

CONFERENCE COMMITTEE REPORTS

Conf. Com. Rep. No. 1 on H.B. No. 1437

The purpose of this bill is to provide a public service company tax exemption to any contract carrier by water having a gross weight exceeding ten thousand gross tons which is engaged primarily in the business on transporting persons for tourism or sightseeing purposes within the State. The exemption is for a period of five years from July 1, 1981. The public service company tax of four per cent of gross income shall be imposed after five years.

Tourism is an important foundation of the State's economy. It promotes economic growth and employment opportunities for many of its residents. The tourist industry is now experiencing a slowdown. This slowdown has prompted the search for new ways to revitalize the ailing industry. One suggested method is to encourage the transportation of tourists within the State by water. This is currently done on a relatively small scale.

The business of transporting persons for tourism or sightseeing purposes within the State by large contract carriers by water requires large capital expenditures during the initial years of operation. Section 239-6, Hawaii Revised Statutes, now requires these large contract carriers to pay a public service company tax equal to four per cent of their gross income derived from this business. The imposition of this tax adds to the high costs of engaging in this business and exacerbates the profitability of this business, notably during the initial years of operation.

This bill will provide a public service company tax exemption to these contract carriers during their initial years of operation. This serves to lower the costs of doing business during this period, provides an incentive to continue operations in this business, and stimulates other contract carriers by water to enter into this business. Providing such an exemption attests to the State's commitment to promoting its tourist industry and related employment opportunities for its residents.

Your Committee upon further consideration has made the following amendments to H.B. No. 1437, H.D. 1, S.D. 2:

1. On line 5 after "imposed by this chapter", the word "on" was added.
2. On lines 10 and 11, these words "only to contract carriers by water which initially engage in business after" were changed to "only to contract carriers by water engaged in business on".

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1437, 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. 1437, H.D. 1, S.D. 2, C.D. 1.

Representatives Kunimura, Say, Dods, D. Hagino, Nakasato and
Medeiros,
Managers on the part of the House.

Senators Yamasaki, Kawasaki and Ajifu,
Managers on the part of the Senate.

Conf. Com. Rep. No. 2 on S.B. No. 598

The purpose of this bill is to review and improve administration of the law governing opticians.

Specifically, the bill amends chapter 458, Hawaii Revised Statutes, by limiting the licensing of opticians to individuals and by prohibiting the duplicating of contact lenses by opticians except under the written orders and personal supervision of an ophthalmologist or optometrist.

As received, this bill also adopted the recommendation of the Legislative Auditor to allow the present regulatory structure for opticians, which is contained in chapter 458, to expire as scheduled on December 31, 1981. This bill creates a new section of chapter 459, which presently relates to optometry, to provide for the minimal regulation of opticians in lieu of chapter 458.

Your Committee notes, however, that representatives of the ophthalmologists, optometrists, and opticians, in a rare instance of unanimity, testified in strong support for retaining chapter 458, despite the recommendations of the Legislative Auditor.

Your Committee finds that there exists a need for the continued regulation of opticians and has amended the bill accordingly to extend chapter 458.

Your Committee also finds, however, that the findings and recommendations of the Legislative Auditor are not totally without merit therefore the bill, as amended, re-enacts the chapter for a three-year, rather than the usual six-year period, to allow for continued study of the matter.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 598, 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. 598, S.D. 1, H.D. 1, C.D. 1.

Representatives Blair, Baker, Dods, Kawakami and Liu,
Managers on the part of the House.

Senators Cobb, Kuroda, Saiki, Uwayne and Yee,
Managers on the part of the Senate.

Conf. Com. Rep. No. 3 on H.B. No. 769

The purpose of this bill is to establish and provide an appropriation for a committee to be known as "The 1984 Hawaii Statehood Silver Jubilee Committee" which shall have charge of all arrangements for the State's official celebration of the 25th birthday of the State of Hawaii which will occur on Tuesday, August 21, 1984.

Your Committee upon further consideration has made the following amendments to H.B. No. 769, H.D. 2, S.D. 2:

(1) The provision that the appropriation shall be applicable for the fiscal year 1981-82 has been deleted. It is the intent of your Committee to have the 1984 Silver Jubilee Committee begin work immediately. Also, your Committee is concerned that if the appropriation were made for the 1981-82 fiscal year, the total legislative appropriations could well exceed the spending ceiling.

(2) A lapsing provision has been added.

(3) The effective date has been amended to upon the approval of the Act, rather than on July 1, 1981. This is in keeping with your Committee's intent that the Silver Jubilee Committee begin work immediately.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 769, 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. 769, H.D. 2, S.D. 2, C.D. 1.

Representatives Tungpalan, G. Hagino, Matsuura, Toguchi and Anderson,
Managers on the part of the House.

Senators Yamasaki, Abercrombie and Ajifu,
Managers on the part of the Senate.

Conf. Com. Rep. No. 4 on H.B. No. 1530

The purpose of this bill is to eliminate any instances of duplication of responsibility as may now exist in agricultural product promotion and market development and to otherwise increase the efficiency and effectiveness of resources allocated to agricultural product promotion and market development.

This bill provides that all rights, powers, functions, duties, appropriations, equipment, and other personal property and up to two positions of the Department of Planning and Economic Development (DPED) relating to DPED's agricultural product promotion and marketing functions are transferred to the Governor's Agriculture Coordinating Committee (GACC).

This bill also provides for the transfer of agricultural marketing and promotional

activities from the Department of Planning and Economic Development to the GACC.

Your Committee, upon further consideration, has amended this bill to retain in the Department of Planning and Economic Development the responsibilities for agricultural product promotion and market development, as is presently provided for in the Hawaii Revised Statutes, provided that the Department's programs and activities relating to agriculture shall be consistent with the policies, programs, and activities of the GACC.

Your Committee has also amended this bill to provide that the transfer of rights, powers, functions, duties, appropriations, equipment, and personnel shall be to such agency as the Governor may designate, rather than specifying the GACC as this bill presently provides.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1530, 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. 1530, H.D. 1, S.D. 1, C.D. 1.

Representatives Takamine, Fukunaga, Hashimoto, Matsuura and Monahan,
Managers on the part of the House.

Senators Ajifu, Kobayashi and Young,
Managers on the part of the Senate.

Conf. Com. Rep. No. 5 on S.B. No. 271

The purpose of this bill is to limit the liability of hotels that provide security boxes for the safekeeping of guests' valuables.

Presently, hotels are not liable for any sum for any loss of valuables if: (1) a safe or vault is provided for the safekeeping of guests' valuables; (2) a notice stating that fact is posted in a conspicuous place in the room; and (3) the guest nevertheless fails to make use of the safe or vault. If a guest does deposit his valuables in the safe or vault, the hotel's liability is limited to \$500.

Hotels find, however, that most patrons are not willing to take the time and effort of placing their valuables in the office safe. Consequently, burglaries in hotels have become a serious and growing problem for the tourist industry. In addition to the possibility of burglary, there is the growing threat of mugging and robbery for the visitor.

Your Committee finds that another means of security for hotel room guests should be made available. Though security devices have been available to hotels for several years, the question of liability has prevented their installation and use. This bill is intended to encourage hotels to provide their guests with this added measure of security.

Your Committee amended the definition of security box by removing a requirement that the locking mechanism be "non-master keyed". Your Committee finds that such a requirement is not necessary at this time.

Also, your Committee made a number of technical amendments to clarify the intent of the bill.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 271, 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. 271, S.D. 1, H.D. 1, C.D. 1.

Representatives Say, Blair, Hirono, Nakasato and Anderson,
Managers on the part of the House.

Senators Kuroda, Mizuguchi and Soares,
Managers on the part of the Senate.

Conf. Com. Rep. No. 6 on H.B. No. 50

The purpose of this bill is to increase the principal amount of revenue bonds which may be issued by the Hawaii Housing Authority for housing loan programs as established by Act 50, Session Laws of Hawaii 1979, as amended.

Upon further consideration, your Committee has amended the definition of "housing loan program" to include "eligible project loans." This change is needed for implementation of the rental housing revenue bond program established by Act 291, Session Laws of Hawaii 1980.

Your Committee discussed at length the issues of extending the Hula Mae program to applicants who own vacant lots and those who are parties to agreements of sale. Your Committee directs the Hawaii Housing Authority to examine these areas during the interim, determine the extent of these problems, and make its findings available to the 1982 Legislature for the consideration of changes to the Hula Mae program to address these areas of concern. Your Committee reaffirms its commitment to the Hula Mae program and its intent that the program continue to serve lower- and moderate-income households in need of assistance.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 50, 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. 50, H.D. 1, S.D. 2, C.D. 1.

Representatives Shito, Honda, Kobayashi, Segawa and Lacy,
Managers on the part of the House.

Senators Yamasaki, Ajifu and Young,
Managers on the part of the Senate.

Conf. Com. Rep. No. 7 on S.B. No. 526

The purpose of this bill is to reenact chapter 452, Hawaii Revised Statutes, which relates to the regulation of massage, and to allow license applicants to submit a tuberculin test instead of chest x-rays in certain cases.

This bill also adopts the recommendations of the Legislative Auditor's sunset review of the chapter by:

- (1) Establishing a massage therapist apprenticeship program and requiring participation in the program as a requirement for a therapist license;
- (2) Prohibiting the advertising of massage services by persons not currently licensed as a massage therapist;
- (3) Adding the conviction of an offense involving moral turpitude as a basis for denying or revoking a massage therapist license;
- (4) Increasing the penalty for practicing massage without a license from \$500 and/or not more than six months imprisonment to \$1,000 and/or not more than one year imprisonment.

As received by your Committee, this bill extended the repeal date of chapter 452 to December 31, 1988. Although the Legislative Auditor's sunset report recommended that the Board of Massage be eliminated, your Committee believes that further study is needed before a final decision is made as to elimination of the Board. However, in view of the Legislative Auditor's recommendation, your Committee finds that the Board of Massage should be reevaluated prior to December 31, 1988, and, therefore, the bill has been amended to provide for a repeal date of December 31, 1984.

Your Committee further finds that the present penalty for the unlicensed practice of massage is sufficient and, therefore, amended the bill to retain the present penalty provision.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 526, 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. 526, S.D. 1, H.D. 1, C.D. 1.

Representatives Blair, Baker, Dods, Kawakami and Liu,
Managers on the part of the House.

Senators Cobb, Kuroda and Yee,
Managers on the part of the Senate.

Conf. Com. Rep. No. 8 on S.B. No. 816

The purpose of this bill is to require the approval of eighty per cent of the apartment owners in a condominium project prior to the designation of additional areas as common elements and to require thirty days prior written notice to apartment owners before increasing assessments for common expenses to apartment owners.

Under current law, designation of additional areas as common elements requires an amendment to the project's declaration which is permitted upon approval of seventy-five per cent of the apartment owners. This bill would add a new section specifically providing that an eighty per cent decision of the apartment owners is required for the addition of common areas.

While in agreement with the intent of the bill to protect minority apartment owners from the addition of common elements which may result in increased common expenses, your Committee feels that an eighty per cent requirement for approval is not adequate and may allow unwarranted additions. Therefore, the bill has been amended to increase the approval requirement to ninety per cent. Further, a language change was made to clarify the approval requirement.

Your Committee has also amended the bill to delete the restriction for ninety per cent approval to areas "under the control of separate legal entities." The quoted phrase was deleted from line 5, page 1 of the bill to make the approval requirement applicable to all additions to the common elements except for incremental or phased projects in which disclosure of further additions to the common elements is made to buyers.

Technical amendments were made to the new section added to Chapter 514A in Section 2 of the bill by changing capitalized letters in the title of the section to lower case to conform to recommended drafting style.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 816, 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. 816, S.D. 1, H.D. 1, C.D. 1.

Representatives Blair, Hirono, Honda, Shito and Medeiros,
Managers on the part of the House.

Senators Cobb, Uwaine and Yee,
Managers on the part of the Senate.

Conf. Com. Rep. No. 9 on S.B. No. 636

The purpose of this bill is to amend chapter 26H, Hawaii Revised Statutes, the Hawaii Regulatory Licensing Reform Act.

Chapter 26-H, Hawaii Revised Statutes, was created by Act 70, Session Laws of Hawaii, 1970, based on the following findings by the Legislature: growing concern over the rapid proliferation of licensing boards and commissions and their resultant web of regulation; a need to insure that regulation operates primarily in the interest of the public rather than of the profession or vocation regulated; and that decisions to create regulatory programs in the past were often made without adequate factual data necessary to justify regulation.

The purpose of the Act was to insure that the public interest was served by establishing a system of periodic assessment of the various regulatory programs. By enacting a rolling schedule of repeal of all regulatory chapters, the Legislature made it necessary for an affirmative showing of justification to retain any regulatory program.

As originally enacted, section 26H-5, Hawaii Revised Statutes, required each board and commission to submit an impact statement to the Legislature prior to October 1, of the year preceding the year of its repeal. The section also limited extensions of chapters to not more than six years following each review.

In 1979, Act 121, Session Laws of Hawaii 1979, amended section 26H-5, to require the Legislative Auditor to evaluate the boards and commissions subject to repeal and to report its findings and recommendations prior to the regular session of the scheduled year of expiration. Also, the six-year limit on extensions was repealed.

Act 142, Session Laws of Hawaii 1980, again amended section 26H-5 by requiring the

Legislative Auditor to append to his sunset report, any written comments received from the evaluated board or commission prior to the submission of the report to the Legislature.

The sunset process, as amended, has provided periodic review of the State's still numerous regulatory boards and commissions. However, in the course of reviewing sunset reports during the current legislative session, the following concerns were expressed to the legislative committees conducting the reviews:

1. Certain boards and commissions which received critical evaluations by the Auditor alleged that it is the Department of Regulatory Agencies that is responsible for the unsatisfactory evaluations because of its poor complaint and testing procedures and policies and because of its inadequate level of support and services;
2. Although section 26H-5 requires the Auditor to append written comments to its reports, certain boards and commissions alleged that they were not provided with adequate opportunity to review, respond, and rebut findings and recommendations.
3. Though the requirement of periodic review is vital to the sunset process, evaluating as many as eight programs in a single year has heavily burdened the Legislative Auditor.

The intent of this bill is to respond to these concerns by amending chapter 26H to improve the implementation of Hawaii's sunset law.

Specifically, this bill postpones for one year, all repeal dates in chapter 26H, to provide the Legislative Auditor an opportunity to evaluate and report on the relationship between the various boards and commissions and the Department of Regulatory Agencies.

Your Committee amended the bill to clarify its intent that this one-year extension of all chapters is to be applied in addition to the repeal extensions which may be enacted by the Legislature this session through other Acts. For example, S.B. No. 587, S.D. 1, extends the existence of chapter 451A relating to the Board of Hearing Aid Dealers and Fitters to December 31, 1984. This bill, as amended, extends the existence of that chapter to December 31, 1985 in order to take into account the one year hiatus for all repeals.

The bill was also amended to provide evaluated boards and commissions a thirty day review and comment period before sunset reports are submitted to the Legislature.

Finally, the bill was amended to reestablish the six-year limit on repeal extensions; allowing however, the Legislature to extend for up to ten years, any board or commission that had previously been extended twice within a ten-year period. In addition, to clarify its intent, the bill was amended to specify that the Legislative Auditor is required to review a board or commission at least once every ten years. These amendments to the present chapter are intended to relieve some of the Legislative Auditor's sunset responsibilities, while preserving periodic review.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 636, 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. 636, S.D. 1, H.D. 1, C.D. 1.

Representatives Blair, Baker, Chun, Honda and Ikeda,
Managers on the part of the House.

Senators Cobb, Uwaine and Yee,
Managers on the part of the Senate.

Conf. Com. Rep. No. 10 on H.B. No. 754

The purpose of this bill is to amend Section 189-3, Hawaii Revised Statutes, to protect trade secrets or confidential information contained in the "monthly catch reports" of licensed commercial fisherman.

This bill classifies as confidential all information contained in the "monthly catch reports", except that such information in summary or aggregate form which maintains the anonymity of individuals may be released or made public by the Department of Land

and Natural Resources. Your Committee finds that by assuring the privacy of such information, the Department of Land and Natural Resources will gain the confidence of the commercial fishers, thereby enabling the Department to obtain more accurate and detailed information needed to properly manage the fishery resources.

Your Committee upon further consideration has made the following amendments to H.B. No. 754, H.D. 1, S.D. 1:

- (1) The total wet weight harvest shall be made public by the Department for each of the following: Corallium secundum, Corallium regale, Corallium laauense, Geradia, Callogorgia gilberti, Narella, Calyptrophora, Lepidisis olapa, and Acanella.
- (2) Made technical, non-substantive changes.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 754, 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. 754, H.D. 1, S.D. 1, C.D. 1.

Representatives Matsuura, G. Hagino, Kawakami, Okamura and Narvaes,
Managers on the part of the House.

Senators Henderson, Machida and Yee,
Managers on the part of the Senate.

Conf. Com. Rep. No. 11 on H.B. No. 770

The purpose of this bill is to amend Section 171-133, Hawaii Revised Statutes, by broadening the definition of agricultural park to include aquacultural activities.

This bill would include aquaculture as a permitted use in agriculture parks.

Your Committee upon further consideration has made the following amendments to H.B. No. 770, S.D. 1:

- (1) Inserted the phrases "or aquacultural" complex, "or aquacultural" activities and "or aquacultural" commodities after the word agricultural;
- (2) Defined the term aquaculture to mean the farming or ranching of any plant or animal species in a controlled salt, brackish, or freshwater environment; provided that such farm or ranch is on or directly adjacent to land; and
- (3) Made technical, non-substantive changes.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 770, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 770, S.D. 1, C.D. 1.

Representatives Matsuura, G. Hagino, Kawakami, Okamura and Isbell,
Managers on the part of the House.

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

Conf. Com. Rep. No. 12 on H.B. No. 212

The purpose of this bill is to amend Section 712-1210, Hawaii Revised Statutes to conform the definition therein to the holding of the United States Supreme Court in Miller v. California, 413 U.S. 15, (1973).

The Hawaii Supreme Court in State v. Manzo, 58 Hawaii 440, (1978), upheld the constitutionality of the existing state statutes on pornography. The reason that the court upheld the constitutionality of the existing state statutes was because it incorporated the definition and examples in Miller and construed them to be a part of the statutes.

The effect of this construction by the court was to limit the definition of pornographic

materials or performance contained in Section 712-1210(5) to the sort of representation or description of specific "hard cores" sexual conduct given as examples in Miller.

Your Committee finds that the bill will merely conform the Hawaii Revised Statutes on pornography to the ruling of the United States and Hawaii State Supreme Courts.

The bill provides for a more specific definition of "community standard" in terms of a specific geographic area. The community standard shall mean standards of the State; in other words, a statewide standard.

The United States Supreme Court in Jenkins v. Georgia, 418 US 153 (1974), agreed that the United States Constitution does not require that juries be instructed in state obscenity cases to apply the standards of a hypothetical statewide standard. The court in Jenkins said that, although Miller held that it was constitutionally permissible to permit juries to rely on the understanding of the community from which they come as to what constitutes a "community standard", the States still have considerable latitude in framing geographical standards. Jenkins, Supra at 157.

Thus, the state may choose to define the term "community standard" as defined in Miller, without further definition of a more specific geographic area, or it may choose to define the standards with greater specificity as the State of California has done.

In effect, Miller held that the requirement that the jury evaluate material with reference to contemporary statewide standards of the State of California was permissible.

Your Committee has chosen to follow the State of California and provide a more specific geographic definition of a "community standard". Consequently, the bill defines "community standard" as a standard of the state. The application of a statewide standard will insure uniform application of the law throughout the state, rather than the possible confusion of finding a book or film to be pornographic in one county while the same material may be found not to be pornographic in another county.

Your Committee has made some technical, non-substantive amendments to the bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 212, 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. 212, H.D. 1, S.D. 1, C.D. 1.

Representatives Nakamura, Baker, Dods, Shito and Medeiros,
Managers on the part of the House.

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

Conf. Com. Rep. No. 13 on H.B. No. 204

The purpose of this bill is to provide that property recovered in theft and other related offenses may be photographed, and the photographs be admitted as competent evidence in a court of law.

The bill will permit the police to photograph and return property of a victim of burglary or theft after the item has been photographed. Under current procedure, the recovered property is kept by the police until the trial and appeal on the matter has been concluded. In many cases, this means that the victim is denied the use of the property for months, and possibly years.

Testimony in favor of this bill was received from the Department of the Prosecuting Attorney, City and County of Honolulu and the Hawaii Prosecuting Attorneys' Association. Their testimony indicated that this bill will allow the victim of crime to get his property back with a minimum amount of hardship and inconvenience. Their testimony also indicated that photographing and returning of items are presently allowed in cases involving shoplifting offenses.

Your Committee finds that this bill will benefit the victim of theft and other related offenses by quickly returning the property and insuring that competent evidence is still available at the time of trial.

Your Committee has amended the bill to provide that nothing in the bill is intended to limit, restrict or otherwise modify Rule 91 of the Hawaii Rules of Evidence relating to

authentication and identification of evidence.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 204, 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. 204, H.D. 1, S.D. 1, C.D. 1.

Representatives Nakamura, Chun, Hirono, Taniguchi and Liu,
Managers on the part of the House.

Senators Carpenter, Cayetano and George,
Managers on the part of the Senate.

Conf. Com. Rep. No. 14 on H.B. No. 200

The purpose of this bill is to amend Section 712-1247 of the Hawaii Revised Statutes, to allow the police department to destroy any marijuana, seized as evidence, in excess of ten pounds after it has been photographed, and its weight recorded. The bill also provides that the photographs shall be deemed competent evidence of the marijuana involved and admissible in any proceeding.

Your Committee finds that with the rising increase in the number of marijuana cases being prosecuted, the amount of marijuana seized in a single case may mount to over 1,500 pounds. Thus, the storage and transportation of large amounts of marijuana is an increasing custodial problem for the evidence technicians of the police department.

Your Committee recognizes the inconvenience caused to the Police Department in terms of storage space and transportation, and believes that this bill will adequately address that problem.

The prosecuting attorneys of the four counties, the State Attorney General and the United States Attorney all supported the passage of this bill.

Your Committee has amended H.B. No. 200, H.D. 1, S.D. 1, to provide that the bill does not limit or restrict the application of Rule 901 of the Hawaii Rules of Evidence which relates to authentication and identification.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 200, 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. 200, H.D. 1, S.D. 1, C.D. 1.

Representatives Nakamura, Dods, Hirono, Taniguchi and Liu,
Managers on the part of the House.

Senators Carpenter, Cayetano and George,
Managers on the part of the Senate.

Conf. Com. Rep. No. 15 on S.B. No. 67

The purpose of this bill is to provide for the strict regulation of time sharing sales and for the regulation of exchange programs involving time share interests.

Your Committee is aware of the numerous public complaints arising from the manner and style of solicitation and sales activities of persons associated with the time sharing industry in Hawaii, and finds that the potential for harm to the public necessitates stricter regulation of the time sharing industry.

This bill responds to such major concerns by adding new sections to Chapter 514E, Hawaii Revised Statutes, and by amending existing sections. New material in Section 1 of the bill includes the following:

(1) The Director of the Department of Regulatory Agencies is empowered, upon satisfaction that "any person" is in violation of Chapter 514E, to bring suit on behalf of the State to enjoin any violation. The bill further provides for the voiding, at the election of the purchaser, of every sale or transfer made in violation of Chapter 514E, and agents of the seller may be held jointly and severally liable for the purchase price, plus interest, court costs, and reasonable attorney's fees.

(2) The bill makes time sharing trade practices subject to all provisions of Chapter

480, Hawaii Revised Statutes. It is the intention of your Committee to subject time share companies and time share interest sales to Section 480-2, specifically the "unfair methods of competition" and the "unfair and deceptive acts or practices" clauses thereof. The bill sets out deceptive trade practices, including the failure to disclose fully that promotional devices are "being used for the purpose of soliciting sales of time share interests."

The bill also enables plaintiffs to bring treble-damage lawsuits under Section 480-13 for injuries sustained through actions which violate Chapter 480, an undertaking in which the redress of grievances sought by private parties concurrently assists the State in the enforcement of its laws. Your Committee is of the belief, however, that equity in the circumstances calls for the opportunity to cure defects in time sharing sales transactions, and accordingly has included in Section 1 of the bill a new section entitled "Defense to Action," which establishes a period of fifteen days after notification by the purchaser of a time share interest of an alleged violation of Chapter 480. Within that period the seller must offer in writing to cancel the purchase agreement and tender a full refund, with interest, of monies paid by the purchaser.

Your Committee believes that this provision will encourage parties to settle differences out of court rather than to resort to litigation.

(3) The exchange program section of the bill is a significant addition to Chapter 514E, detailing the manner in which exchange programs are to be operated and administered. Your Committee has expanded and clarified the section by the addition of language limiting the mutual responsibility of exchange agents and developers if the exchange agent is not the developer, or a subsidiary of the developer, or is not controlled by or affiliated with the developer.

(4) The bill requires that time sharing acquisition agents and sales agents who function as real estate salesmen and real estate brokers be so licensed, in compliance with Chapter 467 and the rules and regulations of the Real Estate Commission. Your Committee notes that a distinction is to be made between time share sales agents and time share acquisition agents, as long as the latter are not involved in the selling of real property. The definitions of the two are set out in Chapter 514E-1, Hawaii Revised Statutes:

"Acquisition agent" means any person, other than a developer or sales agent, who, for compensation, solicits or encourages others to attend a time share sales presentation or to contact a time share sales agent or developer.

"Sales agent" means a person who sells or offers to sell for compensation an interest in a time share plan for a developer. (It should be noted that your Committee has amended the definition of "sales agent" quoted above, hereinafter described.)

In making the distinction between sales agents and acquisition agents, your Committee took note of the Declaratory Ruling of the Real Estate Commission on November 22, 1978, which held that salaried employees performing telephone solicitation for real estate companies were not engaged in real estate activity requiring them to be licensed as real estate agents or brokers. The Commission thereby overturned an earlier policy, and attached requirements that such unlicensed employees abstain from making real estate sales presentations, refer all substantive questions to licensed real estate salesmen or brokers, one of whom would be present during telephone solicitation, and that the sole function of the solicitor would be to extend an invitation to dinner and explain the purpose of the call and the dinner.

Your Committee finds a convincing parallel between real estate telephone solicitors and time sharing acquisition agents who do no selling, for in each case the objective is to put potential purchasers in touch with sales personnel. In view of their similar functions, to require the acquisition agent who does no selling and who is under the direct supervision of a licensed real estate broker or salesman, to be licensed as a real estate broker or salesman while the telephone solicitor, similarly supervised is not so obligated, would raise a question of unequal treatment under the law. Accordingly, your Committee amended Section 1 of the bill to require that real estate licensure apply to those time sharing sales agents and acquisition agents who are functioning as real estate salesmen and real estate brokers, and who are involved in conducting real estate or time sharing interest sales. In the opinion of your Committee, acquisition agents who do no selling and who are under the direct supervision of licensed real estate brokers or salesmen at one location need not have real estate licenses. Acquisition agents who do not satisfy these criteria must be licensed, in view of the declaratory ruling of the Real Estate Commission cited above.

In addition, outside contact persons who are not under the direct and immediate control or supervision of a licensed real estate salesman or broker, or who operate on public property as either independent agents or employees, must be licensed under Chapter 467 relating to Real Estate.

Your Committee amended the bill by adding a new Section 2 to broaden the definition of "sales agent" in section 514E-1, by deleting the phrase "for a developer," and by excluding from its scope an owner who buys a time share interest for his personal use and later offers it for resale.

Your Committee has also amended the bill in Section 3 by adding four new definitions to the chapter: "exchange agent," "exchange program," "person," and "time share interest," each to clarify the provisions of the chapter.

As previously noted, your Committee finds that Chapter 467, Hawaii Revised Statutes, applies to time sharing companies, time share sales agents and time share acquisition agents. The provisions of Chapter 467 include the establishment of a real estate recovery fund, which to a degree parallels the bonding provisions of Chapter 514E. Clarifying language has been added to Section 5 of the bill to provide that if the sales agent or the acquisition agent furnishes evidence of a blanket bond covering its employees who are sales agents or acquisition agents, the employees need not post individual bonds.

Section 6 of the bill amends section 514E-11, which sets out various prohibited practices. Significant is the replacement of the present constitutionally suspect prohibition of the solicitation of prospective purchasers on any beach, street, or other public property, by a requirement to comply with the disclosure provisions of section 514E-9. Sales agents and acquisition agents are prohibited from delivering sales presentations prior to tendering promised promotional devices, and they may not receive any property or money, including credit cards, prior to the signing of a contract.

Section 6 of the bill also refers to "reservation agreements," which your Committee is aware are being used in the condominium development industry to qualify for exemption from registration under the federal Interstate Land Sales Full Disclosure Act (15 U.S.C. §1701 et. seq.) and the Uniform Land Sales Act, Chapter 484, Hawaii Revised Statutes, while conducting pre-sales to gauge market feasibility, to provide a preliminary basis for obtaining loan commitments, and to satisfy the lender's presale requirements under such commitments.

A reservation agreement is a document by which a purchaser expresses an interest in buying property at some time in the future. A deposit may be accepted from the purchaser provided it is placed in escrow with an independent institution having trust powers and is refundable at any time at the purchaser's option. In all cases, a reservation agreement requires a subsequent affirmative action by the purchaser to create his obligation; typically the action would be the execution of a formal contract of sale.

Your Committee understands that this practice has begun to carry over into the time share industry for programs in which time share units are not yet constructed when the developer begins his sales program. Accordingly, your Committee has included express references to reservation agreements at appropriate places in the bill. Your Committee has not expressly established an escrow requirement for use in connection with the taking of any such reservations. This is due in part to the understanding that time share developers using reservation agreements to qualify for exemption from the federal and state land sales acts must already establish adequate escrow arrangements to take advantage of such exemptions.

Section 7 of the bill, as amended, completely replaces the present provisions of section 514E-12 with new language subjecting any person who violates the chapter or any rule of the director to a fine of not less than \$500 nor more than \$10,000 for each offense, with each date of violation constituting a separate offense. The amended language clarifies the role of the director in the determination and imposition of civil penalties, adding the requirement for prior notice and hearing in the interest of due process and the exploration of the extent of the violation and the identification of responsible parties. Your Committee has empowered the director to issue cease and desist orders to any person in violation of the chapter or related rules, and to assess fines and revoke the registration and right to sell time share interests of any person who fails to comply with a cease and desist order.

Section 8 of the bill, as amended, adds a severability clause to Chapter 514E.

Your Committee dealt at length with Section 9 of the bill which amends Section

514E-2 by providing, for the purposes of Chapter 467, that a time share interest shall constitute real estate. Your Committee has extended the language to add: "and the offer or sale thereof shall constitute the offer or sale of an interest in real property."

Although Section 514E-2 was intended to make clear that the character of an interest in real property would not be affected by the use of the property in connection with a time share plan, the status of a time share interest itself was not detailed. The practical effect of this amendment to Section 514E-2 is to include within the real estate licensure requirements of Chapter 467 those time share sales agents and time share acquisition agents who offer to sell, or do sell, time share interests.

Your Committee is aware that the Department of Regulatory Agencies presently requires time share sales agents dealing in time share ownership plans to be licensed as real estate brokers and real estate salesmen, but that the same requirement is not imposed upon those who deal in the sale of interests in time share use plans, even though the time share interest in a time share use plan may constitute an interest in real property, and therefore "real estate" within the meaning of Section 467-1 (4). Section 9 of this bill is intended to remove any doubt that time share interest is an interest in real property and that persons selling time share interests must be licensed under Chapter 467.

In consideration of the practical aspects of requiring real estate licensure of time sharing personnel not already licensed, your Committee has amended the bill in Section 11 so that the licensure requirement becomes effective on January 1, 1982, in order to give potential candidates for licensure time to prepare for the examination to be conducted by the Real Estate Commission. It is the expectation of your Committee that the Real Estate Commission will attend to the qualification for licensure of time sharing industry personnel, affording them assistance and guidance, and, should it prove necessary, conducting an additional examination over and above those already scheduled.

Your Committee has made a number of nonsubstantive technical amendments to the bill for purposes of clarity, and is satisfied that the bill as amended responds to the public insistence for stricter regulation of the time sharing industry. At the same time it is both sound and equitable in its application to the legitimate interests of the state, private citizens, visitors to Hawaii, and the time sharing industry.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 67, 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. 67, S.D. 1, H.D. 1, C.D. 1.

Representatives Blair, Dods, Kawakami, Waihee and Ikeda,
Managers on the part of the House.

Senators Cobb, Kuroda and Soares,
Managers on the part of the Senate.

Conf. Com. Rep. No. 16 on S.B. No. 508

The purpose of this bill is to amend the chapters of the Hawaii Revised Statutes which relate to forestry, fish and game, fishing rights, commercial fishing, and conservation and resources enforcement. The amendments (1) reorganize the statutes to reflect the transfer of responsibility for the management of terrestrial animals from the department of land and natural resource's fish and game division to its forestry division, (2) reflect the redesignation of those divisions as the division of aquatic resources and the division of forestry and wildlife, (3) establish uniform, "sliding scale" penalties for violations of laws and rules pertaining to conservation and resources, (4) delete archaic provisions of the statutes, and rewrite or reorganize certain sections to clarify their intent, and (5) confer additional rule-making authority on the department.

Your Committee has made the following amendments to S.B. No. 508, S.D. 1, H.D. 2, as received:

(1) On pages 4 and 32, your Committee has amended the bill to more clearly define the department's authority to destroy predators deemed harmful to wildlife and game. Currently, sections 187-13 and 187-14, Hawaii Revised Statutes, give the department the authority to destroy predators on state-owned lands, and require extensive sign posting in the areas where predators are being destroyed. The bill, as received, repeals these sections, and amends chapter 183, Hawaii Revised Statutes, to confer general authority on the department to destroy predators. However, that general authority would allow the department to destroy predators on private as well as public lands,

and would require less extensive posting.

Your Committee finds that the guidelines contained in the current provisions of the statutes are appropriate. Accordingly, it has amended the bill, as received, to leave sections 187-13 and 187-14, Hawaii Revised Statutes, intact. It has further amended section 183-1, Hawaii Revised Statutes, to note that the department has the authority to destroy predators, pursuant to sections 187-13 and 187-14, Hawaii Revised Statutes.

(2) On page 13, your Committee has amended the definition of "aquaculture" in chapter 187, Hawaii Revised Statutes, to conform with the definition set forth by H.B. No. 770, S.D. 1.

(3) On pages 80 and 81, your Committee has amended the bill to provide that the department, upon revoking a commercial fisherman's license, may specify a period of time not to exceed one year during which the fisherman would not be eligible to apply for another license. Previously, the bill required a mandatory one-year waiting period before the fisherman could reapply for a license. Since the suspension of a fisherman's license in effect denies the fisherman the opportunity to pursue the fisherman's livelihood and is therefore a very severe penalty, your Committee finds that the length of such suspensions should be decided on a case-by-case basis.

(4) On pages 80 and 81, your Committee has amended the bill by stating explicitly that a commercial marine licensee shall be given notice and opportunity for hearing in accordance with the Administrative Procedure Act in a proceeding for the revocation of the license.

(5) On page 81, your Committee has amended the bill to require the department to publicly report the wet weight harvest of certain species of coral harvested by individual fisherman. Previously, the bill prohibited such information from being released except in aggregate or summary form. This amendment is necessary because those species of coral are harvested under a quota system, and individual fishermen must know the amounts of coral harvested by other fishermen in order to comply with the quota. This amendment also brings this bill into conformance with the provisions of H.B. No. 754, H.D. 1, S.D. 1.

(6) On page 108, your Committee has deleted the "sunset" provision which would have nullified all of the amendments made by the bill three years after its enactment. The purpose of that provision, as stated in House Standing Committee Report No. 940, was to allow the legislature to review the amendments during the three-year period. In deleting that provision, it is the intent of your Committee that the department review the implementation of the amendments made by this bill, and report its findings together with any suggested legislation to the legislature prior to the convening of the Regular Session of 1983. Such report should also contain additional suggestions for streamlining the other chapters of Title 12, Hawaii Revised Statutes, whether by deleting archaic language, rewriting or reorganizing sections, or through expanded use of rule-making authority.

(7) Lastly, your Committee has made several technical or stylistic amendments to the bill to clarify its intent.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 508, S.D. 1, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 508, S.D. 1, H.D. 2, C.D. 1.

Representatives Sakamoto, Kiyabu, Baker, Fukunaga, Kawakami,
Levin, Matsuura, Morioka, Isbell and Narvaes,
Managers on the part of the House.

Senators Kobayashi, Henderson and Uwaine,
Managers on the part of the Senate.

Conf. Com. Rep. No. 17 on H.B. No. 32

The purpose of this bill is to extend the three-year job-sharing pilot project of the Department of Education, which is scheduled to end at the close of the 1980-81 academic year, for an additional two academic years.

Your Committee believes that an extension of the pilot project will enable the Legislature to more fully consider appropriate refinements or amendments to the act establishing

the job-sharing pilot project (Act 150, Session Laws of Hawaii 1978, as amended by Act 134, Session Laws of Hawaii 1980).

The bill as received by your Committee requires the Legislative Auditor to submit additional status reports to the 1982 and 1983 Regular Sessions and a report on its findings and recommendations to the 1984 legislative session. Having recently received and reviewed the Legislative Auditor's March 1981 report entitled: Job Sharing Pilot Project in the Department of Education: Final Evaluation, and having thereby determined that this report thoroughly addresses all of the concerns of the Committee relating to the job-sharing pilot project, your Committee has therefore amended H.B. No. 32, H.D. 1, S.D. 1 to delete the requirement for additional reports by the Legislative Auditor.

Your Committee on Conference is in accord with the intent and purpose of H.B. 32, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. 32, H.D. 1, S.D. 1, C.D. 1.

Representatives Toguchi, Andrews, Matsuura, Takitani and Monahan,
Managers on the part of the House.

Senators Abercrombie, Carpenter and Ajifu,
Managers on the part of the Senate.

Conf. Com. Rep. No. 18 on H.B. No. 934

The purpose of this bill is to allow the Board of Examiners of Nursing Home Administrators to sunset as scheduled on December 31, 1981.

Under Chapter 26H, Hawaii Revised Statutes, the various boards and commissions regulated by state law under the Department of Regulatory Agencies are scheduled for periodic review by the legislature to determine whether or not the regulatory program should be continued. Pursuant to this "sunset" law, the statutes governing the Board of Examiners of Nursing Home Administrators is due to be repealed on December 31, 1981. This bill would sunset Chapter 457B, Hawaii Revised Statutes, and place regulation of nursing homes under the Board of Medical Examiners.

Your Committee finds from the Sunset Evaluation Report submitted by the Legislative Auditor that maintenance of a State licensing program for nursing home administrators is a federal requirement for participation in federal funding. Under the Social Security Act, compliance with the Medicaid program is required in order that the State be eligible to receive financial aid under these programs. Currently, aid received state-wide is approximately \$20 million annually.

Your Committee feels that compliance with federal requirements should be continued and has therefore amended the bill to conform with federal requirements and has extended the repeal date of the chapter to December 31, 1984. Your Committee has also amended the composition of the board to conform to the requirements of the Social Security Act.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 934, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 934, S.D. 1, C.D. 1.

Representatives Blair, Chun, Baker, Hirono and Ikeda,
Managers on the part of the House.

Senators Cobb, Uwayne, Saiki, Machida and Kobayashi,
Managers on the part of the Senate.

Conf. Com. Rep. No. 19 on H.B. No. 328

The purpose of this bill is to ensure that Chapter 480, relating to state antitrust laws, be construed in conformance with judicial interpretations of comparable federal statutes.

Hawaii's antitrust laws were enacted in 1961 and the intent of the legislature at that time was clearly to utilize the precedents developed in the federal law in applying Chapter 480. Conference Committee Report No. 19, H.B. No. 27, H.D. 2, S.D. 2, C.D. 1 (May 27, 1961) states:

In conclusion it is the intent of your Committee on Conference that wherever there are comparable provisions of the federal antitrust laws and tests similar in language to those provided in this bill, it is intended that those decided federal cases applicable and relating to those provisions and tests will guide the interpretation and application of such terms and provisions of this bill in the light of the economic and business conditions of this State. Id. at page 19.

Your Committee is aware that in a recent case involving the State's first criminal antitrust action, the First Circuit Court ruled that in order to indict a defendant under Section 480-4, Hawaii Revised Statutes, Hawaii's counterpart to Section 1 of the Sherman Act, the State must allege and prove specific intent on the part of the defendant. The Circuit Court's ruling was in direct conflict with the U.S. Supreme Court's ruling in United States v. United States Gypsum Co., 438 U.S. 422 (1978), in which the court held that violations of Section 1 of the Sherman Act were general intent crimes. The state court's interpretation of Section 480-4, Hawaii Revised Statutes, would make state enforcement of state antitrust laws much more difficult and burdensome than federal enforcement of federal antitrust laws.

Your Committee believes that if the state court ruling is allowed to stand, antitrust violations would be severely hampered, as the State would be required to prove the more stringent standard of whether the defendant specifically intended to restrain trade, rather than merely that the defendant knowingly entered into a price-fixing arrangement. This bill would compel the state court to follow interpretations of comparable federal statutes in requiring proof of only general intent.

Your Committee has amended the bill by placing the substance of the proposed new section into Section 480-3. Your Committee feels that this approach is more consistent with the present style of Chapter 480. Your Committee's intent in amending Section 480-3 is to provide a more encompassing statement of interpretation of the chapter. This bill is not intended to preclude federal reliance on interpretations of the Federal Trade Commission and the federal courts to section 5(a)(1) of the Federal Trade Commission Act in construing Section 480-2, but instead is intended to apply existing federal law to interpretation of the entire chapter.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 328, 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. 328, H.D. 1, S.D. 2, C.D. 1.

Representatives Blair, Hirono, Shito, Honda and Liu,
Managers on the part of the House.

Senators Cobb, Carpenter, O'Connor, Soares and Yee,
Managers on the part of the Senate.

Conf. Com. Rep. No. 20 on H.B. No. 33

The purpose of this bill is to transfer the responsibility for the operation, planning, programming, and budgeting of all community/school and public libraries from the Department of Education to the Board of Education through the State Librarian.

Under present law, the administration of programs related to library services and transcription services for the blind are within the responsibilities of the Superintendent of Education, and the State Librarian is under the direction of the Superintendent of Education.

Under this bill, the responsibility for the administration of the school library program will remain under the Superintendent of Education. However, the responsibility for the administration of programs relating to public library services and transcribing services for the blind are transferred by the bill to the State Librarian under policies established by the Board of Education. Further, the bill places the State Librarian under the direction of the Board of Education, rather than under the direction of the Superintendent of Education and the Department of Education. The State Librarian is given the responsibility for the planning, programming, and budgeting of all community/school and public libraries within the State.

Your Committee, upon further consideration, has made the following amendments to H.B. No. 33, H.D. 2, S.D. 1:

- (1) To delete "and public libraries" on line 3 and the same on line 4 in Section

1 of the bill.

- (2) To delete "department of education and public libraries" and inserting "public library system" on line 7 and the same on line 18 of Section 1, page 2 of the bill.
- (3) To delete "department of education and public libraries" and inserting "public library system" on lines 10-11 and lines 21-22 of Sections 1 and 2, respectively, page 3 of the bill.
- (4) To delete the brackets on the word "operation" on line 14 of Section 7, page 7 of the bill.
- (5) To delete, in its entirety, Section 11, page 10 of the bill, and to renumber Sections 12 and 13 to Sections 11 and 12, respectively.

Your Committee wishes to emphasize that, through this bill, the public library system is hereby placed under the sole and direct control of the Board of Education, to be administered by the State Librarian, and is placed in the Department of Education for administrative purposes only.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 33, 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. 33, H.D. 2, S.D. 1, C.D. 1.

Representatives Toguchi, D. Hagino, Okamura, Tungpalan and Isbell,
Managers on the part of the House.

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

Conf. Com. Rep. No. 21 on H.B. No. 14

The purpose of this bill is to require that contracts for life, disability, credit life, credit disability, health, homeowners, and motor vehicle no-fault insurance be presented to the consuming public in substantially readable form.

This bill is concerned with the fact that insurance contracts have, in the past, become almost unreadable for most of the general public because of the liberal use of technical and legal language. This bill would introduce the requirement that insurance contracts achieve a score of 40 on the Flesch reading ease test or an equivalent score on a comparable test in order to provide a minimum standard for readability. Your Committee feels that such a requirement is in the best interest of consumers who will benefit by being able to read their insurance contracts with understanding.

Your Committee has made a technical amendment to include no-fault insurance contracts for motor vehicles leased for personal use.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 14, 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. 14, H.D. 1, S.D. 1, C.D. 1.

Representatives Blair, Baker, Dods, Kawakami and Liu,
Managers on the part of the House.

Senators Cobb, Uwaine and Yee,
Managers on the part of the Senate.

Conf. Com. Rep. No. 22 on H.B. No. 1769

The purpose of this bill is to extend the repeal date of Chapter 441, Hawaii Revised Statutes, relating to cemeteries and mortuaries, from December 31, 1981 to December 31, 1987, to amend the existing chapter by deleting the Cemetery and Mortuary Board, and to make other technical changes to the chapter.

Under Chapter 26H, Hawaii Revised Statutes, the various boards and commissions regulated by the state law under the Department of Regulatory Agencies are scheduled for periodic review by the legislature to determine whether or not the regulatory program

should be continued. Pursuant to this "sunset" law, the statutes governing the Cemetery and Mortuary Board are due to be repealed on December 31, 1981. This bill would extend the board until December 31, 1987.

This bill also amends Chapter 441, Hawaii Revised Statutes, by abolishing the Cemetery and Mortuary Board and placing the responsibility for regulation of mortuary, cemetery, and pre-need funeral authorities with the Director of the Department of Regulatory Agencies. The bill also exempts cemeteries from present bonding requirements and deletes licensing and bonding requirements for cemetery and pre-need funeral salesmen. Further, the bill adds a new section to the chapter requiring an explanation of trust or pre-need fund provisions, refund provisions, and what related purchases, if any, may be necessary, in addition to the items or services purchased under the sales contract.

Your Committee has amended the bill to clarify its intent that real estate licenses are not required of cemetery or pre-need funeral salesmen, notwithstanding the provisions of Chapter 467, Hawaii Revised Statutes.

Your Committee has further amended the bill by including a new Section 24 directing the Director of Regulatory Agencies to prepare a report regarding regulation under Chapter 441, for submission to the legislature prior to the convening of the 1982 session. This report shall deal with questions regarding areas covered by the Department's regulatory functions including bonding, licensing of mortuaries, perpetual care funds, auditing, and administration of trusts.

Your Committee has also made technical and grammatical amendments and corrections.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1769, 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. 1769, H.D. 1, S.D. 1, C.D. 1.

Representatives Blair, Hirono, Chun, Waihee and Medeiros,
Managers on the part of the House.

Senators Cobb, Kuroda and Soares,
Managers on the part of the Senate.

Conf. Com. Rep. No. 23 on H.B. No. 1511

The purpose of this bill is to 1) define and permit wraparound loan mortgages for the financing of real property, and 2) raise the interest rate chargeable on credit card accounts from 18 percent to 21 percent.

Under present law, wraparound financing for real property is prohibited unless the interest rate complies with the 12 percent usury limit since it is secured by property upon which there exists a prior lien.

This bill would specifically exempt wraparound junior liens from existing usury limits by defining such loans as first liens for purposes of Section 478-8, Hawaii Revised Statutes. Your Committee feels that such financing will aid potential homeowners by providing an opportunity to obtain financing at a lower rate of interest than would otherwise be obtainable. Your Committee feels that it would aid potential homebuyers if they are allowed to take advantage of the difference between the relatively low interest rate on a seller's first mortgage and the high currently prevailing interest rates. Your Committee finds that in certain fact situations, wraparound financing can be beneficially used to provide a homebuyer with an annual rate of interest below current levels, and still provide the lender with a competitive effective rate of return.

This bill would also increase the current 18 percent limit on interest chargeable on credit card accounts to 21 percent. Your Committee has, however, amended the bill by deleting this provision, retaining the current rate of interest.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1511, 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. 1511, H.D. 1, S.D. 2, C.D. 1.

Representatives Blair, Chun, Shito, Honda and Ikeda,
Managers on the part of the House.

Senators Cobb, Uwaine and Henderson,
Managers on the part of the Senate.

Conf. Com. Rep. No. 24 on H.B. No. 393

The purpose of this bill is to limit representation on a condominium board of directors to one owner per unit and to provide for examination of the association's financial statements by owners.

Presently, a condominium board may have more than one director from the same apartment. This bill would prevent over-representation from any one unit and make it more difficult for a small group to control the operations of the association.

Present law also requires that minutes of the meetings of the board of directors and association of apartment owners be available for examination by apartment owners at convenient hours at a place designated by the board. This bill adds a provision that the association's financial statements be available for examination and requires all the documents to be available on the condominium premises and on request, to be mailed to owners.

Your Committee has amended the bill by deleting reference to the premises of the condominium and clarifies the procedure for mailing statements to owners. Your Committee feels that these amendments will clarify the intent of the bill.

Your Committee has also made technical, non-substantive, changes to the bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 393, 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. 393, H.D. 1, S.D. 1, C.D. 1.

Representatives Blair, Hirono, Shito, Honda and Medeiros,
Managers on the part of the House.

Senators Cobb, Uwaine and Yee,
Managers on the part of the Senate.

Conf. Com. Rep. No. 25 on H.B. No. 567

The purpose of this bill is to establish mandatory fines and imprisonment for persons convicted of the offense of prostitution.

At present, courts have full discretion in sentencing, and your Committee finds that fines imposed on persons convicted of prostitution average \$100 per offense. Less than six percent of the cases impose sentences of imprisonment.

Your Committee believes that some form of mandatory sentence of imprisonment is necessary to curb rising crimes of violence and property crimes, many of which occur as a consequence of the offense of prostitution.

The bill provides that persons convicted of prostitution for the first time be mandatorily fined \$500 and may also be sentenced to a term of not more than 30 days. Thus, the judge, in the case of a first offense, is mandated to impose a fine of \$500 and has the discretion to impose a sentence of imprisonment up to 30 days.

Your Committee believes that the imposition of a mandatory fine and jail term in cases of repeat offenders is justified since conviction of a second or subsequent offense is an indication that the defendant is prone to criminal activity as a course of income. In subsequent offenses, the court is mandated to impose the sentence of imprisonment and a fine of \$500 without the possibility of suspension or probation.

Your Committee has amended the bill to provide that where a defendant, not in contumacious default in the payment of a mandatory fine, may instead of paying the fine, be ordered to perform services for the community as provided in section 706-605(1)(f) of the Hawaii Revised Statutes.

Your Committee feels that the addition of this amendment to the bill will prevent the person convicted of prostitution from attempting to pay the mandatory fine in installments or refusing to pay the fine at all, and provide a further deterrent to the commission of the offense of prostitution.

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

567, 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. 567, H.D. 1, S.D. 2, C.D. 1.

Representatives Nakamura, Dods, Honda, Waihee and Liu,
Managers on the part of the House.

Senators Carpenter, Kobayashi, Kuroda, Uwaine and Yee,
Managers on the part of the Senate.

Conf. Com. Rep. No. 26 on H.B. No. 585

The purpose of this bill is to clarify the present law concerning guardianships by trust companies or banks. The purpose is accomplished by addition of the language, "of the property."

Current law limits banks and trust companies to act as a "guardian." Your Committee recognizes that confusion may arise because of such limited language. Presently, not only many banks and trust companies act as "guardians of property," but also "guardians of the person."

This bill eliminates any doubt and clearly indicates the intent of the Legislature that only banks and trust companies may act as personal representatives and guardians of property.

Your Committee received a report on Guardianship and Protective Services in Hawaii, dated December 1980, from the Task Force for the Study of Laws Relating to Guardianship, Civil Commitment and Protective Services in Hawaii. The report recommended enactment of legislation that would permit private, non-profit corporations to act as guardian of the person of mentally incapacitated people. It pointed out that parent groups, such as associations for retarded citizens, have formed corporations for this purpose so that the parents are assured of continuing guardians for their incapacitated children when the family can no longer provide this service.

Your Committee is in agreement that it is desirable to also amend existing legislation to permit corporations to act as guardians of incapacitated persons. Your Committee further agrees that Section 560:5-311, Hawaii Revised Statutes, be amended to permit private, non-profit corporations and trust companies to act as guardians of incapacitated persons.

Your Committee has amended the bill to delete lines 7 through 10.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 585, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 585, S.D. 1, C.D. 1.

Representatives Nakamura, Chun, Taniguchi, Waihee and Liu,
Managers on the part of the House.

Senators Carpenter, Kobayashi and O'Connor,
Managers on the part of the Senate.

Conf. Com. Rep. No. 27 on H.B. No. 728

The purpose of this bill is to tighten the existing, buy-back provisions in the Hawaiian Homes Commission Act, 1920, as amended, in order to curb speculation, lower the price of homes to new lessees of surrendered leases, and prevent a drain of the Department of Hawaiian Home Land's housing loan funds.

Currently, lessees who surrender their leases or have them canceled receive the difference between the appraised value of the improvements, as determined by independent appraisal, and debts owing the Department of Hawaiian Home Lands. Appraisals of improvements have been much higher than the original costs of the improvements. Thus, the Department has had to pay much for the surrendered leases. This has allowed some lessees to make large cash gains after short residences on leased lands. The added costs have also been passed on to subsequent lessees.

The Department of Hawaiian Home Lands has proposed this bill. The buy-back provisions are based on those of the Hawaii Housing Authority. The Department feels that this

bill is equitable to itself and surrendering lessees. Your Committee agrees with the Department in this regard.

Your Committee has added a subsection (h) to the new section created in Section 2 in this bill to specify that this bill does not affect rights or interests which have vested prior to enactment of this bill - that present homestead leaseholders are not affected. This is done to allay the fears of many homesteaders who have expressed concern over this matter.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 728, 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. 728, H.D. 1, S.D. 1, C.D. 1.

Representatives Sakamoto, Kiyabu, G. Hagino, Hashimoto, Kawakami and Narvaes,
Managers on the part of the House.

Senators Yamasaki, Anderson and Young,
Managers on the part of the Senate.

Conf. Com. Rep. No. 28 on H.B. No. 1103

The purpose of this bill is to 1) add to and delete compounds from the schedules of controlled substances pursuant to requirements of Chapter 329, Hawaii Revised Statutes, and 2) amend the present prescription writing and filling procedure by requiring Schedule II controlled substances blank prescription forms to be printed and distributed by the Department of Health.

Under Section 329-11, Hawaii Revised Statutes, the Department of Health and the legislature are required to annually review the controlled substances schedules contained in Chapter 329 for purposes of additions and deletions of listed substances. Your Committee finds that the proposed addition of the substances, Bulk Dextropropoxyphene and Phenylacetone, is in conformance with changes made on the federal level as noted in the Federal Register, Vols. 44, No. 142, July 22, 1980, and 45, No. 240, December 12, 1979. Your Committee is therefore in agreement with the proposed changes.

Your Committee has amended the bill to delete reference to the proposed prescription procedures and revolving fund.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1103, 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. 1103, H.D. 1, S.D. 1, C.D. 1.

Representatives Blair, Chun, Shito, Waihee and Ikeda,
Managers on the part of the House.

Senators Yamasaki, Ajifu and Cayetano,
Managers on the part of the Senate.

Conf. Com. Rep. No. 29 on H.B. No. 1770

The purpose of this bill is to amend various provisions of Chapter 468K, Hawaii Revised Statutes, relating to the travel agency recovery fund.

Chapter 468K, Hawaii Revised Statutes, was enacted as Act 290, 1980 and became effective January 1, 1981. This bill would amend the chapter in the following substantive manner: (1) limit recovery to those acts committed by only registered travel agents or sales representatives, (2) provide a definition of "aggrieved person", (3) limit payment into the fund to one payment at initial registration, and (4) limit additional payments to the fund at only even-numbered years.

Your Committee finds that the changes suggested by the bill clarify the original intent of the law. In connection therewith, your Committee notes that most recoveries against travel agencies do not exceed \$1,500 and a lowering of liability limitations should not adversely affect the rights of consumers. Your Committee has therefore lowered both the individual recovery limit and the maximum liability of the fund per travel agent or sales representative from \$10,000 to \$8,000.

Your Committee has also raised the interest rate applicable on repayment to the fund from 6 percent to 10 percent per annum.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1770, 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. 1770, H.D. 2, S.D. 1, C.D. 1.

Representatives Blair, Kiyabu, Hirono, Waihee and Medeiros,
Managers on the part of the House.

Senators Cobb, Kuroda and Soares,
Managers on the part of the Senate.

Conf. Com. Rep. No. 30 on H.B. No. 1048

The purpose of this bill is to authorize the Department of Budget and Finance to issue special purpose revenue bonds for the furnishing of electric energy.

This bill authorizes the Department of Budget and Finance to issue special purpose revenue bonds pursuant to Chapter 39A, Hawaii Revised Statutes, in an amount not to exceed \$72,252,000, for capital improvement programs which are multi-project programs for the local furnishing of electric energy by electric utility companies; provided that the Public Utilities Commission approves the projects, and the funds are not used for new fossil or nuclear fuel generating units. This bill further provides that the Public Utilities Commission shall make annual reports to the legislature regarding electric utilities financing, costs, and benefits of the bonds, and a listing projects so funded.

Your Committee has amended the bill to provide a list of capital expenditures for which each electric utility plans to expend funds generated from the issuance of special purpose revenue bonds during the period July 1, 1981 through June 30, 1984. Your Committee feels that this amendment will provide a basis upon which informed decisions can be made on the issuance of such bonds.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1048, 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. 1048, H.D. 2, S.D. 2, C.D. 1.

Representatives Blair, Honda, Kawakami, Kiyabu, Morioka and Liu,
Managers on the part of the House.

Senators Yamasaki, Campbell, Cayetano, Henderson and Soares,
Managers on the part of the Senate.

Conf. Com. Rep. No. 31 on H.B. No. 247

The purpose of this bill is to exempt rum manufactured in the State from the liquor tax for five years and to delete the prohibition on labeling or selling rum as "Hawaii Rum" or "Hawaiian Rum" unless it has been aged for at least two years. The bill also provides that liquor may be labeled or sold using the word "Hawaii," "Hawaiian," or "Aloha State" as long as it is at least partially manufactured in the State.

Under present law, it is required that rum be aged for at least two years from the date of distillation if it is to be labeled or sold as "Hawaii Rum" or "Hawaiian Rum." Your Committee notes that the labeling prohibition has proved to be an effective bar to local distillers establishing a market for Hawaiian rum.

Your Committee feels that the labeling requirement bears no reasonable relationship to insuring the quality of the product and therefore agrees with the intent of the bill that there is no need for such an aging requirement prior to labeling.

Your Committee is aware of the consolidated cases in the State Tax Appeal Court, Civil Nos. 1852, 1862, 1866 and 1867, under the name Bacchus Imports, Ltd., et al. v. Freitas, currently pending in the State Supreme Court, regarding the validity of certain liquor tax exemptions, and has had extensive discussions with the Attorney General's Office and the State Tax Department regarding the cases. Your Committee also notes that opinions conflict as to whether or not the national tax structure provides an advantage to rum produced in Puerto Rico and therefore makes no finding on that issue. Your Committee does feel, however, that providing a tax incentive in the form

of a liquor tax exemption for a period of years is an appropriate method of encouraging the development of a new industry in the State and is therefore in agreement with the intent of the bill.

Your Committee has made a technical correction to the bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 247, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 247, S.D. 2, C.D. 1.

Representatives Blair, Andrews, Baker, Hirono and Liu,
Managers on the part of the House.

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

Conf. Com. Rep. No. 32 on H.B. No. 1022

The purpose of this bill is to clarify Chapter 290, Hawaii Revised Statutes, regarding disposition of towed vehicles which have been abandoned.

Present law provides that towed and abandoned vehicles may be disposed of according to the terms of Chapter 290 relating to abandoned vehicles. In order to clarify the terms of disposal, this bill provides that disposal of towed vehicles may be effected through the procedures set forth. These procedures are similar to those existing for the disposition of vehicles abandoned on the premises of certain business establishments.

Your Committee has amended the bill to raise the amount chargeable as a storage fee from \$2 to \$3.50. Your Committee has also made technical corrections to the bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1022, 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. 1022, H.D. 1, S.D. 1, C.D. 1.

Representatives Blair, Dods, Honda, Kawakami and Ikeda,
Managers on the part of the House.

Senators George, Cobb and Soares,
Managers on the part of the Senate.

Conf. Com. Rep. No. 33 on S.B. No. 1662

The purpose of this bill is to require the Board of Education to release a public school student from school attendance to observe a religious holy day, when requested in writing by a parent, guardian or other person having custody or control of the pupil.

Your Committee finds that currently recognized religious holy days do not encompass the spectrum of religious beliefs in our community. It is in the tradition of separation of church and State to respect those beliefs regardless of the number of people who may hold them.

Your Committee has amended the bill to count actual attendance at religious observances as an excused absence rather than as attendance.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1662, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1662, H.D. 2, C.D. 1.

Representatives Toguchi, Baker, Hirono, Segawa and Anderson,
Managers on the part of the House.

Senators Abercrombie, Carpenter and Kobayashi,
Managers on the part of the Senate.

Conf. Com. Rep. No. 34 on H.B. No. 1680

The purpose of this bill, as received by your Committee, is to authorize the Department of Budget and Finance to issue special purpose revenue bonds to assist eight not-for-profit corporations that provide health care facilities to the general public to be used for financing new construction and renovation or by refinancing existing obligations.

Testimony received from Castle Memorial Hospital indicates that the sum of \$9,100,000 is needed for new construction and the renovation of existing facilities, as well as for the refinancing of a long-term debt. Your Committee on Conference has accordingly amended Section 2, line 12, page 1 of the (S.D. 2) bill by adding the words "and new construction and renovation" so as to clearly specify the expanded purpose for which special purpose revenue bonds in the previously cited sum are authorized to be issued for Castle Memorial Hospital.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1680, 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. 1680, H.D. 1, S.D. 2, C.D. 1.

Representatives Segawa, Ige, Kobayashi, Levin and Liu,
Managers on the part of the House.

Senators Yamasaki, Anderson and Cayetano,
Managers on the part of the Senate.

Conf. Com. Rep. No. 35 on S.B. No. 1476

The purpose of this bill is to enable the director of personnel services of the State and the county civil service commissions to adopt appropriate rules on compensation concerning promotions, temporary assignments, and demotions and to accommodate the effects of recently negotiated model conversion plans authorized by Act 253, Session Laws of Hawaii, 1980.

Sections 77-10 and 77-14, Hawaii Revised Statutes, were developed to cover situations arising under current salary structures and are no longer applicable with the model conversion plans. Greater flexibility is needed for the adoption of appropriate rules on compensation adjustments with proper consideration given to merit principles and requirements under model conversion plans.

Your Committee has amended S.B. No. 1476, H.D. 1 to correct typographical errors.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1476, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1476, H.D. 1, C.D. 1.

Representatives Takitani, Andrews, Tungpalan, Narvaes and Nakasato,
Managers on the part of the House.

Senators Uwayne, Abercrombie and Henderson,
Managers on the part of the Senate.

Conf. Com. Rep. No. 36 on S.B. No. 568

The purpose of this bill is to clarify the existing law on implied consent as it relates to blood or breath alcohol tests for determining the alcohol content of those persons driving automobiles. The bill provides that those persons arrested for driving under the influence of intoxicating liquor have the option of refusing to take the blood or breath test.

Your Committee finds that the existing law has been interpreted to apply to all types of arrests that involve motor vehicles since the statute does not specifically state that the implied consent applies only to motorists arrested for driving under the influence of alcohol. Consequently, all persons have been held to have the right to either take or refuse to submit to a blood or breath test. This often results in an arrestee refusing to submit to a blood or breath test, thereby withholding evidence of drunkenness which may be essential to a conviction of the more serious offense of negligent homicide. In such an instance, the driver would rather risk being penalized by a license suspension

upon a refusal to submit to a blood or breath test than be convicted of negligent homicide. Such a person would thereby escape a conviction of a more serious crime.

Your Committee upon further consideration has made the following amendments to S.B. No. 568, S.D. 2, H.D. 2.

- (1) Provided that a person shall be deemed to have given his consent, subject to Part VII, Chapter 286, Hawaii Revised Statutes.
- (2) A breath or blood alcohol test shall not be given upon a person's refusal to submit to the test, except as provided in the new section.
- (3) Providing that in any accident resulting in the injury or death of a person, the person must submit to a breath or blood test.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 568, 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. 568, S.D. 2, H.D. 2, C.D. 1.

Representatives Nakamura, Shito, Taniguchi, Waihee and Liu,
Managers on the part of the House.

Senators Carpenter, Cayetano and George,
Managers on the part of the Senate.

Conf. Com. Rep. No. 37 on S.B. No. 113

The purpose of this bill is to permit the Director of Social Services to assign prisoners to lawful programs of treatment or furlough in the public's and prisoner's interest.

The bill allows the Director of Social Services such authority to assign a prisoner to a program in the public's and prisoner's interest notwithstanding the type of sentence or its length.

Your Committee upon further consideration has made the following amendments to S.B. No. 113, H.D. 1:

- (1) Provide that a person sentenced to imprisonment shall remain under the jurisdiction and custody of the Director of Social Services or the Hawaii Paroling Authority; and
- (2) Provide that a person sentenced to imprisonment shall remain under the jurisdiction and custody of the Director of Social Services or the Hawaii Paroling Authority without change by a court except to correct an illegal sentence.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 113, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 113, H.D. 1, C.D. 1.

Representatives Honda, Nakamura, Shito, Taniguchi and Medeiros,
Managers on the part of the House.

Senators Carpenter, Cayetano, O'Connor, Kobayashi and Soares,
Managers on the part of the Senate.

Conf. Com. Rep. No. 38 on H.B. No. 432

The purpose of this bill is to amend current law by adding a requirement that the Board of Land and Natural sources not allow state land to be disposed or used in pport of any policy which discriminates against anyone based upon his or her sex or religion.

Your Committee has amended the bill deleting the word religion since this would restrict the Board of Land and Natural Resources from leasing public lands to certain groups of people.

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

432, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 432, S.D. 1, C.D. 1.

Representatives Sakamoto, Fukunaga, Kawakami, Waihee and Medeiros,
Managers on the part of the House.

Senators Henderson, George and Machida,
Managers on the part of the Senate.

Conf. Com. Rep. No. 39 on H.B. No. 1765

The purpose of this bill is to require the King Kamehameha Day Celebration Commission to adopt rules pursuant to Chapter 91, Hawaii Revised Statutes.

Your Committee upon further consideration has amended the bill to include a provision that the rules required by the Act shall be adopted within one year of the effective date of the Act.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1765, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1765, S.D. 1, C.D. 1.

Representatives Tungpalan, Aki, Say, Takamine and Isbell,
Managers on the part of the House.

Senators Abercrombie, Cayetano and Kobayashi,
Managers on the part of the Senate.

Conf. Com. Rep. No. 40 on H.B. No. 1590

The purpose of this bill is to clarify provisions in the current statutes regarding the leasing and development of state owned, submerged lands and lands beneath tidal waters.

Your Committee finds there are two statutory avenues under which the Board of Land and Natural Resources can lease submerged lands and lands beneath tidal waters. Section 171-60, Hawaii Revised Statutes, requires prior approval of the Governor and authorization of the Legislature while Section 171-53 requires only prior approval of the Governor. However, your Committee believes that legislative authorization should be required whenever the Board of Land and Natural Resources leases submerged lands and lands beneath tidal waters. Accordingly your Committee has amended the bill in the following manner:

(1) By amending the purpose section (Section 1) of the bill so that the purpose, in summary, is to help preserve and protect the environment by requiring prior legislative authorization for the leasing and development of submerged lands and lands beneath tidal waters.

(2) By making appropriate amendments to Section 2, which amends Section 171-53(c), Hawaii Revised Statutes to require the Board of Land and Natural Resources to obtain prior authorization of the Legislature by concurrent resolution for the leasing of submerged lands and lands beneath tidal waters.

(3) By adding Section 3, which amends Section 171-60(a), Hawaii Revised Statutes by deleting the twenty-four hour period before the concurrent resolution can be adopted. This is done to make both Section 171-60(a) and Section 171-53 consistent.

(4) By renumbering Sections 4 and 5 accordingly.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1590, 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. 1590, H.D. 1, S.D. 2, C.D. 1.

Representatives Sakamoto, Fukunaga, Kawakami, Hirono and Monahan,
Managers on the part of the House.

Senators Henderson, Cobb and Kobayashi,
Managers on the part of the Senate.

Conf. Com. Rep. No. 41 on S.B. No. 1713

The purpose of this bill is to bring state regulations concerning health care insurance for the elderly into compliance with Public Law 96-625, enacted by Congress on June 8, 1980.

This law requires states to adopt before July 1, 1982, a regulatory system for Medicare supplements in conformance with federal requirements. Failure to adopt such a system will subject the State to federal regulation. This bill authorizes the state insurance commissioner to adopt a variety of rules regulating terms and types of coverage, eliminating misleading provisions, and providing for full disclosure in the sale and marketing of health care coverage to senior citizens.

This bill will protect the State's elderly consumers of medical insurance and ensure that the State retain regulation in this area.

Your Committee has made an amendment to the provision that nonprofit medical indemnity or hospital service associations be exempt from the provisions of sections 431-463 to 431-498, Hawaii Revised Statutes, to condition such exemption on its compliance with federal statutes and regulations.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1713, 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. 1713, S.D. 1, H.D. 1, C.D. 1.

Representatives Blair, Kiyabu, Chun, Dods, Kobayashi, Levin,
Okamura, Shito, Lacy and Ikeda,
Managers on the part of the House.

Senators Yamasaki, Anderson, Cobb, Henderson and Uwayne,
Managers on the part of the Senate.

Conf. Com. Rep. No. 42 on S.B. No. 55

The purpose of this bill is to permit the construction of two dwelling units on residential lots which can reasonably accommodate such increased density.

Currently, many homeowners are prohibited from building more than one single-family dwelling unit on their lots. Your Committee finds that allowing the development of an additional dwelling unit on those lots would allow optimal utilization of scarce land, provide an immediate and relatively inexpensive means of increasing the supply of affordable housing, and encourage the maintenance of the extended family lifestyle we value in Hawaii.

To clarify possible ambiguities as to the scope of this bill, your Committee has substantially amended the bill in the following manner:

1. The bill has been amended to apply to "any lot where a residential dwelling unit is permitted" to assure that residential dwelling units constructed in areas which are not specifically zoned for residential use (for example, apartment, hotel, etc.) would fall within the scope of this bill.
2. The application of the bill to any particular lot is conditioned upon satisfaction of applicable county requirements. This is intended to insure that any two dwellings constructed on a residential lot pursuant to this bill does not exceed any limitation otherwise imposed on the development of the lot. This would include height, setback, and lot coverage requirements. The bill also enables counties to establish additional requirements.
3. The application of the bill to any lot is also conditioned upon the counties finding that infrastructure and other public facilities can support the additional development.
4. Residential areas in which density bonuses have already been provided, such as planned unit developments or cluster developments, are excluded from the scope of the bill.
5. The counties are explicitly required to adopt permit procedures for dwelling units developed under this bill and the effective date of the measure has

been changed to January 1, 1982 to allow for such development and adoption.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 55, 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. 55, S.D. 1, H.D. 1, C.D. 1.

Representatives Shito, Chun, Kobayashi, Sakamoto and Lacy,
Managers on the part of the House.

Senators Young, Holt and Anderson,
Managers on the part of the Senate.

Conf. Com. Rep. No. 43 on S.B. No. 163

The purpose of this bill is to authorize the preparation, printing, and re-compilation of the index to the Hawaii Revised Statutes.

The revisor of statutes has indicated that the present index has reached the stage where it should be republished. Portions of the index have been rendered obsolete by changes in the law and the increasing size of the pocket supplement will soon make further publication of the supplement impractical. Your Committee agrees that the revisor of statutes should re-compile and update the present index volume.

Your Committee has amended section 1 to clarify that the index is not to be a new index but is to be a re-compilation and updating of the present index with possible expansion as necessary and increased the appropriation to \$100,000. This will allow for the preparation of the index data base, printing, and delivery of an updated index to the Hawaii Revised Statutes.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 163, 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. 163, S.D. 1, H.D. 1, C.D. 1.

Representatives Nakamura, Kunimura, Levin, Taniguchi and Ikeda,
Managers on the part of the House.

Senators Yamasaki, Anderson and Young,
Managers on the part of the Senate.

Conf. Com. Rep. No. 44 on S.B. No. 878

The purpose of this bill is to provide for a refund through an income tax credit to commercial fishers of the fuel taxes paid on the purchase of liquid fuel.

Your Committee finds that the commercial fishing industry has the potential to become a much larger sector of Hawaii's economy, although little progress in developing this industry has been made in the past 50 years. Despite abundant resources, Hawaii's fish catch has remained virtually unchanged over the years. Your Committee further finds that recent fisheries studies have identified substantial fishery resources in waters around the Leeward Islands, stretching beyond the 200-mile federally established Fisheries Conservation Zone.

Upon review of this bill your Committee has eliminated section 1 of the bill amending the fuel tax law as unnecessary. Section 2 providing the income tax credit has been amended to clarify its application to commercial fishers only, to place the definition of commercial fishing vessel and principal operator which was in section 1 in section 2, and to conform the tax credit language to that used in the income tax law.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 878, 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. 878, S.D. 2, H.D. 2, C.D. 1.

Representatives Kunimura, Matsuura, Andrews, Baker, G. Hagino,
Kiyabu, Okamura, Say, Isbell and Marumoto,
Managers on the part of the House.

Senators Yamasaki, Campbell, Cayetano, Henderson and Yee,
Managers on the part of the Senate.

Conf. Com. Rep. No. 45 on H.B. No. 1267

The purpose of this bill is to strengthen and better regulate the preference given to blind or visually handicapped persons for the operation of vending facilities and machines in State and county buildings.

Under this bill, the economic self-sufficiency of blind or visually handicapped persons is more effectively promoted by prohibiting the selling of food and beverages in any State or county buildings in which there is an authorized vending facility operated by such persons under a permit issued by the Department of Social Services and Housing. Your Committee finds, however, that the provisions of the bill do not adequately (1) prevent the advertising or solicitation of food and beverages in public buildings which are in competition with the duly authorized vending facility or (2) address the consideration of plans for the placement of a vending facility operated by the blind or visually handicapped in any planned new construction, substantial alteration, or renovations of State or county buildings.

Your Committee upon further consideration has made the following amendments to H.B. No. 1267, H.D. 1, S.D. 2:

(1) Subsection (d) on page 3 has been deleted and replaced with a new provision which specifically prohibits the advertising or soliciting the sale of food or beverages in any public building with a vending facility or machine operated or maintained by an authorized blind or visually handicapped person as prescribed by rules adopted under Chapter 91, Hawaii Revised Statutes. Violators will be subject to a fine of not more than \$1,000.

(2) A new subsection (h) has been added on page 4 which requires any department, agency, or instrumentality of the State or any of its political subdivisions to consider plans for a vending facility maintained or operated by a blind or visually handicapped person when planning the construction, substantial alteration, or renovation of any State or county building after July 1, 1981. The subsection also provides that the present vendor who is operating a vending facility shall not be displaced or dislocated from any State or county building because of renovations or substantial alterations, except as may be temporarily necessary for the completion of the work. Further, such vendor will have the first option to resume the operation of the vending facility upon completion of the renovations.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1267, 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. 1267, H.D. 1, S.D. 2, C.D. 1.

Representatives Chun, Kunimura, Kobayashi, Ige, Segawa and Lacy,
Managers on the part of the House.

Senators Yamasaki, Uwaine and Yee,
Managers on the part of the Senate.

Conf. Com. Rep. No. 46 on S.B. No. 1681

The purpose of this bill is to establish a Design Professional Conciliation Panel and procedures for claims filed against professional engineers, architects, or surveyors. In any action for damages the complaining individual shall file a claim with the panel. The panel shall consist of three persons who shall review and render findings and advisory opinions on issues of liability and damages. Notice of a claim shall be given to all parties who may be involved. Any party may file a written response to a claim filed.

At the hearing on the claim, the panel may receive any type of evidence and may in its discretion permit any party or counsel for a party to question other parties, witnesses or consultants. The panel may subpoena witnesses and invoke the aid of the courts to assure compliance with the subpoena. The panel may encourage parties to settle the case any time prior to the rendition of its advisory decision. Evidence obtained from the hearing is inadmissible in any subsequent litigation except in a situation where a party refuses to cooperate with the panel and is subject to an assessment of costs and fees. Within fifteen days of a hearing, if the case has not been settled or otherwise disposed, the panel is required to file a decision with the Director of Regulatory Agencies who shall mail copies of it to all parties. The filing of the claim with the panel shall toll the statute of limitations until sixty days after the decision is mailed or delivered

by the panel to the parties involved.

All parties involved have the duty to cooperate with the panel or be subject to an assessment of costs and fees by the Court. All panel members are immune from any defamation action while acting within their capacity as a member of the panel.

The bill also provides that the Director of Regulatory Agencies shall prepare and submit a report to the Legislature annually on the effectiveness of this panel.

The bill also provides that compensation shall be paid by the claimant and defendant to the panel members.

Your Committee finds that this bill would be beneficial in terms of deterring frivolous and costly suits, thereby assuring that only reasonable and meritorious claims are brought to the Court's attention.

Your Committee upon further consideration has made the following amendments to S.B. No. 1681, S.D. 2, H.D. 1:

- (1) Provided that "design professional" means a professional engineer, architect, or surveyor; and
- (2) Provided that the Director of Regulatory Agencies shall be responsible for implementing and administering this part and shall adopt rules in accordance with Chapter 91, Hawaii Revised Statutes;
- (3) Deleted provisions requiring the cooperation and attendance of the design professionals' liability insurance carriers' representatives at the hearings. While such representatives usually do attend the hearings anyway, your Committee felt it improper to require their attendance unless they are parties to an action for damages; and
- (4) Other amendments have been made for purposes of clarification to the Ramseyer format.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1681, 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. 1681, S.D. 2, H.D. 1, C.D. 1.

Representatives Nakamura, Kunimura, Morioka, Waihee, Taniguchi
and Ikeda,
Managers on the part of the House.

Senators Carpenter, Kuroda and Kobayashi,
Managers on the part of the Senate.

Conf. Com. Rep. No. 47 on S.B. No. 1699

The purpose of this bill is to require the Board of Education to adopt rules governing the reporting and disposition of violent incidents and to impose sanctions for failure to report such incidents.

Your Committee finds that adequate statutory provisions are available to impose sanctions for the commission of acts of violence, regardless of whether such acts are committed on or off public school campuses. However, in order to prosecute persons responsible for criminal acts, it is crucial that such acts be reported to the appropriate authorities. This bill is intended to ensure proper reporting of violent incidents which occur within the context of the public education system.

Every student and employee of the Department of Education has an absolute right to a safe and secure school atmosphere. In order to protect this right, teachers and principals must exercise their authority over discipline in the schools without fear of intimidation and reprisals. In recommending favorable consideration of the measure, it is your Committee's intention to emphatically indicate to students and the public that all incidents of disruptive behavior and violence will be properly reported and appropriately handled.

It is your Committee's intent that the Board of Education, in adopting the rules mandated by this bill, differentiate degrees of disruptive behavior. Minor infractions should

be addressed with dispatch within the framework of the Department of Education's authority to take disciplinary action. However, more serious violations should be required to be reported to appropriate law enforcement authorities.

It is also your Committee's intent that the Board of Education, in establishing procedures for disposing of any incident reported, shall include procedures for an appeal process covering the appeal of a dispositive decision of an incident reported.

Your Committee notes that the Senate draft of this bill contained a provision specifically providing that any person who compelled or induced certain employees of the Department of Education not to report violent incidents would be guilty of extortion within the meaning of the Penal Code. However, upon review of the Penal Code, your Committee finds that appropriate criminal statutes exist under which such acts can be prosecuted and punished and, therefore, it is unnecessary to create a specific criminal offense to prosecute acts of interference with reporting requirements. It is your Committee's intent that the appropriate law enforcement authorities vigorously pursue and prosecute, under applicable criminal statutes, any individuals who intentionally attempt to deter the making of reports required under this bill.

Upon consideration, your Committee has amended the bill to mandate that the rules adopted by the Board of Education require reporting of incidents of threats, assaults, and extortionate conduct. Additionally, the reporting requirement has been expanded to include threats, assaults and extortionate conduct directed to students, as well as officers and employees of the Department of Education.

Your Committee has further amended the bill by adding a new provision to have the State indemnify and hold harmless anyone participating in good faith in making a report from any civil liability arising therefrom. The intent of the amendment is to encourage reporting by allaying any fears of civil liability which may arise as a result of making a report.

Other amendments have been made to the bill for purposes of clarity and drafting style but which have no substantive effect.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1699, S.D. 1, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1699, S.D. 1, H.D. 2, C.D. 1.

Representatives Toguchi, Say, Waihee, Kawakami and Anderson,
Managers on the part of the House.

Senators Abercrombie, Cayetano and Ajifu,
Managers on the part of the Senate.

Conf. Com. Rep. No. 48 on H.B. No. 293

The purpose of this bill is to provide for the identification, acquisition and possession of firearms.

The major provisions of the bill are as follows:

1. Permits shall be required to acquire any type of firearm; however, permits are not required for rifles with barrel lengths of sixteen inches or more and shotguns with barrel lengths of eighteen inches or more. Permits to acquire pistols and revolvers require a separate application for each acquisition.
2. Provides that no permit shall be issued until ten calendar days have elapsed and each application shall include pertinent information including fingerprints, photographs, address, sex, height, weight, birthdate and social security number.
3. Prohibits any alien from bringing a firearm into the State.
4. Requires all revolvers and pistols to be registered within five days of acquisition. Failure to register within the prescribed time period shall be a petty misdemeanor.
5. Provides for the issuance of a permit to minors with respect to the carrying and the use of any rifle or shotgun as set forth in section 134-5 (hunting and target shooting).
6. Requires a minimum of ten calendar days for the clearing of a fingerprint check

before a permit to acquire may be issued and a maximum time limit of thirty calendar days for issuance of the permit to acquire, after the date of the application.

7. Requires that fingerprint impressions and photographs must be taken with each permit application; provided, however, if the application for a subsequent permit is made within a twelve-month period after issuance of a prior permit, no fingerprint check shall be required.

8. Provides that the prohibition against possession by a person with a mental history, is only for that type of disease, disorder or defect which renders him dangerous to himself or others or their property.

9. The ownership and possession of any firearm by a fugitive from justice, any person indicted or convicted of any crime of violence, under treatment for addiction to drugs or intoxicating liquor, admitted or detained at a psychiatric facility, or acquitted of a crime on the grounds of mental disease, disorder, or defect, is prohibited.

10. The owner must submit any revolver or pistol to the chief of police for a ballistics check within ten days after a permit to acquire has been issued.

Your Committee heard extensive testimony from various law enforcement agencies, community organizations and individuals in relation to the bill and is in support of its purpose. Your Committee recognizes that the bill will assist the police in stemming the rising rate of violent crimes involving the use of firearms, by having more stringent procedures for the identification, acquisition, and possession of firearms. Your Committee has carefully reviewed the bill and the testimony presented, and, upon due consideration, has made the following revisions thereto:

1. Section 2 (§134-3 - Permits to Acquire), which is Section 3 in H.B. No. 293, H.D. 1, S.D. 1, C.D. 1, has been amended so that the acquisition of any firearm requires a permit to acquire. Rifles and shotguns are no longer exempt from the permit requirement. Section 2 of the bill was further amended as follows:

- a. Any permit application requires information regarding the applicant's mental health history and permits the chief of police access to any records relating to that information.
- b. Lines 17 through 22 on page 4 relating to permits to minors for the purpose of carrying and using any rifle or shotgun were deleted.
- c. No person may possess a firearm which is owned by another, except as provided in the loaning procedure set forth in section 134-5, HRS.
- d. Except for sales to licensed dealers, law enforcement officers, for permits granted under section 134-9, or where a firearm is registered pursuant to section 134-2(a) a permit shall not be issued earlier than 10 days after the date of the application, nor shall a permit be issued or application denied later than 15 days after the date of the application. The permits to acquire rifles and shotguns are valid for a period of one year.

The amendment is intended to waive the waiting period in the case of transfer of firearms between gun dealers, acquisition by law enforcement officers and persons who receive from the chief of police a permit to carry firearms on their persons, or where a firearm acquired in another jurisdiction is registered in the State. The Committee intends that the permit to acquire rifles and shotguns shall not be turned in at the time the rifle or shotgun is acquired, but shall be kept by the permittee, to be used for subsequent acquisitions.

Section 134-3, has been further amended to remove the requirement for a ballistic check of all pistols and revolvers within ten days after a permit has been issued.

2. Section 3 which is Section 2 in H.B. No. 293, H.D. 1, S.D. 1, C.D. 1, relating to §134-2 of the Hawaii Revised Statutes, has been amended to eliminate line 4 of page 7, so that the present language of the section will remain the same, and anyone arriving in the State who brings firearms must register them within forty-eight hours.

- a. Amended to require additional information on the registration form.

3. Section 4, which relates to §134-5, HRS, has been amended so that any United States citizen who is a minor shall obtain a permit to carry and use a rifle or shotgun

(lawfully obtained by an adult) while actually engaged in hunting or target shooting, or going to and from such places. The permit shall expire on the date of the expiration of the hunting license. An adult need not obtain a permit if a hunting license has been obtained. §134-5 has been further amended as follows:

- a. To provide that a permit is not required when lawfully acquired firearm is loaned to another upon a target range or similar facility, and the firearm is used for a period not longer than its use then and there for target shooting.
- b. To provide that a lawfully acquired rifle or shotgun may be loaned to an adult for use within the State for a period not to exceed 15 days without a permit, and outside the State for a period not to exceed 75 days.

4. Section 5, which relates to §134-7, Hawaii Revised Statutes, has been amended to clarify the section and include a new subsection which relates to the disposal of firearms and ammunition when a person has been disqualified from ownership, possession, or control.

- a. Revised to provide that a violation of subsections 134-7 (a) or (b) is a class C felony. A felon violating 134-7(b) is guilty of a class B felony. Violations of subsections 134-7(c), (d) or (e) are misdemeanors.

Your Committee finds that since the bill will provide that permits to acquire a rifle or shotgun are good for subsequent acquisitions for a period of one year, the police department is requested to institute procedures to notify all gun dealers of any revocation of permits to acquire.

Section 6 (§134-9 - Licenses to carry; penalty.) has been added to insure that the chief of police shall establish appropriate procedures to insure that before a license to carry is issued, the licensee shall have been determined to be able to carry and use the firearm in a safe manner.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 293, 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. 293, H.D. 1, S.D. 1, C.D. 1.

Representatives Nakamura, Baker, Taniguchi, Waihee and Liu,
Managers on the part of the House.

Senators Carpenter, Anderson, Cayetano, Cobb, George, Uwaine and Yee,
Managers on the part of the Senate.

Conf. Com. Rep. No. 49 on H.B. No. 919

The purpose of this bill is to provide for payment of a judgment resulting from a settlement agreement in a lawsuit entitled Sylvia Gamino v. State of Hawaii v. Yukio Yamamoto and Yama's General Contractors, Civil No. 59095.

Your Committee heard testimony in this matter and believes that it is in the best interest of the State that an appropriation in the sum of 4.1 million dollars be made to fully satisfy the judgment.

The bill has been amended to delete the provision that the appropriation shall be applicable for the fiscal year 1981-1982. The bill has been further amended to provide for payment of \$164,898.63 in interest to July 31, 1981. The funds appropriated under this bill shall lapse on June 30, 1981.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 919, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 919, S.D. 1, C.D. 1.

Representatives Nakamura, Kiyabu, Baker, Kunimura and Ikeda,
Managers on the part of the House.

Senators Yamasaki, Anderson, Carpenter, Soares and Cayetano,
Managers on the part of the Senate.

Conf. Com. Rep. No. 50 on H.B. No. 300

The purpose of this bill in the form of S.D. 1 is to revise the present laws on rape and sodomy in the following manner:

(1) The definition of "forcible compulsion" is revised by eliminating the present requirement of physical force that overcomes resistance to a showing of physical force that causes a person to submit; by eliminating threat that might place a person in fear of death, bodily injury or kidnapping to a showing of a threat that causes a person to submit; and by eliminating physical or verbal resistance as an element in the definition of forcible compulsion.

(2) The provisions relating to rape and sodomy in the first degree are amended by deleting the provision regarding prior sexual intercourse with a voluntary social companion; and adds provisions which include a showing that a person is aided or abetted by one or more persons, or uses or threatens the use of a dangerous instrument. The penalty for rape and sodomy in the first degree is increased by establishing an indeterminate term of imprisonment for a class A felony, with the courts having the discretion to impose a sentence of life imprisonment shall be set by the Hawaii Paroling Authority. Additionally, a new section to chapter 706 has been established for the new sentencing provision. These revisions were made because of the serious nature of the crimes of rape and sodomy in the first degree. It is felt that the imposition of more severe sentencing would deter the rising incidents of these crimes.

(3) The provision relating to "Prompt complaint" is revised by increasing the time for making of a complaint to six months from three months. This amendment was made because it was found that six months was a more reasonable time for a person to file a complaint.

Numerous individuals and organizations testified in relation to the State's rape laws and indicated a compelling need for review and change. Accordingly, your Committee believes that certain changes are warranted, not only because of the current public concern, but also because of the serious nature of the crimes of rape and sodomy.

Your Committee upon further consideration has made changes and amendments to S.D. 1 pursuant to recommendations made by the Women's Legislative Coalition, Hawaii Women Lawyers, and the Honolulu Prosecuting Attorney's Office.

The changes and amendments in final form are as follows:

Your Committee has amended Section 1 of the bill to redefine "forcible compulsion" as the use or attempt to use to overcome a person, any one or more of the following:

- (1) a threat, express or implied, of bodily injury, or of being kidnapped, to the victim or another,
- (2) by a dangerous instrument, or
- (3) by physical force.

Your Committee, in deleting the term "resistance" from the definition of "forcible compulsion", believes that the definition is now much clearer and will thus enable better enforcement of the laws concerning offenses against the person.

Section 2 of the bill has also been amended by amending Section 707-730, HRS to reinstate the "voluntary social companion" provision, but reducing the period of time from twelve months to thirty days.

The members of the committee agree in principle that the "social companion" provision should be deleted for the reason that a "social companion" is given preferential treatment over a stranger in the case of first degree rape or sodomy. It is, however, recognized that the consequence of eliminating the "social companion" provision may in fact result in a greater number of rape charges, presently prosecuted as a first degree rape, being prosecuted as second degree rape.

It is the intent of the Committee that a comprehensive study be conducted during the interim by the House and Senate Committees on Judiciary on the laws concerning rape and related offenses.

Your Committee recognizes that no other offense in the Hawaii Penal Code requires

a separate section dealing with prompt complaints as does section 707-740, and has therefore repealed said section in its entirety. Your Committee believes that victims should be encouraged to report sexual crimes through education and assistance programs rather than an arbitrary time limit.

Your Committee has also repealed Section 9 of the bill, relating to the increase of penalties for the crimes of rape and sodomy in the first degree. Your Committee believes that the review of serious sexual crimes should be limited to clarifying the elements of the crimes and that mandatory sentencing for serious sexual crimes should be reviewed in the interim with all other pending mandatory sentencing measures.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 300, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 300, S.D. 1, C.D. 1.

Representatives Nakamura, Hirono, Kawakami, Waihee and Liu,
Managers on the part of the House.

Senators Carpenter, Anderson, Cobb, George, Kuroda, Soares and Uwaine,
Managers on the part of the Senate.

Conf. Com. Rep. No. 51 on S.B. No. 126

The purpose of this bill is to allow the Family Court to maintain jurisdiction over a person who has reached majority for offenses committed before eighteen, in the absence of any waiver of jurisdiction over the Circuit Court.

Under present law, there is a gap in jurisdiction that occurs when a person who has committed an offense before eighteen attains the age of twenty, at which time neither the Family Court nor the Circuit Court has jurisdiction over that person.

Your Committee upon further consideration has made the following amendments to S.B. No. 126, S.D. 1, H.D. 1.

Your Committee finds that the provisions of the bill have inadvertently closed the gap only for persons who have committed an offense before age eighteen but are not apprehended until between the ages of majority (eighteen) and twenty, while leaving the jurisdictional gap open for persons who have committed an offense before age eighteen but not apprehended until age twenty or over.

Your Committee has revised section 571-13 of the Hawaii Revised Statutes to remedy this, so that the Family Court will have jurisdiction of all persons over majority for offenses committed before majority.

The result will be, in the case of a person who has committed an offense before eighteen but who is not apprehended until he is in his twenties or later, that the Family Court will still have jurisdiction over him and can institute waiver of jurisdiction proceedings against him for his trial as an adult, if it decides to so proceed. If the Family Court chooses not to waive jurisdiction, there will be no further proceedings, as no disposition by the Family Court of a person who has attained twenty is allowed under present law.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 126, 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. 126, S.D. 1, H.D. 1, C.D. 1.

Representatives Nakamura, Liu, Dods, Honda and Taniguchi,
Managers on the part of the House.

Senators Carpenter, Cayetano, O'Connor, Kobayashi and Soares,
Managers on the part of the Senate.

Conf. Com. Rep. No. 52 on H.B. No. 733

The purpose of this bill is to amend Section 321 of the Hawaii Revised Statutes to improve the Emergency Medical Services System by specifying that the system's responsibility is for pre-hospital emergency service and for emergency transportation; changing the physician composition of the State Emergency Medical Services (SEMS) Advisory Committee; giving the department of health responsibility for providing basic life support

training in all counties; and by giving the department of health the flexibility to contract with individuals for Emergency Medical Services (EMS) training.

The amended bill eliminates the restriction that all physicians must be nominated by the Hawaii Medical Association (HMA). While the unusual practice of restricting nominations from only one group was justified in the past when the HMA was apparently the only interested professional medical organization, and indeed was the driving force behind the creation of the EMS system, such is not now the case. Only 60% of all practicing physicians are HMA members. More importantly, only about 12% of practicing emergency room physicians are HMA members with most of the remainder belonging to the American College of Emergency Physicians (ACEP).

Unsurprisingly, the lack of representation afforded to the much larger group of emergency physicians in ACEP has led to feelings of frustration and irritation on their part. While lack of representation does not necessarily result in a decline of program effectiveness, restricting the participation and input of the vast majority of emergency room physicians is not conducive to broad participation by the medical field and the development of an effective emergency medical system. On the other hand, your Committee is aware and appreciative of the important role played by the HMA in the creation and nurturing of the EMS system. Moreover, it is essential that physicians other than emergency physicians also be represented on the Advisory Committee. Therefore, the bill adds an additional physician member.

Your Committee is well aware that the ACEP desires the right to nominate two physician members with the HMA nominating the remainder. The result would be inconsistent with the general practice in state government which is to allow anyone to nominate persons to serve on boards and commissions. Your Committee appreciates the understandable concern of ACEP that a completely open nominating process may result in no representation by ACEP. In fact, your Committee seriously considered amending the bill to provide that ACEP nominate two members to the SEMS Advisory Committee. However, your Committee respects the Governor's role in the nominating process and is confident that the Governor, who is the ultimate appointing authority, will see the need to correct the present imbalance in representation on the SEMS Advisory Committee. It is your Committee's intent that the Governor appoint two members of ACEP to the first two openings on the committee in order to broaden the representation of physicians on the committee.

The bill also removes the requirement that the department of health contract for technical assistance, data collection, and evaluation. The inflexibility of the current statutes does not allow the department of health to carry out such activities even though the department has the capability to do so. The amended bill allows the department to contract with any appropriate party for such service rather than with only professional medical organizations. The amended bill would, for example, allow the department to contract with a computer service firm for data collection or with a management evaluation firm for evaluation.

The bill also: 1) specifies that the SEMS Advisory Committee include two full-time emergency physicians who possess the prerequisite training, as well as experience 2) makes the three ex-officio voting members (the director of transportation, the adjutant general, and the administrator of the state health planning and development agency) non-voting in the belief that all three currently possess, because of their offices, more than adequate access to the director of health 3) removes the restriction that all training be done in state 4) removes redundant references regarding consultation by the department of health with the SEMS Advisory Committee.

The bill gives the department of health the flexibility in contracting for training of basic life support and advance life support personnel. Currently, the law requires the department to negotiate and enter into contracts for both types of training without apparent regard to the fact that as the numbers of trained personnel grow, such training may not be needed. Therefore, the bill allows rather than mandates the department to contract for training services.

Your Committee upon further consideration has amended H.B. 733, S.D. 1, to allow the department to contract for training services with accredited community colleges, colleges, and universities and with professional medical organizations recognized by the American Medical Association. Your Committee has also amended the bill by specifying that such training be based on a medical model which includes a system of training that emphasizes both didactic and clinical field work. Your Committee notes that such training will require the input of medical and health care professionals and providers.

The history of the emergency medical services program indicates that the program

was designed to generate significant revenues. In fact, it was noted that because 95 per cent of the people are covered by some form of health insurance they would "not have to look to or use additional resources not already available to them to meet the needs of the advanced emergency medical services..." Thus, the emergency medical services was envisioned as the classic "public enterprise" in which those who benefit should pay for the program. However, your Committee amended the bill by eliminating references to the creation of an emergency medical services special fund despite the fact that the special fund concept is applicable. The primary reason for amending the bill is that the creation of such a fund could be misinterpreted as a means of evading the expenditure ceiling.

Your Committee is acutely aware of the inexcusable failure of the department of health to collect fees for emergency ambulance services even though the system has been in operation for nearly two years. Unfortunately, this has led to abuse by those who do not really need such services. Several emergency room physicians have stated that it is not uncommon for persons to use the emergency ambulance service for minor non-emergency ailments. Of even greater concern is that those truly in need of emergency ambulance service will be unable to receive such services because the emergency ambulance is being used for routine transportation service by someone who does not have an emergency. Your Committee is especially concerned about the impact of this type of misuse on the neighbor islands and rural Oahu where there are no back-up or alternate stations in close proximity. Thus, those with life-threatening trauma could well find that the nearest ambulance is engaged in transporting a non-emergency patient merely because the service is "free" and convenient. Therefore, your Committee wants to make it perfectly clear to the department of health that the amendment to the bill should not be interpreted to condone the present failure to collect fees for emergency ambulance service. On the contrary your Committee expects that the department will establish and collect such fees as soon as possible.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 733, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. 733, S.D. 1, C.D. 1.

Representatives Segawa, Kiyabu, Chun, Honda, Shito and Wong,
Managers on the part of the House.

Senators Yamasaki, Cayetano and Saiki,
Managers on the part of the Senate.

Conf. Com. Rep. No. 53 on H.B. No. 344

The purpose of this bill is to appropriate moneys out of the general revenues of the State for the payment of certain tax refunds, judgments and settlements, and other miscellaneous claims against the State.

The claims for refunds, reimbursements, and other payments were filed with the state director of finance who transmitted all claims with supporting data to the Legislature pursuant to procedure established by statute.

Your Committee has agreed that moneys for two additional claims for judgments and settlement of claims against the State, for Hawkins Audi Engineers, Inc. and Cassandra Burnett, should be appropriated. Your Committee has amended this bill to include these two claims.

This bill, as amended by your Committee, appropriates \$723,869.60, representing 58 claims under section 37-77 and chapter 662 of the Hawaii Revised Statutes.

Your Committee has also amended this bill to allow the State to pay these claims in the current fiscal year. Because of the state spending limit, created by the Legislature for the upcoming fiscal year in accordance with Article VII, section 9 of the state Constitution, any moneys appropriated out of the general fund will be counted toward the spending limit. The proposed state operating budget for next fiscal year, and the collective bargaining and pay bills already come close to the spending limit. Therefore, your Committee feels that funds should be appropriated from the current fiscal year to pay for the claims in this bill so as to avoid exceeding the state spending limit.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 344, 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. 344, H.D. 1, S.D. 2, C.D. 1.

Representatives Kiyabu, Albano, Andrews, Morioka and Wong,
Managers on the part of the House.

Senators Yamasaki, Carpenter and Anderson,
Managers on the part of the Senate.

Conf. Com. Rep. No. 54 on S.B. No. 815

The purpose of this bill is to increase the income tax credit provided to low-income renters from \$20 to \$30 per qualified exemption and to increase the adjusted gross income to \$25,000.

Presently, any taxpayer having an adjusted gross income of less than \$20,000 and paying more than \$1,000 rent during a taxable year is permitted an income tax credit of \$20 per qualified exemption. The present tax credit does not afford these low-income renters adequate protection against the recent inflation in rents attributable to rising resource and labor costs and general excise taxes included in rent payments. This bill would increase the present tax credit thereby providing adequate tax relief to these low-income renters.

Your Committee has amended the bill to provide for a \$50 renter's credit per qualified exemption and to maintain the adjusted gross income limit for the tax credit eligibility at \$20,000.

Your Committee has also eliminated "he" on line seven and substituted the language "the taxpayer". This technical change is consistent with the rest of the language in subsection (c).

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 815, 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. 815, S.D. 2, H.D. 1, C.D. 1.

Representatives Shito, Honda, Kobayashi, Levin, Segawa and Wong,
Managers on the part of the House.

Senators Yamasaki, Anderson, Abercrombie, Ajifu, Campbell, Cayetano,
Henderson, Kawasaki, Saiki, Yee and Young,
Managers on the part of the Senate.

Conf. Com. Rep. No. 55 on H.B. No. 1167

The purpose of this bill is to establish a venture capital information center to carry out an invention development program.

This bill recognizes the need for supporting the development of inventions and new products and to assist and provide guidance for innovators and investors. Under this bill, an information center would be established by the department of planning and economic development to bring together investors with venture capital and developers of new products.

Your Committee has amended this bill to make an appropriation for the purpose of this bill as follows: for fiscal year 1981-82, \$50,000; for fiscal year 1982-83, \$100,000.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1167, 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. 1167, H.D. 1, S.D. 2, C.D. 1.

Representatives Kunimura, Albano, Andrews, Fukunaga, G. Hagino,
Hashimoto, Kiyabu, Kobayashi, Levin, Morioka, Nakasato, Okamura,
Lacy, Marumoto, Narvaes and Wong,
Managers on the part of the House.

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

Conf. Com. Rep. No. 56 on S.B. No. 1507

The purpose of this bill is to provide for the appointment of private attorneys to represent indigent criminal defendants when the public defender is unable due to a conflict of interest or when the interests of justice require such. The bill also establishes maximum fees payable to, and provides for the payment of necessary expenses incurred by, the appointed attorney. All fees and expenses are paid by the courts.

Your Committee has made several amendments to this bill, as follows:

- (1) Clarifying that it is private counsel which is to be retained when justice requires;
- (2) Providing that private counsel is to be paid from money appropriated to the department of budget and finance for such purpose instead of the judiciary;
- (3) Allowing payment in excess of and up to twice the amount in the schedule of fees when the case is complex;
- (4) Adding an appropriation of \$800,000 for the fiscal biennium; and
- (5) Making other nontechnical amendments for the purpose of style and clarity.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1507, 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. 1507, S.D. 2, H.D. 2, C.D. 1.

Representatives Kiyabu, Taniguchi, Fukunaga, Kobayashi, Waihee
and Wong,
Managers on the part of the House.

Senators Yamasaki, Anderson and Carpenter,
Managers on the part of the Senate.

Conf. Com. Rep. No. 57 on S.B. No. 1298

The purpose of this bill, as received, is to amend the amount a legislator may receive to cover personal expenses while traveling on official business to be equal to that amount received by public employees excluded from collective bargaining, and to increase the traveling expenses of state officials while on official business.

Inflation has made it necessary to review the amounts allowed for such expenses so that a realistic allowance may be permitted.

Your Committee has amended the amount allowed by this bill to cover personal travel expenses of a legislator to be equal to the maximum allowance for such personal travel expenses payable to any public officer or employee.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1298, 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. 1298, S.D. 1, H.D. 1, C.D. 1.

Representatives Kunimura, Albano, Andrews, Fukunaga, G. Hagino,
Hashimoto, Kiyabu, Kobayashi, Levin, Morioka, Nakasato, Okamura,
Lacy, Marumoto, Narvaes and Wong,
Managers on the part of the House.

Senators Yamasaki, Anderson and Young,
Managers on the part of the Senate.

Conf. Com. Rep. No. 58 on S.B. No. 557

The purpose of this bill is to implement Article VII, section 6, of the Constitution of the State of Hawaii, which provides:

"DISPOSITION OF EXCESS REVENUES

Section 6. Whenever the state general fund balance at the close of each of two successive fiscal years exceeds five percent of general fund revenues for each of the two fiscal

years, the legislature in the next regular session shall provide for a tax refund or tax credit to the taxpayers of the State, as provided by law."

This bill, as received, provides an increase in the excise tax credit schedule in addition to a one-time tax credit of \$100 for each resident individual taxpayer multiplied by the number of exemptions to which the taxpayer is entitled.

Your Committee has amended this bill by deleting the increases to the excise tax credit schedule. The one-time \$100 credit for taxable year 1981 claimed when filing income taxes in 1982 has been retained. The effective date has also been amended to become effective upon approval.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 557, 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. 557, S.D. 1, H.D. 1, C.D. 1.

Representatives Kunimura, Kiyabu, Albano, Andrews, Fukunaga, G. Hagino, Hashimoto, Kobayashi, Levin, Morioka, Nakasato, Okamura, Lacy, Marumoto, Narvaes and Wong,
Managers on the part of the House.

Senators Yamasaki, Anderson, Abercrombie, Ajifu, Campbell, Cayetano, Henderson, Kawasaki, Saiki, Yee and Young,
Managers on the part of the Senate.

Conf. Com. Rep. No. 59 on S.B. No. 335

The purpose of this bill is to establish standards for grants, subsidies, and purchases of services pursuant to Article VII, section 4, of the State Constitution which requires that "no grant of public money or property shall be made except pursuant to standards provided by law." This means that all appropriations of public funds must be made in accordance with standards, whether these appropriations are made at the State or County levels. Accordingly, this bill applies to the State, the Judiciary and the Counties.

This bill establishes standards for providers and recipients for grants, subsidies, and purchases of service, the conditions with which applicants must comply, the procedures for the review and funding of requests, and the monitoring and evaluation of transfer for grants, subsidies, and purchases of service.

Your Committee has made the following amendments to the bill:

(1) New definitions are added to expand and more adequately describe terms used in the bill.

(2) Section 2 enumerates a wider spectrum of standards for qualification.

(3) Section 3 establishes conditions to be met before applicants to whom a grant or subsidy has been made, or a purchase of service agreement awarded, must agree to before receiving the grant, subsidy or purchase of service agreement. One of the conditions is that for nonprofit organizations no two or more members of a family or kin of the first or second degree shall be employed unless specifically permitted in writing by the director. Another condition allows for the monitoring and evaluation of the applicants' program as well as its management and financial practices.

(4) Section 4 is expanded to permit agencies to review the efficiency and effectiveness of the grant, subsidy or purchase of service and agencies are to review the reasonableness of the applicant's personnel classification and compensation plans instead of only salaries. Reference to counties are deleted.

(5) Section 5 provides that the applicant's request must include the chief executive's recommendations to the legislature.

(6) Section 8 is a new section that requires recipients, providers, and participants in their programs to waive their right to hold the State liable for claims and damages resulting from the acts of recipients and providers.

(7) Section 10 is added which prohibits recipients and providers from applying for grants, subsidies or purchase of service for a period of five years should they violate either this chapter or the terms of their contract with the State.

(8) SECTION 2 directs the office of the legislative auditor to monitor and evaluate the implementation of this bill.

(9) SECTION 3 provides that sections -4, -5, and -6 are to take effect on January 1, 1982, and all other sections are to take effect upon approval.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 335, 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. 335, S.D. 1, H.D. 1, C.D. 1.

Representatives Kunimura, Andrews, Kobayashi, Nakasato and Lacy,
Managers on the part of the House.

Senators Yamasaki, Ajifu, Cayetano, Kawasaki and Yee,
Managers on the part of the Senate.

Conf. Com. Rep. No. 60 on H.B. No. 1

The purpose of this bill is to provide appropriations for the fiscal biennium, 1981-83.

I. MAJOR POLICY ISSUES

Debt Policy

This session, the Legislature faces for the first time a new constitutional requirement which affects capital investment appropriations and debt authorizations. All acts which authorize the issuance of general obligation bonds must now include a declaration of findings that the estimated principal and interest on the bonds which are authorized, plus the estimated principal and interest on bonds which were previously authorized and are still unissued, plus the debt service calculated on outstanding bonds will not cause the debt limit to be exceeded at the time of issuance.

This requirement means, in effect, that the Legislature cannot authorize more bonds than the State can legally issue. Thus, capital investment appropriations and their corresponding bond authorizations must be kept within those levels which would enable the Legislature to make the required declaration of findings.

Even if the Legislature did not have the requirement of issuing a declaration of findings, prudence would dictate the adoption of a reasonably conservative stance in making capital investment appropriations. Because of inordinately high interest rates, the State has encountered difficulty in entering the municipal bond market and, in fact, has not done so in the current fiscal year. This means that although hundreds of millions of dollars of appropriations were lapsed on June 30, 1980, as required by the Constitution, there still exists \$495 million in authorized but unissued bonds, related to June 30, 1980 encumbrances and appropriations made in the 1979 and 1980 sessions.

Because unencumbered appropriations from the 1979 and 1980 acts are not scheduled to lapse until June 30, 1982, the backlog of authorized but unissued bonds will continue to limit the Legislature's power to authorize new appropriations and bonds, at least through the 1982 session and possibly beyond.

Thus, the combination of high interest rates and the backlog of old appropriations has compelled your Committee to review all capital investment appropriation requests and to hold appropriation levels to that amount which can reasonably be expended or encumbered within the three-year limitation period specified by the Constitution.

The supporting bond authorization for the capital investment appropriations in this bill and in other appropriation bills which require general obligation bond financing is contained in a separate bill, together with the required legislative declaration of findings.

General Fund Expenditure Ceiling

The 1978 State Constitution required the Legislature to live within a general fund expenditure ceiling. Your Committee has followed that mandate for the 1981-83 fiscal biennium and managed to keep general fund appropriations below the \$1,233.7 million ceiling for fiscal year 1981-82 and \$1,371.9 million for fiscal year 1982-83.

Grants-in-Aid

Your Committee has provided a total of \$6.5 million in funds for grants-in-aid. Funds have been provided for health care programs provided by private, nonprofit agencies, many of which formerly received funding under Title XX of the Social Security Act. Your Committee finds that the services formerly provided under Title XX in the areas of alcohol/drug abuse, family planning, health support, and social rehabilitation (non-residential) serve a useful public purpose and deserve continued funding. Additionally, amounts have been provided in the areas of social services, culture and recreation, and education.

Reduction in Electricity

Your Committee has agreed that greater emphasis should be made by all state agencies, regardless of source of funding, to reduce electrical consumption. Hawaii's unique and nearly total dependency on imported oil for its energy needs makes conservation imperative.

Your Committee has, therefore, recommended that except for areas of special requirement such as correctional facilities, county/state hospitals, Waimano Training School and Hospital, the Hawaii State Hospital, the residential Hansen's disease program at Kalaupapa Settlement, and the Aloha Stadium complex, there should be a general reduction of electricity utilization by the state agencies.

II. BUDGET OVERVIEW

The remainder of this report summarizes by major program areas, some of the budgetary decisions made by your Committee, and where appropriate, expresses program concerns and direction.

Economic Development

Tourism. Tourism, the mainstay of the State's economy and a major provider of jobs and income for Hawaii's people, stopped growing in 1980 for the first time in thirty years. The formidable challenges of rising air fares, increased competition from other visitor destination areas, and negative publicity about violent crimes committed against visitors to Hawaii, raise legitimate concerns over the prospect of the further decline in the number of visitors to Hawaii and the impact such a decline would have on the overall economy of the State.

To address these concerns, your Committee has:

- * Provided \$1 million in fiscal year 1981-82 for a high-saturation advertising campaign with the expectation that it will attract those visitors who can afford to travel and who have higher disposable income.
- * Increased funds for the promotion of tourism in Japan. Your Committee feels that funding has not kept up with the increasing tourism market in Japan.
- * Provided funds for "Hawaii '82", the largest tourism promotional program ever undertaken by Hawaii, to begin in October, 1981.
- * Provided capital improvement funds for improvements in Waikiki, the State's primary visitor destination.

In addition, \$75,000 in each fiscal year, has been provided for the continuance of the Aloha Week festival, which is enjoyed by visitors as well as residents.

New industries. Your Committee recognizes the need to reduce the State's vulnerability to economic fluctuations, caused by its present dependence on a few major industries. Therefore, economic diversification should be pursued through new industry development, particularly those industries which have potential in terms of employment, revenues, reduction of imports, increased export of Hawaii products, and compatibility with the life-style and environment of the Islands.

Funding in the amount of \$130,000 in each fiscal year of the biennium, has been provided for the implementation of the High-Technology Strategic Development Program, which

emphasizes the promotion of Hawaii as a center for the high-technology electronics industry. Many facets of this particular industry make it ideally suited for Hawaii. It is generally non-polluting; its high-value output can be airfreighted anywhere with little additional per unit cost; it can provide high wage, skilled employment opportunities; and because of labor shortages in existing industry centers, the impetus is present for expansion into new locations. Your Committee directs that the Department of Planning and Economic Development report on progress and prospects to the 1982 Regular Session.

Film industry. Additional funds and personnel have been granted to the Hawaii Film Office. Your Committee recognizes the emergence of the film industry as a definite boost to the State's economy. Not only does it provide desirable benefits to the State in terms of attractive jobs and added revenue, but it also bolsters Hawaii's promotion efforts through increased film, commercial, and television exposure.

Energy. To maintain initiatives which have been made in alternate energy development and energy conservation management, funds have been provided for a new division of energy in the Department of Planning and Economic Development. Funds have also been appropriated to the Natural Energy Laboratory of Hawaii to strengthen its efforts in developing energy which Hawaii's unique environment provides.

Commercial fishing. Funds have been provided to increase the Fishing Vessel Loan Program revolving fund. Your Committee finds that the high risk and high initial capitalization required in the fishing industry have made private lenders reluctant to provide loans to new enterprises. The financial support is in line with recommendations made by the Department of Land and Natural Resources in their Hawaii Fisheries Development Plan.

Agriculture. Diversified agriculture continues to be a promising program deserving of state support. Additional funds and personnel have been provided for the Department of Agriculture to assist in the delivery of service to Hawaii's farmers.

Aquaculture. As promising as it is, there are problems currently being encountered by the prawn aquaculture industry, where it has been reported that the deficiencies in the number of free juvenile prawns provided by the Anuenue Fisheries Research Center affect many small aquaculture farmers and raise the issue whether these farmers will be able to survive if they cannot adequately stock their ponds. Your Committee has pursued this concern and has been reassured by the Department of Land and Natural Resources that efforts will be exerted to assist small farmers to reach adequate levels in stocking their ponds.

Regional headquarters. Funds to continue the promotion of Hawaii as a site for a regional headquarters of multinational firms have also been included in the budget.

Information system. The Department of Planning and Economic Development was previously authorized to develop a prototype model under the Hawaii Management Information System, and its development has focused upon that model known as the Economic Planning Information System (EPIS). Funding has been provided for the first year of the next biennium for the system. In the interim, the department is to consult with the other agencies of government involved in economic planning and development to determine the potential usefulness of the system by all concerned agencies, and it is to submit a report to the 1982 session of the Legislature concerning the status of the system and all of its proposed applications.

Employment

Disability compensation. Your Committee has included appropriations to fund the State Workers' Compensation Program Commission which reviews the workers' compensation law and makes recommendations on methods of reducing or stabilizing costs while maintaining benefits at existing levels.

Career information programs. Your Committee, concerned about the future employment of Hawaii's residents, has provided funds for the continuation of the school-based counseling and career information program known as the Career Resources Center.

Additional funds are appropriated for the services of the Hawaii Career Information Delivery System, popularly known as "Career Kokua", which provides occupational and educational information.

Transportation

General aviation. Your Committee has carefully reviewed all facets of the issue surrounding the need for and the site of a general aviation airport, and the state administration's proposal to construct such an airport at Poamoho. The advantages and disadvantages of the Poamoho site have been thoroughly debated in the 1980 and 1981 sessions of the Legislature.

Your Committee finds that with the emphasis of the new national administration on shifting control and responsibilities to state government, in order to effect savings, the prospects are more promising to secure approval for the joint use of a military airfield. Your Committee believes that if a definite plan for construction of general aviation facilities is presented to the new national administration, with funding to be assumed entirely by the State, the chances of securing approval for the joint use of a military airfield would be favorable. Of the various military airfields, the most logical would be Wheeler Air Force Base, which has been underutilized, and could be shared for general aviation use if improvements are made, including the possibility of constructing another runway. Therefore, your Committee has provided funds for general aviation at Wheeler Air Force Base, and directs the state administration to develop a specific proposal for presentation to the national administration and to secure Congressional support for the proposed development.

State highway fund. Your Committee recognizes that there is a potential problem of declining revenues for the State Highway Fund. Here as elsewhere in the United States, the soaring costs of gasoline, the high price of cars, and the growing shift by the motoring public to fuel efficient cars have all combined to alter conventional driving patterns. The result has been a decline in fuel consumption, which in turn has resulted in a reduction in revenues from the highway fuel tax. This trend will seriously affect the ability of the fund to meet the long-term operational and maintenance obligation of the highway program. Thus, additional revenues have been provided for three years through separate legislation, at which time the Legislature will review the funding mechanism.

Your Committee also recognizes the problem of poor and untimely highway maintenance. Your Committee has, therefore, authorized increased expenditures for special maintenance purposes and has put priority on the resurfacing of roads.

Your Committee also finds that the problem of traffic congestion caused by population growth and changing land use patterns of Oahu needs to be addressed. In order to meet the need for formulating effective transportation policies and programs for the 1980s and beyond, funds have been provided for an update of a transportation plan for Oahu.

Health

Emergency medical services. Your Committee has provided an additional appropriation to reimburse the city and county of Honolulu for an anticipated deficit in the Emergency Medical Services Program for fiscal year 1980-81.

Lower Education

Special needs funds. Your Committee is continuing the program, first initiated by the Legislature in 1977, of appropriating funds to meet the special needs of each individual school. This method of funding recognizes that each school is unique and that decisions as to how funds for special needs should be expended can best be made at the school level--by the principals in consultation with teachers and to the extent practicable, with parents and students.

Other regular instruction. Your Committee has included funds for the continuation and expansion of Other Regular Instruction programs. Funds have been provided for the expansion of the Intensive Basic Skill program with the expectation that the program will assist students in meeting the revised graduation requirements which were approved by the Board of Education in 1978. In addition, your Committee has provided for additional funds for the Asian and Pacific Language program, Hawaiian Studies program, and the Marine and Aquatic Education program.

Alternative education. Your Committee has provided additional funds for the Comprehensive School Alienation Program. However, your Committee recognizes that there are numerous individual alternative education programs, funded through the DOE budget, for which coordination by the department seems to be lacking. It is the intent

of your Committee that the DOE report to the next legislature with a plan for integrating these individual programs under the Comprehensive School Alienation Program.

Compensatory education. Funds are included to accommodate additional students whose first or home language is other than English. This program will assist students in acquiring the necessary level of language proficiency to allow them to perform satisfactorily in regular classes where English is the instruction medium.

School violence. A broad range of programs has been included to stem the rising tide of violence and crime in our public schools. These programs include provisions to deal with delinquent and criminal behavior as well as those which promote campus security through the prevention of anti-social conduct.

These appropriations include:

- * \$777,700 for school security aides.
- * \$897,204 for additional school counselors.
- * \$981,575 for 32 full-time and 6 half-time athletic directors to develop intramural sports programs to increase student participation in sports.
- * \$191,220 for alternative learning centers and school alienation programs.
- * \$208,616 for additional vice principals to assist those schools with high incidences of delinquency.

Asbestos removal. Your Committee has provided an additional \$5.8 million in funds to eliminate the asbestos health hazards in public school classrooms.

Higher Education

The legislatures of the past two decades have, on numerous occasions, requested the University of Hawaii to adopt policies regarding instructional workloads and overloads; but to date have not had any satisfactory response from the University. The Legislative Auditor, in the 1981 Management Audit of the University of Hawaii, concludes that, "the University is no closer to developing and implementing clear, consistent, and reasonable policies on faculty workload than it was 10 to 15 years ago...."

Your Committee agrees with the Legislative Auditor's recommendation that in light of the existing circumstances "the Legislature appropriate no new instructional positions for UHM until it has a teaching load policy in place," and, accordingly, has denied all requests for new permanent positions, except where there appears to be obvious acute needs to serve the students.

Since the Manoa student enrollment has been on a general decline, the University must make every effort to utilize existing resources before requesting additional positions and funds from the Legislature. Your Committee recognizes the difficult and often painful task of internal reallocations; however, the Legislature is equally faced with the arduous task of setting statewide fiscal priorities based on limited resources and the constraints of a publicly mandated expenditure ceiling.

Continuing education for women. Your Committee has provided funds for the Continuing Education for Women program administered through the Manoa's College of Continuing Education and Community Services.

Women's athletic programs. Greater opportunities for athletic competition and scholarship need to be provided for women athletes. Funds have been provided toward the goal of bringing about greater parity between the women's and men's athletic programs. It is the Committee's intent that these funds are in addition to the programs normal allocations.

Graduate assistant stipends. Your Committee recognizes that graduate assistant stipends have been significantly outpaced by inflation, and therefore, it has provided additional funds to enable stipends to keep up with the increases in the cost of living.

Kapiolani Community College. Your Committee finds that the crowded, noisy, and inadequate study atmosphere and parking facilities of the Pensacola Campus of Kapiolani Community College fail to provide a conducive educational environment for the students.

Therefore, your Committee is in agreement with the University's desire to construct a new campus facility for Kapiolani Community College at the Diamond Head site.

University of Hawaii law school. Your Committee agrees with the University's desire to provide permanent facilities for the University of Hawaii law school. However, your Committee, in its deliberation of this issue, focused its concern on the cost over-runs and the general requirements of facilities needed for accreditation. Your Committee has therefore provided funds to construct the law school facility on an alternate site adjacent to the law school library on Dole Street. This site should suffice in meeting all the requirements for law school accreditation and a reduction in the over-all costs of providing new law school facilities.

Social Problems

Child abuse. Your Committee has provided a significant increase in resources, in terms of both funds and positions, for the child protective services program.

Funds have also been provided for the State Interagency Coordination Council on Child Abuse and Neglect. Your Committee finds that there is a need to coordinate activities carried out by various agencies in the area of child abuse and neglect in order to obtain the optimum benefits from available resources.

Medicaid. There is a likelihood of drastic alteration by the federal government of the Medical Assistance program. Therefore, funds will need to be conserved, and the State will need to step up its efforts to curb fraud and abuse. Toward that end, funds have been provided to the Department of the Attorney General for the specific purpose of investigating Medicaid fraud cases.

Your Committee has provided additional funds and positions on all islands due to case load increases in the areas of financial assistance, food stamps, and Medicaid. Your Committee intends that the error rates of underpayments and overpayments be kept at a minimum to assure the maintenance of federal standards.

Senior companions. Funds have been appropriated to expand the Senior Companion program to the islands of Maui, Kauai, and Hawaii over the next two years. This program, through which senior citizens assist less able senior citizens in their own homes, is designed as a more humane and an effective alternative to institutionalization.

Other concerns. Your Committee is concerned about the lack of systematic plans for review and selection of grant proposals received by the Progressive Neighborhood Program, the Hawaii Office of Economic Opportunity, and the Executive Office on Aging. Your Committee feels that criteria should be established to review all grant requests so that grant funds will be made available to private agencies on a priority basis. The Legal Aid Society has been funded for only one year by this bill. Your Committee notes with concern the class action suits which the Society has instituted against the State and from which it has collected attorney's fees in addition to appropriations made by the State. Your Committee encourages the Society to discontinue this type of action and to concentrate its endeavors on assisting the individual families which are their clients.

Public Safety

Your Committee has taken steps to relieve the overcrowded conditions at the Oahu Community Correctional Center. Funds have been provided to renovate the second floor of the administration building for use as inmate housing and for a site selection study and purchase of land in the Halawa area for a 500-bed, medium-security correctional facility. Additional positions and funds for operation of the new facilities have also been included in the budget.

Your Committee has provided for the installation and maintenance of emergency (automatic dialer) telephones in 30 state parks located in outlying areas. These phones are to be connected directly to police and emergency rescue units, thus providing an alternative park security measure in those locations where the permanent allocation of enforcement manpower would not be feasible.

Recommendation

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

Representatives Kunimura, Kiyabu, Albano, Andrews, Fukunaga,
G. Hagino, Hashimoto, Kobayashi, Levin, Morioka, Nakasato,
Okamura, Lacy, Marumoto, Narvaes and Wong,
Managers on the part of the House.

Senators Yamasaki, Anderson, Abercrombie, Ajifu, Cayetano,
Henderson, Kawasaki, Saiki, Yee and Young,
Managers on the part of the Senate.

Conf. Com. Rep. No. 61 on H.B. No. 2

The purpose of the bill is to appropriate funds to the Judiciary for the fiscal biennium July 1, 1981 to June 30, 1983.

The bill provides \$15,340,000 for the Judiciary's capital improvements program. General obligation bond authorization for these projects has been included in H.B. No. 1239, H.D. 1, S.D. 1, C.D. 1.

Your Committee has also deleted \$247,000 in fiscal year 1981-82 and \$282,000 in fiscal year 1982-83 from funds requested to purchase services from Budget and Finance's Electronic Data Processing Division (EDPD). Your Committee resolved that the current policy, under which all computer services required by the Judiciary are provided by EDPD, shall continue. A sum equal to \$200,000 for each fiscal year of the biennium is provided for this purpose.

The positions and funding requested for the implementation of the juvenile intake agency, as mandated by Act 303, Session Laws of Hawaii 1980, have been deferred. Your Committee contends that further analysis on the structure, management and operations of the juvenile intake agency is needed.

A total of 40 positions requested by the judiciary has been deferred for future consideration. Additional adjustments include delays in hiring of new positions and other minor adjustments.

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

Representatives Kunimura, Albano, Andrews, Fukunaga, G. Hagino,
Hashimoto, Kiyabu, Kobayashi, Levin, Morioka, Nakasato, Okamura,
Lacy, Marumoto, Narvaes and Wong,
Managers on the part of the House.

Senators Yamasaki, Abercrombie, Campbell, Kawasaki, Young, Ajifu,
Anderson, Henderson, Saiki, Yee and Cayetano,
Managers on the part of the Senate.

Conf. Com. Rep. No. 62 on H.B. No. 1870 (Majority)

The primary purposes of this bill (S.D. 1), as received by your Committee on Conference, are to provide for salary adjustments or increases for certain elected or appointed officers of the Executive branch of State government whose compensation is either presently fixed or limited by statute; to statutorily fix or limit the salaries of certain Executive branch officers whose salaries are not so statutorily fixed or limited; and to amend the statutory provisions relating to the salary of the appointed heads of certain agencies under the Legislative branch and the chairmen of certain quasi-judicial boards or commissions.

In part, the bill (S.D. 1) amends various sections of the Hawaii Revised Statutes which set or limit the annual salaries of certain high level officers of the State, such as the Governor, the Lieutenant Governor, department heads and their deputies, and other administrators within the Executive branch. Under S.D. 1 of the bill, these annual salaries would generally be increased by seven percent.

Additionally, S.D. 1 of the bill statutorily sets limits on the annual salaries of certain other officers or administrators in the Executive branch which are not currently fixed by statute. See Section 4 of the bill, which amends section 26-52, HRS (relating to the salaries of certain department heads and executive officers), especially the proposed additions to section 26-52 in the form of paragraphs (5) to (25) on pages 6 to 9 of the

S.D. 1.

S.D. 1 of the bill also fixes specific salary amounts for the chairmen of certain quasi-judicial agencies (Hawaii Public Employment Relations Board, Public Utilities Commission, and the Labor and Industrial Relations Appeals Board) and the heads of three legislative service agencies (Legislative Reference Bureau, Legislative Auditor, and Ombudsman) whose salaries are currently tied-in to, or are the same as, the salary of circuit court judges. Relatedly, S.D. 1 of the bill fixes specific salary amounts for the members (not chairmen) of the aforementioned quasi-judicial boards and commissions and for the first assistants or deputies of the aforementioned legislative service agencies whose current salaries, under law, are either set at or cannot exceed ninety-five percent of the salary, respectively, of the chairman of the board or commission or the head of the legislative service agency.

After due deliberation, your Committee on Conference has also amended the bill (S.D. 1) by deleting any references to the following positions or officers and their salaries:

- (1) Legislative Auditor and the First Assistant or First Deputy;
- (2) Director of the Legislative Reference Bureau and the First Assistant;
- (3) Chief Negotiator, Office of Collective Bargaining;
- (4) Director, State Immigrant Services Center;
- (5) Director, Progressive Neighborhoods Program;
- (6) Director, Office of Children and Youth;
- (7) Director, Hawaii Office of Economic Opportunity;
- (8) Director, Hawaii Crime Commission;
- (9) Executive Director, Hawaii Housing Authority;
- (10) Executive Director, Campaign Spending Commission;
- (11) Executive Secretary, Public Employees' Retirement System;
- (12) Administrator, Hawaii Public Employees Health Fund;
- (13) Stadium Manager and the Deputy Manager (Stadium Authority);
- (14) Administrator, State Health Planning and Development Agency;
- (15) Special Assistant to the Governor for Agriculture;
- (16) Executive Director, Ethics Commission; and
- (17) Ombudsman and the First Assistant.

In deleting the references to the seventeen above listed positions or officers, your Committee has amended the bill (S.D. 1) by:

- (a) Deleting Section 1 of the bill (relating to the Legislative Auditor; see item or "position" (1) listed above);
- (b) Deleting Section 2 of the bill (relating to the Legislative Reference Bureau; see item or "position" (2) listed above);
- (c) Deleting from Section 4 of the bill, which amends section 26-52, HRS, the following proposed paragraph additions to section 26-52: paragraphs (13) through (25) relating, respectively, to items or "positions" (3) through (15) listed above. (See pages 7-9 of the S.D. 1).

Because of the deletion of these proposed paragraph additions to section 26-52, HRS, each of which paragraphs relate to a specific position and its annual salary, your Committee has also found it necessary to amend the bill by deleting the following sections of the bill which relate to a number of the deleted positions: Section 9 (Public Employees

Health Fund), Section 11 (Office of Collective Bargaining), Section 13 (Stadium Authority), Section 14 (State Immigrant Services Center), Section 19 (State Health Planning and Development Agency), Section 22 (Hawaii Housing Authority), and Section 27 (Office of Children and Youth).

(d) Deleting Section 8 of the bill (relating to the Ethics Commission; see item or "position" (16) listed above); and

(e) Deleting Section 12 of the bill (relating to the Ombudsman; see item or "position" (17) listed above).

Your Committee on Conference has amended the bill to provide that the salaries of the chairmen and members of the Public Utilities Commission, the Hawaii Public Employment Relations Board and the Labor and Industrial Relations Appeals Board shall be tied in with or related to the salary of circuit court judges, as currently provided by law.

Your Committee on Conference has also increased the salaries of the high level elected or appointed officers of the Executive Branch (e.g., Governor, Lieutenant Governor, department heads and their deputies and certain other enumerated positions)--which positions are left in the bill--from the proposed seven percent increase in S.D. 1 of the bill to an eight percent increase effective July 1, 1981, and a ten percent increase effective July 1, 1982.

Your Committee has further amended the appropriation Section of the bill to provide \$892,138 for the fiscal biennium 1981-83 for salary increases and other adjustments for public officers authorized by this bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1870, 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. 1870, H.D. 1, S.D. 1, C.D. 1.

Representatives Takitani, Kunimura, Kiyabu, Waihee and Anderson,
Managers on the part of the House.

Senators Yamasaki, Uwaine, Campbell and Yee,
Managers on the part of the Senate.
(Senator Uwaine did not concur.)

Conf. Com. Rep. No. 63 on H.B. No. 1879

The purpose of this bill, as received by your Committee on Conference, is to authorize and appropriate funds to provide for the salary increases and other cost adjustments for state officers and employees excluded from collective bargaining for the fiscal biennium 1981-1983.

This bill serves as the funding vehicle through which excluded employees in the executive, judicial, and legislative branches may receive appropriate salary increases as those which may be received by employees covered by collective bargaining agreements.

Your Committee has been informed by the Office of the Governor that the following sums represent the appropriate salary increases and other cost adjustments, authorized by Chapter 89C, Hawaii Revised Statutes, for the fiscal biennium 1981-1983 for officers and employees of the executive branch of the State excluded from collective bargaining:

	<u>FY 1981-82</u>	<u>FY 1982-83</u>
General Funds	\$2,603,888	\$5,675,442
Federal Funds	262,614	565,192
Special Funds	469,829	1,009,020
Other Funds	22,287	49,109

Your Committee has amended Section 1 of the bill by inserting or appropriating the above-listed sums.

Your Committee has been informed that the following sums represent the salary increases and other cost adjustments authorized by Chapter 89C, Hawaii Revised Statutes, for officers and employees of the judicial branch of the State excluded from collective bargaining:

	<u>FY 1981-82</u>	<u>FY 1982-83</u>
General Funds	\$104,239	\$237,367

Your Committee has amended Section 3 of the bill by inserting or appropriating the above-listed sums.

Your Committee has also been informed that the following sums represent increases for officers and employees of the legislative branch of the State excluded from collective bargaining:

	<u>FY 1981-82</u>	<u>FY 1982-83</u>
Office of the Legislative Auditor	\$ 76,422	
Ethics Commission	8,900	
Legislative Reference Bureau	12,800	
Ombudsman	8,480	

Your Committee has amended Section 5 of the bill by inserting or appropriating the above-listed sums.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1879, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1879, S.D. 1, C.D. 1.

Representatives Takitani, Kunimura, Albano, Andrews, Fukunaga,
G. Hagino, Hashimoto, Kiyabu, Kobayashi, Levin, Morioka, Nakasato,
Okamura, Lacy, Marumoto, Narvaes and Wong,
Managers on the part of the House.

Senators Yamasaki, Anderson, Abercrombie, Campbell, Cayetano,
Kawasaki, Young, Ajifu, Henderson, Saiki and Yee,
Managers on the part of the Senate.

Conf. Com. Rep. No. 64 on S.B. No. 454

The purpose of this bill is to appropriate funds for collective bargaining cost items.

This bill is funding collective bargaining agreements for units 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 13 in the executive branch, and units 1, 2, 3, 4, 9, 10, and 13 in the judicial branch, for the fiscal biennium 1981-1983.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 454, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 454, H.D. 1, C.D. 1.

Representatives Takitani, Kiyabu, Nakasato, Tungpalan and Marumoto,
Managers on the part of the House.

Senators Yamasaki, Anderson, Abercrombie, Ajifu, Campbell, Cayetano,
Henderson, Kawasaki, Saiki, Yee and Young,
Managers on the part of the Senate.

Conf. Com. Rep. No. 65 on H.B. No. 241

The purpose of this bill is to increase the amount of excise tax credit presently available to the taxpayers of this State.

Your Committee finds that the practice of tax credits was initiated by the 1965 Legislature to offset the impact of the increased tax rates on low-income taxpayers by the omnibus tax bill enacted that year. The tax credit was limited to those in the income levels below \$6,300 and only 45 cents for those above.

In 1970, pressure was exerted to repeal the general excise tax on food and drugs to offer some measure of relief from the mounting cost of basic necessities. The 1970 Legislature approved passage of an additional tax credit to further offset the general

excise tax on drugs and medical expenses.

The 1974 legislature streamlined the tax credit system into a single excise tax credit and increased the range up to \$15,000 adjusted gross income.

Your Committee has again been besieged by not only the low and fixed-income groups and the elderly, but by those in the middle-income levels to exempt food and drugs from the general excise tax.

Your Committee finds that these groups are threatened by rising inflation which poses a double threat because it increases the cost of basic goods as well as the amount of excise tax that must be paid on them.

Your Committee finds that any serious tampering with the existing tax system such as exempting food and drugs from the general excise tax will be most inappropriate since the Tax Review Commission may be offering recommendations to design a new tax structure in its report.

Your Committee therefore finds it is appropriate to provide financial relief to all taxpayers to the extent that the sum total of credits will approximate the State's revenues from the excise tax on food and drugs.

Your Committee agrees that the tax credit method should continue to be utilized for the present as it provides equitable relief where it is most needed and your Committee supports this measure as a fair and reasonable means for granting immediate tax relief to the residents of Hawaii.

Your Committee has amended this bill by revising the excise tax credit schedule to restore the amounts and levels proposed in H.B. No. 241, H.D. 1, and S.B. No. 557, S.D. 1, H.D. 1, and to include the definition for determining qualified exemptions as proposed in S.B. No. 557, S.D. 1, H.D. 1.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 241, 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. 241, H.D. 1, S.D. 1, C.D. 1.

Representatives Kunimura, Albano, Andrews, Fukunaga, G. Hagino, Hashimoto, Kiyabu, Kobayashi, Levin, Morioka, Nakasato, Okamura, Lacy, Marumoto, Narvaes and Wong,
Managers on the part of the House.

Senators Yamasaki, Abercrombie, Campbell, Kawasaki, Young, Ajifu, Anderson, Henderson, Saiki, Yee and Cayetano,
Managers on the part of the Senate.

Conf. Com. Rep. No. 66 on H.B. No. 1716

The purpose of this bill is to increase the amount of the monthly contribution required of the State and county governments, as public employers, for the health benefits plan for, and the dental plan for the children of, public employees.

Currently, the public employer's monthly contributions to the Public Employees Health Fund is \$14.14 for a single employee and \$45.08 for an employee with dependent or family coverage for the health benefits plan, and \$4.18 for the children's dental plan. (See section 87-4, Hawaii Revised Statutes.) Under S.D. 2 of the bill, these three monthly contribution amounts would have been increased, respectively, to \$14.37, \$46.21, and \$4.59.

After due deliberation, your Committee on Conference has amended the bill (S.D. 2) by increasing the three previously cited employer monthly contribution amounts as follows:

For the health benefits plan

(1)	For each employee	\$14.88
(2)	For each employee with dependents	\$47.34

For the children's dental plan

\$ 5.00

Your Committee has also amended the bill by reinserting (as Section 2 of the bill) the appropriations section, as had been worded in the H.D. 2 of the bill. Accordingly, your Committee has also renumbered Sections 2 and 3 of the bill (S.D. 2) as Sections 3 and 4.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1716, 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. 1716, H.D. 2, S.D. 2, C.D. 1.

Representatives Takitani, Kunimura, Albano, Andrews, Tungpalan and Marumoto,
Managers on the part of the House.

Senators Yamasaki, Ajifu, Anderson, Cayetano and Uwayne,
Managers on the part of the Senate.

Conf. Com. Rep. No. 67 on H.B. No. 1724

The primary purposes of this bill (S.D. 2), as received by your Committee on Conference, are (1) to increase from four and one-half percent to seven percent the amount of interest credited to the post retirement fund of the Employees' Retirement System, and (2) to reduce the employer's contribution to the pension accumulation fund by any excess investment interest earnings over seven percent for the three successive fiscal years beginning with the fiscal year starting on July 1, 1982. However, beginning July 1, 1985, excess investment interest earnings, under S.D. 2 of the bill, will not be used to reduce the employer's contribution to the pension accumulation fund.

Senate Draft 2 of the bill also amends the method of determining the employer's normal cost and accrued liability contributions by requiring that actuarial valuations be based on a seven percent investment yield rate and such tables and factors as are adopted by the Board of Trustees of the Retirement System for the years ending June 30, 1980, 1981, and 1982, and thereafter at a rate to be established by the Board.

After due deliberation, your Committee on Conference has amended the bill (S.D. 2) in the following respects:

(1) By deleting the entirety of Section 1 of the bill which would have amended section 88-107, HRS, relating to interest.

(2) By amending Section 2 of the bill, which amends section 88-122, HRS, relating to the determination of employer normal cost and accrued liability contributions, as follows:

(a) By deleting the brackets on p. 2, lines 21 and 23 so that the reference to "regular interest and such mortality and other tables as are adopted by the board of trustees" is not deleted from section 88-122;

(b) By adding a new sentence, beginning on p. 3, line 12, of the S.D. 2, which in effect provides that the seven percent investment yield rate (on which the actuarial valuations for the three years ending on June 30, 1980, 1981, and 1982 are to be based) will revert back to four and one-half percent (the present investment yield rate) for the years ending on June 30, 1983 and thereafter; and

(c) By deleting the last sentence of the first full paragraph on p. 3, lines 12-19 of the S.D. 2. The deletion means that the Board of Trustees will not have discretionary authority to establish the investment yield rate as it deems fit for actuarial valuations as of June 30, 1983, and that assumptions as to the rate of salary increases for purposes of actuarial valuation shall continue to be established as is presently being done by the Board.

(3) By renumbering Sections 3 and 4 of the bill as Sections 2 and 3.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1724, 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. 1724, H.D. 2, S.D. 2, C.D. 1.

Representatives Takitani, Kunimura, Andrews, Say and Medeiros,
Managers on the part of the House.

Senators Yamasaki, Ajifu, Anderson, Cayetano and Uwaine,
Managers on the part of the Senate.

Conf. Com. Rep. No. 68 on H.B. No. 1239

The purpose of this bill is to authorize the issuance of general obligation bonds to finance projects authorized in H.B. No. 1, H.D. 1, the General Appropriations Act of 1981, and H.B. No. 2, H.D. 1, the Judiciary Appropriations Act of 1981.

The bill includes the declaration of findings required by the clause in Article VII, Section 13 of the State Constitution which states:

"Effective July 1, 1980, the legislature shall include a declaration of findings in every general law authorizing the issuance of general obligation bonds that the total amount of principal and interest, estimated for such bonds and for all bonds authorized and unissued and calculated for all bonds outstanding, will not cause the debt limit to be exceeded at the time of issuance."

The effect of the foregoing constitutional requirement is that the legislature must take into account the debt service on all bonds that count against the debt limit, including outstanding bonds, authorized bonds which are yet to be issued, constitutional debt limit will not be exceeded at the time the bonds are issued.

The required declaration in Section 1 of the bill sequentially is as follows:

Paragraph 1 sets forth the basic constitutional provision governing state debt.

Paragraph 2 shows the actual debt limit applicable for fiscal year 1980-81 and estimates of the debt limit for fiscal year 1981-82 to fiscal year 1984-85.

Paragraph 3 shows the debt service requirements from fiscal year 1981-82 to fiscal year 1987-88 for outstanding general obligation bonds which must be counted against the debt limit.

Paragraph 4 states the amount of authorized but unissued general obligation bonds as of December 31, 1980 and the amount of general obligation bonds authorized by this bill.

Paragraph 5 shows the schedule for proposed general obligation bond issuance and states the assumptions concerning bond maturities.

Paragraph 6 states that the total amount of general obligation bonds which the state proposes to issue is an amount sufficient to meet the requirements of all authorized unissued bonds and the bonds authorized by this bill.

Paragraph 7 notes that certain reimbursable general obligation bonds can be excluded, and while the amount of such excluded bonds cannot be precisely determined for each issuance, the legislature makes the conservative estimate that 10 per cent of each issuance is excludable.

Paragraph 8 presents a display which compares the debt limit applicable at the time of each proposed bond issue with the greatest debt service amount resulting from each issue.

Paragraph 9 establishes the overall and concluding finding that the total amount of principal and interest estimated for the general obligation bonds authorized by this bill and for all bonds authorized and unissued and calculated for all bonds issued and outstanding, will not cause the debt limit to be exceeded at the time of issuance.

In making the declaration to support the authorization of bonds in this bill, your Committee has followed the cautionary guidelines expressed by the state's bond counsel who has advised:

"A court will not necessarily sustain findings of a legislative body which are merely a recitation of the requirements of a constitution or a statute. Consequently, we believe that the legislature must establish a reasonable basis for the finding that the estimated debt service... will not cause the debt limit to be exceeded at the time of issuance. We believe prudence requires the basis to be conservative in order to eliminate any allegation that the legislature first made the finding and worked back to assumptions which were consistent with such finding."

Your Committee understands that the declaration of findings in this bill fully follows the bond attorney's cautionary guidelines.

Your Committee has amended the declaration of findings in Section 1 to conform to the amount of general obligation bonds authorized by this bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1239, 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. 1239, H.D. 1, S.D. 1, C.D. 1.

Representatives Kunimura, Albano, Andrews, Fukunaga, G. Hagino,
Hashimoto, Kiyabu, Kobayashi, Levin, Morioka, Nakasato, Okamura,
Lacy, Marumoto, Narvaes and Wong,
Managers on the part of the House.

Senators Yamasaki, Abercrombie, Campbell, Kawasaki, Young, Ajifu,
Anderson, Henderson, Saiki and Yee,
Managers on the part of the Senate.

Conf. Com. Rep. No. 69 on H.B. No. 1470

The purpose of this bill is to mandate the Department of Transportation to enter into contracts for the sale and delivery of in-bond merchandise at Honolulu International Airport (HIA) with no more than two persons.

Under this bill the Department of Transportation would be required to actively supervise the operation of the contractors. The purpose of this requirement is set forth at length in S.C.R. No. 46.

Furthermore, this bill would prevent the Department of Transportation from conferring, for the period ending June 30, 1982, any rights to offer to sell, sell or deliver in-bond merchandise at HIA other than those pursuant to the contracts above mentioned.

Your Committee upon further consideration has amended H.B. No. 1470, H.D. 2, S.D. 2, to delete reference in subsection (j) of the purpose section of this bill to S.C.R. No. 46 and S.R. No. 133. This reference was deleted because the House of Representatives has not heretofore passed S.C.R. No. 46 and therefore has not heretofore embraced the principles set forth in its companion measure S.R. No. 133.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1470, 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. 1470, H.D. 2, S.D. 2, C.D. 1.

Representatives Taniguchi, Kunimura, Hashimoto, Say, Waihee
and Ikeda,
Managers on the part of the House.

Senators Yamasaki, Anderson, Cayetano, George and Kawasaki,
Managers on the part of the Senate.

Conf. Com. Rep. No. 70 on H.B. No. 629

The purpose of this bill, as received by your Committee on Conference, is to provide for a one time, across the board salary adjustment of seven percent for officials of the Judiciary whose compensation is presently fixed or limited by Statute. The salary increases would be applicable to the supreme court judges, intermediate appellate court judges, circuit court judges, district court judges, district family judges, and the administrative director of the courts. Also, the bill provides that the sheriff, and first and second deputy sheriffs be compensated in accordance with the public employee's compensation law.

Your Committee on Conference, after thorough review and consideration, has amended this bill to provide for judicial salary increases representing an eight percent salary increase effective July 1, 1981 and a ten percent salary increase effective July 2, 1982, as follows:

(1) Chief Justice of the Supreme Court - \$51,300 effective July 1, 1981 and \$56,430 effective July 1, 1982;

(2) Associate justices of the Supreme Court - \$48,600 effective July 1, 1981 and \$53,460 effective July 1, 1982;

(3) Chief Judge of the Intermediate Appellate Court - \$48,600 effective July 1, 1981 and \$53,460 effective July 2, 1982;

(4) Associate judges of the Intermediate Appellate Court - \$47,250 effective July 1, 1981 and \$51,975 effective July 1, 1982;

(5) Circuit court judges - \$45,900 effective July 1, 1981 and \$50,490 effective July 1, 1982;

(6) District court and district family judges - \$43,200 effective July 1, 1981 and \$47,520 effective July 1, 1982; and

(7) Administrative Director - \$43,200 effective July 1, 1981 and \$47,520 effective July 1, 1982;

Your Committee on Conference has further amended this bill by inserting a new Section 9 to appropriate the sum of \$711,390 to Administrative Director Services (JUD 201) for fiscal biennium 1981-83 to provide for the salary increases and other adjustments made by this bill.

Your Committee on Conference has also amended this bill by (1) making a number of technical, non-substantive changes and (2) renumbering Sections 9 and 10 as Sections 10 and 11.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 629, 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. 629, H.D. 1, S.D. 2, C.D. 1.

Representatives Nakamura, Kunimura, Andrews, Hashimoto, Kiyabu,
Nakasato, Takitani, Taniguchi, Waihee, Anderson and Medeiros,
Managers on the part of the House.

Senators Yamasaki, Carpenter, Uwaine, O'Connor and Yee,
Managers on the part of the Senate.

SPECIAL COMMITTEE REPORT

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 Eleventh Legislature of the State of Hawaii, Regular Session of 1981, and finds that the following members are duly qualified to sit as members of the House of Representatives, to wit:

First District:	Andrew Levin
Second District:	Richard M. Matsuura Herbert A. Segawa
Third District:	Yoshito Takamine
Fourth District:	Virginia Isbell
Fifth District:	Mark J. Andrews William W. Monahan
Sixth District:	Herbert J. Honda Anthony P. Takitani
Seventh District:	Robert D. Dods Donna R. Ikeda
Eighth District:	Barbara Marumoto Frederick William Rohlfing
Ninth District:	Ted T. Morioka Calvin K.Y. Say
Tenth District:	Ken Kiyabu Bertrand Kobayashi
Eleventh District:	Kina'u Boyd Kamali'i Paul L. Lacy, Jr.
Twelfth District:	David M. Hagino Mazie Hirono
Thirteenth District:	Gerald de Heer Carol Fukunaga Brian T. Taniguchi
Fourteenth District:	Russell Blair Kathleen Stanley
Fifteenth District:	Byron W. Baker Michael Minoru Liu
Sixteenth District:	Dennis Masaru Nakasato Tony Narvaes
Seventeenth District:	Gene Albano John Waihee
Eighteenth District:	Connie C. Chun Tom Okamura
Nineteenth District:	Clarice Y. Hashimoto Eloise Yamashita Tungpalan
Twentieth District:	Daniel J. Kihano Mitsuo Shito

Twenty-First District:	James Aki Henry Haalilio Peters
Twenty-Second District:	Gerald T. Hagino Yoshiro Nakamura
Twenty-Third District:	Charles T. Toguchi
Twenty-Fourth District:	Marshall K. Ige Jimmy Wong
Twenty-Fifth District:	Whitney T. Anderson John J. Medeiros
Twenty-Sixth District:	Russell J. Sakamoto
Twenty-Seventh District:	Richard A. Kawakami Tony T. Kunimura Dennis R. Yamada

Signed by Representatives Nakamura, Takitani, de Heer, Fukunaga, Ige, Ikeda, Kawakami, Medeiros, Segawa, Taniguchi and Waihee.