations that are not adequately categorized according to industries. The Home Builders Association of Hawaii stated that the existing standards make no differentiation between heavy and light construction, with same standards for both heavy and light construction. The Hawaii Sugar Planters Association cited the State's adoption of the rollover protection structure requirement for agricultural field equipment which after extensive study by the federal administration was recommended for new equipment. The HSPA further explained that after DOSH had public hearings on this standard and received testimony which suggested that such standard be applied only to new equipment, the regulation in its final form requires nearly every existing piece of agricultural field equipment regardless of age to have rollover structures. Procedurally, proposed new rules and regulations are developed by DOSH and submitted to the State's Standard Advisory Committee for comment and review within a two to three day deadline.

(5) Citations, violations, and penalties. According to the sixth semi-annual federal evaluation report, 2,762 non-serious violations were cited during the period of November 1, 1976 to April 30, 1977. Of these, 387 or approximately 14 percent received penalties.

Business organizations informed the subcommittee that under present programs, employers must bear the burden of citations and violations and pay the appropriate penalty when fault may lie with the employee. In some instances, such as the wearing of protective equipment, the employee may choose to disregard the employer's instruction. If the safety inspector finds the employee working without the necessary equipment, the employer is charged a penalty. It was also suggested that a category for minor violations be established for cases where employers have been cited for an insignificant infraction.

(6) Voluntary compliance. To assure all workers of a safe and healthful working environment, DOSH has stressed voluntary compliance among employers and employees through educational, informational, and consultative activities. Under the voluntary compliance policy, if an employer requests that an educational officer inspect his premises for possible violations and suggest correctional steps, the educational officer must report any serious violations and the employer is cited and fined accordingly. Because of this, according to some business organizations, employers are discouraged from taking advantage of DOSH's education and information services.

Conceptually, some of the labor unions feel that voluntary compliance is not effective.

They maintain that DOSH must be more forceful in the implementation and more vigorous in the administration of the program.

(7) **Industrial Deaths.** Jurisdictional questions have arisen in certain industrial death cases. The subcommittee was informed by a detective in the Criminal Investigation Division of the Honolulu Police Department that they are usually the first to be notified when an employee dies on the work site. After investigating the situation, the police department makes a determination on whether an industrial death has occurred and notifies DOSH.

In addition, questions have arisen on the severity of the fines levied against employers in industrial death cases. These are monetary and according to the United Public Workers' testimony, the fines for the loss of life on the job are inadequate.

#### COMMITTEE RECOMMENDATIONS

Your Committee strongly believes in the value and importance of HOSHL and its attendant program for all workers in the State. Based on the findings of the subcommittee, your Committee favors home rule because it offers the best protection for Hawaii's workers in terms of providing more local responsiveness, local input, and sensitivity to local needs than would not exist under federal jurisdiction. Your Committee feels it is unfortunate that Hawaii as well as other states which have elected to control their respective program appear to be suffering from restrictions by the federal Occupational Safety and Health Administration. Therefore, your Committee recommends the adoption of a legislative resolution requesting the U.S. Secretary of Labor to certify Hawaii's program.

Your Committee was encouraged by testimony from the business and labor sectors commending DOSH personnel for their assistance, cooperativeness, and efforts to correct unsafe or unhealthy working conditions. However, your Committee believes that there is room for improvement in several areas:

(1) DOSH should increase its enforcement effort, in particular in high risk industries. Your Committee suggests that in these industries all employers who are not in compliance with the minimum occupational safety and health standards should be penalized. This will act as a strong incentive for employers to provide a safe and healthful workplace.

(2) DOSH should continue its efforts to streamline and reduce some of the recordkeeping. Occasionally, there may be a conflict between the employer's desire to eliminate paperwork and DOSH's need to gather information which will help to prevent future accidents and illnesses. Your Committee feels that the prevention of accidents and illness must be accorded higher priority when such conflict occurs.

(3) DOSH should investigate all concerns emerging from the three days of public hearings that relate to unreasonable, impractical and unnecessary or unreasonable standards, rules, and regulations. Further, your Committee directs DOSH to use the Standard Advisory Committee in its examination of these standards, rules, and regulations.

(4) DOSH should increase its efforts to reach employers and labor unions to avail them of the division's information and education program. However, your Committee realizes that it is equally important and necessary for labor unions and other worker groups to assist in this effort. Your Committee was impressed by the Pacific Electrical Contractors Association, International Brotherhood of Electrical Workers' (PECA-IBEW) Joint Safety Committee's program to promote safety within the electrical industry by imposing sanctions on workers for violations of the electrical industry's safety standards. Your Committee believes that this represents the type of cooperative efforts by government, business, and labor to protect the interest of the worker.

(5) DOSH should develop an idea exchange program with all of Hawaii's major industries particularly high risk ones such as the building and construction trade. This idea exchange program was suggested by the Public Safety Program of Hawaii's electrical industry and your Committee believes this suggestion to be a valid one especially if combined with an evaluation of the construction industry's safety problems.

Finally, your Committee believes that legislative monitoring of the implementation of HOSHL and its attendant program should be extended during the next interim. The Committee recommendations described herein, can be handled internally by DOSH. However, there should be continued legislative review to determine the division's progress in implementing these recommendations. Given the relative newness of the program and its critical role in employee-employer relationships and in federal-state relationships, attention should continue to be focused on its general implementation, operation, and administration.



Signed by Representatives Takamine, Peters, Abercrombie, Cayetano, Cobb, Dods, Kiyabu, Kunimura, Machida, Mina, Mizuguchi, Say, Stanley, Suwa, Takamura, Uwaine, Evans and Medeiros.  
Representative Ikeda was excused.

Spec. Com. Rep. No. 19

Your House Ad Hoc Interim Committee on Native Hawaiian Corporations authorized pursuant to H.R. No. 712, adopted by the House of Representatives in the Regular Session of 1977 and requested to study the feasibility of establishing Native Hawaiian Corporations as proposed by H.B. No. 1469 relating to the Native Hawaiian Program and introduced in the Regular Session of 1977 for the purpose of bettering the conditions of Native Hawaiians, begs leave to report as follows:

COMMITTEE APPROACH

The Interim Ad Hoc Committee on Native Hawaiian Corporations was chaired by Representative Henry Haalilio Peters and membership included Representatives Russell Blair; Richard Caldito, Jr.; Robert Dods; Minoru Inaba; Ted Morioka; and John Carroll.

The Committee used the proposals contained in H.B. No. 1469 relating to the Native Hawaiian Program for the Committee's public hearings. The proposed bill was widely circulated with request for written and oral testimony on the proposal and on related matters. Your Committee was primarily concerned with establishing the most appropriate means of putting into effect the intent of Section 5(f) of the Admissions Act, Section 171-18 of the Hawaii Revised Statutes, and Article XIV, Section 8 of the Constitution of Hawaii. These provisions generally provide that certain lands in the State shall be held in trust for the betterment of the conditions of the Native Hawaiians.

In order to gain as much public input as possible, the Committee scheduled and held public hearings in each county. Three public hearings were held in the City and County of Honolulu on December 6-8, 1977; two were held in the County of Maui on February 3 and 9, 1978; one in the County of Kauai on February 16, 1978; and two were held in the County of Hawaii on February 17 and 28, 1978.

BACKGROUND

H.B. No. 1469 was introduced during the Regular Session of 1977 and referred to the House Committee on Water, Land Use, Development and Hawaiian Homes. At the hearing on H.B. No. 1469 scheduled and held by the standing committee, several individuals and organizations testified on the bill. The testimony presented strongly advised that the bill be given further study to insure that the many concerns of the individuals and organizations were given fair and equitable treatment. Consequently, H.R. No. 645 was adopted by the Committee requesting the further study of the bill during the legislative interim.

H.B. No. 1469 seeks to implement Section 5(f) of the Admissions Act and the attendant provisions of Section 171-18 of the Hawaii Revised Statutes. These provisions establish a public land trust and provide that all funds, proceeds or income derived from the sale or lease of public lands be used for several specific purposes, one of which is the betterment of the conditions of Native Hawaiians.

Promulgated on the concept of self-determination, H.B. No. 1469 proposes the establishment of a State Native Hawaiian Corporation to allow Native Hawaiians to determine the priorities that would best satisfy the purpose of bettering the conditions of Native Hawaiians. The proposed corporation is to be funded through eighty per cent of the proceeds and income from lands and other properties patented to the State under Sections 5(b), 5(c), 5(d) and 5(e) of the Admissions Act and a yet to be determined amount from the general fund of the State. The bill further provides for the management of the corporation through a board of trustees all of whom, with the exception of the first trustees, would be Native Hawaiians. It provides for the establishment of regional Native Hawaiian Corporations for given regions as determined by the board of trustees. The Regional Corporations are intended to protect the unique interests of the residents in the regions. Suggestions on the initial regional districts are included in the bill. The Ho'Ala Kanawai, Inc., a nonprofit corporation, is proposed to take on the initial responsibilities of the State Native Hawaiian Corporation. One of the first tasks of this corporation as determined in the bill is the preparation of a roll of all Native Hawaiians as defined in the bill. This nonprofit corporation worked on the original draft of H.B. No. 1469. The Ho'Ala Kanawai, Inc. was duly incorporated in accordance with the Hawaii's corporation law for the purpose of implementing this bill upon adoption.



COMMITTEE FINDINGS

One of the major concerns raised by persons testifying before the Committee was the effect of H.B. No. 1469 on legislation presently pending before the U.S. Congress. The proposed legislation pending in Congress seeks reparations for the overthrow of the Hawaiian monarchy and the taking of Hawaiian lands. Despite explanations that H.B. No. 1469 is not intended to interfere with present efforts on the reparations legislation in Congress and that it intends to accomplish a separate and distinct goal, apprehension on the part of these parties still persisted. Your Committee found that the section in H.B. No. 1469 on the Declaration of Policy contained statements on the need to settle the reparations questions and contributed to this confusion and requires clarification.

Testimony presented to the Committee indicates that the definition of "Native Hawaiians" in the Hawaiian Homes Commission Act of 1920 may be too limiting. The Act defines "Native Hawaiians" as "any descendant of not less than one-half part of the blood of the races inhabiting the Hawaiian Islands previous to 1778." Suggestions were received by the Committee to amend the definition of Native Hawaiian to allow the participation in the benefits of H.B. No. 1469 of any person whose ancestors resided in Hawaii before 1778. The Committee finds that a separate definition of Native Hawaiian for purposes of H.B. No. 1469 would be different from the present definition contained in the Admissions Act or the Hawaiian Homes Commission Act of 1920. Any new definition of Native Hawaiian should also consider existing definitions in the latter two Acts, which if amended, will require the approval by the U.S. Government.

The Committee has also found from the testimony presented that the districts for the regional corporations may need to be amended to more adequately encompass residents with common needs and goals. The testimony presented suggested that the Regional Corporations established in various districts may not adequately represent all the needs and goals of the members within the districts. The Committee obtained several suggested changes in districts.

H.B. No. 1469 proposes a Board of the Native Hawaiian Corporation which is composed of representatives from each Regional Corporations. The present proposal provides for 27 Regional Corporations which means that the Board would be comprised of 27 members. Parties testifying believed that the size of the Board is too large and may contribute to inefficiency. Testimony also indicated that it is not the consensus of all individuals and organizations to designate Ho'Ala Kanawai as the State Corporation.

Many questions were also raised in testimony presented to the Committee relating to the existing use of proceeds from the use of public lands held by the Department of Land and Natural Resources. At the present time, the Department of Land and Natural Resources deposits land proceeds into the general fund to be used for the general public. Such funds have been estimated to amount to around \$6 to \$8 million. Although these funds may be used for the purposes as stated in Section 171-18, Hawaii Revised Statutes, it appears to be used for purposes other than those set out in this section. There is also no explicit indication that these funds were specifically used for the betterment of Native Hawaiians.

The Committee also heard a number of concerns not directly related to H.B. No. 1469. These concerns generally focused on various programs and activities involving Native Hawaiians such as mineral rights, the Hawaiian Home Lands programs, and the conveyance and use of Kahoolawe.

Your Committee has found that there is a general consensus among the various individuals and organizations which presented testimony before your Committee that the State is under a clear obligation to provide for the betterment of the Native Hawaiians as specified in Section 5(f) of the Admissions Act and in Section 171-18 of the Hawaii Revised Statutes.

Although the various individuals and organizations generally agree on the responsibility of the State and on goals to be achieved by the Native Hawaiians, your Committee has found that the means and methods of achieving those goals proposed by H.B. No. 1469 must be further considered and reviewed in order to satisfy the diverse views expressed in the testimonies presented.

Your Committee has also found that the interest and demands of various individuals and organizations must be given full consideration and be brought together to ensure a common goal satisfactory to all of them.

RECOMMENDATIONS

Your Committee recommends that H.B. No. 1469 relating to Native Hawaiian program

and other similar legislation be given further review, revision and refinement, and be held in abeyance until the next Regular Session of the Legislature. Although your Committee strongly endorses the bill's intent to provide for the betterment of Native Hawaiians through a program of self-determination, many excellent and diverse views on the means and methods of achieving the desired goals were presented to your Committee which must be given full consideration.

For example, references to the reparation question in the Declaration of Policy section of H.B. No. 1469 requires clarification. Consistency in any modification of the legal definition of Native Hawaiian is also needed. Changes in district designations for the Regional Corporations as well as the number and procedure establishing members of the State Board of the Native Hawaiian Corporation should be considered. Further review is needed on the present practice of public land proceeds being used for the State general fund rather than used for the specific purpose of Section 171-18, Hawaii Revised Statutes relating to the betterment of Native Hawaiians. Furthermore, considerations should be given to the conveyance of these public land proceeds to the Department of Hawaiian Home Lands.

Your Committee believes that the further review, revision and refinement of H.B. No. 1469 and similar legislation must be actively pursued prior to the next Regular Session of the Legislature and accordingly also recommends that the Committee continue its public hearings. It further recommended that a statewide conference on Native Hawaiian programs be sponsored by the Legislature with special attention given to the idea expressed in H.B. No. 1469, of the betterment of Native Hawaiians through a program of self-determination.

Your Committee believes that this delay in enacting the bill into law will allay some of the apprehension expressed in testimony that there may be an adverse effect on efforts to obtain reparations from the federal government, and that the statewide conference will foster a clear understanding of the intent of H.B. No. 1469 and its relationships to other activities and concerns of the State including the current efforts in obtaining reparations from the federal government.

To facilitate continuing action on the establishment of Native Hawaiian Corporations, your Committee has also drafted another version of H.B. No. 1469 which incorporates much of the concerns expressed at the public hearings. This version has been attached as Appendix I. It is thus recommended that further study of the establishment of Native Hawaiian Corporations utilize this attached version as the study basis.

Your Committee is in accord with the findings and recommendations contained herein and recommends that this Special Committee Report be used as a basis for maintaining the House Ad Hoc Interim Committee on Native Hawaiian Corporations in order that further study on the matter can be pursued during the 1978 interim.

Signed by Representatives Peters, Blair, Caldito, Dods, Inaba, Morioka and Carroll.

#### APPENDIX I

#### A BILL FOR AN ACT RELATING TO THE NATIVE HAWAIIAN PROGRAM.

#### BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. Title 20 of the Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

#### "CHAPTER

#### NATIVE HAWAIIAN PROGRAM

Sec. -1. Declaration of policy. (a) The Congress of the United States has recognized the health, educational, and welfare needs of native Hawaiians provided in Section 5(f) of the Admission Act, an Act to provide for the admission of the State of Hawaii into the Union, that all lands patented to the State of Hawaii under the Admission Act shall be held in trust 'for the betterment of the conditions of native Hawaiians.'

(b) The people of Hawaii have provided in Article XIV, Section 8 of the Constitution of Hawaii that 'Any trust provisions which the Congress shall impose, upon the admission of this State, in respect to lands patented to the State by the United States or the proceeds

and income therefrom, shall be complied with by appropriate legislation.

(c) The State shall provide for appropriate legislation by this chapter.

(d) No provisions of this chapter shall be construed to diminish, curtail, or terminate the Hawaiian Homes Commission Act, 1920, as amended, but shall be construed to be in addition thereto.

Sec. -2. Definitions. For the purposes of this chapter, the term:

- (1) 'Admission Act' means an Act to provide for the admission of the State of Hawaii into the Union, Act of March 18, 1959, Public Law 86-3, Eighty-sixth Congress, First Session 73 Statute 4;
- (2) 'Corporation' means a state native Hawaiian corporation or a regional native Hawaiian corporation;
- (3) 'Fund' means the native Hawaiian fund in the department of land and natural resources;
- (4) 'Native Hawaiian' means native Hawaiian as defined in the Hawaiian Homes Commission Act, 1920, as amended, or any person who can prove that their Ancestors were in Hawaii prior to 1778.
- (5) 'Native Hawaiian corporation' means a corporation organized under the laws of Hawaii for the purpose of the betterment of the conditions of native Hawaiians, as defined in the Hawaiian Homes Commission Act, 1920, as amended under Section 5(f) of the Admission Act;
- (6) 'Regional native Hawaiian corporation' means a native Hawaiian corporation organized on a regional level;

Sec. -3. Purpose of corporation. The corporation shall be established for the betterment of the conditions of native Hawaiians.

Sec. -4. Native Hawaiian corporation. (a) There shall be a state native Hawaiian corporation and several regional native Hawaiian corporations.

(b) Twenty or more native Hawaiians may incorporate as a nonprofit corporation under the laws of Hawaii.

(c) The management of the corporation shall be vested in a board of trustees, all of whom shall be native Hawaiians. The number, term, and method of selection of trustees shall be fixed in this chapter.

(d) The accounts of the corporations shall be audited each year in accordance with generally accepted auditing standards by an independent auditor certified or licensed by the department of regulatory agencies. All books, accounts, financial records, reports, files, and other papers, things, or property belonging to or in use by the corporation and necessary to facilitate the audits shall be made available to the person or persons conducting the audits; and full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians shall be afforded to such person or persons. Each audit report or a fair and reasonably detailed summary thereof shall be filed with the department of regulatory agencies.

(e) The members of the corporation shall be native Hawaiians, provided that only adult native Hawaiians shall be eligible to vote for trustees and officers.

Sec. -5. Regional native Hawaiian corporation. (a) For purposes of this chapter, the State may be divided into several Hawaiian regions composed of native Hawaiians.

(b) The board of trustees of the state native Hawaiian corporation shall establish the boundaries of the native Hawaiian regions and may create one or more regions from the above enumerated regions or consolidate some of the regions to meet the objectives of this chapter. In any case of changes from the above list, a hearing of the persons affected within the regions shall be held.

(c) A regional native Hawaiian corporation shall be established in each native Hawaiian region by the native Hawaiians residing therein.

(d) A member of a regional native Hawaiian corporation shall be a member of the state native Hawaiian corporation.

(e) The board of trustees of the state native Hawaiian corporation shall be composed of one trustee elected from each of the several native Hawaiian regions. Such trustees shall also be members of the regional native Hawaiian corporation, but shall not be an officer of a regional native Hawaiian corporation.

Sec. -6. Native Hawaiian fund. (a) There is established in the department of land and natural resources a native Hawaiian fund to carry out this chapter. The moneys in the fund shall be expended by the Ho'Ala Kanawai, Inc. as the state native Hawaiian Corporation.

(b) The following moneys shall be deposited into the native Hawaiian fund:

(1) Eighty per cent of the proceeds and income from the lands and other properties patented to the State under Sections 5(b), 5(c), 5(d), and 5(e) of the Admission Act; and

(2) \_\_\_\_\_ dollars from the general fund of the State.

(c) None of the moneys paid or distributed pursuant to this section shall be expended, donated, or otherwise used for the purpose of carrying on propaganda (including the publishing and distributing of statement) or intervening in any political campaign on behalf of any candidate for public office. Any person who wilfully violates the foregoing provision shall be guilty of a misdemeanor.

(d) Immediately upon the enactment of this Act, \$100,000 shall be distributed to the state native Hawaiian corporation, and \$100,000 at the end of six months and thereafter \$100,000 at the end of each three-month period to the state native Hawaiian corporation.

Sec. -7. Enrollment. The state native Hawaiian corporation shall prepare and maintain within two years after the date of enactment of this chapter, a roll of all native Hawaiians. Any adverse decision for enrollment may be appealed to the circuit court of the first circuit. All costs of such appeals shall be paid by the applicant; provided that if such applicant shall be found eligible for enrollment, all costs to appeal shall be paid by the corporation.

Sec. -8. Staff appointments. The appointment of any person to any paid position, other than officers and elected trustees shall be based upon selection from a list of the highest qualified applicants to announcements in a newspaper of general circulation in the county in which the position exists. No unqualified applicant shall be appointed to any paid position. All appointments to a paid or unpaid position shall be confirmed by the trustees of the corporation in which the applicant shall be appointed.

Sec. -9. Tax. No grants or funds paid to any corporation under this chapter, or to a native Hawaiian under this chapter shall be taxable."

SECTION 2. Upon the effective date of this Act there is appropriated out of the general revenues of the State of Hawaii the sum of \$ \_\_\_\_\_, or so much thereof as may be necessary, for the purposes of this Act. Such funds shall be paid into the Native Hawaiian fund.

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

Spec. Com. Rep. No. 20

Your House Committee on Tourism authorized pursuant to H.R. No. 712, adopted by the Regular Session of 1977, and requested to conduct a review during the 1977 interim of the role of tourism in Hawaii's economy, begs leave to report as follows:

#### PURPOSE

The purpose of the interim review was to examine the existing and projected future role of tourism in Hawaii's economy, and to that end (1) to identify an overall objective for tourism based on its projected economic role, (2) to identify potential problem areas that would hinder attainment of the overall objective, and (3) to make recommendations and specify implementing actions to address these concerns.

#### COMMITTEE APPROACH

In order to attain an overall perspective on the existing and future role of tourism in Hawaii's economy, your Committee initially proceeded by reviewing the various economic projections prepared by the Department of Planning and Economic Development. The Committee decided to use the economic projections contained in Table 7(b) of the Technical Study on the Economy, Hawaii State Plan. Your Committee then posed an overall objective based on these economic projections and proceeded to identify existing and potential problems which would hinder attainment of the overall objective.

The Committee was organized into subcommittees which conducted meetings and field studies throughout the State. All subcommittees were chaired by Representative Gerald Machida, Chairman of the House Committee on Tourism. Members of the House participating in subcommittee activities were Representatives Robert Dods, Minoru Inaba, Richard Kawakami, Ken Kiyabu, Tony Kunimura, Ted Mina, Norman Mizuguchi, Henry Peters, Calvin Say, Herbert Segawa, Jack Suwa, Carl Takamura, Clifford Uwayne, Dennis Yamada, Katsuya Yamada, Donna Ikeda, and John Medeiros.

Meetings and field studies were conducted on September 21 and 22, 1977 on Oahu; September 25 and 26, 1977 on Kauai; September 27-29, 1977 on Hawaii; September 30, 1977 on Maui; and October 1, 1977 on Molokai. Officials from various agencies and organizations involved with tourism participating in these meetings were departmental staff from the counties of Kauai, Maui, Hawaii and the City and County of Honolulu; the State Department of Planning and Economic Development; the Hawaii Hotel Association; Waikiki Improvement Association; Hawaii Visitors Bureau; Kona Chamber of Commerce; Hilo Japanese Chamber of Commerce; Maui County Visitors Association; Hawaii Island Visitor Industry Association; and Kaanapali Beach Operators Association. Hotel and other visitor industry businesses participating in the discussions included administration staff from Kuilima, Makaha Inn, Island Holidays, Sheraton and Hilton Hotels, Princeville, Kauai Coco Palms, Mauna Kea Beach Hotel, Amfac, and Alexander and Baldwin.

#### FINDINGS

The findings of the subcommittees included data and facts obtained by independent research of the subcommittees and also from the views and concerns expressed by the officials and representatives of the agencies and organizations aforesaid on the existing and potential problems confronting the visitor industry. The findings concerned the existing and projected future role of tourism in Hawaii's economy, the identification of an overall objective for tourism based on its projected economic role, and the identification of potential problem areas that would hinder attainment of the overall objective. The findings are set forth in Exhibit 1 attached hereto and by reference made a part hereof.

#### RECOMMENDATION

Based on the said findings, the subcommittees made recommendations which are set forth in said Exhibit 1. Your Committee feels that the said findings and recommendations will provide useful bases for consideration and action by the House of Representatives in its efforts to promote and maintain the desired role and viability of tourism in Hawaii's economy. For the reasons aforesaid, your Committee on Tourism recommends that the findings be accepted and the recommendations be adopted.

Signed by Representatives Machida, Dods, Abercrombie, Cayetano, Cobb, Kiyabu, Kunimura, Mina, Mizuguchi, Peters, Say, Stanley, Suwa, Takamine, Takamura, Uwayne, Evans, Ikeda and Medeiros.

#### EXHIBIT 1

##### FINDINGS AND RECOMMENDATIONS OF THE HOUSE COMMITTEE ON TOURISM

The findings and recommendations of the House Committee on Tourism's 1977 interim review of the role of tourism in Hawaii's economy are submitted herein:

#### GENERAL BACKGROUND

During the sixties, the visitor industry played a major role in the tremendous growth of Hawaii's economy. The Department of Planning and Economic Development (DPED) Data Book states that the number of visitors and hotel rooms in the State increased five-fold, with visitor expenditures similarly increasing from \$109 to 570 million from 1959-1970.

Its economic impact on the neighbor islands has been especially significant, where

tourism growth has been slightly higher than that for Oahu. The Overall Economic Development Program - 1976 by the Department of Planning and Economic Development states:

Visitor industry has in fact been the single most important factor in turning around neighbor island economies. Population loss due to declining employment in the industrial agriculture of sugar and pineapple has been reversed by growing job opportunities in the visitor industry.

However, DPED's recent analyses of the visitor industry indicates that despite a continued increase, tourism's rate of growth has declined considerably since 1971. Since Hawaii's tourism market consists of a high percentage of U.S. mainland visitors, the decline is attributed to the national economic recession. Although the tourist industry has managed to maintain a relatively stable level of activity during periods of recession, Hawaii's rate of tourism growth fluctuates accordingly during these periods. Hawaii's visitor industry further exhibits a perennial half- to three-year lag in tourism growth and national economic recoveries. The national economic recovery has not been as rapid as anticipated for the last year. When combined with the lag factor, only moderate increases for tourism growth in Hawaii can be expected for the next three years. As the national economy continues to ease out of the recession, visitor industry growth is expected to increase accordingly. The DPED bases this contention on the historically rapid rates of tourism growth following the national recessions and other previously mentioned factors. However, there is no way to predict how increased competition from other resort areas as well as any energy crisis will affect Hawaii's visitor industry.

With the exception of Hawaii County, Hawaii's hotels have managed to maintain relatively stable occupancy rates during the period of growth rate decline. DPED statistical reports indicated that Kauai and Oahu experienced average occupancy rates in the high seventies while Maui County's tourist market especially demonstrated a high degree of stability by maintaining a 70+ percentage rate of occupancy despite an increase in its hotel inventory by 3,100 rooms. In 1976, the island of Hawaii's occupancy rates for resort facilities averaged 56.02 percent.

There is general agreement by economists that the outlook for the future growth of tourism and its ability to provide a large percentage of Hawaii's future employment needs appears to be favorable. DPED states that "alternatives to this growing billion dollar plus industry are not on the horizon. Indeed it would be difficult to find an alternate of this size which is as kind to the environment." An evaluation of the U.S. visitor market conducted by a Hawaii Visitor Bureau (HVB) Marketing Task Force revealed that Hawaii is still the number one destination area. The report attributes this to the "friendly, clean, and progressive image" of Hawaii of which an important aspect is the "Aloha Spirit" and the relatively low costs of visiting Hawaii.

#### ECONOMIC PROJECTIONS

In order to gain an overall perspective on the existing and future role of tourism, the economic projections prepared by DPED in the Table 7(b) of the Technical Study on the Economy, Hawaii State Plan, was used. Unlike traditional economic projections, these forecasts have been modified to reflect a "selected growth policy". It is a projection of what is desired, balanced against what can be reasonably achieved rather than what is likely to happen based on existing trends.

These projections are based on several key assumptions:

- (1) Low net in-migration with growth moderately directed to the neighbor islands;
- (2) Moderate economic growth for the majority of economic activities; and
- (3) Sufficient tourism growth for full employment.

The table on the following page summarizes the estimated population, jobs needed, and the anticipated number of jobs to be supplied by the visitor industry. These estimates are provided merely as guidelines for selecting various courses of action. It should also be pointed out that if in-migration continues to grow at past rates, more jobs will probably be needed in the tourism sector. (See Figure 1)



Figure 1

	<u>1960</u>	<u>1965</u>	<u>1970</u>	<u>1975</u>	<u>1980</u>	<u>1985</u>
Resident plus Visitor Population	653,300	721,100	811,800	933,700	1,036,300	1,141,800
A. Visitors	11,800	17,300	37,600	68,800	87,700	104,900
B. Residents (Includes Military)	641,500	703,800	774,200	864,900	948,600	1,036,900
Estimated Need for Jobs					442,200	502,800
Estimated Supply for Jobs	228,100	259,700	331,600	375,900	442,200	502,700
A. Primary Industries						
1) Hotel	4,200	6,300	13,400	19,000	24,300	29,200
2) Defense	22,200	23,200	22,100	19,700	19,500	19,500
3) Agriculture and Food Processing	36,100	32,100	30,400	26,100	27,000	27,700
a) Sugar	14,700	12,600	10,900	9,600	9,300	8,900
b) Pineapple	12,100	10,000	8,400	5,100	5,200	5,300
c) Diversified Agriculture and Other Food Processing	10,100	9,700	11,100	11,400	12,400	13,300
d) Aquaculture	-0-	-0-	-0-	-0-	60	240
4) Apparel and Textile	2,400	2,300	3,200	3,600	4,200	4,600
5) Manganese Nodules	-0-	-0-	-0-	-0-	-0-	-0-
B. Non-Primary Industries						
1) Constructions	17,600	17,900	25,700	28,200	30,500	33,000
2) Civilian Government	30,860	38,800	51,600	62,300	75,600	88,600
3) Other	113,000	137,700	184,700	216,800	261,300	300,100
Estimated Job Shortage					-0-	100

OVERALL OBJECTIVE

Based on the foregoing projections, an overall objective is recommended of ensuring that the visitor industry provides approximately 112,400 total direct and indirect jobs by 1985 in an environmentally and socially sound manner. According to DPED estimates, this will require Hawaii to attract approximately 4.3 million visitors in 1985 and build approximately 2,000 new hotel rooms per year.

EXISTING AND POTENTIAL PROBLEMS

Existing and potential problems which would hinder the attainment of this overall objective is as follows:

(1) Future Quality of Tourism. In the last decade, Hawaii has witnessed an overall change in the type of visitor it has attracted. The DPED Data Book indicates that today's visitor spends less and stays for a shorter period. The tourism industry, however, has made up for this loss through an increased volume of visitor traffic.

A report prepared by the Behavior Science Corporation (BASICO) on "The Rise and Fall of Visitor Destination Areas" offers an explanation as to the reasons behind this evolution of the visitor industry. Destination areas, as they develop, begin to lose much of the characteristics that initially attract visitors who travel often and spend more. It further states that to ensure the viability of the visitor destination area, these areas "must develop new approaches to reaching travelers and new activities which will appeal to that desired broader and larger segment of travelers."

The State Legislature in cognizance of this concern, called for the development of a State Plan, adopted "Interim Tourism Policies," and requested the development of an on-going process for planning and implementation of a tourism master plan (Section 203, Hawaii Revised Statutes).

Act 189, Session Laws of Hawaii 1975, does not require the State Plan to include specifics on visitor industry growth. The 1976 legislation establishing Interim Tourism Policies better incorporated concerns of the visitor industry, requires the development of a ten-year master plan for the growth of tourism in Hawaii, and identifies the following policy objectives: the enhancement of visitor satisfaction; the preservation of historic and aesthetic sites; the promotion of Hawaii's heritage; the satisfaction of resident needs and requirements; the formal education and training of residents to fulfill visitor industry workforce needs; and the provision of criteria for visitor industry growth. These interim policies, however, remain in effect only until the adoption of a State Plan.

It should be noted, however, that neither the Interim Tourism Policies nor the State Plan legislation explicitly require a clear and concise policy on the location, intensity, rate and quality of growth of the visitor industry and attendant facilities, nor are on-going monitoring and implementation of these policies called for. Implementation of the interim policies is left to the discretion of agencies affected and provisions were not included for review and evaluation of departmental efforts by the 1977 Legislative Session.

(2) Ensuring a Demand for Tourism. To ensure that the tourism industry will provide the projected number of jobs needed, the State will have to attract the kind of visitors it desires and remain competitive with other destination areas. To do so, amenities which attract visitors should be identified and high visitor satisfaction pursued for the desired target groups. Specific areas of concern are:

(a) Attracting Visitors - Promotion. The growth of Hawaii's visitor industry will depend on attracting both new and repeat visitors. Tourism promotion and "word of mouth" advertising have been shown to be the primary inducement for first-time visitors, while the number of repeat visitors will depend on high visitor satisfaction.

According to individuals and groups with whom discussions were held, Hawaii's promotional efforts, primarily conducted by various trade groups, appear to be fragmented. Tourism promotional groups also cited a problem of limited funds to conduct their programs.

In 1977 the Legislature appropriated \$200,000 to evaluate low-occupancy problems of neighbor island resort areas and to enhance promotional efforts to remedy this problem. However, a large portion of these funds were restricted by the administration.

(b) Visitor Satisfaction - "Aloha Spirit". The primary attraction of Hawaii is the "Aloha Spirit". According to the HVB Marketing Task Force, tour agents on the mainland indicate this to be diminishing. However, public surveys show that the majority of Hawaii's residents believe the visitor industry to be an integral part of the State's economy. Others

surveyed feel that it contributes to a decrease in resident recreational opportunities, destruction of natural aesthetic areas, diminishing valued cultural lifestyles, environmental degradation, excessive population growth, and many of Hawaii's urban ills such as congestion and noise from tour buses. Some have argued that visitor industry jobs are low paying and without career development potential. On the other hand, DPED states that the average hourly earnings in tourism exceed that of textile and apparel and laundry activities and that hotel employment earnings are probably even higher because of tips earned by many employees in that industry which are not counted in hourly earnings.

To address this concern, the Visitor Industry Education Council has conducted general media campaigns on the benefits of the industry as well as produced optional education curriculum for fourth grade public school students.

(c) Visitor Satisfaction - Hotel Overbooking. Hotel overbooking, a source of irritation for visitors and contributor to a negative image of Hawaii, has somewhat abated in the last couple of years. A pilot project to monitor hotel reservations practices was established in 1976 and will be up for review at the 1978 Legislative Session (Act 102, SLH 1976). According to the hotel industry, the general tendency is to overbook accommodations to accommodate for losses from cancellations. Mainland hotels do not as actively subscribe to these practices as they experience a higher rate of walk-in traffic.

Hotel operators stated that more recent cases of hotel overbooking in Hawaii have arisen due to unforeseen extensions of reservations by hotel guests. Hotel operators generally handle this situation by relocating either the present or newly arrived guests to other hotels. However, there is no way to force present guests from vacating their occupied rooms.

(d) Visitor Satisfaction - Social and Cultural and Natural Environments. The BASICO report stated that another primary attraction to visitors is the existence of new cultural activities within natural settings. Hawaii can offer to visitors some of these experiences through the preservation of its historic and cultural sites, the relating of historic background on these sites, and the preservation and enhancement of diverse natural habitats including forest as well as beach areas. The attractiveness of historic and cultural experiences was confirmed in a recent survey of tourists in Hawaii.

(e) Miscellaneous. Other concerns cited which could affect visitor demand are energy scarcity and travel restrictions from foreign countries. Adverse federal FTC and FAA regulations or national policies such as the disallowance of business expense tax deductions or detrimental tourism policies may also have negative effects. Problems associated with low visitor demand, more directly affecting East Hawaii, are a lack of beaches, limited numbers of commissionable attractions, and the inception of one-stop charter tours which by-pass the area.

(3) Supplying the Needs of the Visitor Industry. In order for tourism to meet projected job needs, corresponding visitor facilities must be provided. The aforesaid overall objective requires an average of approximately 2,000 hotel rooms per year. During the 1967-1977 period, the average annual increase in hotel rooms was 2,777. Approximately 2,338 hotel rooms were constructed in 1976-77 with a relatively high proportion taking place on the neighbor islands. Specific areas of concern are:

(a) Resort Development Regulation. Resort developers expressed doubt on whether the needed visitor facilities can realistically be provided. Hotel investors are reluctant to finance resort development partly because of the abundance of government regulations. The Construction Industry Legislative Organization report "Proliferation or Planning" contends that the existing control network, comprised of multi-authorities, enforce governmental regulations in piece-meal fashion without coordinated and uniform direction. It is argued that this proliferation has resulted in added development costs, ultimately passed on to the consumer. Such increased consumer costs will ultimately affect the number of visitors to the State, thereby diminishing the potential of the industry to meet Hawaii's future employment needs.

DPED reported that "resort financing through the U.S. has always been difficult to obtain and has become even tighter." Problems with resort financing center on: the nature of the security which represents an operating business which is highly sensitive to recessionary trends and special management problems; the delinquency experience of lenders over the last few years as a result of hotel overbuilding and the adverse impacts of the energy crisis; and the world-wide growth of the visitor industry and ever increasing requests for resort financing which compete for a smaller share of available financing.

The risk factor in hotel resort investment is further compounded by the long administrative

process, estimated at 3-1/2 to 5 years, adds to delays and higher start-up capital requirements without any revenue inflow. From a state and county administrative standpoint, the problem remains on how to stop poor quality development while allowing desirable ones to proceed expeditiously under a uniform review process. Part of this problem seems to again lie in an absence of direction on the location, rate, and intensity of development.

The legislature adopted Act 74, HRS 1977 which established a central coordinating agency for land use controls at the county level of government to streamline the process through increased coordination. However, it has not been proven whether this measure has achieved the effects desired. In an effort to encourage higher quality resorts, the House of Representatives further adopted a bill to require urban and regional design plans for all resort areas.

(b) Labor. It is expected that a major portion of needed jobs will have to be provided by the visitor industry. A review of the labor force indicates a need especially in the food service area.

(c) Capital Financing. The DPED states that resort financing has always been difficult to obtain and has become even tighter due to the business being especially sensitive to recessionary trends and burdened by special management problems. Over the last few years, resort investors have also experienced delinquency as a result of overbuilding and the energy crisis and are thus reluctant to invest. In addition, the visitor industry is growing world-wide and increasing requests for financing compete for a smaller share of available capital.

The estimated need for 2,000 hotel rooms per year at an average cost of \$60,000 per hotel room would mean \$120 million per year or \$1.2 billion over the next ten years must be obtained for resort investment.

(4) Program Implementation and Coordination. Several tourism related programs are currently undertaken through a multitude of agencies. The lack of coordination of these programs may result in duplication and inefficient use of resources. Uncoordinated efforts may also put various groups at odds which are attempting to achieve similar results. Another area in need of coordination is the dispersed manner in which statutes governing hotel operations are presently organized.

#### RECOMMENDATIONS AND IMPLEMENTING ACTIONS

Based on the foregoing, several recommendations and implementing actions are proposed for the 1978 Legislative Session.

Recommendation: Maintain or enhance the quality of existing and future resort destination areas.

Implementing Actions: (1) Require the counties to develop urban design plans for designated resort areas; and (2) monitor state and county progress on the improvement of Waikiki.

Recommendation: Preserve and enhance Hawaii's natural environments and scenic, historic, and cultural sites as well as facilitating scenic view points and corridors.

Implementing Actions: (1) Establish areawide beautification program including litter clean-up and landscaping program; and (2) institute a mandatory penalty for littering to consist of a monetary fine or litter clean-up.

Recommendation: Ensure coordinated State tourism promotion abroad which emphasizes the unique qualities of each resort area with special focus on areas with low occupancy rates.

Implementing Actions: (1) Ensure availability and effective use of appropriated funds for tourism promotion especially those funds appropriated for areas with low visitor occupancy; (2) evaluate efforts of the HVB, MCVA, HIVIA, and KVIO to coordinate tourism promotion and to alleviate low occupancy rates of neighbor island resorts; and request that government sponsored conferences be held in resort areas of low occupancy.

Recommendation: Foster a social environment conducive to the maintenance of the "Aloha Spirit".

Implementing Action: (1) Evaluate the performance of the hotel reservation pilot project; Act 102, Session Laws of Hawaii 1976.

Recommendation: Maintain and encourage a more favorable investment climate for need resort development.

Implementing Actions: (1) Evaluate the performance of Act 74, Session Laws of Hawaii 1977 which attempts to shorten the development permit process through increased coordination; and (2) monitor the DPED's efforts to promote capital infusion into the State.

Recommendation: Ensure availability of career opportunities at all levels of the visitor industry for Hawaii's residents.

Implementing Actions: (1) Evaluate the progress of the Commission on Manpower and Full Employment in coordinating career counseling with projected job opportunities; and (2) ensure that there is adequate coordination of educational programs. In this regard, review the opportunities offered to students by the school of Travel Industry Management, UH, and the Community Colleges.

Recommendation: Adopt and establish an adequate tourism plan and management organization to carry out the State tourism policies.

Implementing Actions: (1) Evaluate the Tourism Master Plan being prepared by the State administration; (2) establish a tourism coordinator to facilitate the carrying out of the tourism policies and plan; and (3) consolidate statutory provisions relating to hotel and motel operations under a single bill.