

### CONFERENCE COMMITTEE REPORTS

#### Conf. Com. Rep. 1 on H. B. No. 61

Your Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate to **H. B. No. 61, H. D. 1, S. D. 2**, entitled:

“A BILL FOR AN ACT RELATING TO ABORTION AND AMENDING CHAPTER 768, HAWAII REVISED STATUTES.”,

having met after full and free conference, has agreed to recommend to their respective Houses, the final passage of the bill as amended herein.

The purpose of this bill is to repeal the laws on abortion by repealing Sections 768-6 and 768-7 of the Hawaii Revised Statutes. However, your Committee feels strongly that certain safeguards should be included in the bill and, further, that these requirements be clearly spelled out under one section in order to clarify the entire question.

Your Committee has provided the following safeguards:

- (a) Any abortion must be performed by a licensed physician or surgeon or licensed osteopathic physician and surgeon;
- (b) Any abortion is to be performed only in a hospital licensed by the Department of Health under the rules and regulations promulgated under Chapter 323 of the Hawaii Revised Statutes or a hospital operated by the Federal Government or an agency thereof;
- (c) Provide immunity from civil liability for any hospital, hospital employee, physician or surgeon, or osteopathic physician and surgeon, who chooses not to participate in the performance of an abortion;
- (d) A residence requirement providing that an abortion can be performed only on residents of the State of Hawaii or

any woman who has in fact resided in the State for a period of three calendar months immediately preceding the abortion;

- (e) Defining criminal abortion and providing a felony penalty therefor.

After an extensive public hearing on the proposed bill to repeal the present law on abortion, your Committee concludes that the subject of abortion should not be a matter of legislation but should be left as an individual matter of conscience and choice.

1. The principal objection to your Committee's position of repeal centered on the religious-ethical-moral aspect of the problem. In this connection, representatives of the Catholic Church presented arguments based on the right of the unborn child and the right to life, both of which problems reflect deep and serious concerns of a great number of people. However, in reviewing the testimony, the charge of killing and/or murdering innocent human lives is based on the belief that life begins at conception or soon thereafter. Your Committee feels that the ultimate question is: When does human life begin? This question has never been resolved by theologians even within the Catholic Church. The right of the unborn child is therefore predicted on the more important question of whether a fetus is a human being and therefore entitled to all rights of human beings. From the standpoint of law, the question of human life is based on viability, that is, the law regards a fetus as a human being only at such time when such fetus can exist individually outside of the mother's womb. Those who are against abortion and insist that abortion is murder and that an embryo is a person conveniently overlook the fact that no state or nation requires the dead fetus to be treated like a dead person and no cognizance is taken of the dead fetus up to five months' prenatal life. Scientists have never regarded such a fetus to be a human being. Whether society has a duty to protect life in the womb during its early stages is one

of individual opinion and belief and your Committee wishes to leave it as such.

2. The next important aspect of this problem involves the legality of any law concerning abortion. Our present law in Hawaii was enacted in 1869 when child-birth was being encouraged and abortions were considered dangerous. Today, 100 years later, conditions have changed to reverse the situation where abortions, especially within the first trimester, can be performed safely and with minimum risk. At the same time there is a growing concern about the increasing population and although abortion is not suggested to be a method of birth control, it is related to the question of overpopulation which cannot be ignored. The Supreme Court of the State of California and the Federal District Court in the District of Columbia both have ruled that a law similar to our present law in Hawaii is unconstitutional on the ground that it constitutes an infringement of the right of privacy in matters relating to marriage, family and sex and also to the woman's right to life and to choose whether to bear children. The Federal Court decision in Washington, D.C. has now been challenged by the Department of Justice and it is almost certain that this case will be heard by the Supreme Court of the United States in the near future. A related case is *Griswold v. the State of Connecticut*, which was decided by the U.S. Supreme Court concerning the use of contraceptives by married persons and our highest court held that said prohibition was unconstitutional on the ground that it constituted an invasion of marital privacy. If the U.S. Supreme Court rules that our present statute is unconstitutional on similar grounds, then the Legislature will be faced with two alternatives. The first alternative would be to refuse to legislate any further laws on the subject, which is the position of your Committee, or to enact laws similar to that proposed in *H. B. No. 61* in its original form which follows the American Law Institute's recommendations which would allow abortion under certain conditions. Your Committee would like to emphasize that this so-called "liberalized" version is a misnomer because it actually constitutes "legalizing" abortions under the conditions set forth.

Your Committee's position for repeal is **NOT** legalization but rather that we choose not to control or regulate this matter by law and further that we neither approve nor disapprove of abortion. The laws which have now been enacted in ten states do not appear to be accomplishing the objective for which they were enacted and statistics indicate that the number of illegal abortions do not seem to be decreasing significantly and the number of legal abortions have not increased as expected.

The experience in Colorado indicates that in the 33 months since Colorado became the first state to pass the "liberalized" abortion law, nearly 1,500 women have obtained legal abortions. But in the same period an estimated 20,000 Colorado women have been forced to leave the state to obtain abortions illegally. State Rep. Richard D. Lamm, the Denver Democrat who led the fight for the bill, stated: "We tried to change a cruel, outmoded, inhuman law, and what we got was a cruel, outmoded, inhuman law." Lamm says the abortion law is good only because it brought to public attention the question of legal abortion, but he adds: "**It just isn't good enough.** Nineteen out of every twenty women who seek legal abortions in Colorado are refused. We force them either to have a baby or to have an illegal abortion. **It's a tragedy that won't end until we eliminate all laws on abortion and make it a private matter between a woman and her physician or pass a law which says simply that the only illegal abortion is one which is not performed by a licensed physician.**"

The present laws also appear to put an unreasonable interference on the personal freedom of a physician to prescribe and administer what is clinically sound by proven medical opinion and scientific findings and the right of the public to the best medical help and treatment to which they are entitled. It is also worth mentioning in passing that the "liberalized" laws enacted in ten states raise serious constitutional questions because of the vagueness of the terms "mental health" and "gravely impair."

3. The socio-economic aspect of this problem must also be considered in that

although we would like to ignore problem pregnancies, they are occurring daily and illegal abortions are also being performed at an alarming rate, to the great detriment of thousands of women, both physically and emotionally. A recent survey conducted by the School of Public Health at the University of Hawaii indicates that 3,000 abortions annually in Hawaii is a reasonably accurate figure. This is based on the number of requests for abortions received by 225 physicians answering the questionnaire. Assuming this to be a fairly reliable statistic, then there are eight abortions being performed each day in this State! Your Committee feels that we should recognize and bring to the surface what everyone knows is occurring and that these abortions are being performed under criminal penalty. The illegal abortions performed by unqualified abortionists and the terrible consequences of self-induced abortion are also well known. Your Committee agrees with the statement by Dr. Garrett Hardin that a proper perspective of this problem hinges on asking the right question. Many who have testified against abortion, particularly on moral or religious grounds, have based their opinion and testimony on the wrong question: "How can we justify abortion?" The right question is: "How can we justify compulsory pregnancy?" For the poor, a compulsory pregnancy often means an unplanned and unwanted child and the consensus among social workers and psychiatrists supports the position that an unwanted child is detrimental to society by overburdening mothers with additional physical and emotional problems and also through the high cost of welfare assistance. The present law also discriminates against the poor who cannot afford the cost of abortion while the rich can go to other countries that allow abortions. Your Committee also learned from testimony that so-called "therapeutic" abortions are being performed here in Honolulu in every major hospital if you find the right physician and pay the fees necessary for such an operation. It has been suggested by some testifying that a woman who carries an unwanted child to full term can place such child for adoption but there is evidence indicating severe lasting emotional problems in such a case. There is also evidence from

psychiatrists who agree that abortions do not produce the same kind of lasting emotional effect.

4. Your Committee realizes that much of the emotion engendered over this question has clouded the issue which is to deal with a serious problem happening daily and those who are concerned with the right of the unborn child conveniently overlook the right of the woman with a problem pregnancy. Your Committee would also like to stress that the repeal of the abortion law does not in any way infringe upon the right of a pregnant woman to refrain from abortion, but no group has the right to impose its moral code or standards on the rest of society which should be allowed individual choice — a precious right in our present democratic and pluralistic society.

5. Your Committee feels that in our present society, laws which place criminal penalties for dealing with problem pregnancies are a social injustice resulting in tragic consequences not only to the personal health and welfare of the women involved but also the general welfare of the State in allowing compulsory pregnancies because an archaic law so dictates.

6. Your Committee has deliberated many hours over a residency requirement (four of the ten states with "liberalized" abortion laws have a residency requirement) and find that although such a requirement may be unconstitutional in the light of the recent U.S. Supreme Court decision (*Shapiro v. Thompson*, 394 U.S. 618 [1969]) that welfare recipients need not fulfill any residence requirements, your Committee feels that without a residence requirement the medical services and facilities in this state may be overburdened by residents of other states seeking abortions.

7. Your Committee also feels that all abortions should be performed in hospitals from the standpoint of public health and safety due to high possibility of infection when performed under septic conditions. Your Committee is aware that the repeal of the abortion laws may well produce abuses both within and without the medical profession and that all illegal abortionists

will not be eliminated but also feel at the same time that the removal of criminal sanctions will permit women with problem pregnancies to consult qualified physicians and have the benefit of counseling before deciding on a very delicate and complex problem.

8. Your Committee feels that all hospitals, employees or members of the medical staff of hospitals, and all physicians, surgeons or osteopathic physicians and surgeons should have immunity from civil liability that might be otherwise incurred or imposed by the repeal of existing abortion laws. With this end in mind, your Committee has specifically provided immunity for said hospitals, hospital employees and physicians from civil liability.

9. Another suggestion made is to limit the time within which an abortion is permissible seems to have some merit but testimony indicates that even the medical profession is not certain as to how to measure the time of pregnancy and also measure with any kind of certainty when a fetus becomes viable.

10. Your Committee feels real concern for those physicians who may be faced with the problem of destroying a fetus in the later stages of pregnancy due to medical indications, but this problem can be resolved by the fact that this kind of operation will probably not be legally considered an abortion.

11. Some of the moralists have expressed concern that repeal of the abortion laws will lead to increased promiscuity. Testimony from Dr. Milton Diamond, presently teaching sexual behavior at the University of Hawaii School of Medicine, indicates that from all available studies, since the 1920s sexual behavior in American society has not markedly changed at all — only one's attitudes or society's attitudes toward sexual behavior. Reliable studies show that today's teenage girls have premarital experiences about as frequent as their mothers and grandmothers. Today's teenagers and women have a more wholesome attitude to fitting sexual relations into the normal patterns of their life which includes responsible and moral

considerations toward coitus. Since we can expect the sexual behavior to stay about the same regardless of what is done by the State of Hawaii, what we will reduce by repeal of abortion laws is the number of unwanted pregnancies and the number of cases of unwanted children. Sex education and birth control information are vital because pregnancy is often the result of a miscalculation or accident. Abortion in Japan was once the most common method of family planning. In the course of three years of intensive family planning education undertaken by the government, the prevalence of contraceptive practice has risen from 40 per cent to about 70 per cent and the incidence of abortion has declined. The vast majority of those seeking abortion are well meaning, moral individuals, most usually married, who wish to limit their family size for the benefit of their existing loved ones and society. Contraception is perhaps a more acceptable method of family control, but the sexual habits of most individuals have not incorporated these techniques. While we may argue the pros and cons about abortion, the public has long ago made its decision as to its need and place in society. They use it every day.

As a final note, your Committee has been informed by the Hawaii Medical Association and the leading maternity hospital in Honolulu that an outpatient procedure for the performance of an abortion can be worked out at the approximate cost of \$200 including the physician's fee, which is substantially less than what it costs a woman today to go to Japan or to go to an illegal abortionist, with reference to cases involving dilatation and curettage within the first trimester of a pregnancy. It is hoped that all women with problem pregnancies will either go to the hospital or to their personal physician and use the best medical facilities available in view of the delicate operation and the added assurance that all medical records are confidential and the further safeguard of a pathological report which will certify the success of every operation. This system will also make possible follow-up research and statistics which are vital to evaluate the entire program. The Schools of Public Health, Medicine and Social Work at the



University of Hawaii have all volunteered to assist in the follow-up studies to help in determining whether or not further statutory changes are necessary. It is anticipated by your Committee that clinics which can meet standards set forth jointly by the Department of Health and the Hawaii Medical Association will also be allowed to perform abortions in the near future on an outpatient basis. It is your Committee's intention to carefully and constantly evaluate reports and statistics resulting from the removal of criminal penalties on a subject involving a very complex and delicate problem.

Your Committee on Conference is in accord with the intent and purpose of **H. B. No. 61, H. D. 1, S. D. 2**, as amended herein, and recommends its passage on final reading in the form attached hereto as **H. B. No. 61, H. D. 1, S. D. 2, C. D. 1**.

Representatives Loo, Ushijima and Devereux.  
Managers on the part of the House.

Senators Yano, Ching and Mirikitani.  
Managers on the part of the Senate.

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

Your Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate on **H. B. No. 61, H. D. 1, S. D. 2, C. D. 1**, entitled:

“A BILL FOR AN ACT RELATING TO ABORTION AND AMENDING CHAPTER 768, HAWAII REVISED STATUTES.”,

having met after full and free conference, has agreed to recommend to their respective Houses, the final passage of the bill as amended herein.

The purpose of this bill is to repeal the laws on abortion by repealing Sections 768-6 and 768-7 of the Hawaii Revised Statutes. However, your Committee feels strongly that certain safeguards should be included in the bill and, further, that these requirements be clearly spelled out under one section in order to clarify the entire question.

Your Committee has provided the following safeguards:

- (a) Any abortion must be performed by a licensed physician or surgeon or licensed osteopathic physician and surgeon;
- (b) Any abortion is to be performed only in a hospital licensed by the Department of Health under the rules and regulations promulgated under Chapter 323 of the Hawaii Revised Statutes or a hospital operated by the Federal Government or any agency thereof;
- (c) Provide immunity from liability for any hospital or any person who chooses not to participate in the performance of an abortion;
- (d) A residence requirement providing that an abortion can be performed only on residents of the State of Hawaii or any woman who has in fact been physically present in the State for a period of ninety days immediately preceding the abortion;
- (e) Provide a felony penalty for any violation of the above provisions.

After an extensive public hearing on the proposed bill to repeal the present law on abortion, your Committee concludes that the subject of abortion should not be a matter of legislation but should be left as an individual matter of conscience and choice.

1. The principal objection to your Committee's position of repeal centered on the religious-ethical-moral aspect of the problem. In this connection, representatives of the Catholic Church presented arguments based on the right of the unborn child and the right to life, both of which problems reflect deep and serious concerns of a great number of people. However, in reviewing the testimony, the charge of killing and/or murdering innocent human lives is based on the belief that life begins at conception or soon thereafter. Your Committee feels that the ultimate question is: When does human life begin? This question has never been resolved by theologians even within

the Catholic Church. The right of the unborn child is therefore predicated on the more important question of whether a fetus is a human being and therefore entitled to all rights of human beings. From the standpoint of law, the question of human life is based on viability, that is, the law regards a fetus as a human being only at such time when such fetus can exist individually outside of the mother's womb. Those who are against abortion and insist that abortion is murder and that an embryo is a person conveniently overlook the fact that no state or nation requires the dead fetus to be treated like a dead person and no cognizance is taken of the dead fetus up to five months' prenatal life. Scientists have never regarded such a fetus to be a human being. Whether society has a duty to protect life in the womb during its early stages is one of individual opinion and belief and your Committee wishes to leave it as such.

2. The next important aspect of this problem involves the legality of any law concerning abortion. Our present law in Hawaii was enacted in 1869 when child-birth was being encouraged and abortions were considered dangerous. Today, 100 years later, conditions have changed to reverse the situation where abortions, especially within the first trimester, can be performed safely and with minimum risk. At the same time there is a growing concern about the increasing population and although abortion is not suggested to be a method of birth control, it is related to the question of overpopulation which cannot be ignored. The Supreme Court of the State of California and the Federal District Court in the District of Columbia both have ruled that a law similar to our present law in Hawaii is unconstitutional on the ground that it constitutes an infringement of the right of privacy in matters relating to marriage, family and sex and also to the woman's right to life and to choose whether to bear children. The Federal Court decision in Washington, D.C., has now been challenged by the Department of Justice and it is almost certain that this case will be heard by the Supreme Court of the United States in the near future. A related case is *Griswold v. the State of Connecticut*, which was decided by the U.S. Supreme Court concerning the use

of contraceptives by married persons and our highest court held that said prohibition was unconstitutional on the ground that it constituted an invasion of marital privacy. If the U.S. Supreme Court rules that our present statute is unconstitutional on similar grounds, then the Legislature will be faced with two alternatives. The first alternative would be to refuse to legislate any further laws on the subject, which is the position of your Committee, or to enact laws similar to that proposed in *H. B. No. 61* in its original form which follows the American Law Institute's recommendations which would allow abortion under certain conditions. Your Committee would like to emphasize that this so-called "liberalized" version is a misnomer because it actually constitutes "legalizing" abortions under the conditions set forth. Your Committee's position for repeal is **NOT** legalization but rather that we choose not to control or regulate this matter by law and further that we neither approve nor disapprove of abortion. The laws which have now been enacted in ten states do not appear to be accomplishing the objective for which they were enacted and statistics indicate that the number of illegal abortions do not seem to be decreasing significantly and the number of legal abortions have not increased as expected.

The experience in Colorado indicates that in the 33 months since Colorado became the first state to pass the "liberalized" abortion law, nearly 1,500 women have obtained legal abortions. But in the same period an estimated 20,000 Colorado women have been forced to leave the state to obtain abortions illegally. State Rep. Richard D. Lamm, the Denver Democrat who led the fight for the bill, stated: "We tried to change a cruel, outmoded, inhuman law, and what we got was a cruel, outmoded, inhuman law." Lamm says the abortion law is good only because it brought to public attention the question of legal abortion, but he adds: "**It just isn't good enough.** Nineteen out of every twenty women who seek legal abortions in Colorado are refused. We force them either to have a baby or to have an illegal abortion. **It's a tragedy that won't end until we eliminate all laws on abortion and make it a private matter between a woman and**

**her physician or pass a law which says simply that the only illegal abortion is one which is not performed by a licensed physician.”**

The present laws also appear to put an unreasonable interference on the personal freedom of a physician to prescribe and administer what is clinically sound by proven medical opinion and scientific findings and the right of the public to the best medical help and treatment to which they are entitled. It is also worth mentioning in passing that the “liberalized” laws enacted in ten states raise serious constitutional questions because of the vagueness of the terms “mental health” and “gravely impair.”

3. The socio-economic aspect of this problem must also be considered in that although we would like to ignore problem pregnancies, they are occurring daily and illegal abortions are also being performed at an alarming rate, to the great detriment of thousands of women, both physically and emotionally. A recent survey conducted by the School of Public Health at the University of Hawaii indicated that 3,000 abortions annually in Hawaii is a reasonably accurate figure. This is based on the number of requests for abortions received by 225 physicians answering the questionnaire. Assuming this to be a fairly reliable statistic, then there are eight abortions being performed each day in this State! Your Committee feels that we should recognize and bring to the surface what everyone knows is occurring and that these abortions are being performed under criminal penalty. The illegal abortions performed by unqualified abortionists and the terrible consequences of self-induced abortion are also well known. Your Committee agrees with the statement by Dr. Garrett Hardin that a proper perspective of this problem hinges on asking the right question. Many who have testified against abortion, particularly on moral or religious grounds, have based their opinion and testimony on the wrong question: “How can we justify abortion?” The right question is: “How can we justify compulsory pregnancy?” For the poor, a compulsory pregnancy often means an unplanned and unwanted child and the consensus among social workers and psychiatrists supports

the position that an unwanted child is detrimental to society by overburdening mothers with additional physical and emotional problems and also through the high cost of welfare assistance. The present law also discriminates against the poor who cannot afford the cost of abortion while the rich can go to other countries that allow abortions. Your Committee also learned from testimony that so-called “therapeutic” abortions are being performed here in Honolulu in every major hospital if you find the right physician and pay the fees necessary for such an operation. It has been suggested by some testifying that a woman who carries an unwanted child to full term can place such child for adoption but there is evidence indicating severe lasting emotional problems in such a case. There is also evidence from psychiatrists who agree that abortions do not produce the same kind of lasting emotional effect.

4. Your Committee realizes that much of the emotion engendered over this question has clouded the issue which is to deal with a serious problem happening daily and those who are concerned with the right of the unborn child conveniently overlook the right of the woman with a problem pregnancy. Your Committee would also like to stress that the repeal of the abortion law does not in any way infringe upon the right of a pregnant woman to refrain from abortion, but no group has the right to impose its moral code or standards on the rest of society which should be allowed individual choice — a precious right in our present democratic and pluralistic society.

5. Your Committee feels that in our present society, laws which place criminal penalties for dealing with problem pregnancies are a social injustice resulting in tragic consequences not only to the personal health and welfare of the women involved but also the general welfare of the State in allowing compulsory pregnancies because an archaic law so dictates.

6. Your Committee has deliberated many hours over a residency requirement (four of the ten states with “liberalized” abortion laws have a residency requirement) and find that although such a re-

quirement may be unconstitutional in the light of the recent U.S. Supreme Court decision (*Shapiro v. Thompson*, 394 U.S. 618 [1969]) that welfare recipients need not fulfill any residence requirements. In said case the Court held that the classification created by the requirement of a specified period of residency touched on the fundamental right to interstate movement and was a violation of the Equal Protection Clause of the Constitution of the United States. Thus, the purpose of deterring the in-migration of persons cannot serve as justification. However, if the waiting-period requirement promotes a "compelling state interest", it may be justified. Your Committee feels that the "compelling state interest" on this question would be the over-burdening of medical services and facilities in this State by an influx of residents from other states seeking abortions.

7. Your Committee also feels that all abortions should be performed in hospitals from the standpoint of public health and safety due to high possibility of infection when performed under septic conditions. Your Committee is aware that the repeal of the abortion laws may well produce abuses both within and without the medical profession and that all illegal abortionists will not be eliminated but also feel at the same time that the removal of criminal sanctions will permit women with problem pregnancies to consult qualified physicians and have the benefit of counseling before deciding on a very delicate and complex problem.

8. As to the question of mandatory consent by a spouse, the general practice in our hospitals presently require the consent of the spouse and two consulting psychiatrists in the case of a therapeutic abortion or sterilization. However, if the present laws on abortion are repealed, your Committee feels that the requirement of consent by a spouse should not be regulated by law. The reason for this suggestion is that the question of consent, if required by law, would present many insuperable problems between spouses because abortions would no longer be illegal and the recent court cases in California and Washington, D.C., support the woman's right to choose whether or not to bear a

child.

9. Your Committee feels that all hospitals or any person should not be subject to any liability for refusing to participate in the performance of abortions and with this in mind, your Committee has specifically provided immunity from liability for hospitals and all such persons.

10. Another suggestion made to limit the time within which an abortion is permissible seems to have some merit but testimony indicates that even the medical profession is not certain as to how to measure the time of pregnancy or measure with any kind of certainty when a fetus becomes viable. There are many cases where medical indications which may justify an abortion do not become evident until the second trimester or even in the third trimester of pregnancy. For example, a patient may inadvertently fail to inform her doctor about having contracted rubella in the early stages of pregnancy or where a possible cancerous condition of the cervix or uterus may be discovered in the second or third trimester of pregnancy. In all of these cases, the decision requires a medical judgment as to whether the particular medical indications justify an abortion. This aspect should therefore not be regulated by law.

11. Your Committee feels real concern for those physicians who may be faced with the problem of destroying a fetus in the later stages of pregnancy due to medical indications, but this problem can be resolved by the fact that this kind of operation will probably not be legally considered an abortion.

12. Some of the moralists have expressed concern that repeal of the abortion laws will lead to increased promiscuity. Testimony from Dr. Milton Diamond, presently teaching sexual behavior at the University of Hawaii School of Medicine, indicates that from all available studies, since the 1920s sexual behavior in American society has not markedly changed at all — only one's attitudes or society's attitudes toward sexual behavior. Reliable studies show that today's teenage girls have premarital experiences about as frequent as their mothers and grandmothers.

Today's teenagers and women have a more wholesome attitude to fitting sexual relations into the normal patterns of their life which includes responsible and moral considerations toward coitus. Since we can expect the sexual behavior to stay about the same regardless of what is done by the State of Hawaii, what we will reduce by repeal of abortion laws is the number of unwanted pregnancies and the number of cases of unwanted children. Sex education and birth control information are vital because pregnancy is often the result of a miscalculation or accident. Abortion in Japan was once the most common method of family planning. In the course of three years of intensive family planning education undertaken by the government, the prevalence of contraceptive practice has risen from 40 per cent to about 70 per cent and the incidence of abortion has declined. The vast majority of those seeking abortion are well meaning, moral individuals, most usually married, who wish to limit their family size for the benefit of their existing loved ones and society. Contraception is perhaps a more acceptable method of family control, but the sexual habits of most individuals have not incorporated these techniques. While we may argue the pros and cons about abortion, the public has long ago made its decision as to its need and place in society. They use it every day.

As a final note, your Committee has been informed by the Hawaii Medical Association and the leading maternity hospital in Honolulu that an outpatient procedure for the performance of an abortion can be worked out at the approximate cost of \$200, including the physician's fee, which is substantially less than what it costs a woman today to go to Japan or to go to an illegal abortionist, with reference to cases involving dilatation and curettage within the first trimester of a pregnancy. It is hoped that all women with problem pregnancies will either go to the hospital or to their personal physician and use the best medical facilities available in view of the delicate operation and the added assurance that all medical records are confidential and the further safeguard of a pathological report which will certify the success of every operation. This sys-

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Managers on the part of the House.

Senators Yano, Ching and Mirikitani.  
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**Conf. Com. Rep. 3 on H. B. No. 61**

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on the belief that life begins at conception or soon thereafter. Your Committee feels that the ultimate question is: When does human life begin? This question has never been resolved by theologians even within the Catholic Church. The right of the unborn child is therefore predicated on the more important question of whether a fetus is a human being and therefore entitled to all rights of human beings. From the standpoint of law, the question of human life is based on viability, that is, the law regards a fetus as a human being only at such time when such fetus can exist individually outside of the mother's womb. Those who are against abortion and insist that abortion is murder and that an embryo is a person conveniently overlook the fact that no state or nation requires the dead fetus to be treated like a dead person and no cognizance is taken of the dead fetus up to five months' prenatal life. Scientists have never regarded such a fetus to be a human being. Whether society has a duty to protect life in the womb during its early stages is one of individual opinion and belief and your Committee wishes to leave it as such.

2. The next important aspect of this problem involves the legality of any law concerning abortion. Our present law in Hawaii was enacted in 1869 when childbirth was being encouraged and abortions were considered dangerous. Today, 100 years later, conditions have changed to reverse the situation where abortions, especially within the first trimester, can be performed safely and with minimum risk. At the same time there is a growing concern about the increasing population and although abortion is not suggested to be a method of birth control, it is related to the question of overpopulation which cannot be ignored. The Supreme Court of the State of California and the Federal District Court in the District of Columbia both have ruled that a law similar to our present law in Hawaii is unconstitutional on the ground that it constitutes an infringement of the right of privacy in matters relating to marriage, family and sex and also to the woman's right to life and to choose whether to bear children. The Federal Court decision in Washington, D.C., has now been challenged by the Department of Justice and it is almost certain that this

case will be heard by the Supreme Court of the United States in the near future. A related case is **Griswold v. the State of Connecticut**, which was decided by the U.S. Supreme Court concerning the use of contraceptives by married persons and our highest court held that said prohibition was unconstitutional on the ground that it constituted an invasion of marital privacy. If the U.S. Supreme Court rules that our present statute is unconstitutional on similar grounds, then the Legislature will be faced with two alternatives. The first alternative would be to refuse to legislate any further laws on the subject, which is the position of your Committee, or to enact laws similar to that proposed in **H. B. No. 61** in its original form which follows the American Law Institute's recommendations which would allow abortion under certain conditions. Your Committee would like to emphasize that this so-called "liberalized" version is a misnomer because it actually constitutes "legalizing" abortions under the conditions set forth. Your Committee's position for repeal is **NOT** legalization but rather that we choose not to control or regulate this matter by law and further that we neither approve nor disapprove of abortion. The laws which have now been enacted in ten states do not appear to be accomplishing the objective for which they were enacted and statistics indicate that the number of illegal abortions do not seem to be decreasing significantly and the number of legal abortions have not increased as expected.

The experience in Colorado indicates that in the 33 months since Colorado became the first state to pass the "liberalized" abortion law, nearly 1,500 women have obtained legal abortions. But in the same period an estimated 20,000 Colorado women have been forced to leave the state to obtain abortions illegally. State Rep. Richard D. Lamm, the Denver Democrat who led the fight for the bill, stated: "We tried to change a cruel, outmoded, inhuman law, and what we got was a cruel, outmoded, inhuman law." Lamm says the abortion law is good only because it brought to public attention the question of legal abortion, but he adds: "**It just isn't good enough.** Nineteen out of every twenty women who seek abortions in Colorado

are refused. We force them either to have a baby or to have an illegal abortion. **It's a tragedy that won't end until we eliminate all laws on abortion and make it a private matter between a woman and her physician or pass a law which says simply that the only illegal abortion is one which is not performed by a licensed physician."**

The present laws also appear to put an unreasonable interference on the personal freedom of a physician to prescribe and administer what is clinically sound by proven medical opinion and scientific findings and the right of the public to the best medical help and treatment to which they are entitled. It is also worth mentioning in passing that the "liberalized" laws enacted in ten states raise serious constitutional questions because of the vagueness of the terms "mental health" and "gravely impair."

3. The socio-economic aspect of this problem must also be considered in that although we would like to ignore problem pregnancies, they are occurring daily and illegal abortions are also being performed at an alarming rate, to the great detriment of thousands of women, both physically and emotionally. A recent survey conducted by the School of Public Health at the University of Hawaii indicates that 3,000 abortions annually in Hawaii is a reasonably accurate figure. This is based on the number of requests for abortions received by 225 physicians answering the questionnaire. Assuming this to be a fairly reliable statistic, then there are eight abortions being performed each day in this State! Your Committee feels that we should recognize and bring to the surface what everyone knows is occurring and that these abortions are being performed under criminal penalty. The illegal abortions performed by unqualified abortionists and the terrible consequences of self-induced abortion are also well known. Your Committee agrees with the statement by Dr. Garrett Hardin that a proper perspective of this problem hinges on asking the right question. Many who have testified against abortion, particularly on moral or religious grounds, have based their opinion and testimony on the wrong question: "How can we justify abortion?" The right question

is: "How can we justify compulsory pregnancy?" For the poor, a compulsory pregnancy often means an unplanned and unwanted child and the consensus among social workers and psychiatrists supports the position that an unwanted child is detrimental to society by overburdening mothers with additional physical and emotional problems and also through the high cost of welfare assistance. The present law also discriminates against the poor who cannot afford the cost of abortion while the rich can go to other countries that allow abortions. Your Committee also learned from testimony that so-called "therapeutic" abortions are being performed here in Honolulu in every major hospital if you find the right physician and pay the fees necessary for such an operation. It has been suggested by some testifying that a woman who carries an unwanted child to full term can place such child for adoption but there is evidence indicating severe lasting emotional problems in such a case. There is also evidence from psychiatrists who agree that abortions do not produce the same kind of lasting emotional effect.

4. Your Committee realizes that much of the emotion engendered over this question has clouded the issue which is to deal with a serious problem happening daily and those who are concerned with the right of the unborn child conveniently overlook the right of the woman with a problem pregnancy. Your Committee would also like to stress that the repeal of the abortion law does not in any way infringe upon the right of a pregnant woman to refrain from abortion, but no group has the right to impose its moral code or standards on the rest of society which should be allowed individual choice — a precious right in our present democratic and pluralistic society.

5. Your Committee feels that in our present society, laws which place criminal penalties for dealing with problem pregnancies are a social injustice resulting in tragic consequences not only to the personal health and welfare of the women involved but also the general welfare of the State in allowing compulsory pregnancies because an archaic law so dictates.

6. Your Committee has deliberated

many hours over a residency requirement (four of the ten states with "liberalized" abortion laws have a residency requirement) and find that although such a requirement may be unconstitutional in the light of the recent U.S. Supreme Court decision (*Shapiro v. Thompson*, 394 U.S. 618 [1969]) that welfare recipients need not fulfill any residence requirements. In said case the Court held that the classification created by the requirement of a specified period of residency touched on the fundamental right to interstate movement and was a violation of the Equal Protection Clause of the Constitution of the United States. Thus, the purpose of deterring the in-migration of persons cannot serve as justification. However, if the waiting-period requirement promotes a "compelling state interest", it may be justified. Your Committee feels that the compelling state interest" on this question would be the over-burdening of medical services and facilities in this State by an influx of residents from other states seeking abortions.

7. Your Committee also feels that all abortions should be performed in hospitals from the standpoint of public health and safety due to high possibility of infection when performed under septic conditions. Your Committee is aware that the repeal of the abortion laws may well produce abuses both within and without the medical profession and that all illegal abortionists will not be eliminated but also feel at the same time that the removal of criminal sanctions will permit women with problem pregnancies to consult qualified physicians and have the benefit of counseling before deciding on a very delicate and complex problem.

8. As to the question of mandatory consent by a spouse, the general practice in our hospitals presently require the consent of the spouse and two consulting psychiatrists in the case of a therapeutic abortion or sterilization. However, if the present laws on abortion are repealed, your Committee feels that the requirement of consent by a spouse should not be regulated by law. The reason for this suggestion is that the question of consent, if required by law, would present many insuperable problems

between spouses because abortions would no longer be illegal and the recent court cases in California and Washington, D.C., support the woman's right to choose whether or not to bear a child.

9. Your Committee feels that all hospitals or any person should not be subject to any liability for refusing to participate in the performance of abortions and with this in mind, your Committee has specifically provided immunity from liability for hospitals and all such persons.

10. Another suggestion made to limit the time within which an abortion is permissible seems to have some merit but testimony indicates that even the medical profession is not certain as to how to measure the time of pregnancy or measure with any kind of certainty when a fetus becomes viable. There are many cases where medical indications which may justify an abortion do not become evident until the second trimester or even in the third trimester of pregnancy. For example, a patient may inadvertently fail to inform her doctor about having contracted rubella in the early stages of pregnancy or where a possible cancerous condition of the cervix or uterus may be discovered in the second or third trimester of pregnancy. In all of these cases, the decision requires a medical judgment as to whether the particular medical indications justify an abortion. This aspect should therefore not be regulated by law. The bill has been amended to define abortion as the intentional termination of a pregnancy of a non-viable fetus and such definition excludes the intentional termination of a pregnancy of a viable fetus in order to allow the medical profession the legal protection it is entitled to in such cases. The bill has been further amended to require an affidavit from any woman seeking an abortion and also the word "knowingly" has been added to the penalty section to provide further protection for the physician. The severability clause has also been amended to add the words "or portion thereof" in order to insure that any court will not construe Section 2(a) as a single provision. Certain non-substantive style changes have also been made for clarity.

11. Your Committee feels real concern

for those physicians who may be faced with the problem of destroying a fetus in the later stages of pregnancy due to medical indications, but this problem can be resolved by the fact that this kind of operation will probably not be legally considered an abortion.

12. Some of the moralists have expressed concern that repeal of the abortion laws will lead to increased promiscuity. Testimony from Dr. Milton Diamond, presently teaching sexual behavior at the University of Hawaii School of Medicine, indicates that from all available studies, since the 1920s sexual behavior in American society has not markedly changed at all — only one's attitudes or society's attitudes toward sexual behavior. Reliable studies show that today's teenage girls have premarital experiences about as frequent as their mothers and grandmothers. Today's teenagers and women have a more wholesome attitude to fitting sexual relations into the normal patterns of their life which includes responsible and moral considerations toward coitus. Since we can expect the sexual behavior to stay about the same regardless of what is done by the State of Hawaii, what we will reduce by repeal of abortion laws is the number of unwanted pregnancies and the number of cases of unwanted children. Sex education and birth control information are vital because pregnancy is often the result of a miscalculation or accident. Abortion in Japan was once the most common method of family planning. In the course of three years of intensive family planning education undertaken by the government, the prevalence of contraceptive practice has risen from 40 per cent to about 70 per cent and the incidence of abortion has declined. The vast majority of those seeking abortion are well meaning, moral individuals, most usually married, who wish to limit their family size for the benefit of their existing loved ones and society. Contraception is perhaps a more acceptable method of family control, but the sexual habits of most individuals have not incorporated these techniques. While we may argue the pros and cons about abortion, the public has long ago made its decision as to its need and place in society. They use it every day.

As a final note, your Committee has been informed by the Hawaii Medical Association and the leading maternity hospital in Honolulu that an outpatient procedure for the performance of an abortion can be worked out at the approximate cost of \$200, including the physician's fee, which is substantially less than what it costs a woman today to go to Japan or to go to an illegal abortionist, with reference to cases involving dilatation and curettage within the first trimester of a pregnancy. It is hoped that all women with problem pregnancies will either go to the hospital or to their personal physician and use the best medical facilities available in view of the delicate operation and the added assurance that all medical records are confidential and the further safeguard of a pathological report which will certify the success of every operation. This system will also make possible follow-up research and statistics which are vital to evaluate the entire program. The Schools of Public Health, Medicine and Social Work at the University of Hawaii have all volunteered to assist in the follow-up studies to help in determining whether or not further statutory changes are necessary. It is anticipated by your Committee that clinics which can meet standards set forth jointly by the Department of Health and the Hawaii Medical Association will also be allowed to perform abortions in the near future on an outpatient basis. It is your Committee's intention to carefully and constantly evaluate reports and statistics resulting from the removal of criminal penalties on a subject involving a very complex and delicate problem.

Your Committee on Conference is in accord with the intent and purpose of **H. B. No. 61, H. D. 1, S. D. 2, C. D. 2**, as amended herein and recommends its passage on final reading in the form attached hereto as **H. B. No. 61, H. D. 1, S. D. 2, C. D. 3**.

Representatives Loo, Ushijima and Devereux.  
Managers on the part of the House.

Senators Yano, Ching and Mirikitani.  
Managers on the part of the Senate.

Senator Mirikitani was excused.

#### **Conf. Com. Rep. 4 on H. B. No. 1262-70**

Your Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate in **H. B. No. 1262-70, H. D. 1, S. D. 1**, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS TO PROVIDE FOR THE EXPENSES OF THE LEGISLATURE, THE LEGISLATIVE AUDITOR AND THE OMBUDSMAN", having met after full and free conference have agreed to recommend and does recommend to their respective Houses, the final passage of the bill in the amended form:

The purpose of this bill is to appropriate money for defraying the pre-session, interim session and other expenses of the Regular Session of 1970 of the Fifth State Legislature of the State of Hawaii, up to and including January 19, 1971; for the payment of expenses of any committee or committees established by either the Senate or the House of Representatives, respectively; for the payment of expenses of the Office of the Ombudsman; and for the payment of the expenses of the Office of the Legislative Auditor.

Your Committee incorporates the intents contained in **House Standing Committee Report No. 7-70** and **Senate Standing Committee Report No. 11-70** insofar as they are not in conflict with this report and the amendments covered herein.

Upon consideration of the bill, your Committee has amended **H. B. No. 1262-70, H. D. 1, S. D. 1**, as hereinafter set forth.

Section 8 originally appropriated the sum of \$524,262 for defraying the expenses of the Office of the Legislative Auditor and the sum of \$300,000 for such purpose as may be determined by joint action of the presiding officers of both houses or by joint action of both houses through the presiding officers. Your Committee has amended this section by appropriating the sum of \$881,262 to the Office of the Legislative Auditor for defraying certain expenses during the fiscal year 1970-71 as outlined below.

a) The sum of \$544,262 is to be used



for defraying the expenses of the Office of the Legislative Auditor;

b) The sum of \$40,000 is to be used for defraying the expenses of the Ethics Commission. Your Committee feels that since the State Ethics Commission is included within the Office of the Legislative Auditor for administrative purposes under section 84-21, the appropriation for the Commission should be made in the legislative expense bill. A half-time position has been granted to the Commission to handle the administrative duties previously provided by the Legislative Auditor's office.

c) The sum of \$65,000 is to be used to secure the services of a consultant, under specifications determined by the Legislative Auditor, to conduct an in-depth examination of and explore alternatives for the Act 97 hospitals' management and control system upon prior joint approval of the presiding officers of both houses.

d) The sum of \$32,000 is to be used to secure the services of a consultant or consultants, under specifications as determined by the Legislative Auditor, to examine the criteria and systems of the Department of Personnel Services' examination program and to explore alternatives for the Department's employee performance evaluation program upon prior joint approval of the presiding officer of both houses. Funds for contractual services in this area were initially included in the Department of Personnel Services' budget request. Since the request for consultants was in part a response to the audit by the Legislative Auditor, your Committee feels that the Auditor is the more appropriate contracting party.

e) The sum of \$200,000 is to be used for interim legislative studies, for contractual services for such studies, or such other purposes as may be determined by joint action of the presiding officers of both houses or by joint action of both houses through their presiding officers.

Your Committee feels that the above funding will give the Legislature flexibility to authorize such studies as may become necessary.

Your Committee is in accord with the intent and purpose of **H. B. No. 1262-70, H. D. 1, S. D. 1**, as amended herein, and recommends its passage on final reading in the form attached hereto as **H. B. No. 1262-70, H. D. 1, S. D. 1, C. D. 1**.

Representatives Wakatsuki, Kunimura,  
Pacarro and Ajifu.  
Managers on the part of the House.

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

**Conf. Com. Rep. 5 on H. B. No. 752**

Your Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate to **H. B. No. 752, H. D. 1, S. D. 3**, entitled:

"A BILL FOR AN ACT RELATING TO ELECTIONS.",

having met after the full and free conference, has agreed to recommend to their respective Houses, the final passage of the bill as amended herein.

The purpose of this bill is to consolidate, clarify and update the laws relating to elections.

Your Committee recommends the following amendments to this bill:

1. Section 11-193 relating to filing statements of expense, has been amended to clarify the language as it relates to the itemized statement which requires the amounts contributed and the names and address of all contributors who contributed an aggregate of over \$500 toward the election of the candidate or to a party or committee. Your Committee has amended the provisions since the sentence is vague and can be subject to misinterpretation since it was the intent to make it applicable only to individual contributors. Your Committee has substituted the words: "The itemized statement shall also contain the amount contributed and the name and address of each contributor who has contributed in excess of \$500 toward the election of the candidate or to a party or com-

mittee”.

2. Your Committee has also amended Section 12-2 by changing the day upon which a primary shall be held to Saturday instead of Monday. Your Committee feels that Saturday will increase voter turnout.

3. Your Committee has also amended Section 4 of the bill by changing the words “regular session 1969” to “regular session 1970”. Section 4 states that all acts passed during the session whether enacted before or after the passage of this present bill is to be amended to conform to this bill unless such other acts specifically provides to the contrary.

Your Committee on Conference is in accord with the intent and purpose of **H. B. No. 752, H. D. 1, S. D. 3**, as amended herein, and recommends its passage on final reading in the form attached hereto as **H. B. No. 752, H. D. 1, S. D. 3, C. D. 1**.

Representatives Kato, Shigemura and Aduja.  
Managers on the part of the House.

Senators Ushijima, Ariyoshi and Yee.  
Managers on the Part of the Senate.

**Conf. Com. Rep. 6 on S. B. No. 1689-70**

Your Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House to **S. B. No. 1689-70, S. D. 1, H. D. 1**, entitled: “**A BILL RELATING TO THE STATE BOARD OF EDUCATION**”, having met after full and free conference, has agreed to recommend and do recommend to their respective Houses, the final passage of the bill as amended herein.

The purpose of this bill is to amend the State Constitution to provide for a School Board to be selected in accordance with law. The bill also provides for at least part of the membership of the board to represent geographic subdivisions of the State.

In the legislative apportionment cases (**Kirkpatrick v. Preisler**, 394 U.S. 526 (1969); **Wells v. Rockefeller**, 394 U.S. 542

(1969); **Swann v. Adams**, 385 U.S. 440 (1967)), the U.S. Supreme Court has set forth the general rule that the Equal Protection Clause of the Fourteenth Amendment requires that each qualified voter must be allowed an equal opportunity to participate in an election, and when members of an elected body are chosen from separate districts, each district must be established on a basis which will insure, as far as practicable, that equal numbers of voters can vote proportionately for equal numbers of people whenever a state or local government decides to select persons by popular election to perform governmental functions. In the **Hadley v. Junior College District of Metropolitan City** case relating to school board apportionment, the U.S. Supreme Court emphasized that although particular elected offices varied in their functions and powers, a constant factor is the state’s policy and intent to have citizens participate individually by ballot in the selection of people to carry out governmental functions. Thus, the Court stated, “If one person’s vote is given less weight through unequal apportionment, his right to equal participation is impaired just as much when he votes for a school board member as when he votes for a state legislator.” 38 L. W. 4162.

In view of the **Hadley** case, the Attorney General of Hawaii was requested to render an opinion as to whether the present apportionment of the State Board of Education comported with constitutional requirements. In Opinion No. 70-5, the Attorney General concluded that the Board of Education is presently mal-apportioned and therefore cannot pass the test of constitutionality under the criteria established by the U.S. Supreme Court in the apportionment cases.

Your Committee at its hearing heard testimony on various plans to reapportion the Board on the principle of one man-one vote as espoused by the United States Supreme Court. Your Committee learned that mathematical exactitude was approached with each increase in the number of members. This would mean, therefore, that in order to meet the test of constitutionality, the school board would have to be composed of twenty-five members, depending

on the degree of mathematical exactitude demanded by court decisions.

However, it is the feeling of your Committee that a board of more than 15 members is too large and unwieldy to be practicable. Therefore, the idea of continuing our Board as an elective body is hereby rejected as a political concept, worthy though it may be put impractical and obsolete under the one man-one vote ruling of the courts.

Your Committee feels that the State Constitution, as presently worded, restricts the legislature from considering other than electoral means for the selection of members of the State Board of Education. Hence, a change in our Constitution as proposed in this bill is recommended.

The provisions of this bill would not at this time nor at the time of ratification by the electorate, affect the selection of either the State Board of Education or the Superintendent of Education, as there are presently on the statute books laws which provide for the election of the Board and its selection of the Superintendent.

Your Committee on Conference is in accord with the intent and purpose of **S. B. No. 1689-70, S. D. 1, H. D. 1**, as amended herein and recommends its passage in the form attached hereto as **S. B. No. 1689-70, S. D. 1, H. D. 1, C. D. 1**.

Representatives Taira, Kawakami and Oda.  
Managers on the Part of the House.

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

**Conf. Com. Rep. 7 on H. B. No. 111**

Your Committee on Conference on the dissenting vote of the House to the amendments proposed by the Senate to **H. B. No. 111, H. D. 1, S. D. 3**, entitled: "A BILL FOR AN ACT RELATING TO THE STANDARDS OF CONDUCT FOR STATE LEGISLATORS AND EMPLOYEES", having met after the full and free conference, has agreed to recommend to their respective Houses, and does

hereby recommend, the final passage of the bill as amended herein as follows:

The purpose of this bill is to strengthen the state ethics law enacted in 1967 in the following respects:

1. Prohibit an employee from assisting any person or business on matters which he participates as an employee and from assisting any person or business in a representative capacity on any matter before the agency or department of which he is an employee where it can be reasonably inferred that his status as an employee will give him an undue advantage.

2. Prohibit a legislator or employee from appearing on behalf of a private interest before any State agency for compensation that is contingent upon action by the State agency.

It is recognized by your Committee that legislative members and State employees are required by the demands of their office and their employment to maintain frequent liaison with State agencies and thereby to seek appropriate action. Your Committee further recognizes that any appearance of impropriety or undue influence could arise if legislators, particularly those who are members of committees directly concerned with the State budget, including pay raises, retirement benefits, and other employee benefits and privileges, appear before such State agencies and adjudicative bodies for compensation on behalf of private interests. Under existing law, only employees are prohibited from appearances on behalf of private interests before State agencies for compensation that is contingent upon action by the State agency. And, this prohibition against appearances must, as it obtains as to employees, apply to legislators appearing before State agencies.

So much is undisputed. Your Committee is essentially in agreement with **H. B. No. 111, H. D. 1, S. D. 3**. The principal area of disagreement exists in defining the degree of disclosure required of any legislator or any of his business or professional associates appearing on behalf of a private interest before a State agency for a fee or

other consideration. The problem persists in whether the revelation shall be to the public generally or only to the state ethics commission as to his intended appearance and the fee or other consideration he shall receive.

Your Committee on Conference has determined that the ethical standards pursuant to which a legislator should be allowed to proceed in this regard ought to be limited to the body in the first instance endowed with the authority to ascertain the course of ethical direction pursued by personages subject to it. Unafraid of public ridicule, your Committee is satisfied that the impartiality of determination of which the state ethics commission is capable will guard against the evils which this measure seeks to remedy.

Your Committee, therefore, recommends an amendment to **H. B. No. 111, H. D. 1, S. D. 3**, by deleting therefrom in section 1 thereof, amending section 84-15, Hawaii Revised Statutes, subsection (c) at line 16, page 1, the word "publicly" with reference to disclosure necessary in order for a legislator or any of his business or professional associates to appear before any State agency for a fee or other consideration.

In short, your Committee is satisfied that the state ethics commission is capable of, without undue public influence, and without unnecessary public disclosure, directing the degree of dichotomy between that which is proprietous and that which is not with respect to legislators and their associates appearing before governmental agencies.

Your Committee on Conference is in accord with the intent and purpose of **H. B. No. 111, H. D. 1, S. D. 3**, as amended herein, and recommends its passage on final reading in the form attached hereto as **H. B. No. 111, H. D. 1, S. D. 3, C. D. 1**.

Representatives Kato, Kimura and Miho.  
Managers on the part of the House.

Senators Takahashi, Fernandes and Rohlfiing.

Managers on the part of the Senate.

**Conf. Com. Rep. 8 on H. B. No. 1795-70**

Your Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate in **H. B. No. 1795-70, H. D. 1, S. D. 2**, entitled: "A BILL FOR AN ACT RELATING TO DIVORCE AND AMENDING CHAPTER 580, HAWAII REVISED STATUTES", having met after full and free conference, has agreed to recommend, and does recommend, to their respective Houses, the final passage of the bill as amended herein.

The purposes of this bill are (a) to amend the present ground for divorce preceded by a separation for a continuous period of three years, to two years, (b) to permit entry of an absolute decree of divorce where the parties have been separated for six months or more under a decree of separation or separate maintenance, irrespective of the grounds alleged, and (c) to correct a drafting error in section 580-45, Hawaii Revised Statutes.

Your Committee hereby incorporates the expressions of intent contained in **House Standing Committee Report No. 545-70** and **Senate Standing Committee Report No. 932-70**, insofar as they are not in conflict with this report and the amendments set forth herein.

Upon consideration of the bill in its present form, your Committee deleted section 3 thereof, amending section 580-41 Hawaii Revised Statutes, enumerating the grounds for divorce, by adding thereto a new subsection which would authorize the court to grant a divorce from the bond of matrimony "for irreconcilable differences which have caused the breakdown of the marriage."

This proposed measure is principally patterned after a recently enacted California statute allowing the court to grant a divorce simply upon grounds that there has been a breakdown of the marriage caused by irreconcilable differences between the parties. Its proponents profess its merit lies in the court's power to dissolve a marriage

without having to find one of the parties at fault. Critics of the measure, however, point out that the question of "fault" is seldom raised except where one spouse seeks to impugn the morality or fitness of the other as a parent where there is a contest for the custody of the children. Therefore, notwithstanding "fault" is not an element of the divorce action, it invariably continues in the case where there is a custody dispute, which represents the basis of contest in the great majority of contested cases.

Its opponents further argue that the measure constitutes "divorce on demand"; that there is nothing for the court's adjudicating officer to decide under an allegation of irreconcilable differences. Because there is no "justiciable issue", the court is reduced to a mere instrumentality for the convenience of those who would impose upon it, instead of the court, pursuant to its jurisdiction, inquiring into the posture of the marital relationship and ordering as to it accordingly. This is particularly true because the measure, as drafted, does not contemplate a marital relationship in which, if it appears to the judge that there is a reasonable possibility of reconciliation, he shall continue the proceeding for any prescribed period. And, assuming that it did, at the hearing where it is determined by the court to be necessary to establish the existence of irreconcilable differences, evidence of specific acts of misconduct, i.e., fault, would be proper and admissible in any event.

If it is divorce without fault which is sought to be achieved, the bill itself, in its original form, amending section 580-41(11), by reducing the period of separation preceding the divorce from three years, to two years, tends toward that purpose, and a further reduction of that period to one year or six months would accomplish the very same purpose as divorce on grounds of irreconcilable differences while maintaining certain safeguards such as (a) the court's jurisdiction of a marriage in which one of the parties engages in open and notorious adultery pending the divorce, as against public policy, and (b) the court's protection of the property rights of an affected party (usually the wife, on her be-

half). This is done in an orderly manner, keeping before the court, clearly, a justiciable issue.

In the conference draft, your Committee (a) included the whole of section 580-41, showing the amendment to subsection (11) thereof, as a matter of style, (b) deleted section 1 of the bill setting forth its purpose, and (c) renumbered the remaining sections accordingly.

Your Committee is in accord with the intent and purpose of **H. B. No. 1795-70, H. D. 1, S. D. 2**, as amended herein, and recommends its passage on final reading in the form attached hereto as **H. B. No. 1795-70, H. D. 1, S. D. 2, C. D. 1**.

Representatives Kato, Oshiro and Miho.  
Managers on the part of the House.

Senators Ushijima, Ariyoshi and Yee.  
Managers on the part of the Senate.

**Conf. Com. Rep. 9 on H. B. No. 397**

Your Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate to **H. B. No. 397, H. D. 2, S. D. 1**, entitled: "A BILL FOR AN ACT RELATING TO THE ESTABLISHMENT OF AN INSTRUMENTALITY FOR HOUSING AND COMMUNITY DEVELOPMENT", having met after full and free conference, has agreed to recommend and does recommend to their respective Houses, the final passage of the bill in the amended form.

The purpose of this bill is to take immediate steps in a total commitment to alleviate the critical housing shortage in Hawaii.

In so doing your Committee strongly endorses the concept of a department charged with the administration of all programs related to housing, urban development and environmental quality control expressed in **H. B. No. 397, H. D. 2**.

This is a part of the larger concern over administration efficiency expressed in the Greenleigh Report and in **S. R. No. 241**.



Your Committee requests the Governor to conduct a thorough study and an indepth appraisal of the structure of State government and to report to the legislature prior to the opening of the 1971 session on the creation of a new department in accordance with the concept expressed in **H. B. No. 397, H. D. 2**. This study and report should also include recommendations on the overall structure of government and be coordinated with the development of the planned program budget so that governmental structure will more closely parallel operative functions.

Your Committee is aware that the housing problem though immediately critical is part of a larger problem of urban development and environmental quality control that will be of prime importance through this next generation to determine the quality of life in Hawaii into the new twenty-first Century.

The housing program has been designed to help all of our citizens but primarily those in low and middle income levels, the so-called "gap groups". However, it has also been designed to permit controlled regrowth of urban areas using government power and financial ability and the ingenuity of private enterprise to create an entire model city.

The bill provides for up to \$60,000,000 to produce units for lower and middle income residents, the elderly, and students and faculty of institutions of higher education. It incorporates the provisions of **H. B. No. 397, H. D. 1** and **S. B. No. 1327-70, S. D. 1**.

The bill further provides aid in financing home purchases for all members of our society by incorporating a mortgage guarantee program, downpayment loan program and a participating loan program as expressed in **H. B. No. 397, H. D. 2**.

Your Committee, recognizing the importance of the problem, has redesignated the department of social services as the department of social services and housing.

Your Committee wishes to direct the administration to allocate the appropria-

tion of \$300,000 to the various programs specified in this Act after providing for staffs. \$50,000 each should be provided as initial contributions to the mortgage guarantee fund, the downpayment loan fund and the participation loan fund.

Additionally, up to \$25,000 shall be used to study the 1955 Japan Readjustment Law. -

Some 112 cities in Japan have made use of this program with considerable success. This "land readjustment" coopts the affected residents into the decision-making process, and in addition, allows them to retain their equity in the project. The merits of this program are that it is egalitarian as well as economically advantageous for the government. Under this program, only some financial assistance is required for off-site capital improvements.

It is the intent of your Committee that this study can be carried on pursuant to section 359A-14.

Your Committee on Conference is in accord with the intent and purpose of **H. B. No. 397, H. D. 2, S. D. 1**, as amended herein, and recommends its passage on final reading in the form attached hereto as **H. B. No. 397, H. D. 2, S. D. 1, C. D. 1**.

Representatives Uechi, Kondo, Oda,  
Ushijima and Wakatsuki.  
Managers on the part of the House.

Senators Yano, Hulten, Mirikitani,  
Yamasaki and Yoshinaga.  
Managers on the part of the Senate.

**Conf. Com. Rep. 10 on S. B. No. 1566-70**

Your Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House to **S. B. No. 1566-70, S. D. 1**, entitled:

"A BILL FOR AN ACT RELATING TO THE PROTECTION OF INDIGENOUS FISH, BIRD, ANIMAL, AND VEGETABLE LIFE.",

having met after full and free conference,

has agreed to recommend to their respective Houses, and does hereby recommend, the final passage of the bill as amended herein as follows:

The purpose of this bill is to protect and conserve indigenous fish, bird, animal and vegetable life in Hawaii. **S. D. 1** of this bill sought to handle this problem by creating within the department of land and natural resources an animal species advisory commission composed of six scientists in the fields of botany, mammology, ichthyology, entomology, ornithology, and invertebrate zoology, plus three members of the general public. This 9 member commission would advise the fish and game division on every proposal by the State for the deliberate introduction by the State of any species of animal from outside the State into the State or from one county into another county. The fish and game could, after consultation with this advisory commission, then bring such animal into the State after reaching seven specific findings of fact designed to safeguard local biota. Certain other procedural safeguards were also written into the bill.

**H. D. 1** of the bill sought to handle the same problem by increasing the animal species advisory commission from 9 to 13 members. These members would consist of the said 6 scientists, two members of the general public, the four chairmen of the four proposed county fish and wildlife advisory committees created by amendment to the bill and the chief of the fish and game division. It was also provided that the said county advisory committees (which would be composed of the members of that county who are members of the board of land and natural resources from that county, who shall be non-voting members, plus five members who are knowledgeable in fishing, hunting, and conservation of fish and wildlife) would advise the division of fish and game on all matters affecting fishing or hunting and fish and wildlife conservation within the county.

The conference centered around two or three general issues: (1) whether the advisory commission of 13 members with only six scientists would tend to submerge the expertise of these scientists, and there-

by dilute the conservation effects of the bill; and (2) why the county fish and wildlife advisory committees should have the function of advising fish and game on all matters affecting hunting, fishing and conservation, whereas the animal species advisory commission was limited to one function only.

The conference committee has, therefore, made the following amendments to **S. B. No. 1566-70, S. D. 1, H. D. 1**:

(a) The membership of the animal species advisory commission was decreased from 13 to 11 members, thereby giving the scientists a majority vote on the commission;

(b) The animal species advisory commission was given the additional function of advising the fish and game division not only as to importation of animals but as to all matters affecting fishing, hunting and the conservation of fish and wildlife in the **State**. This commission, in addition to the 6 scientists, would be composed of the chairman of each county committee, and the chief of the fish and game division. The county fish and wildlife committees would advise on the same matters as they affect the particular **counties**. With the pinpoint advice from the counties and the overall advice from the statewide commission it is felt that the fish and game division can thereby more effectively implement conservation programs.

(c) The proviso on line 16 of **H. D. 1** which required that one of the county committee chairmen be chairman of the animal species advisory commission was deleted, leaving it up to the commission to elect its own chairman.

The conference committee would like to also allay the fears of pet shop owners by making it perfectly clear that this bill only applies to animals, birds, etc., introduced by the State and does not intend to affect pet shop owners who bring pets in for sale to the public.

Your Committee on Conference is in accord with the intent and purpose of **S. B. No. 1566-70, S. D. 1, H. D. 1**, as amended

herein, and recommends its passage on final reading in the form attached hereto as **S. B. No. 1566-70, S. D. 1, H. D. 1, C. D. 1.**

Representatives Serizawa, Kawakami and Saiki.

Managers on the part of the House.

Senators Lanham, Nishimura and Rohlfing.

Managers on the part of the Senate.

**Conf. Com. Rep. 11 on H. B. No. 1457-70**

Your Committee on Conference of the dissenting vote of the House to the amendments proposed by the Senate to **H. B. No. 1457-70, S. D. 1**, entitled: "A BILL FOR AN ACT RELATING TO CERTAIN SPECIAL FUNDS OF THE UNIVERSITY OF HAWAII", having met after full and free conference, has agreed to recommend to their respective Houses, and does hereby recommend, the final passage of the bill as amended herein as follows:

The purpose of this bill is to exempt the special funds of the cafeterias of the community colleges and of the college bookstores from the periodic five per cent deduction for administrative expenses.

Both the House and the Senate versions of this bill are in agreement in the need for exempting the special funds of the cafeterias of the community colleges, and of the bookstores of the community colleges. The principal area of disagreement exists in determining whether the bookstore exemption should be extended to all University of Hawaii bookstores, or limited only to the bookstores of the community colleges.

Upon due consideration of the ramifications of including all college bookstores in this exemption, or limiting the exemption only to the community college bookstores, your Committee on Conference has amended this bill to include all college bookstores in the exemption. The rationale supporting this decision takes into consideration the best interests of the students and of the State. Since all college book-

stores in the University of Hawaii System are virtually self-supporting, with the entire cost of the operation of the facilities, including overhead for buildings, fixtures, employees, etc., being borne by the proceeds of the sale of books, the 5% depletion of the special fund for administrative expenses must be passed on to customers. Thus the students, being the vast majority of bookstore patrons, must bear a disproportionate share of the administrative burden. Your Committee believes that this benefit should be shared by all students, rather than being limited to those at the community colleges.

Upon considering the practical application of exempting only the bookstores of the community colleges, and not of the entire University System, your Committee on Conference has found that due to the nature of the existing special fund for college bookstores, a discriminatory exemption of only a part of the revenues could create additional administrative work for the State which would offset any revenues retained by excluding the bookstores of the Manoa Campus and Hilo Campus from the exemption. Specifically, there is only one special fund for college bookstores, which serves as the repository of receipts from all college bookstores. Thus, in order to exempt only certain revenues in this special fund, and exclude others will require additional administrative procedures and additional cost to the State.

Your Committee on Conference is in accord with the intent and purpose of **H. B. No. 1457-70, S. D. 1**, as amended herein, and recommends its passage on final reading in the form attached hereto as **H. B. No. 1457-70, S. D. 1, C. D. 1.**

Representatives Ushijima, F. Wong and Devereux.

Managers on the part of the House.

Senators Kuriyama, Nishimura and Yee.  
Managers on the part of the Senate.

**Conf. Com. Rep. 12 on S. B. No. 1836-70**

Your Committee on Conference on the disagreeing vote of the Senate to the amendment proposed by the House to S.

**B. No. 1836-70, S. D. 1, H. D. 1** entitled: "A BILL FOR AN ACT RELATING TO THE PROGRESSIVE NEIGHBORHOODS PROGRAM", having met after full and free conference has agreed to recommend and does recommend to the respective Houses, the final passage of the bill with the following amendment:

The amendment made in **H. D. 1** deleted proposed amendments (1) enabling the Director of Health with the Governor's approval to determine the need for and to establish community physicians in multi-problem neighborhoods; (2) providing a guarantee of \$36,000 from the practice of medicine and surgery instead of from all sources as presently provided; and (3) allowing more than one physician to be subsidized in any specific multi-problem neighborhood.

**H. D. 1** also reversed **S. D. 1** which replaced references to specific multi-problem neighborhoods such as the Waianae-Nanakuli community and the Waimanalo community with the more general phrase, "multiproblem neighborhoods", and added the Hauula community.

These **H. D. 1** amendments were proposed out of concern that the guaranteed income disrupts normal competition, and out of the opinion that determination of location of community physicians properly lies with the Legislature.

The Progressive Neighborhoods staff and the Director of Health proposed the amendments which were deleted in **H. D. 1** to make this program more responsive to needs of multi-problem neighborhoods. They have experienced serious difficulty recruiting physicians under the present guarantee since doctors having other income than from medicine were penalized. \$36,000 is not as large a sum as it looks when medical practice overhead is deducted.

While one community was found to be in real need of a number of physicians, and encouragement of a group practice in the area was proposed as an effective and less expensive solution to the physician

problem, this could not be done because the wording of the bill permitted only one physician to an area.

Your Committee questions the wisdom of requiring legislative determination of the location of each community physician for the following reasons:

The time that lapses after the Health Department determines need for physicians before legislative authorization can be secured results in the loss of interested individuals who are not willing or able to wait.

The subsidy comes from departmental savings rather than special appropriation, and the requirement of the Governor's approval provides sufficient check on the expenditure of these funds.

Experience to date shows that subsidized physicians voluntarily cancel their contracts and are self sustaining within three to six months.

The purpose of the community physician program is to establish normal competition in areas where there is none, rather than to disrupt it.

The deletions negate the intended benefits of this legislation and leave the community physician program seriously hampered, still, in assisting communities to secure the medical services they need.

Your Committee, therefore, has agreed to reinsert the amendments which **H. D. 1** deleted.

Your Committee also agrees to include the Hauula community with those mentioned specifically to receive the benefits of this program, as recommended in the house draft.

Your Committee is in accord with the intent and purpose of **S. B. No. 1836-70, S. D. 1, H. D. 1**, as amended herein, and recommends its passage on final reading in the form attached hereto as **S. B. 1836-70, S. D. 1, H. D. 1, C. D. 1**.

Representatives Wakatsuki, Sakima and

Ajifu.

Managers on the part of the House.

Senators Yoshinaga, Yamasaki, and  
Anderson.

Managers on the part of the Senate.

**Conf. Com. Rep. 13 on H. B. No. 974**

Your Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate in **H. B. No. 974, H. D. 1, S. D. 1**, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC LANDS OF THE STATE OF HAWAII", having met after full and free conference, has agreed to and does recommend to the respective Houses, the final passage of the bill as amended herein.

The purpose of this bill is to amend the existing law by permitting the State Board of Land and Natural Resources to issue permits for water rights on a month-to-month basis, but not more than twelve months. This bill also allows the Board to dispose of public lands for marine and maritime operations by negotiations without the requirement of public auction, thereby allowing marine and maritime operations the same procedure as allowed for its counterparts in transportation, airline and aircraft operations.

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

(1) Insert the words "within the aeronautical and maritime industries" after the word "competition" in line 3 on page 2.

(2) Delete the words "include reasonable rental payments based on current market value, and shall" in lines 4 and 5 on page 2 because the existing law stipulates such requirements when there is a disposition of public lands.

(3) Add a new section to Chapter 266 to read as follows: "Whenever any disposition of public land is made by the department of transportation, under its powers relating to public lands under its jurisdiction, to any persons, organizations, as-

sociations, corporations or clubs for recreational or social purposes, such leases, licenses, permits or right-of-entry, or any extension thereof, covering the disposition of public land shall contain provisions reserving adequate public right-of-way or public access to adjacent public areas over and across the public land disposed."

This amendment is intended to apply to all future leases, licenses, permits or right-of-entry or any extensions thereof.

Your Committee on Conference is in accord with the intent and purpose of **H. B. No. 974, H. D. 1, S. D. 1**, as amended herein, and recommends its passage on final reading in the form attached hereto as **H. B. No. 974, H. D. 1, S. D. 1, C. D. 1**.

Representatives Serizawa, Kawakami  
and Aduja.

Managers on the part of the House.

Senators Lanham, Nishimura and  
Henderson.

Managers on the part of the Senate.

**Conf. Com. Rep. 14 on S. B. No. 1706-70**

Your Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House in **S. B. No. 1706-70, S. D. 1, H. D. 1**, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC LANDS", having met after full and free conference, has agreed to recommend, and does recommend, to their respective Houses, the final passage of the bill, as amended herein.

The purpose of the bill is to adjust certain restrictions, conditions, and qualifications with respect to disposition of public lands for personal residential use with a view toward making lands available to the public by sale or lease thereof with safeguards consistent with the land disposition policy of the state. The bill would aid the "income gap group" who would otherwise have difficulty and hardship in qualifying as purchasers or lessees of residential house lots, and would expedite disposition procedures on the part of the board. **S. B. No.**



**1706-70, S. D. 1, H. D. 1** generally allowed the board to sell or lease lots by drawing as well as by public auction; set forth restrictions that the applicant owned no other land suitable for a home in the county, that he constructs a dwelling within three years and uses the lot and dwelling as his principle domicile, and that his gross income does not exceed \$20,000 per year. It also permitted the state to exchange and acquire lands suitable for residential use; and further prohibited sale or transfer of the lot or lease by the purchaser unless he first offers the same to the state.

Your Committee incorporates the intent and purpose of Senate **Standing Committee Report No. 250-70** and House **Standing Committee Report No. 704-70** insofar as they are not in conflict with this report and the amendments set forth herein.

Upon consideration of **S. B. No. 1706-70, S. D. 1, H. D. 1**, your Committee has made the following amendments:

1. Subparagraph (2) of HRS Section 171-48, as contained in Section 2 of **H. D. 1** as reads: "No person shall purchase or lease any lot under this part if he or his spouse, or both of them, owns fee simple land in the county suitable for residential purposes." has been deleted. Subparagraph (2) was intended to discourage speculation and to disallow those persons who otherwise owned land for residential purposes in the same county so that ownership of land in as many people as possible is achieved. Existing statute provides for an even stricter safeguard which disallows persons who owned other land in the state suitable for residential use; and therefore the subparagraph was deemed unnecessary and deleted. The other subparagraphs were accordingly renumbered.

2. **H. D. 1** had provided a gross income limitation of not more than \$20,000 per year by an applicant, including the gross income of his spouse, in order to qualify for purchase of a lot by drawing. Clarifying language for determining gross income was added to provide that the standard income tax exemption for each dependent, as provided by the income tax law of the state,

shall be allowed in determining gross income. This is consistent with the income tax exemption allowance provided for lessees in determining gross income.

3. Subparagraph (4) of HRS Section 171-49, as set forth in Section 3 of **H. D. 1**, as reads: "Any other lot sold and forfeited or surrendered after sale with the consent of the board of land and natural resources, which consent is authorized, may, subject to section 171-21, be disposed of by the board by drawing of lots by eligible persons." has been deleted. Under existing statute, any lot offered and not sold at public auction, or sold and forfeited or surrendered after sale, is held for 30 days during which time any person otherwise qualified to bid may apply for the lot in writing. Upon the expiration of 30 days, if not more than one person has applied for the lot, the board may dispose of the lot to the sole applicant without public auction at not less than the prior upset price. But if more than one person has applied for the lot, or if there are more applicants than lots available, the board must dispose of the lot at public auction. This has proved to be an unwieldy, inflexible, and time and cost consuming procedure when there are only one or a few lots which must be disposed of by public auction to two or few persons. Your Committee finds that the disposition can be fairly effected by drawing without prejudice to the state and without resort to public auction in the instance of lots offered and unsold at public auction, or sold and forfeited or surrendered after sale. The said subparagraph (4) would have provided an option in the board for the disposition by drawing of lots or by public auction for lots sold and forfeited or surrendered after sale. The subparagraph (4) was deleted in the course of style changes but subparagraph (3) was amended to provide for such an option in the disposition of lots by drawing or public auction to effectively retain the intent of subparagraph (4) as well as to expand its coverage to lots offered in an initial auction but unsold.

4. Section 6 of **H. D. 1** sought to add a new section to HRS Chapter 171, by providing that the lots sold by the state shall not be sold again by the purchaser or his heirs unless he first offers the lot

for sale to the board at a price which shall not exceed the sum of (1) the original cost of the land; (2) the original cost of all buildings and improvements thereon; and (3) annual interest at a rate to be determined by the board on the original purchaser's or his heirs' equity in the land, buildings and improvements, whichever is greater. The proposed section has been amended so that there is a restraint on alienation for a period of 10 years from date of disposition and if the purchaser desires to sell or transfer the lot or any interest therein and improvements thereon, he must offer the same to the board in accordance with the provisions of HRS Section 171-17(c) or Section 171-81, as the case may be. Section 171-17(c) presently gives the board an option to repurchase the land for the original sales price or the fair market value at the time of repurchase, whichever is lower, and the improvements at fair market value. Section 171-81 now allows the board to accept surrender of the lease and purchase the improvements at fair market value. Inasmuch as it is the desired policy to discourage speculation and to provide home ownership to the public at fair and uninflated prices, your Committee believes that the existing provisions are adequate and should be adhered to.

In addition to the amendments aforesaid, your Committee has made certain nonsubstantive changes for purposes of style, clarity and consistency.

Your Committee is in accord with the intent and purpose of **S. B. No. 1706-70, S. D. 1, H. D. 1**, as amended herein, and recommends its passage on final reading in the form attached hereto as **S. B. No. 1706-70, S. D. 1, H. D. 1, C. D. 1**.

Representatives Serizawa, Pacarro and Aduja.  
Managers on the part of the House.

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

**Conf. Com. Rep. 15 on S. B. No. 1139-70**

Your Committee on Conference on the disagreeing vote of the Senate to the

amendments proposed by the House in **S. B. No. 1139-70, H. D. 1**, entitled: "A BILL FOR AN ACT RELATING TO THE LAND USE LAW", having met after full and free conference, has agreed to recommend, and does recommend, to their respective Houses, the final passage of the bill, as amended herein.

The purposes of this bill are: (1) to authorize the land use commission to impose additional restrictions on special permits which allow unusual and reasonable uses on land within the agricultural and rural districts, and to designate only the planning commission and not the zoning board of appeals as the agency to issue such permits; and (2) to provide for the establishment of shoreline setback lines and the regulation of the use and activity within the shoreline setback area delineated.

The matter of the authority of the land use commission to impose additional restrictions is not the subject of disagreement and only the matter of the shoreline setback line is discussed in this report.

**S. B. No. 1139-70, H. D. 1** authorized the land use commission to establish shoreline setback lines of not less than twenty feet inland from the upper reaches of the wash of waves. It permitted replacement or reconstruction of nonconforming structures within the shoreline setback area so long as the use remained unchanged without enlargement, but if such use is discontinued for one year, such use was disallowed to continue. **H. D. 1** also regulated the removal of sand, coral, rocks, soil or other beach composition within the setback area; prohibited removal thereof for commercial purposes except that commercial mining operations in operation for at least two years could continue until July 1, 1975. The enforcement of the setback and the applicable rules and regulations could be delegated to the county agency.

Your Committee adhered to the underlying approach of **H. D. 1** to provide for the establishment of shoreline setback lines to protect and regulate the setback area. Your Committee finds that the grow-

ing population and development indicate and have demonstrated a pressing encroachment of structures along the shoreline. Many of these structures have disturbed the natural shoreline processes and caused erosion of the shoreline. Concrete masses along the shoreline is contrary to the policy for the preservation of the natural shoreline and the open space. Unrestricted removal of sand, coral, rocks, etc., for commercial uses can only deteriorate the shoreline and remove it from public use and enjoyment. Moreover, these Hawaiian islands are subject to tsunamis and high waves which endanger residence dwellings and other structures which are built too close to the shoreline. In the interest of public safety, certain regulation appears required. For these reasons, it is in the public interest to establish shoreline setback lines and to regulate the use and activity within the setback area.

Upon consideration of the bill, your Committee has added more specific language for a clear delineation of the rights of persons affected and the state in enforcing the act. The matter of shoreline setbacks was designated a Part within the HRS covering the following subjects by sections:

**Definitions.** A definitions section was added to avoid confusion in the use of the terms "agency", "shoreline", "shoreline setback", "shoreline setback area", and "shoreline setback line".

**Duties and powers of the commission and agency.** The commission shall establish shoreline setback lines of not less than 20 feet and not more than 40 feet inland from the upper reaches of the waves. The 40-foot maximum was added as a reasonable limitation. The county planning department shall promulgate and enforce rules and regulations as well as enforce the shoreline setback lines.

**Prohibitions.** The removal of sand, coral and other beach composition within the setback area is made unlawful except when used for reasonable domestic purpose. Sand mining in operation at least two years prior to the effective date of the act may be continued until July 1, 1975, if the opera-

tion is not substantially increased.

No nonconforming structure is allowed in the setback area except those existing at or for which a building permit application has been filed before the time of the act; and any structure which is necessary for safety reasons or to protect the property against erosion or wave damage is permitted. Any nonconforming structure may be replaced or reconstructed provided that it shall not be substantially enlarged or changed to another nonconforming use within the setback area. If a nonconforming use is discontinued for a year, the use is subject to forfeiture.

**Shoreline setback lines established by county.** The county is empowered to establish shoreline setback line at a distance greater than established by the commission. This is to allow a county certain flexibility to accommodate the lay and conditions of the shoreline and circumstances which reasonably require enlargement of the setback area. The enlargement, however, must be achieved by ordinance.

**Functions of agency.** The county planning department shall review the plans for any proposed structure, activity or facility prohibited and sought to be constructed or put to use within the setback area. Upon review, it shall make recommendations to the county body empowered to grant variance for such structure, activity or facility. Variance shall be granted within 45 days after a hearing duly called and upon finding that the structure, activity or facility is in the public interest; or that hardship will result if the variance is denied. Any variance granted may be on such conditions as will cause minimum interference with natural shoreline processes.

**Exemptions.** Certain exemptions were made for structures, such as tunnels, canals, etc., necessary for public utilities and other maritime facilities, such as wharves, docks, piers, etc., within the setback area. The plans for such structures are subject to review and approval by the county planning department which must find that the structures will result in minimum interference with natural shoreline processes. Any such structure con-

structed by a governmental body is exempt from any prohibition except that two public hearings must be held prior to construction; once when the project is first conceived and again when the project is substantially designed.

**Conflict of other laws.** In case of conflict of other state law or county ordinance regarding shoreline setback, the more restrictive law or ordinance shall apply.

A severability clause was added.

Your Committee is in accord with the intent and purpose of **S. B. No. 1139-70, H. D. 1**, as amended herein, and recommends its passage on final reading in the form attached hereto as **S. B. No. 1139-70, H. D. 1, C. D. 1**.

Representatives Serizawa, Kawakami and Heen.  
Managers on the part of the House.

Representative Heen was excused.

Senators Lanham, Nishimura and Rohlfiing.  
Managers on the part of the Senate.

**Conf. Com. Rep. 16 on H. B. No. 1370-70**

Your Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate to **H. B. No. 1370-70, H. D. 1, S. D. 1**, entitled: "A BILL FOR AN ACT RELATING TO THE DEPARTMENT OF EDUCATION", having met after full and free conference, has agreed to recommend and does recommend to their respective Houses, the final passage of the bill as amended herein.

The purpose of this bill as amended is to allow the Department of Education through the Department of Accounting and General Services to continue existing contracts for student bus transportation.

Your Committee on Conference met with representatives from the Department of Education, the Department of Accounting and General Services, and the Office of the Attorney General to discuss the

events which led to the State's inheritance of the student transportation program and the problems which were encountered during the transitional period, some of which have not yet been fully resolved. It was learned that prior to act 97, Session Laws of 1965, the various counties administered the student transportation programs. During the administration by the various counties, the student transportation program was handled on an individual county basis. Therefore, there was no uniformity statewide. Each county's program was exclusively its own.

The counties had entered into agreements with many bus companies to provide transportation for students on various bases. When the State took over administration of the program, efforts to establish uniformity of services were undertaken. In many cases the then existing agreements or contracts were merely subject to a novation, making the State a party in place of the County. In other case, negotiations were held to resolve the terms of the contracts. One of the areas of agreement was that the contractors modernize or expand their fleets of buses and in return the terms of the contracts were made long enough to allow the contractor time to amortize his investment in new equipment.

Your Committee further finds that in an informal opinion to the Comptroller earlier this year, the Attorney General ruled that these contracts would have to be let out to bid at the end of the current school year. In view of the fact that contractors who abided by the terms of the negotiated contracts by modernizing or expanding their fleets have incurred a substantial expenditure of capital, your Committee feels that extreme hardship and inequity would result were the said contracts put out to bid.

Your Committee on Conference recommends various technical amendments to this bill which would clarify its intent and purpose in allowing the Department of Education through the Department of Accounting and General Services to continue said contracts and in limiting its scope to those contracts which were fully executed prior to May 1, 1970.

Your Committee on Conference is in accord with the intent and purposes of **H. B. No. 1370-70, H. D. 1, S. D. 1**, as amended and recommends its passage on final reading in the form attached hereto as **H. B. No. 1370-70, H. D. 1, S. D. 1, C. D. 1**.

Representatives Taira, Kawakami, and Oda.  
Managers on the part of the House.

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

**Conf. Com. Rep. 17 on S. B. No. 603**

Your Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House to **S. B. No. 603, S. D. 1, H. D. 1**, entitled:

“A BILL FOR AN ACT RELATING TO THE DISTRICT COURTS.”,

having met after a full and free conference, has agreed to recommend to their respective Houses, the final passage of the bill as amended herein.

The purpose of this bill is to provide for a complete reorganization of the district courts by (a) establishing a single district court for each county, (b) establishing the district courts as courts of record, thereby eliminating the prior right to trials *de novo* at the circuit court level, (c) providing for appeals from the district court to the supreme court, (d) increasing the civil jurisdiction of district courts to \$5,000, (e) substituting the term “district judge” for that of “district magistrate”, and (f) providing that all district judges shall serve full-time with a proviso authorizing the appointment of additional per diem district judges.

Your Committee upon consideration of this bill recommends that it be amended by amending section 9 of the bill, which amends Section 604-2, Hawaii Revised Statutes, by increasing the term of office of a district judge from four to six years.

Your Committee on Conference is in accord with the intent and purpose of **S. B.**

**No. 603, S. D. 1, H. D. 1**, as amended herein, and recommends its passage on final reading in the form attached hereto as **S. B. No. 603, S. D. 1, H. D. 1, C. D. 1**.

Representatives Kato, Wakatsuki and Miho.  
Managers on the part of the House.

Senators Ushijima, Ariyoshi and Henderson.  
Managers on the part of the Senate.

**Conf. Com. Rep. 18 on S. B. No. 1664-70**

Your Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House in **S. B. No. 1664-70, S. D. 1, H. D. 1**, entitled:

“A BILL FOR AN ACT RELATING TO THE RELIEF OF CERTAIN PERSONS’ CLAIMS AGAINST THE STATE AND PROVIDING APPROPRIATIONS THEREFOR.”,

having met after full and free conference, have agreed to recommend and does recommend to their respective Houses, the final passage of the bill in the amended form.

The purpose of this bill is to appropriate funds out of the general revenues of the State and authorize the payment of these funds to satisfy claims against the State in accordance with various provisions of the Hawaii Revised Statutes. Your Committee has incorporated into the bill the recently settled claim of Calvin Wong, Civil No. 25848.

Your Committee is in accord with the intent and purpose of **S. B. No. 1664-70, S. D. 1, H. D. 1**, as amended herein, and recommends its passage on final reading in the form attached hereto as **S. B. No. 1664-70, S. D. 1, H. D. 1, C. D. 1**.

Representatives Wakatsuki, Minn, Kondo, Kunimura, Lee, Pacarro, Sakima, Suwa, Ushijima, R. Wong, Ajifu, Devereux and Lum.  
Managers on the part of the House.

Senators Hulten, Kawasaki, Anderson, Yee, Ching, Fernandes, Hara, Mirikitani, Nishimura, Rohlfing, Yamasaki and Yoshinaga.

Managers on the part of the Senate.

**Conf. Com. Rep. 19 on S. B. No. 1706-70**

Your Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House in **S. B. No. 1706-70, S. D. 1, H. D. 1, C. D. 1**, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC LANDS", having met after full and free conference, has agreed to recommend, and does recommend, to their respective Houses, the final passage of the bill, as amended herein.

The purpose of the bill is to adjust certain restrictions, conditions, and qualifications with respect to disposition of public lands for personal residential use with a view toward making lands available to the public by sale or lease thereof with safeguards consistent with the land disposition policy of the state. The bill would aid the "income gap group" who would otherwise have difficulty and hardship in qualifying as purchasers or lessees of residential house lots, and would expedite disposition procedures on the part of the board. **S. B. No. 1706-70, S. D. 1, H. D. 1** generally allowed the board to sell or lease lots by drawing as well as by public auction; set forth restrictions that the applicant owned no other land suitable for a home in the county, that he constructs a dwelling within three years and use the lot and dwelling as his principle domicile, and that his gross income does not exceed \$20,000 per year. It also permitted the state to exchange and acquire lands suitable for residential use; and further prohibited sale or transfer of the lot or lease by the purchaser unless he first offers the same to the state.

In **S. B. No. 1706-70, S. D. 1, H. D. 1, C. D. 1**, your Committee effected certain amendments and reflected the intent and purpose underlying those amendments in **Senate Conference Committee Report No. 15-70** and **House Conference Committee Report No. 14**.

Your Committee incorporates the intent and purpose of **Senate Conference Committee Report No. 15-70** and **House Conference Committee Report No. 14** insofar as they are not in conflict with this report and the amendments set forth herein.

Upon reconsideration of **S. B. No. 1706-70, S. D. 1, H. D. 1, C. D. 1**, your Committee has made the following amendments:

1. Subparagraph (5) of HRS Section 171-48, as contained in Section 2 of **C. D. 1** was amended by adding after the word "purchase" the words "or lease" which had been inadvertently omitted in **C. D. 1**. As amended, the subparagraph reads as follows:

"(5) No person shall be eligible to purchase or lease any lot by drawing if his gross income including the gross income of his spouse exceeds \$20,000 per year. In determining gross income, the standard income tax exemption for each of his dependents, as determined by the income tax laws of the state, shall be allowed."

2. Subparagraph (6) was added to follow the aforesaid subparagraph (5) and to read as follows:

"(6) No person shall be qualified to purchase or lease any lot who, or whose spouse, or both of them, owns or is a lessee, under a residential lease for a term exceeding twenty years (including any periods for which the lease may be extended or renewed at the option of the lessee), of land suitable for residential use."

Subparagraph (6) is intended to discourage speculation by disallowing as applicants those persons who owned, or held as lessee the prescribed residential leasehold in, any land suitable for residential use within the state. Existing statute providing similar safeguard with respect to certain kinds of disposition would not adequately cover all the dispositions contemplated and the inclusion of subparagraph (6) in the bill was deemed necessary.

Your Committee is in accord with the



intent and purpose of **S. B. No. 1706-70, S. D. 1, H. D. 1, C. D. 1**, as amended herein, and recommends its passage on final reading in the form attached hereto as **S. B. No. 1706-70, S. D. 1, H. D. 1, C. D. 2**.

Representatives Serizawa, Pacarro and Aduja.  
Managers on the part of the House.

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

**Conf. Com. Rep. 20 on H. B. No. 1260-70**

Your Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate in **H. B. No. 1260-70, H. D. 1, S. D. 1** entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS OUT OF THE GENERAL REVENUES AND APPROVING EXPENDITURES FROM OTHER SOURCES FOR THE FISCAL PERIOD ENDING JUNE 30, 1971", having met after full and free conference, have agreed to recommend and does recommend to their respective Houses, the final passage of this bill in the amended form.

The purpose of this bill is to provide sufficient funds for the operating requirements of the State of Hawaii for the fiscal year 1970-1971.

We see no need to repeat in this committee report the details of each of our budgetary decisions as the legislative worksheets and related documents are readily available to legislators and public agencies directly affected by this bill. We shall, therefore, direct our report first, to make explicit the basic policies that have guided your Committee in its decision-making process and secondly, to stipulate, clarify, and underscore those matters and areas of special concern to your Committee in order to provide more adequate guidance to public agencies as they execute the approved budget.

Your Committee has placed major emphasis on the five following program areas:

1. Improving the quality of education at all levels in the State;
2. Helping the less fortunate members of our community to achieve a better quality of life;
3. Preserving and protecting our physical environment;
4. Expanding and strengthening the economic base of the State; and
5. Alleviating the existing housing crisis in the State.

The specifics of our proposals may be found in subsequent sections of this committee report and in the other related bills passed by the Legislature this session.

The current services and workload increases have been given careful and special scrutiny this year. Your Committee has been disturbed that many departments carrying vacant positions on their books have continually requested similar additional positions which would augment such vacancies. Therefore, each department was requested to submit a list of position vacancies in order for your Committee to assess each department's budget requests with close scrutiny. Your Committee has found many vacant positions dating as far back as 1965. Your Committee questions very seriously whether these vacant positions should continue to be authorized in view of the fact that the departments have managed without the positions and because the justifications for the positions have probably changed over the years. Therefore, your Committee proposes that all classified positions vacant on January 1, 1970 and remaining vacant on December 31, 1970 be abolished and that new classified positions authorized by this bill which are still vacant on April 30, 1971 be abolished.

Each year, the Legislature is faced with requests by private organizations for subsidies. Some of these requests have been approved; others have not. Your Committee finds that the lack of uniformity in the manner in which these funds are requested, hampers decision making on these sub-

sidies. Each organization submits a budget peculiar to its needs while some requests are not even presented to the Legislature directly, but come through the department as a lump-sum request. Your Committee believes that this practice should cease. Your Committee recommends that all organizations requesting State funds submit their total fiscal budget in the form that is used by all State agencies in order to qualify for State funds. In addition, the responsible department, and the Department of Budget and Finance are expected to review these requests as they review other departmental requests. Upon legislative approval of the subsidy, the organization shall comply with the allotment system as provided in Chapter 37, Hawaii Revised Statutes.

## EDUCATION

### Department of Education

At the outset of each new decade a common inclination of human nature is to experience a feeling of beginning anew and to view the future not so much in terms of the immediate year ahead but in terms of its relation to the ten-year period. However, because governments must function within the practicalities of budgetary guidelines and projections, your Committee in its analysis of the budget request of the Department of Education reviewed the programs and policies in the perspective of the established six-year budgetary framework as well as in their responsiveness to the needs of the decade of the seventies.

Your Committee feels that the education furnished our young people must fulfill two primary functions: it must provide them with an adequate foundation for their future development and it must be both responsive and relevant to the challenges of the times.

Your Committee recognizes the merits of programs that promote individualized instruction and progress and their part in the building of a learning foundation. Therefore, your Committee has provided funds for additional 3 on 2 classes and a 1.4 million dollar appropriation for the

purchase of new English educational materials.

In this period when our youth are casting a critical eye upon society, your Committee believes it is necessary to pause to re-evaluate the programs and philosophies we offer them as education. In recent years, the Legislature has approved funding for exploratory efforts into the various methods of schooling and into the various program offerings. Sufficient time has elapsed that assessments of their value have been made. With an eye to the needs of the future, these assessments must be weighed and their program's proper place in the educational scheme be assigned. Consistent with this philosophy and in the belief that full and consistent support should be maintained in this area, your Committee has appropriated additional funds for the improvement of instructional areas that were evaluated through the Planning, Programming, Budgeting System (PPBS).

### Budget Format for 1970-71

After four years of experience with lump-sum appropriation for the Department of Education, it has become evident to your Committee that there are inherent weaknesses in the lump-sum approach that are detrimental to effective legislative programming. Thus your Committee has departed from lump-sum appropriation and proposes a modified lump-sum approach for the department. Appropriations are made to major subdivisions within divisions. The department is given flexibility to expend its appropriation within each division as it sees fit. If the department wishes to transfer funds from one division to another, it can do so only with the approval of the director of the Department of Budget and Finance. This approach was adopted for the University of Hawaii last year and has proven to be workable. Underlying this legislative policy was the desire to afford the department a certain measure of discretion and flexibility in expending the appropriation but yet hold the department fully accountable to the Legislature for its budgetary decision.

The Joint Interim Committee on Educa-

tion has concluded in its report to the 1970 Legislature that much work remains to be done in implementing planning, programming, and budgeting as the method in which educational budgets are to be prepared, and accomplishments measured and reported to the Legislature. Thus, the department is expected to continue the PPB approach as recommended by the Joint Interim Committee. In addition, the department is expected to cooperate with the Department of Budget and Finance in the development of a budget format for the State.

### 3 on 2 Program

The importance of the very early years of schooling upon a child's development is now a known positive factor as is the importance of individualized learning and progress. In the 1968-69 school year the Department of Education began its 3 on 2 program in grades K-3 with the intent of providing individualized learning and progress to the children. While insufficient time has elapsed for a complete evaluation to be taken and the results analyzed, initial evaluations show the program to be successful from the point of view of parents, teachers and students. Your Committee is aware of the department's desire to complete implementation of 3 on 2 classes in grades K-3, thus offering as soon as is feasible the benefits of the program to all students across the State and offering sequential follow-up to those now on the program.

Because there exists no foreseeable difficulty in hiring and training the personnel to staff the program and because the department has taken measures to alleviate the critical construction delay that existed last year and has taken steps to ensure that all necessary construction will be completed by December of 1970 at the latest, your Committee is authorizing, at the discretion of the Superintendent of Education, the implementation of 350 additional 3 on 2 classes for the coming fiscal year.

Your Committee was made aware of some problems connected with the 3 on 2 program. In this regard, we direct the

department's attention to the following for its consideration.

(a) At least one 3 on 2 classroom in each elementary school, except where limited enrollment precludes the effective implementation of this program.

(b) In-service training for all 3 on 2 teachers should be made compulsory.

(c) Close surveillance of the program, especially in terms of objective evaluation should be continued.

(d) A course of action should be adopted to relieve the problem of the ineffectual or insecure teacher.

(e) A course of action should be adopted to remedy the problems arising from incompatible teachers working together.

(f) Close surveillance and evaluation of the 3 on 2 student moving into a self-contained classroom situation should be conducted, especially of students from grades 3 to 4.

Your Committee requests the department for a report on the foregoing as well as on the other problems cited in the January 1970 **3 on 2 Progress Report**. This report should be submitted to the Legislature twenty days before the convening of the Regular Session of 1971.

### Preparation Periods for Teachers

Your Committee reviewed the various teacher preparation proposals and concluded that the plan recommended by the Board of Education is feasible. Accordingly, \$1,765,084 is appropriated to add 78 teachers for grades 4-6; 117 teachers and 55 educational assistants and general aides in grades 7-9; and 17 teachers and 11 educational assistants or aides in grades 10-12.

In implementing this program on a statewide basis, the department should undertake a vigorous recruiting campaign to attract talented persons in the community to maximize our educational input.

In addition to the staff needed for the

first increment of the preparation period program, your Committee has appropriated \$107,841 to hire an additional 26 general aides to perform those non-educational tasks that would free teachers, counselors, public librarians, school librarians and other educational professionals to perform their professional duties. Regarding the use of general aides in the schools, school libraries and public libraries, the department is urged to develop standard operations procedures which maximize the use of the department's centralized storage, purchasing and processing centers.

**Hawaii English Program**

Your Committee agrees with the department in emphasizing the English curriculum. New ideas, new approaches, and new materials in the English curriculum have been produced and tested by the Hawaii Curriculum Center for implementation in our system. Therefore, your Committee has appropriated \$1,468,226 to accelerate such implementation. \$968,225 of this amount shall be used to purchase the materials for the 3 on 2 classes and the remaining amount is to be used for self-contained classes. Although these materials have already been extensively tested and revised, your Committee requests that the department conduct an objective evaluation of the program's impact on the student. This evaluation should be submitted to the Legislature twenty days before the convening of the Regular Session of 1972.

Your Committee is mindful of the fact that in-service training for teachers in the use of such materials must be conducted. It is recommended that all teachers who are assigned the new materials be required to attend in-service training as part of their job requirements.

An additional appropriation of \$902,624 has been made for the subject-by-subject improvement through PPB analysis. The department should determine the priority of the various projects and proceed accordingly.

**Administrative Intern Program**

Before a person can become a principal or a vice principal, he must successfully complete the Administrative Intern Program. While components of the selection process appear to be carefully designed and comprehensive, your Committee believes that in order to insure objectivity and the selection of the best qualified persons, the department should re-evaluate the current procedures. In particular, the department should consider the feasibility of including non-departmental personnel on the interview teams and devise a method to verify the applicant's credentials by conducting personal interviews with the applicant's references and his peers.

In addition to re-evaluation of the current selection procedures, the contents of the training program could be reviewed. Your Committee believes that since the interns are being trained to become managers in the school system, more emphasis should be placed in management, human relations and personnel relations. It is requested that the department submit a report hereon twenty days prior to the convening of the Regular Session of 1971.

**Contractual Services with Private Agencies**

In administering the subsidies granted annually to private organizations, the department is expected not only to act as the expending agency but to oversee and evaluate the educational and cultural content of these programs. Moreover, specific objectives should be developed for each subsidized program in order that its activities may be reviewed meaningfully. The following lists the organization and amounts of the subsidies to be administered by the department.

Honolulu Theater for Youth	\$ 28,600
Honolulu Symphony Society	\$200,000
Honolulu Youth Symphony	\$ 23,650
Honolulu Community Theater	\$ 6,000
Young Farmers Program	\$ 58,000
Pacific and Asian Affairs Council	\$ 95,775
Hawaii Music Educators Association	\$ 8,000

The above figures are reflected in the

Department of Education's budget as follows: \$15,650 to the Honolulu Youth Symphony under program adjustments; \$17,000 for the Honolulu Symphony Society under workload increases; \$5,000 to the Honolulu Theater for Youth under program adjustment; \$30,000 to the Young Farmers program under program adjustment; \$75,775 to the Pacific and Asian Affairs Council under program adjustment; and \$8,000 to the Hawaii Music Educators Association under program adjustment. The balance is appropriated under current service. Your Committee further recommends that the Young Farmers program remain within the agricultural program under regular education.

#### **Dropout Program**

One of the most critical and difficult problems facing schools across the nation is the high rate of students dropping out of school. This situation, if left alone, will undoubtedly result in a significant drain on our human resources. Your Committee realizes that there is no easy and single solution to the dropout problem and is aware of the several approaches implemented by the department in this regard. In support of this, your Committee has provided \$200,000 to supplement the ongoing dropout program.

Your Committee recommends that the primary use of the appropriated sum should be directed to the needs and interests of children in the elementary grades. The accent on early identification and prevention will probably be more fruitful in the long run than efforts geared to older students.

#### **Special Education**

With an expanded diagnostic program and population, more pupils enroll in special education programs each year. There is urgent need, therefore, to resolve many of the issues confronting this program. Your Committee, after reviewing the department's **Analytic Document** on special education, is especially anxious about the following two problem areas:

(a) the split jurisdiction of the Univer-

sity, education, health, and social services departments and the resulting lack of a clear role for each department in the program.

(b) the lack of a comprehensive program to identify and integrate activities that would assure a systematic range of services.

Your Committee therefore recommends that the Legislative Reference Bureau in consultation with the above departments present recommendations to resolve the question of responsibility, coordination of diagnosis, placement, recruitment of teachers, in-service training, educational planning, and other issues cited in the **Analytic Document**. Your Committee also requests that the Bureau include recommendations on the education of children with learning disability. It is requested that a progress report be submitted to the Legislature twenty days prior to the convening of the Regular Session of 1971.

#### **Subsidies to the Hawaii Association to Help Retarded Children**

The Report on **H. R. 148** by the Governor's Interim Co-ordinating Committee on Mental Retardation issued in 1968 recommended that the State assume responsibility for the services for the mentally retarded. The target date for State operation of all programs was set at 1970.

Last year, your Committee requested that the Departments of Health, Social Services, and Education re-evaluate the subsidy program for the mentally retarded, and submit a report to the Legislature on the extent of implementation of the recommendations contained in the Report on **H. R. 148**.

The report from these departments stated that although progress has been made since 1967, full implementation by 1970 will not be possible. The postponement has been necessary because of limited resources in funds, facilities, staff, and knowledge. In view of this, the subsidy to HARC (Hawaii Association to Help Retarded Children) must be continued to provide for mentally retarded children who

do not qualify under present requirements for Department of Education classes. HARC has stated that it is willing to continue its services for pre-school and school age mentally retarded children from two to three years beyond the June 1970 deadline, provided the State subsidy is of an adequate amount.

In recognition of the foregoing factors, your Committee has provided the sum of \$336,000 for twenty-eight classes operated by this Association.

In addition, your Committee feels that the next most logical step during this interim is to place this subsidy, and the administration and evaluation of the program under the jurisdiction of the Department of Education rather than the Department of Health. State responsibility is presently planned to be vested in the Department of Education, and further, the department through this intermediate step will be valuably exposed to the present and future needs of this program.

A comprehensive and integrated program for the mentally retarded is of importance to all of us. Your Committee, therefore, requests that the Departments of Health, Social Services, and Education continue with their present efforts in carrying out the intent of **H. R. 148**. The department is requested to submit a report to the Legislature twenty days before the convening of the Regular Session of 1971.

#### **Teacher Corps**

The Teacher Corps program prepares its trainees for positions as teachers of disadvantaged youth and children. Your Committee has noted that the cost of the program relative to the number of teachers retained by the State is very high, that the State eligibility for continuation of the program is low and that there are proposals for training teachers of disadvantaged students at the University of Hawaii in anticipation of the end of federal funds.

In recognition of such factors, your Committee has decided to fund the teacher corps program for the 1970-71 school year thereby allowing the current cycle to run

to completion. Your Committee strongly recommends that the State not participate in this program in the future.

#### **Language and Area Studies**

The language and area studies program was funded by the Legislature as a pilot project two years ago and ends on June 30, 1970. Your Committee believes that there is need for an evaluation and assessment of the pilot program and therefore has deleted from the current services base funds for continuation of the pilot program except for \$15,000 which shall be used for the evaluation. Your Committee requests that the Department of Education report back to the Legislature twenty days prior to the convening of the Regular Session of 1971 its recommendations on the language and area studies program.

#### **Complex Managers**

Your Committee believes that there is a demonstrated need for complex managers to coordinate the orderly transition of students from elementary through high school. Your Committee therefore recommends the continuation of the complex manager program. The Department is requested to submit a report at the next session of the Legislature on the role of the complex manager in the organizational hierarchy in the Department. Additionally, the Legislative Auditor is requested to include in his management audit of the Department an evaluation of the position and its role in the departmental organization.

#### **Kona Coffee Scheduling**

Since the modified schedule for all Kona District Schools was not merely a shift in dates but one that involved curriculum changes which relate to the statewide educational system, your Committee is interested in the progress of the schedule, its value to the student and the community, and its problems. Your Committee, therefore, requests that the department submit a report on its findings and recommendations on this scheduling twenty days prior to the convening of the Regular Session of 1971.



### Other Concerns

(A) Your Committee is concerned that the Department has too often relied on the parent-teacher association to replace band instruments and equipment. Your Committee, therefore, requests that the Department up-date its band instrument and equipment inventory and set up a funding plan and schedule for the replacement of such instruments and equipment and report back to the Legislature twenty days prior to the convening of the Regular Session of 1971.

Your Committee has provided \$100,000 for the purchase of band equipment for the coming year.

(B) National concern with the quality of education today has resulted in sums of federal funds being made available to the states for the funding of various pilot and temporary programs. Your Committee is concerned that with the termination of such funds all personnel formerly funded by federal monies are being funded through the general fund. Therefore, your Committee requests that any and all such movement be subject to legislative approval.

(C) Your Committee feels that there are several areas of policy determination that are rightfully within the domain of the Board of Education and therefore respectfully requests that the Board of Education examine and make recommendations on the following to the Legislature twenty days prior to the convening of the Regular Session of 1971:

1. The present dual administration by the Departments of Education and Accounting and General Services of the student transportation system in light of the lack of communication and coordination indicated by the two departments.
2. The State's responsibility with regard to the funding of private agencies providing service to the State and the delineation of criteria for qualification for State support.
3. The progress of the general aides program.

(D) The plan to have the artmobile and artists visit classes is a valuable complement to the curriculum. This program is a necessary balance to the learning required in a technological society and should therefore be given favorable attention. With the expected completion of the artmobile this year, your Committee has provided for an art specialist for the artmobile under the instructional services budget.

(E) Your Committee is concerned that funds in the budget for library books have sometimes been diverted to other uses. This is especially critical in the initial staffing of a new school library. Your Committee, therefore, requests the department to determine the minimum number of books needed in a school library and to see that each library contains at least this minimum.

(F) Your Committee recommends that funds and personnel earmarked for a particular program not be transferred to a different program within a school or to another school unless it has been deemed necessary and justifiable by all those involved with the programs. Also, before such transfers are made, the department's overall program and the overall effect of the projected transfer should be carefully examined.

(G) Your Committee is concerned over the lack of educational construction and equipment standards. Your Committee, therefore, requests that the Departments of Education and Accounting and General Services cooperate in establishing a uniform educational standard that will be applicable to school construction and furnishings.

(H) Your Committee has been informed that the Department is experiencing some difficulty in finding teachers for summer classes due to inadequate compensation. Your Committee has found that the per hour rate for summer teachers appears low in relation to the compensation for adult education teachers. Therefore, the Department is requested to adjust its summer program in order to insure summer school teachers a pay level compa-

rable to that of the adult education teacher.

(I) Your Committee has noted that federally funded positions are not reflected in the total position count authorized for the department. It is estimated that approximately 425 positions are affected. Your Committee, therefore, recommends that the Department of Education be directed to account for all positions, regardless of means of financing, in its subsequent budget submissions.

#### **Health Services at Public Schools**

Your Committee finds that it is in the general welfare of the State to protect, preserve, care for, and improve the physical and mental health of Hawaii's children by making available at the public schools first aid and emergency care, preventive health care, and health care facility.

Your Committee, therefore, has provided \$300,000 in a separate bill to initiate a pilot project to examine the effectiveness and feasibility of utilizing public health nurses and health aides to provide school health services in grades kindergarten to grade 12.

#### **University of Hawaii**

Your Committee is mindful that our institution of higher learning has experienced an unprecedented growth in the past few years. This growth can be attributed to many factors such as the increase of the student enrollment, the establishment of new programs in the curriculum, a progressive faculty, administrative and regents' leadership, community support and involvement, and the unequivocal support from our State government. Your Committee believes that the achievement of academic greatness can be accelerated by the proper emphasis in selected programs that will satisfy the needs and objectives of our State. In this regard, your Committee has provided approximately \$2.8 million for program adjustments. Your Committee has also provided sufficient funds to meet the increased enrollment expected in the community colleges and Manoa campus, and to develop occupational-technical

programs at Leeward Community College. We have continued the support for the oceanography program and the two-year medical school. Funds have also been provided this year for the expansion of the Hilo Campus to a full four-year college.

#### **Budget Format for 1970-71**

Your Committee has continued the modified lump-sum budget for the University of Hawaii. Your Committee believes that this approach will afford the University discretion and flexibility in allocating and expending the appropriation but yet hold it accountable to the Legislature for its budgetary decisions. **Your Committee recommends that the University exercise prudence in shifting appropriations from one program to another in consultation with the Department of Budget and Finance.**

#### **Emphasis on Undergraduate Program**

The University of Hawaii undergraduate program, exclusive of the community colleges, has grown from 6,923 students in the fall of 1959 to 18,474 students in the fall of 1969, or an increase of 11,551 students in a decade. Your Committee believes that the trend will continue in the decade of the seventies.

President Cleveland states in his **Prospectus For The Seventies** that,

"Undergraduate education is due for a major overhaul in the United States, and the University of Hawaii has a chance to be among the leaders in fashioning its future.

"We have to grow, and disperse our growth, on a dozen campuses. We draw a high proportion of highly motivated students. The legislature has wisely integrated all forms of higher education in a single statewide system of manageable size.

"We, therefore, have a chance to experiment more widely, and to do what needs to be done in the seventies more boldly, sooner and potentially better than elsewhere in America."

Your Committee is mindful of the importance of graduate programs in raising the academic stature of a university, but believes that within the limited resources of our State, a choice on emphasis should be made. In this regard, your Committee recommends that the undergraduate program be given first priority; that only selected new graduate programs should be approved, and that expansion requests of on-going programs should be more carefully scrutinized before being approved.

#### Preparing for Tomorrow

Your Committee has appropriated \$25,000 to (1) compile a systematic review of peace research projects that have been completed or are being conducted at the University; (2) prepare a comprehensive design for future coordinated peace research projects including studies of the economic, social and political role of the military in Hawaii as well as the consequences of reduced military spending in Hawaii; and (3) prepare and submit a peace research budget for the University for the 1971-1972 fiscal year.

Your Committee has appropriated \$50,000 to (1) provide for initiation of a study of surf parameters by the department of ocean engineering so that shoreline projects can be planned and executed with informed knowledge relating to ocean wave phenomena; (2) obtain information from the study in order to protect and enhance safety, navigation activities, recreation facilities, and other shoreline interest; and (3) prepare and submit a report prior to the convening of the regular session of 1971.

Your Committee finds that present sample analysis of diversified crops does not contain sufficient data to establish critical levels of plant nutritional requirements. Therefore, your Committee appropriates \$62,200 to (1) develop and carry on a tissue and forage analysis program for diversified crops; and (2) prepare and submit a progress report twenty days prior to the convening of the Regular Session of 1971.

The weekly survey of Oahu consumer food prices has provided public and private

agencies and consumers with useful and timely information. It is your Committee's understanding that the University will continue this program during the next fiscal year.

#### Meeting the Needs

**Community Colleges. "Open Door Policy".** Your Committee firmly believes that the community colleges as established by the 1964 legislative session are meeting the needs of the people of this State as intended. The "open door policy" of admitting any individual desiring some kind of education beyond high school has rapidly increased the enrollment of the colleges. Witness the growth in enrollment of 1,874 in 1964 to 8,197 in 1969. Your Committee has appropriated \$1,449,630 under workload to carry out the intent of the "open door policy".

Your Committee feels that the question of organizing for the governance of the community colleges should, under present circumstances, be resolved by the University of Hawaii. Your Committee is aware that the tremendous expansion of the colleges has created a need for new approaches to administration, as well as capable leadership at each institution. With the progressive faculty and students that the colleges have attracted and with the central leadership promised in the **Prospectus For The Seventies**, your Committee is confident that the community colleges will meet their share of the needs created by the goal of "universal higher education".

Your Committee has appropriated to the community colleges \$269,000 for program adjustment. The appropriation will allow for establishing higher education courses on Molokai, establishing vocational education courses at Leeward Community College, establishing liberal arts courses at Hawaii Community College, restructuring Hoomana School, and supporting intramural activities. Your Committee requests that the University strive to establish each community college as comprehensively as possible, but yet look toward specialization as the need determines.

**Kapaa Involvement Center.** Your Committee feels that it would be more appropriate to place the Kapaa Involvement Center under the auspices of the Division of Continuing Education and has appropriated \$32,000 for its continuance.

**Hoomana School.** In transferring the Hoomana School to the community college system, the University is requested to critically evaluate the existing programs and institute new programs to the benefit of the prison inmates and paroled individuals. Sufficient funds have been appropriated for such a purpose. Your Committee is aware of the implications of Act 127, S.L.H. 1969, as it affects the transfer. Therefore your Committee requests that the University implement the transfer so as not to create inequities.

**Pacific Urban Studies and Planning Program.** Your Committee notes that considerable progress has been made in the development of the Pacific Urban Studies and Planning Program and encourages the University to continue its development as its graduates and services are needed. In this regard, your Committee requests that the University explore the need for establishing a master's degree program, and move as rapidly as possible if such a program is deemed necessary and feasible.

**Intra-campus Transportation.** Your Committee has been requested by the Associated Students of the University of Hawaii to continue the experimental bus service which established that a great majority of the people utilizing the service wished to have the service continued. Your Committee has provided \$50,000 to be used to provide intra-campus transportation on a contractual basis. Your Committee recognizes that this is only a short-term solution to the intricate problems involved and requests the University to further evaluate alternatives and submit a report on the evaluation and recommendation to the Legislature twenty days prior to the convening of the Regular Session of 1971.

**Legislative Reference Bureau.** Your Committee has provided \$387,119 for the Legislative Reference Bureau, of which

\$10,112, or so much as may be necessary, shall be used for the rental of six IBM magnetic card selectric typewriters and related equipment. These typewriters will greatly facilitate the typing of bills and amendments, and will be used by the Bureau during the Regular Session of 1971. Your Committee requests that the Legislative Reference Bureau initiate and coordinate a system of forwarding bills and amendments through the various committees of the Legislature. Your Committee has included in the appropriation for the Division of Extension and Public Service the sum of \$26,940 to be used by the Bureau for the computerization of indexing and statute keeping of legislative measures.

**Higher Education Loan Fund.** Your Committee has appropriated \$450,000 for deposit into the Higher Education Loan Fund established last session by Act 230, SLH 1969. The University has been neglectful in not starting this loan program in the fall of the school year 1969-1970. The University is reminded that its obligations to the welfare of the students is paramount and such neglect cannot be tolerated in the future.

In view of the increased sum appropriated, your Committee requests that the University intensify its efforts in publicizing the availability of the student loan fund, especially at the community college level.

**Housing Emergency Fund.** Pending the erection of additional dormitories, the University is exploring alternative means of meeting its student housing shortage. Suggestions have been made that the University explore the possibilities of leasing rooms or apartment buildings. To the extent any arrangement appears to be reasonable and financially feasible, and would help relieve the student housing shortage, the University is encouraged to do so without adversely affecting the general housing problem of the city. It is anticipated that any arrangement made would be on the premise that the project is short term and self supporting. However, since this is an experimental approach without precedent, your Committee has provided \$100,000 to the University to utilize as a reserve. Part of the \$100,000 should also be used to pro-

vide emergency housing for students who have no place to stay. Such aid shall continue until the student finds permanent quarters elsewhere.

#### **Counseling**

Your Committee is concerned about proper student counseling at the Manoa Campus and community colleges. As enrollment and the variety of programs on campuses increase, counseling inevitably assumes a greater role in assisting the student towards meaningful goals. Your Committee recommends that the University schedule counseling periods for its faculty members in order that the students may more adequately determine their course of life.

#### **Educational Television**

Your Committee requests that the University intensify its efforts to insure reception in the remote areas of the State, with emphasis first on areas where reception is poorest.

#### **Use of Athletic Facilities**

Your Committee believes that the present emphasis on intercollegiate athletics should not result in the neglect of intramural athletics. Intramural teams should feel just as comfortable as intercollegiate teams in using the athletic facilities. We therefore request that appropriate arrangements be made to insure that these facilities be made available to intramural as well as intercollegiate athletics.

With regard to the agency fund of the athletic department, your Committee recommends the continuance of such fund.

#### **School of Law**

The projected and accelerated undergraduate and graduate student enrollment increase, and our desire to attain and maintain academic excellence will require heavy financial commitments in the future. It is intended that our financial commitments be first directed towards providing the basic undergraduate needs and secondly, to graduate programs on a selective

basis.

Your Committee is aware of the sizeable financial commitment a law school will have on our State resources. Therefore, your Committee believes that funding such a school without carefully examining the full implications, financial and otherwise, is not the proper course to take at this time. Your Committee, therefore, is recommending that the Legislative Reference Bureau, in a cooperative effort with the University administration and other resources available, (a) conduct a cost benefit study of the UH law school proposals, (b) conduct a survey to determine community support and need for a law school, and (c) evaluate alternative types of law schools that may be established. Any cost to be incurred is intended to be a part of the appropriation of this Act.

#### **School of Medicine**

Your Committee in looking into the decade of the seventies is aware that expanding the School of Medicine could have an impact in combating the health and social problems of this State. Your Committee is concerned however that (a) the operating and capital costs of a four-year medical school have not been examined very carefully; (b) a detailed four-year project plan has not been prepared; and (c) community support for the heavy financial undertaking has not been determined. Accordingly, the four-year medical school is not funded at this time and your Committee requests that the University contract with an independent body to conduct a cost-benefit study of a four-year medical school to include treatment of the three concerns expressed above. Pending the study, your Committee has authorized 10 new unfunded positions under program adjustment. These positions may be established provided funds can be obtained from within the School's allocation and/or through other outside sources.

#### **Educational Development**

In order to make higher education more relevant, the University is encouraged to utilize part of the appropriations made by this bill for experimental, innovative proj-

ects in educational development consistent with our rapidly changing social and technological structures. It is expected that the University will submit a report as part of its budget presentation to the next Legislature on its activities in this area.

## DEVELOPMENT AND NATURAL RESOURCES

### Department of Agriculture

Your Committee has provided sufficient funds to continue the current level of services and to meet workload increases in this department.

In addition, we have provided \$30,000 to establish an agricultural marketing order revolving fund. The purpose of this fund is to assist various segments of the Hawaii agricultural industry to establish federal or state marketing orders to control the quality and volume of commodities marketed. At present, the papaya industry is seeking federal approval to establish a federal marketing order. It is anticipated that other industries will follow suit.

The Farm Loan Fund has been augmented by \$500,000. The farm loan officer of this program shall be the secretary as provided in Section 155-4(1), Hawaii Revised Statutes.

Ten poultry inspector positions have been granted to implement the statewide poultry inspection program as authorized by Act 212, S. L. H. 1969. The inspectors shall be assigned as follows: five on Oahu, two each on Maui and Hawaii, and one inspector on Kauai. It is our understanding that the department is currently reviewing the meat inspector series for possible reclassification: one matter under consideration being the development of working supervisor positions for each county. No additional funds in this budget are needed to implement any reclassification action which may be taken.

### Department of Land and Natural Resources

Your Committee has appropriated suffi-

cient funds to continue the department's programs for the preservation of Hawaii's natural resources and to improve the use of recreational facilities.

In addition to providing positions for the Fish and Game, Forestry, Conveyances, State Parks Divisions, and the departmental office, your Committee has also provided funds for the following:

(a) the protection and improvement of watersheds;

(b) a forest fire danger rating system to help prevent costly fires such as the recent Kipapa fire;

(c) the maintenance and regeneration of native vegetation on the upper slopes of Mauna Kea;

(d) the preparation of a long-range fisheries plan geared to anticipated future needs of recreational and commercial users of the fisheries and marine life resources;

(e) The acceleration of the exploratory well drilling program; and

(f) the Fisheries New Vessel Construction Loan Program. This program was established in 1965 to assist commercial fishing by providing financial assistance for the construction of new fishing vessels. The program shows great promise. The appropriation of \$750,000 would enable loans to be made for the construction of at least three more commercial fishing vessels.

### Department of Transportation

A modern, integrated and properly maintained transportation system of highways, airports, and harbors is necessary for the State's economic and social advancement. In order to meet Hawaii's transportation needs, your Committee has provided the department with the resources to accelerate and upgrade its programs and services. A large number of general laborer, equipment operator, maintenance and janitorial positions have been authorized to meet workload increases. The janitors provided for the Honolulu International Airport are intended to be



hired no earlier than October 1, 1970. Funds to increase the security staff at the airports have also been provided.

Your Committee has reviewed the estimated operating revenues for the airports, harbors, and highways and has approved expenditures which will ensure a surplus at the end of the fiscal year. In so doing, your Committee requests that the department apply a major portion of its surplus to debt service and to carry over a minimum amount of surplus for the succeeding fiscal year.

**Civil Air Patrol.** Section 261-6 of the Hawaii Revised Statutes provides for an annual appropriation of \$30,000 for the Civil Air Patrol. Your Committee recommends that this sum be increased to \$56,000 for statewide use.

**State Highway System.** Act 159, S. L. H. 1965 authorized the Department of Transportation to establish a Hawaii State Highway System. Act 205, S.L.H. 1967 appropriated \$294,800 to implement the first phase of this system. The State acquired 66.3 miles of County highways in the first phase. In 1969, the Legislature appropriated \$393,500 for the second phase. In this phase, the State acquired 115.5 miles and relinquished 6.2 miles of State highways to the County.

The department has recommended deferring phase three (estimated cost \$302,000) and phase four (estimated cost \$396,000) until such time as the financial posture of the State Highway System is improved.

Your Committee concurs with this recommendation. In this regard, the Legislative Auditor is requested to conduct a study on highway financing and to report to the Legislature twenty days prior to the convening of the Regular Session of 1971.

Your Committee recommends that the department negotiate with the County of Maui for the purchase of the highway maintenance baseyard located in Hana, Maui. The department's baseyard is in Kahului, approximately three hours travel time to and from the work site. By allowing the

department to negotiate the use of the baseyard for the maintenance of the Hana Highway, the State will incur a substantial reduction in cost. The estimated cost of the transfer of the baseyard is \$107,756. Upon such transfer the County employees should become State employees and be granted all accumulated rights and privileges. During the period pending the transfer, your Committee recommends that the department contract with the County of Maui for the maintenance of the Hana Highway.

**Small Boat Harbors.** Your Committee has reviewed the six-year revenue and expenditure estimates of the small boat harbor program as presented by the Department.

Your Committee is concerned that the operational, maintenance and debt service costs for the small boat harbors program are significantly higher than the revenues received. We recognize that the small boat harbors form an integral part of the State's total public recreation facilities and also the harbors of refuge program and that public funds are necessary to sustain these portions of the small boat harbor program. Presently, user fees are sufficient to cover the operating expenses of the small boat harbor program. However, we feel that an equitable fee system should also take into consideration a fair share of the capital costs. The Department is requested to study this matter, consult with all interested individuals and groups, and report its findings to the Legislature twenty days prior to the convening of the Regular Session of 1971.

#### **Department of Planning and Economic Development**

After a review of the programs and budget requests of this department, your Committee has in addition to maintaining the current level of services, provided funds for workload increases in the Foreign Trade Zone Division, Land Use Commission, and Planning and Economic Development Services.

Also, funds for the Commission on Man-

power and Full Employment for four positions to staff the Cooperative Area Manpower Planning System (C.A.M.P.S.) and for an Immigration Center have been appropriated.

**Hawaii International Services Agency.** To further realize Hawaii's role as a clearinghouse and headquarters for multinational scientific, economic, and technical development, your Committee has provided \$5,000 for a Statewide conference to investigate who is doing what and where in international affairs. More specifically, the conference will yield the following results:

(a) HISA activities can be planned with new insight.

(b) State agencies and private firms will be better informed on what the Federal government's plans are under the new Administration.

Your Committee also provided funds for an assistant administrator to increase research field service assistance and to update and maintain the Hawaii Talent Bank.

**Hawaii Capital Loan Program.** Your Committee has also provided an increase of \$500,000 for the Capital Loan Program. The present money situation has created an increased demand from businessmen to borrow from this fund. Because of this, there is a danger that existing funds will soon be exhausted, and new requests from promising business firms will have to be rejected. Furthermore, the capital loan revolving fund has proven meaningful not only to the small businessman but also to the State. The benefits generated by increased sales, added employment, and taxes are achieved without added expenditures to the government.

Your Committee also recommends that the Division of Small Business Extension Service coordinate its efforts with the Hawaii Capital Loan Program. Through making management consultation available to these businesses that have loans with the State, failures can be avoided, and a higher probability of survival and economic growth can be achieved. The re-

direction of efforts will be much more meaningful to the businesses without the need of additional appropriations to expand the Small Business Extension Service. The concept of taking a "buckshot" approach to assisting small business by conducting seminars and conferences should cease. If 40 to 50 businessmen per year receive consultation through this service, the State would be providing a much greater service to the business community.

**Hawaii Technical Services.** Your Committee has learned that new programs for federal encouragement of State science and technology planning programs are in the process of development, notably under the auspices of the National Science Foundation. Your Committee recommends that the department revamp the Hawaii Technical Services program to tie in with these new federal programs and that the net appropriation of \$88,348 be utilized to encompass a broader State science and technology planning program responsive to resolving the problems of the public sector as well as the private sector. The revised program should support the department's environmental planning effort by providing the information necessary to show how technology can be employed to ameliorate the environmental problems which technology creates. The program should also be supportive to the State's marine affairs program as developed by the report **Hawaii and the Sea**.

**Hawaii Visitors Bureau.** Current projections indicate a decline in the rate of growth of the State's economy in the immediate years ahead. In order to keep our growth rate at a high level, your Committee has provided sufficient funds to accelerate the activities of the department.

Your Committee makes the following recommendations for the State's tourism promotion efforts:

1. \$100,000 for the promotion of conventions; and
2. \$35,000 to improve existing programs such as the Aloha Week festival, statewide canoe races, and Flora Pacifica.

Your Committee recommends that the Bureau embark on a more vigorous tourist promotion from within our State. By that, it is hoped that the Bureau would monitor and investigate tourist complaints, make strong suggestions and recommendations to industry on the necessity of maintaining the "aloha spirit", conduct workshops and seminars where necessary, and make recommendations to governmental agencies for the protection and welfare of the tourist.

With regard to the signs that point out historical and scenic points of interest, your Committee requests that their replacement and distribution be accelerated.

**Industry and Product Promotion.** In view of the slowdown in our tourist industry, your Committee believes that strong emphasis should be placed on promoting the sale of locally grown products to further broaden our economic base. The product promotion program has significantly helped to increase the exportation of local products to the mainland, elsewhere, and locally. Most notably, the promotion of papaya radically reversed the industry's declining sales, and established the papaya as a valuable export item. The first contract for the promotion of this product was executed in 1959, and by 1968 papaya shipments to the mainland reached an all time high of 7.9 million pounds. Similarly, the division's promotion of anthuriums, Norfolk pines, bananas, Hawaiian gifts and fashions with matching funds from private industry has had a pattern of increased sales. In order to continue this growth, your Committee has appropriated an additional \$265,000 to this division which includes \$65,000 for the promotion of coffee, \$100,000 for the promotion of papaya and anthuriums on an equal basis, all of said sum to be matched equally by industry; \$35,000 in State funds to be matched by private industry to finance the department's planned expansion program; \$30,000 to be matched by the counties for promotion efforts at the New York World Trade Center; and \$35,000 in State funds for additional product promotion efforts in Expo 70.

HEALTH, PROTECTION AND

## SOCIAL SERVICES

### Department of Defense

Your Committee has provided sufficient funds to continue the current level of services of this department. We have also provided sufficient funds for five additional patrolmen to the State Capitol Police Force, and \$3,000 for Phase III of a six part program to provide a tsunami warning system for specifically designated coastal areas.

Your Committee has provided the sum of \$23,068 as the State share for the reorganization and conversion of the 298th artillery group from a fully federal funded on-site missile unit to a joint federal-state funded field depot type unit. Upon reorganization, the State will assume responsibility for the operations and maintenance of facilities at Wahiawa Armory, Ewa, Bellows Field and Koko Head with federal fund service contract reimbursements for up to seventy-five per cent of the costs. This action is being taken in order that drill status personnel will not be lost to the Hawaii National Guard.

### Department of Hawaiian Home Lands

Your Committee has provided sufficient funds to continue the current level of services in this department. In addition, your Committee has provided an additional homestead project representative who will assist, and where necessary, oversee the maintenance, improvement and repair of residential leaseholds on Oahu. Also the sum of \$125,000 has been provided for educational purposes as stipulated in Act 4, S.L.H. 1965. Your Committee's intent is that no part of this sum shall be used for staff specialist expenses in the Department of Education.

An additional appropriation of \$250,000 has been provided for deposit in a special revolving account within the Hawaiian Homes Farm Loan Fund.

### Department of Health

Programs of the Department primarily address themselves to broad statewide

objectives of improving the health and the standard of living for all. Your Committee is keenly aware of the needs of the people of Hawaii in this regard. Services to the people have been extended not only in terms of variety, but also in terms of geographical dispersion, and in terms of quality.

Sufficient funds have been appropriated to carry on the current level of services as well as for workload increases. The following programs have been initiated or expanded:

(a) Post International Conference on Water Pollution, August 2-5, 1970.

(b) continuation of the demonstration project to meet health needs of recently arrived immigrants.

(c) resources for children's health services have been increased, including sums for coping with high morbidity and mortality attendant to severe respiratory problems of infants and children, family planning and related services in low-income areas, expanded services for the disadvantaged, mass screening for early detection of heart diseases, testing for hearing defects in children, and for the evaluation of children with learning disabilities.

(d) mental health clinics have been strengthened with additional funds and positions.

(e) strengthening preventive health efforts as recommended by the Greenleigh Report through additional health educator positions. Your Committee also concurs with the Greenleigh Report. Since the Department of Health has responsibility for county hospitals, it should make health education a component of services rendered to hospitalized patients.

Your Committee intends that the use of mobile X-ray units be continued on the neighbor islands and sufficient funds for this purpose have been provided.

With regard to environmental health, your Committee shares the concern of many that we may be too late and too parsimonious in making Hawaii the best place

in which to live. In this regard sums have been provided in separate legislation to insure that our people shall live in an environment free of injurious pollutants.

#### **Pediculosis Eradication**

The statewide pediculosis eradication program started in 1968 as a demonstration project at Kaewai School. A report submitted last session indicated the tremendous success of that project in reducing absenteeism at school. Your Committee has continued to fund this program and is concerned at the Department's apparent lack of determination to make the program succeed. Because pediculosis causes extensive absenteeism from school, your Committee views this problem as a public health problem. Accordingly, your Committee requests the Department to re-evaluate its pediculosis program, and devise alternative plans which might obtain better results. The Department of Education and the Department of Social Services are requested to work with the Health Department to ensure better coordination between the parents, the schools, and the public health nurses. A report on the findings and recommendations should be submitted to the Legislature twenty days prior to the convening of the Regular Session of 1971.

#### **Hale Mohalu**

The general trend today in the treatment of leprosy is out-patient therapy. In view of this, your Committee recommends that the Department evaluate the personnel-to-patient ratio and begin deployment of personnel from Hale Mohalu to other health institutions, if warranted.

In reviewing the Department's needs your Committee has found many instances in which integration of health and social services should be achieved. While the larger question of reorganization has been posed by the Greenleigh Report, your Committee believes that many areas lend themselves to immediate coordination and expeditious delivery of services. For example, it is noted that the Health Department requires social workers for

family planning projects which serve the same geographical area as is now being covered by the Department of Social Services. Accordingly, your Committee requests that the directors of the Health Department and the Social Services Department give immediate attention to determining means by which both agencies can cooperatively provide services in areas of mutual concern.

#### **Act 97 Hospitals**

The right of the people to avail themselves of the medical and hospital services offered by the State is indisputable. The State's obligation to provide the best patient care within its financial capabilities has been further emphasized with the complete transfer of county hospitals to State control. On this basis your Committee has provided each hospital with the necessary manpower, equipment, and other operating needs deemed essential to meet patient caseloads.

The county-State hospitals are institutions directly engaged in delivering health services to the ill. To insure that such services keep apace with health needs, your Committee has provided for many improvements. These include a residency training establishment of an intensive care unit on Maui where the need for such care is only partially met by private duty nurses; increasing hospital and nursing staff, so that more nursing hours can be made available to patients over a 24-hour period; and strengthening the central hospital administration office.

Your Committee expressly intends that financial assistance provided for contractual ambulance services in the Waimanalo area be given only as a stop-gap measure until such time as the City and County can provide permanent coverage of that area. The Department of Health shall insure that financial assistance for Waimanalo is not misconstrued as a recurring item.

#### **The Judiciary**

Your Committee has provided sufficient funds for continuing the current level of

services of this branch and meeting the workload increases in the circuit and district courts.

We have also provided funds to enable children in the Juvenile Detention Home to make periodic field trips to the museums, aquarium, and parks. Three social workers for the Adult Probation Office and additional clerical help to meet the needs of an expanded driver improvement program have also been provided for.

In recognition of the constant need for legal texts and references, your Committee has approved the request for three sets of **American Jurisprudence** for the neighbor island magistrates and for new additions to the law library.

#### **Department of Labor and Industrial Relations**

Your Committee is aware of the progress being made by the Department with respect to new programs authorized by the Legislature in 1969. Your Committee has provided for the continuation of these and other programs at their current level, and where justified by increased workload, has provided for the augmentation of existing resources.

To cope with rising apprenticeship enrollment, and to enable the staff to step up counseling services to retain apprentices in the program, your Committee has provided for additional help in the Apprenticeship Division. Your Committee has also provided for the means to increase efficiency in the Workmen's Compensation Program by adding positions for a stenographer, a workmen's compensation inspector, and an insurance supervisor.

Mindful of the constant need to promote an awareness of safe practices and to provide safe places of employment, your Committee has added a boiler inspector, a crane and heavy equipment inspector, and an elevator inspector to the Industrial Safety Program.

The Department reported that insurance companies are phasing out elevator inspections by their personnel, and that the

State will need to take over this function in the future. Your Committee, however, believes that alternatives to this problem have not been fully explored. Accordingly, the Department is requested to investigate, and to report its findings and recommendations twenty days prior to the convening of the Regular Session of 1971, regarding alternative proposals, including the feasibility of enacting legislation to require that manufacturers, installers, lessors, or owners of elevators and escalators perform the periodic inspections now being done by the insurance companies. Also, your Committee is concerned with the difficulty in recruiting qualified boiler inspectors, especially in view of the large number of inspections that must be made each year. We hope that this problem can be alleviated by our recommendation to the Department of Personnel Services on long existing vacant positions.

Your Committee has provided for temporary help to supplement the staff of the Temporary Disability Insurance Program. Your Committee has also provided for continuation of the new State Manpower Development and Training Program at its present level. State-funded positions to administer the program on a full-time basis have been provided under workload increase, so that funds provided under current services can be made available for enrollee allowances and in direct support of programs to train the unemployed and underemployed.

#### **Department of Social Services**

The social and economic well-being of our residents is a vital concern of our State government. One of the means to achieve this well-being is through the Economic Assistance Program. In this regard, your Committee is concerned about the following:

(1) The department should first determine the objective of its Economic Assistance Program. Estimates have been made that 50 per cent or less of the people eligible for benefits are not claiming benefits. The department acknowledges that many eligibles are not claiming benefits, yet it has continually attempted to raise the level of

benefits under the system. Your Committee questions this approach. Our first concern is for the people who are eligible for benefits but who do not claim them due to lack of information or for other reasons. Our second concern is whether the State's revenues will be sufficient to meet an increase in benefits and an increase in the percentage of eligibles claiming benefits at the same time. Obviously, an increase in benefits should be considered in light of a total number of eligibles who are entitled to benefits.

(2) In view of the foregoing, your Committee intends that the \$704,935 granted to increase the children's clothing allowance be a "special allowance" and not an increase in the benefit standards. The separate clothing allowance should be kept separate and apart from the standard monthly allowance. Similarly, your Committee has provided \$500,000 as a special allowance to be used for rent and utilities.

(3) The department is expected to adhere to concerns expressed in last session's operating budget regarding the expansion of programs without specific legislative authorization.

(4) For several years now, the Department of Social Services has required supplementary appropriations for its economic assistance programs. Your Committee is interested in learning the cause or causes of this deficiency. Your Committee, therefore, requests the department to present a variance report for the entire department for fiscal year 1969 and 1970 which shall include: (a) a comparison by cost elements of the budgeted expenditure and positions filled, and the actual expenditure and positions filled for the fiscal years; and (b) a narrative explanation of the difference of each of the comparisons made in (a), including an explanation of the basis upon which the original estimates were made, and the reasons why such estimates proved accurate or inaccurate, and a statement of what the actual experience portends for the future of the program. This report shall be submitted to the Legislature twenty days prior to the convening of the Regular Session of 1971. If the department foresees the necessity



of a supplementary appropriation for the fiscal year 1970-71, it should submit a similar variance report to the Legislature based on experience of the department as of December 1, 1970.

Your Committee is aware that the department has been exploring the possibility of establishing a demonstration project to provide medical assistance to families living in three low-income areas through a pre-payment plan with Kaiser Hospital. Your Committee is in accord with such plans and authorizes the department to negotiate for such a plan. However, funds for the plan are to be obtained from the appropriation provided for current services in the medical assistance program.

Your Committee has provided the sum of \$500,000 in the departmental administration program for the purpose of completing the computerization of economic assistance payments, including money payments, medical payments, and food stamps. The department is authorized to expend this sum to obtain the services of a fiscal intermediary for the medical assistance program, to obtain the services of SWIS, or to hire a private data processing firm to develop and implement a computerized payment system.

If the fiscal intermediary route is chosen, dental payments should be made through an intermediary such as the Hawaii Dental Service which has the capability to adequately service the department.

Mindful of the heavy caseloads carried by social workers and the increase in families eligible for economic assistance, your Committee has provided for additional professional and sub-professional positions throughout the State so that both rehabilitation counseling and other services to clients can be enhanced.

**Supplemental Rehabilitation Fund —** The 1969 Legislature appropriated \$300,000 to the department to implement an experimental program to break the "cycle of poverty" in order to assist beyond maintaining welfare families at subsistence level. The Supplemental Rehabilitation Fund enabled the depart-

ment to provide additional monies to recipients for whom it will have beneficial and rehabilitative effects. The department is in agreement with the program and requested that the unobligated balance of the 1969 appropriation be carried over for the next fiscal year for the continuation of the project. Your Committee has approved the request and has provided an additional sum of \$165,000 for this program. Your Committee intends to have the Legislative Auditor conduct a final evaluation of the program.

**Demonstration Units for Public Welfare Services and Vocational Rehabilitation —** In the age when interest in the problem of the poor is on the rise with the attendant rise in caseloads to social workers, it is becoming evident that novel ways must be developed to get needed social welfare services to eligible individuals in the most efficient and economical manner.

One method that has been proposed is the establishment of demonstration units which can demonstrate and experiment new concepts, methods, and techniques in providing social welfare services. Your Committee is in agreement with such proposal and has thus provided funds for the establishment of these units. A progress report on these units shall be submitted to the Legislature twenty days prior to the convening of the Regular Session of 1971.

**Rent Supplement Program —** In recognition of the critical housing shortage in Hawaii today and the contribution made by the Rent Supplement Program to alleviate this shortage, your Committee has doubled the appropriation for the Program. Your Committee intends that local residents be given priority in qualifying for this assistance.

**Issuance of State Checks to Welfare Recipients —** Your Committee has been informed that in certain emergency situations, the department has issued purchase orders to clients because State checks take too long to be processed. This procedure has resulted in the State not being able to use these expenditures as a basis for federal matching. The loss to the State in federal matching funds has been estimated

at \$150,000 to \$200,000. Your Committee, therefore, requests the Departments of Social Service, Budget and Finance, and Accounting and General Services to explore the possibility of issuing State checks to these clients in emergency situations and to make the necessary adjustments.

#### FINANCE, COMMERCE AND STAFF DEPARTMENTS

##### Department of Accounting and General Services

Your Committee after careful review and evaluation of the department's operating budget request has provided sufficient funds for the department to maintain its current level of service. In view of the complexity of their operation, your Committee is satisfied with the level of efficiency that the department maintains.

Additional funds for two bookkeeping machines and a pre-audit clerk for the Division of Accounting have also been provided to meet the increased workload resulting from the expanded character of expenditures. Your Committee is concerned with the backlog of inventory records in the Division of Archives. With the present staffing, the division is unable to keep up with the workload and provide services to the other State agencies. Therefore, your Committee has provided for two archivist positions and a clerk position in the record service branch and one archivist position in the records management branch in addition to funds for purchasing filing equipment.

The sum of \$75,000 has been appropriated for the designing and printing of brochures on the State Capitol. Your Committee feels that the State Capitol is a major landmark and its history should be made available to the countless number of visitors. Pertinent information on the State Legislature should also be included in the brochure.

**Conversion of Vehicles to Liquefied Propane Gas.** As part of an attack to combat air pollution, a proposal was submitted to convert 1,000 state vehicles to use liquefied

propane gas. This gas is advocated due to its low level of pollutant emission. Your Committee is concerned about the concentration of air pollutants emitted by the motor vehicles on our streets. However, your Committee believes that to convert 1,000 vehicles to this fuel without accurate data on automobile efficiency, maintenance and operational costs is too large an undertaking at this time. Testimony on this subject revealed that the administration did not have supportive data to justify the conversion of 1,000 motor vehicles nor could it assure the Committee that some of the foreseeable problems such as the purchase and distribution of the gas will be solved. Testimony revealed that the major emphasis of this program is to have the State manifest its concern about air pollution. Your Committee agrees that air pollutants emitted by motor vehicles is a major concern of this State. It recognizes, however, that State vehicles constitute only a small proportion of the motor vehicles in this State and that unless private concerns make the conversion as well, the air pollution content will not be reduced significantly. Your Committee has provided funds for a pilot project for 100 vehicles to test the feasibility of using liquefied propane gas to propel our motor vehicles. This project should be designed to examine carefully the advantages, disadvantages, and the ultimate cost of using liquefied propane gas for all vehicles in our State, public or private.

The vehicles selected for conversion should not be more than two years old and should provide a wide variety of engines, trucks, buses, sedans, or jeeps. Sufficient research and planning should be undertaken beforehand to ensure that pertinent cost and performance data are recorded. The Department of Health and the University of Hawaii are requested to assist in this project. A progress report on this pilot project shall be submitted to the Legislature twenty days prior to the convening of the Regular Session of 1971.

**School Repairs and Maintenance.** Your Committee has provided, in addition to current service, the sum of \$4,238,120 for contractual services for the repair and maintenance of schools. Your Committee

finds that a portion of past appropriations have been lapsing over the years. Therefore, a provision is included in the appropriation which allows for the extension of the appropriations through August 31, 1971. Your Committee expects that the Department will use flexible judgment in approving items not provided for in the original list sent by the Department of Education. Your Committee's intention is not to provide an open-ended appropriation but to give the Department the flexibility to cope with changing needs.

**Repairs and Alterations.** Your Committee has appropriated \$100,000 for the purpose of creating a contingency fund for repairs and alterations by request. Your Committee feels that there are instances where repairs and alterations are unforeseen and failure to undertake the project can be detrimental to the operation. It is expected that the Department will submit a report as part of its budget presentation to the next Legislature on its activities in this area.

#### **Attorney General**

Your Committee has provided sufficient funds to continue the current level of services of this department. In addition, funds were provided for furniture in the department and equipment for the Bureau of Civil Identification.

#### **Department of Budget and Finance**

Your Committee has provided sufficient funds to carry on the current level of services of this department. The sum of \$200,000 has been appropriated to be expended by the Director as a subsidy for the operation of the Bernice P. Bishop Museum. This subsidy is conditioned on the museum not charging admission fees to students and upon compliance with section 22 of this Act.

Your Committee has also provided funds to be used by the Commission on Aging for the following projects with hope that they will benefit the senior members of our State:

1. \$11,864 for the Hawaii Homemaker

Service Project;

2. \$11,705 for the Maui Find Work Project;

3. \$52,601 for meals for the indigent elderly; and

4. \$132,788 for continuation of the Foster Grandparents Project.

#### **Statewide Information System**

Your Committee adopts the proposed organizational plan of the Department of Budget and Finance whereby the Statewide Information System (SWIS) is made a division of that department. Your Committee believes that under this shift, SWIS will be able to make a more meaningful contribution towards implementing the planning, programming, and budgeting system within our government.

#### **Executive**

Your Committee has provided sufficient funds to maintain the current level of services of this office.

In addition, funds for the following personnel and programs have been authorized:

- (a) a Director of Environmental Control;

- (b) a Marine Affairs Coordinator to coordinate oceanographic research, recreation and development;

- (c) a conference on drug abuse;

- (d) the development of Hawaii text materials;

- (e) a one-year staff to assist the Agricultural Coordinating Committee in analyses and investigations;

- (f) nine medical student exchange positions under the WICHE program;

- (g) expansion of the Cultural Opportunities and Development Program to incorporate support services for the Art in State

Buildings Program and neighbor island participation in these programs;

(h) two investigators, an attorney, and a clerical worker for the Office of Consumer Protection to intensify and improve their investigation and educational activities;

(i) expansion of six on-going projects and initiation of new programs in the State Law Enforcement and Juvenile Delinquency Planning Agency;

(j) expansion of OEO programs in Hawaii County, including additional funds to make salary adjustments for its personnel in conformity with adjustments previously granted other government employees. Funds for a statewide family planning program has also been provided.

#### **Lieutenant Governor**

Sufficient funds have been provided to maintain the current level of services of this office. The sum of \$139,913 has also been provided to meet the personnel, equipment and supply expenses for administering the 1970 primary and general elections.

#### **Department of Personnel Services**

Your Committee has provided sufficient funds to continue the Department's current level of services.

In order that the Department may actively recruit new employees, maximize the objectivity and reliability of the selection of its employees, and improve the classification system, your Committee has provided funds for additional positions. Also, funds to establish an employee-employer relations program and to intensify advertising for difficult to fill and shortage categories have been provided.

Upon review of the number of vacant positions submitted by each department, your Committee found a significant trend of vacancies in certain classes. These vacancies if left unfilled for a long time, will most likely mean that the existing employees will carry a heavier workload, or that a vacuum will be created for certain

workload. There are many reasons for positions being vacant. In this regard, your Committee requests that the Department of Personnel Services re-evaluate these vacant positions to determine their causes and to suggest alternative solutions, whether they be changes in classification, increased use of shortage categories, pay differential or bonuses for certain jobs that are to be performed under unusual stress, or even bus transportation to work should the place of employment be in a remote area.

A second course of action for the Department is to institute in-service training programs so that existing employees are able to advance which will be an incentive to remain with the job. Where there is a large turnover in personnel, an intensive in-service training program will ease the transition process and thereby lessen the necessity for incumbent employees to spend valuable time training the new employees. A report on the findings and recommendations on these two areas should be submitted to the Legislature twenty days prior to the convening of the Regular Session of 1971.

Upon review of the New Careers Program, your Committee finds that there is some confusion as to the means by which New Career enrollees would be absorbed by the departments at the end of the second year. Your Committee, therefore, requests the Department to work closely with departments that have new Career enrollees to inform them of the requirements of the program and to determine whether the enrollees can be absorbed within the department by filling vacancies. Should a department indicate that it would not be able to absorb all of its enrollees upon graduation, the Department should act immediately to transfer the enrollees to another department for easier placement.

#### **Department of Regulatory Agencies**

Your Committee has provided funds for continuing the Department's current level of service and for an additional insurance investigator and financial analyst. Funds for an insurance examiner position which has been vacant since 1965 and which may

be needed in the Department's reorganization plan have been increased so that the position can be filled at the examiner level.

Funds to furnish the Public Utilities Commission's division library, to purchase four mechanized files for the Professional and Vocational Licensing Branch, and for the Public Utilities Commission to hold show-cause hearings on neighbor islands, have also been provided.

#### Department of Taxation

Your Committee has provided sufficient funds to continue the department's current level of services and to meet workload increases in the Systems and Procedures, Property Assessment, Collections Branches, and the Central Office. Also, two additional full-time positions and one half-time position have been authorized to improve collection services and to accelerate and intensify field collections of delinquent taxes. The purchase of equipment for the Field Administration Branch and five mechanized files for the Income Assessment Branch have also been authorized. To cope with the ever increasing demands being placed on the Research and Planning Office, a position to serve as an assistant to the unit head has been provided.

Your Committee is concerned over certain administrative procedures resulting in inequities in real property assessments. Our concerns are specifically:

1. Apparent irregularities in scheduling property appraisals tend to result in inequitable treatment inasmuch as some properties (frequently smaller residential properties) are appraised at current market values while others (frequently large, unimproved land holdings) are appraised at values set many years ago — resulting in a disproportionate tax burden on the owners of the smaller properties;

2. The method of apportioning the administrative costs of the real property tax among the counties seems to lack a rational and equitable basis; and

3. The procedures of the tax review boards make it difficult for the individual taxpayer to appeal his tax assessment. The boards also appear to lack sufficient independence from the department in order to assume a more impartial role in hearing appeals and to propose improvements in the appeals process.

These concerns are spelled out in greater detail in **special committee report no. 4**, issued last year by your joint committee on real property taxation. We urge the Department to review the report and then to take appropriate corrective measures and make appropriate recommendations to the Legislature at the Regular Session of 1971.

#### Other State Programs

The private hospitals, Strong-Carter Dental Clinic, and veterans cemeteries have all been provided with funds to continue their current level of services. Financial assistance has also been provided to an additional hospital, the Wilcox Memorial Hospital, to enable it to continue essential health services.

Your Committee is in accord with the intent and purpose of **H. B. No. 1260-70, H. D. 1, S. D. 1**, as amended herein and recommends its passage on final reading in the form attached hereto as **H. B. No. 1260-70, H. D. 1, S. D. 1, C. D. 1**.

Representatives Wakatsuki, Minn,  
Kondo, Kunimura, Lee, Pacarro,  
Sakima, Suwa, Ushijima, R. Wong,  
Ajifu, Devereux and Lum.  
Managers on the part of the House.

Senators Hulten, Kawasaki, Ching,  
Fernandes, Hara, Nishimura,  
Yamasaki, Yoshinaga, Anderson,  
Mirikitani, Rohlfing and Yee.  
Managers on the part of the Senate.

Senator Kawasaki was excused.

**Conf. Com. Rep. 21 on H. B. No. 1267-70**

Your Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate in **H. B. No. 1267-70, H. D. 1, S. D. 1**, enti-

tled: "A BILL FOR AN ACT RELATING TO TAXATION", having met after full and free conference, have agreed to recommend and do recommend to their respective Houses, the final passage of the bill in the amended form.

The purpose of this bill is to make adjustments to the tax laws of the State in order to provide more equity in our tax structure.

The bill, as amended by your Committee, provides the following:

1. Exempting from income tax the first \$500 of income derived as compensation for service in the reserve component of the armed services including coast guard and national guard.

2. Increasing the personal exemption from \$600 to \$750 in 1973. This amendment will bring the exemption schedule in conformity with the new federal exemption schedule; i.e. from \$600 to \$625 as of January 1, 1970, from \$625 to \$650 as of January 1, 1971, from \$650 to \$700 as of January 1, 1972 and from \$700 to \$750 as of January 1, 1973. This will result in a loss to the State of approximately one million dollars in fiscal year 1971 and two million dollars in fiscal year 1972.

3. Reducing the required months of attendance of a student from four months to three in order to be eligible for the educational tax credit. The Ombudsman, in his report to the Legislature, has pointed out that since the public schools normally begin on September 1, students first attending school would be in attendance for less than four months and thus unable under our present law to qualify for the educational tax credit. Your Committee feels that the intent of the educational tax credit would be fully realized if the period was shortened to three months.

4. Granting relief from the four per cent excise tax on drugs and medical expenses. Your Committee believes that the tax credit is the proper vehicle for alleviating the inequitable features of our excise tax without eroding our tax base. The use of credits has the overwhelming advantage of assur-

ing that the person to whom the four per cent is passed on is the one who is getting the tax relief. If the exemption method were used, there would be no assurance that prices would fall and that the tax saving would go to the consumer rather than to the businessman. The tax credit assures relief to the lower-income consumer who has the greatest need for such relief and thereby minimizes the erosion of the tax base.

The tax credit shall be computed on all drug and medical expenses allowable in computing the drug and medical deduction for State income tax purposes less any drug and medical expenses not subject to the general excise tax. The maximum limitations for drug and medical deductions for State net income tax purposes shall not apply to the amount on which the tax credit shall be computed.

5. Granting tax credits to renters. Under our present laws, homeowners in fee simple or leasehold are entitled to State income tax deductions such as interest paid on mortgages and real property taxes paid. Renters do not have such benefits. To eliminate some of this inequity, your Committee has proposed a tax credit which will permit low and middle income renters to recover some of the excise and real property taxes that are passed on to them as rent by landlords.

6. Encouraging producers and sellers of glue, paints and other solubles that are dangerous if inhaled to add to their products additives that would discourage inhalation. Encouragement is provided by granting tax credits on transactions involving products certified by the Board of Health as to the addition of substances which would deter inhalation.

7. Eliminating the pyramiding of the general excise tax on certain transactions. Your Committee has reviewed and adopted the recommendation of the Governor's Advisory Committee on Finance and Taxation designed to alleviate most of the "pyramiding" which had been criticized by the A. D. Little report. Accordingly, a rate of one-half of one per cent shall be applied to sales of any tangible



personal property to a person engaged in a service business provided such tangible personal property is separately charged and billed to the customers, clients or patients by the person rendering such service and if the sale of such tangible personal property is reported at the retail rate of four per cent.

Another instance of pyramiding which your Committee hopes to eliminate is in transactions whereby a person in the service business is retained to provide certain services to another taxpayer in the service business. Such service shall be taxed at the one-half of one per cent rate if the second taxpayer is acting in the nature of an intermediary between the person rendering the service and the ultimate recipient of the benefit of such services. The second taxpayer must report all income from the ultimate recipient of such services at the four per cent rate.

Your Committee believes that adoption of the above two changes will eliminate most of the unwarranted pyramiding criticized by the A. D. Little report.

8. Classifying commercial job printing as a manufacturing activity and not as a service activity. This change in classification will permit local commercial job printers to compete with mainland commercial job printers by lowering the cost of production. Under this change, sale of tangible personal property to commercial job printers shall be taxed at the one-half per cent rate instead of the four per cent rate.

9. Permitting general contractors to deduct for general excise tax purposes payments made to specialty contractors. This section will clarify the applicability of the provisions regarding the deduction allowed general contractors for general excise taxes paid by a subcontractor. This bill will specifically permit deductions for payments to specialty contractors as licensed by the department of regulatory agencies. Thus general contractors will be permitted to deduct subcontract payments made to specialty contractors such as wall-to-wall carpeting contractors and termite control contractors if such work is performed

under a general construction contract. It is hoped that this saving will appear as a reduction in the cost of housing.

10. Granting tax relief to non-profit shippers' associations operating under part 296 of the Civil Aeronautics Board Economic Regulations.

11. Exempting subcontractors involved in scientific contracts with the United States from the application of the general excise tax. The present provisions of the scientific contract exemption under the general excise tax law exempts from the tax those contractors conducting such contracts with the United States. Since this is an exemption and the rule of strict construction is applicable, the law has been interpreted to be applicable to such contractors and not to subcontractors. This amendment will extend the exemption to subcontractors. It will also clarify the scope of maintenance and operational activities deemed exempt from the tax.

12. Exempting from the use tax any vessel imported for use in a lease or rental business; provided the lease or rental income therefrom is taxed under chapter 237.

13. Encouraging the use of liquefied petroleum gas by reducing the tax imposed on it to two-thirds of the rates imposed on diesel fuel. For ease in calculation and administration, your Committee has clarified that fractions in the tax rate shall be rounded to the nearest cent.

14. Requiring an owner to occupy his home during the first three months of a tax year in order to claim the home exemption provisions of the real property tax law. This amendment would close a loophole brought out by the Governor's Advisory Committee on Finance and Taxation. Under present provisions, anyone owning and occupying a home on the first day of the tax year is entitled to a home exemption. Many out-of-state residents come to live in Hawaii only for a few months. They occupy their rental units and thus qualify for the home exemption even though such units are in fact bought for investment purposes and not for residential purposes.

Your Committee feels that this was not the intent of the home exemption provisions and has amended the law to require occupancy of the home by the owner during the first three months of the tax year.

15. Granting to an airline a lower tax rate provided it adopts a schedule for students providing rates less than one-half of the regular adult fare. The lower rate should apply at reasonable hours to students in grade twelve or below who travel in school groups. This would permit our students to travel to all the islands of our State at reasonable cost.

Your Committee is in accord with the intent and purpose of **H. B. No. 1267-70, H. D. 1, S. D. 1**, as amended herein, and recommends its passage on final reading in the form attached hereto as **H. B. No. 1267-70, H. D. 1, S. D. 1, C. D. 1**.

Representatives Wakatsuki, Minn,  
Kondo, Kunimura, Lee, Pacarro,  
Sakima, Suwa, Ushijima, R. Wong,  
Ajifu, Devereux and Lum.  
Managers on the part of the House.

Senators Hulten, Kawasaki, Ching,  
Fernandes, Hara, Nishimura,  
Yamasaki, Yoshinaga, Anderson,  
Mirikitani, Rohlfing and Yee.  
Managers on the part of the Senate.

**Conf. Com. Rep. 22 on S. B. No. 1131-70**

Your Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House to **S. B. No. 1131-70, S. D. 2, H. D. 1**, entitled:

“A BILL FOR AN ACT RELATING TO PUBLIC IMPROVEMENTS AND THE FINANCING THEREOF, MAKING APPROPRIATIONS FOR PUBLIC IMPROVEMENTS AND PLANS RELATED THERETO OUT OF GENERAL REVENUES, SPECIAL FUNDS, GENERAL OBLIGATION AND REVENUE BOND FUNDS AND GRANTS; AND PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION AND REVENUE BONDS.”,

having met after full and free conference, has agreed to and does recommend to the respective Houses, the final passage of the bill as amended herein.

We have decided that the CIP presented in the document, **The Executive Budget for the Fiscal Year 1970-1971, Part II, The Capital Improvement Program**, fairly, reasonably and equitably meets the CIP requirements of the State as a whole.

Your Committee on Conference is in accord with the intent and purpose of **S. B. No. 1131-70, S. D. 2, H. D. 1**, as amended herein, and recommends its passage on final reading in the form attached hereto as **S. B. No. 1131-70, S. D. 2, H. D. 1, C. D. 1**.

Representatives Wakatsuki, Pacarro,  
Sakima, Suwa, Ushijima, R. Wong,  
Ajifu, Devereux, Lum, Minn, Kondo,  
Kunimura and Lee.  
Managers on the part of the House.

Senators Hulten, Fernandes, Hara,  
Mirikitani, Nishimura, Rohlfing,  
Ushijima, Yamasaki, Yoshinaga,  
Kawasaki, Anderson, Yee and Ching.  
Managers on the part of the Senate.

**Conf. Com. Rep. 23 on H. B. No. 1922-70**

Your Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate to **H. B. No. 1922-70, H. D. 1, S. D. 1** entitled: “A BILL FOR AN ACT RELATING TO CABLE TELEVISION SYSTEMS.”, having met after full and free conference, has agreed to recommend to their respective Houses, the final passage of the bill as amended herein.

The purpose of this bill is to add a new chapter to the Hawaii Revised Statutes which will establish a comprehensive framework for the licensing and regulation of cable television systems. This bill empowers the Director of the Department of Regulatory Agencies to administer and enforce the provisions of the new chapter until such time as the Legislature empowers some other agency or commission to assume this function.

Your Committee proposes the following amendment to **H. B. No. 1922-70, H. D. 1, S. D. 1**:

1. Section 6 of the proposed new chapter be amended by deleting subsection (c) thereof which provides that all CATV facilities be subject to all rules, regulations and procedures promulgated by the Public Utilities Commission and the Legislature.

Your Committee on Conference is in accord with the intent and purpose of **H. B. No. 1922-70, H. D. 1, S. D. 1**, as amended herein, and recommends its passage on final reading in the form attached hereto as **H. B. No. 1922-70, H. D. 1, S. D. 1, C. D. 1**.

Representatives Ushijima, Baptiste,  
Kondo and Judd.  
Managers on the part of the House.

Senators Ariyoshi, Fernandes and Yee.  
Managers on the part of the Senate.

**Conf. Com. Rep. 24 on S. B. No. 1696-70**

Your Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House in **S. B. No. 1696-70, S. D. 1, H. D. 3**, entitled: "A BILL FOR AN ACT RELATING TO COLLECTIVE BARGAINING IN PUBLIC EMPLOYMENT", having met after full and free conference, have agreed to recommend and do recommend to their respective Houses, the final passage of the bill as amended herein.

The purpose of this bill is to promote the improvement of public employer-employee relations by recognizing the right of public employees to join organizations of their own choosing and to be represented by such organizations in their employment relations with public agencies. It is also the intent of the bill to provide adequate means for preventing controversies between public agencies and public employees and for resolving these controversies when they occur.

Your Committee believes that any collective bargaining law enacted should

clearly specify the areas and manner in which public employees shall bargain collectively if we are to avoid, or at least to minimize, the controversies which have arisen in other jurisdictions where collective bargaining is permitted and which have often resulted in disruption of public services.

Public employees are eager to have a voice in determining their conditions of work. The experiences in other jurisdictions show that without an adequate legal framework in which to channel and release their energies, public employees have resorted to means of pressure and coercion to improve their conditions of work. Your Committee believes that legislation should be enacted to promote harmonious and cooperative relations between government and its employees.

Your Committee incorporates the intents contained in Senate **Standing Committee Report No. 745-70** and House **Standing Committee Report No. 761-70** insofar as they are not in conflict with this report and the amendments covered herein.

Upon consideration of **S. B. No. 1696-70, S. D. 1, H. D. 3**, your Committee has made the following amendments:

1. **Public Management Committee.** Your Committee has deleted section -6 of **S. B. No. 1696-70, S. D. 1, H. D. 3**, which establishes a public management committee, and has amended the appropriations accordingly.

2. **Right to strike.** Your Committee has reincorporated the repeal of Chapter 86, Hawaii Revised Statutes, and other provisions relating to strike rights and prohibitions contained in **S. B. No. 1696-70, H. D. 1**. In addition, your Committee has provided additional safeguards against strikes which endanger public health and safety.

3. **Prevention of prohibited practices.** Your Committee has deleted the sanction in section -14 of **S. B. No. 1696-70, S. D. 1, H. D. 3**, which provides that under certain circumstances, the payroll deductions authorized may be suspended if an employee organization engages in, or fails

to correct, any prohibited practice.

In addition, your Committee has clarified section -6(c) which excludes certain employees from coverage under the chapter by specifying that "representative of a public employer" includes the administrative officer, director, or chief of a State or county department or agency, or any major division thereof, as well as his deputy, first assistant, and any other top-level managerial and administrative personnel.

Your Committee on Conference is in accord with the intent and purpose of **S. B. No. 1696-70, S. D. 1, H. D. 3**, as amended herein, and recommends its passage on final reading in the form attached hereto as **S. B. No. 1696-70, S. D. 1, H. D. 3, C. D. 1**.

Representatives Morioka, Ho, Kunimura,  
Wakatsuki and Oda.  
Managers on the part of the House.

Senators Takahashi, Clark, Fernandes,  
Yamasaki and Rohlfing.  
Managers on the part of the Senate.

**Conf. Com. Rep. 25 on S. B. No. 174**

Your Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House to **S. B. No. 174, S. D. 2, H. D. 1**, entitled:

"A BILL FOR AN ACT ESTABLISHING A STATE COMMISSION AND COUNTY COMMITTEES ON THE STATUS OF WOMEN."

having met after full and free conference, has agreed to and does recommend to the respective Houses, the final passage of the bill as amended herein.

The purpose of this bill is to establish a permanent State commission and county committees on the status of women to develop long-range goals, and to coordinate research planning, programming and action on the opportunities, needs, problems, and contributions of women in Hawaii in education, homemaking, civil and legal rights, labor and employment, and

expanded community horizons.

Your Committee feels that the status of women in modern society need comprehensive continuing study. The Governor's Commission on the Status of Women in 1966 has established a framework from which this permanent commission can continually increase the awareness of woman's responsibilities and opportunities and the importance of their roles in our rapidly changing society.

Women who make up fifty-one per cent of the population of the nation and make up forty-one per cent of our State's total labor force have no agency in this State to aid them in their shifting roles in our complex society.

This commission will aid the State in anticipating the needs of women in the world of employment, legal and civil rights, and political and social responsibilities.

Your Committee has amended the bill to provide for a total appropriation of \$40,000.

Your Committee on Conference is in accord with the intent and purpose of **S. B. No. 174, S. D. 2, H. D. 1**, as amended herein, and recommends its passage on final reading in the form attached hereto as **S. B. No. 174, S. D. 2, H. D. 1, C. D. 1**.

Representatives Wakatsuki, Minn,  
Kondo, Kunimura, Lee, Pacarro,  
Sakima, Suwa, Ushijima, R. Wong,  
Ajifu; Devereux and Lum.  
Managers on the part of the House.

Senators Hulten, Kawasaki, Anderson,  
Yee, Ching, Fernandes, Hara,  
Mirikitani, Nishimura, Rohlfing,  
Yamasaki and Yoshinaga.  
Managers on the part of the Senate.

Senator Hara was excused.

**Conf. Com. Rep. 26 on S. B. No. 1342-70**

Your Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House to

**S. B. No. 1342-70, S. D. 1, H. D. 1**, entitled:

“A BILL FOR AN ACT MAKING A SUPPLEMENTAL APPROPRIATION FOR THE OPERATION OF THE MENTAL HEALTH DIVISION OF THE DEPARTMENT OF HEALTH.”,

having met after full and free conference, has agreed to recommend to their respective houses, and does hereby recommend, the final passage of the bill as amended herein as follows:

The purpose of this bill is to appropriate the sum of \$46,782 out of the general revenues of the State of Hawaii to the mental health division of the department of Health for the staffing of preventive and clinical services at Wahiawa Mental Health Clinic, Ewa Day Treatment Center, and Waianae Day Treatment Center.

In consideration of the fact that the bill provides funds only for personal services, your Conference Committee finds that additional sums are required for expenses and equipment which are essential to operate the day treatment activities.

Your Conference Committee has therefore amended the bill to provide the additional amounts listed below:

Wahiawa Mental Health Clinic:  
     \$10,846 (other current expenses)  
     \$1,985 (equipment)

Waipahu Mental Health Clinic  
     Ewa Day Treatment Center:  
         \$11,174 (other current expenses)  
         \$2,570 (equipment)

Waianae Day Treatment Center:  
     \$1,834 (other current expenses)  
     \$3,590 (equipment)

Your Committee on Conference is in accord with the intent and purpose of **S. B. No. 1342-70, S. D. 1, H. D. 1**, as amended herein, and recommends its passage on final reading in the form attached hereto as **S. B. No. 1342-70, S. D. 1, H. D. 1, C. D. 1**.

Representatives Wakatsuki, Minn,  
     Kondo, Kunimura, Lee, Pacarro,  
     Sakima, Suwa, Ushijima, R. Wong,  
     Ajifu, Devereux and Lum.  
 Managers on the part of the House.

Senators Hulten, Kawasaki, Anderson,  
     Yee, Ching, Fernandes, Hara,  
     Mirikitani, Nishimura, Rohlfing,  
     Yamasaki and Yoshinaga.  
 Managers on the part of the Senate.

Senator Hara was excused.

**Conf. Com. Rep. 27 on S. B. No. 1405-70**

Your Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House to **S. B. No. 1405-70, H. D. 1** entitled:

“A BILL FOR AN ACT RELATING TO POLLUTION CONTROL AND MAKING AN APPROPRIATION THEREFOR.”,

having met after full and free conference, has agreed to and does recommend to the respective Houses, the final passage of the bill as amended herein.

The purpose of this bill is to appropriate \$204,098 to the department of health for pollution control, to supplement funds which are appropriated in the operating budget.

The additional funds were requested by the administration to enable the department of health to expand its monitoring, research and regulatory activities in the program of air sanitation, occupational and radiological health, and sanitary engineering.

Your Committee is concerned that the bill in its present form reflects a substantial reduction in funds from the amount requested by the administration. Your Committee is fully aware of the significance that an accelerated program of pollution control will have in insuring that Hawaii's environment will not deteriorate, and strongly believes that adequate funds must be provided.

Accordingly, your Committee has restored the original amount requested by the administration, and has further incorporated funds for personal services, operating expenses, and equipment for six new sanitarian positions which were deleted from the department's operating budget request.

Your Committee on Conference is in accord with the intent and purpose of **S. B. No. 1405-70, H. D. 1**, as amended herein, and recommends its passage on final reading in the form attached hereto as **S. B. No. 1405-70, H. D. 1, C. D. 1**.

Representatives Wakatsuki, Minn,  
Kondo, Kunimura, Lee, Pacarro,  
Sakima, Suwa, Ushijima, R. Wong,  
Ajifu, Devereux and Lum.  
Managers on the part of the House.

Senators Hulten, Kawasaki, Anderson,  
Yee, Ching, Fernandes, Hara,  
Mirikitani, Nishimura, Rohlfing,  
Yamasaki and Yoshinaga.  
Managers on the part of the Senate.

Senator Hara was excused.

**Conf. Com. Rep. 28** (Majority) on **S. B. No. 189**

Your Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House to **S. B. 189, H. D. 1, H. D. 2**, entitled: "A BILL FOR AN ACT RELATING TO THE BOARD OF REGENTS OF THE UNIVERSITY.", having met after full and free conference, has agreed to recommend and do recommend to their respective Houses, the final passage of the bill as amended herein.

The purpose of this bill is to amend existing law relating to the composition, selection, and term of membership of the Board of Regents of the University of Hawaii as follows:

1. Increase the membership of the Board from nine to eleven;
2. Provide that the two additional at-large seats be for a term of two years;

3. Change the residency requirement of the Regents from Senatorial districts to counties, with the provision that at least two Regents must be from the County of Hawaii; increasing the number of at large members from 3 to 6;

4. Provide that five of the Regents must be alumni of the University of Hawaii;

5. Provide that no more than 6 members shall be of the same political party.

Your Committee concurs with the findings of the Senate Committee on Higher Education that the rapidly increasing student enrollment, the creation of a second major four year campus on Oahu, and the increasing complexities of the University System justify and necessitate an increase in the number of regents on the Board. Your Committee has retained the provision for two additional at-large members of the Board of Regents, each to serve a term of two years with possibility of reappointment. These two year terms can serve as a tremendous asset to the Board of Regents on several counts. Perhaps most importantly, these terms will broaden the field of capable interested people, who could contribute much to the Board of Regents, but are unable or unwilling to assume the commitment that a four year appointment would imply. This will be particularly likely to affect candidates on both ends of the age scale. Those who are young and just getting established in a career, or are contemplating further education would be more willing and able to serve a two year term, than to assume the commitment of a four year term. Likewise, persons on the other end of the spectrum who are retiring from their careers might prefer to serve a two rather than a four year term. For these people, and others as well, the two year terms would be ideal. In addition to enlarging the field of possible appointees, the two year term allows for the infusion of new perspectives and ideas into the deliberations of the Regents at two year intervals, providing continuous reanimation for the Board.

Your Committee, after thorough examination of the proposal and its ramifications and interpretations, concurs with the pre-



mise that a faculty member and a student should not be numbered among the members of the Board of Regents. During the course of its consultations on this bill, this Committee has been distressed to learn that a large majority of the proponents of this bill were advocating its passage in order to place a representative of the Faculty and of the students on the Board of Regents to give the Faculty and students a voice in the deliberations of the Board. This outlook stresses factionalism, and implies that Regents should represent a constituency, which this Committee finds quite unacceptable and incongruous with the intent of this bill. It must be emphasized, however, that no member of the Board of Regents, regardless of occupation or age, should be representative of a certain faction or constituency. To do so would negate the great constructive potential of having broad representation on the Board.

In order to further maximize the list of qualified potential candidates to the Board of Regents, this Committee has retained the modifications which eliminate many of the current restraints on Regent selection. This Committee would, however, recommend several guidelines, which it considers to be both constructive and prudent for the selection of Regents. Age is a very critical factor. There is a series of almost guaranteed generation gaps built into our society, controlled by such various factors as differences in attitudes and ideals, as well as changes in technology, each in turn tempered by the environment of the era. The Board of Regents should, ideally, be broadly and specifically representational of these age groups and "gaps." As the Board is presently constituted, it primarily represents a limited age group. Of particular importance, therefore, should be the selection of a Regent who can articulate youthful points of view.

This Committee has retained the restriction that five members of the Board of Regents must be graduates of the University of Hawaii. While it does not believe that graduation from the University of Hawaii per se qualifies a person to be a better Regent, it does believe that an alumnus can lend valuable insight into University prob-

lems. Furthermore, persons who have very recently been involved with the evolution of the University from the perspective of a student, who are still in touch with the realities of the institution rather than the illusions of what once was, and many of whose friends are still students at the University, can provide a vast amount of valuable insight into the direction of the University System, and can enhance significantly the role of the Board of Regents.

This Committee is particularly pleased to observe that the Board of Regents has taken upon itself to reorganize its own internal structure to keep pace with the ever increasing demands of the University System. Recognizing that each Board member cannot possibly master every facet of the University System, which ranges from vocational and technical education all the way up to the highest graduate level, the Board has subdivided itself into subject matter committees, each consisting of at least two members, and each concerned with a separate facet of the system. This Committee would like to applaud this initiative and approach, and would again emphasize the need to expand the size of the Board with two additional members.

Your Committee has amended this bill to provide that at least two of the Regents must be residents of the County of Hawaii. Since it can reasonably be expected that a majority of the Regents will be selected from the more populous Oahu, it was feared that Hawaii County, which has the second largest population among the islands, might go under-represented. For this reason, your Committee believes that this apparent restriction is not inconsistent with its intent to ease the restriction on Regent selection, and that it is, in fact, necessary.

It is the opinion of your Committee that **S. B. 189** as amended can go a long way toward creating a Board of Regents of sufficient size and competency to handle the increasingly difficult demands of the University System. **Conference Draft 1** of this bill will give the Governor, with the advice and consent of the Senate, a wide latitude to select Regents on the basis of

competency and qualifications, consistent with the interests of the University and of the State.

Your Committee on Conference is in accord with the intent and purpose of S. B. No. 189, H. D. 1, H. D. 2, as amended herein and recommends its passage in the form attached hereto as S. B. No. 189, H. D. 1, H. D. 2, C. D. 1.

Representatives F. Wong, Serizawa and Saiki.  
Managers on the part of the House.

Senators Kuriyama, Nishimura and Yee.  
Managers on the part of the Senate.

Senators Kuriyama and Yee did not concur.

**Conf. Com. Rep. 29 on S. B. 1131-70**

Your Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House to S. B. No. 1131-70, S. D. 2, H. D. 1, C. D. 1, entitled:

“A BILL FOR AN ACT RELATING TO PUBLIC IMPROVEMENTS AND THE FINANCING THEREOF, MAKING APPROPRIATIONS FOR PUBLIC IMPROVEMENTS AND PLANS RELATED THERETO OUT OF GENERAL REVENUES, SPECIAL FUNDS, GENERAL OBLIGATION AND REVENUE BOND FUNDS AND GRANTS; AND PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION AND REVENUE BONDS.”,

having met after full and free conference, has agreed to and does recommend to the respective Houses, the final passage of the bill as amended herein.

The purpose of this bill is to appropriate funds for the capital improvements program (CIP) of the State for fiscal year 1970-1971.

After reviewing the accomplishments of

the 1970 legislature in such diverse areas as education, economic development, housing, environmental protection, social advancement, human resources, and oceanography, we have concluded that a strong and comprehensive CIP is necessary in order to effectively implement these programs. This bill will provide the CIP funds needed to cover the capital expenses needed for these programs. Thus, our recommendations as reflected in this bill are thoroughly consistent with the other actions of this 1970 legislature.

In the course of our deliberations, our attention became focused on a number of specific areas of interest or concern. We wish to highlight them as follows:

**Kaiser Estate.** In authorizing funds for the purchase of the Kaiser Estate, it is our intent that the University of Hawaii may utilize either operating budget funds or indirect funds received in order to provide maintenance on the property.

**Planning-Programming-Budgeting System (PPBS).** Your Committee anticipates that, with the implementation of PPBS in the State government, future capital improvements will not be on a piecemeal basis but as part and parcel of the planning and analysis of existing and new programs. PPBS lays heavy emphasis on the examination of alternative ways to achieve objectives, including the capital improvement components of alternatives. The deficiency of the existing system, which separates capital costs from operating costs and makes difficult any attempt to arrive at the total costs of programs, is to be overcome by the application of the concept of full costs, which calls for the presentation of the research and development, capital and non-capital investment, and operating costs for each program. As PPBS is developed, it is expected that much more meaningful capital improvements planning will take place in the context of program planning and that both the executive branch and the legislature will begin to have the kinds of information necessary to assess how programs, including their supportive capital requirements, will bring about the end results which gov-

ernment seeks.

**Effective Utilization of Facilities.** Your Committee expects the agencies of the State government to explore fully the possibilities of higher and more effective utilization of public facilities. One of the objectives of such utilization should be the placement of those activities which deal with the public in locales of easy accessibility. The State's efforts to humanize its activities and to become more responsive to the needs of the people should also include consideration for the public's physical convenience in its dealings with government agencies. In the normal course of space rearrangements or in the utilization of new space, all government agencies are expected to accommodate more effectively the people they serve.

**The CIP and the Environment.** The growing concern over the effects of man and his technology on the environment points to the necessity of fully considering the "spill-over" effects of capital improvements projects.

These projects should enhance rather than detract from our environmental well-being. Scenic vistas should not be marred by unsightly structures. The works of nature should not be mindlessly destroyed. Facilities which are not appropriate for our conditions and which aggravate social problems, such as the Kuhio Park Terrace high-rises, should be avoided.

As one example, we are concerned with the inconveniences and disruptions to learning caused to those school children who must attend classes in schools near airports and other facilities with a high related noise level. The department of education is requested to (1) consider air-conditioning, sound proofing or other corrective measures for existing schools, and (2) avoid such unsuitable sites for future school planning.

Clearly, the consideration of spill-over effects, including effects on the environment, should be a part of CIP analysis. Without such considerations, capital "improvements", far from improving the quality of the environment, may detract

substantially from it. Unlike acts of nature which may not be controllable, capital improvements result from governmental decisions and should therefore be completely controllable. This has meaning, however, only if the spill-over effects of capital improvements are taken into account **before** decisions are made and implemented. So important is this question that government must take heed that one of its missions is to improve the environment, not to despoil it by design or oversight. All program managers of the State are requested to consider fully, through program analysis, the spill-over effects of capital improvements. It may also be desirable to establish review of capital improvements by such office as may be charged with the responsibility of advising on environmental quality for the specific purpose of ascertaining the effects of proposed public works on the quality of the environment. It is recommended that the administration determine how such review may be effectively implemented.

Your Committee on Conference is in accord with the intent and purpose of **S. B. No. 1131-70, S. D. 2, H. D. 1, C. D. 1**, as amended herein, and recommends its passage on final reading in the form attached hereto as **S. B. No. 1131-70, S. D. 2, H. D. 1, C. D. 2**.

Representatives Wakatsuki, Minn,  
Kondo, Kunimura, Lee, Pacarro,  
Sakima, Suwa, Ushijima, R. Wong,  
Ajifu, Devereux and Lum.  
Managers on the part of the House.

Senators Hulten, Kawasaki, Anderson,  
Yee, Ching, Fernandes, Hara, Miri-  
kitani, Nishimura, Rohlfing, Yamasaki,  
Yoshinaga and Ushijima.  
Managers on the part of the Senate.

Senators Anderson, Yee, Mirikitani, Ni-  
shimura and Rohlfing were excused.

**Conf. Com. Rep. 30 on S. C. R. No. 56**

Your Committee on Conference on the

disagreeing vote of the Senate to the amendments proposed by the House to S. C. R. No. 56, S. D. 1, H. D. 1 entitled:

“SENATE CONCURRENT RESOLUTION RELATING TO THE DEVELOPMENT OF PHASE I AND PHASE III, MAGIC ISLAND.”,

having met after full and free conference, has agreed to recommend, and does recommend, to their respective Houses, the adoption of said Concurrent Resolution, as amended herein.

S. D. 1 of the Concurrent Resolution provided for the repeal of S. C. R. No. 63, S. D. 1, H. D. 2 adopted at the 1969 Legislative Session, which provided for the development, under Act 68, S. L. H. 1968, of Phase I of Magic Island for a park and the submerged lands off the Kewalo end of Ala Moana park for high rise buildings and new beach area. S. D. 1 further directed the Department of Land and Natural Resources to continue its developments of Phase I, Magic Island, for park and recreational purposes and requested the Governor to release for such purposes all funds previously appropriated for Magic Island development. S. D. 1 further provided that “no reclamation or development for hotel, resort or similar commercial purposes shall take place on any of the submerged or reef lands makai of the existing Ala Moana Park (TMK 2-3-37-1) and Kewalo Peninsula or in Kewalo Basin.”

H. D. 1 deleted all reference to the various Phases of Magic Island, and also deleted all mandates against or monies for developments, but provided simply that the Magic Island Concurrent Resolution of 1969 (S. C. R. No. 63), together with S. C. R.’s 64 (Kealakehe on the Big Island), 75 (Waimanalo Core Development on Oahu) and 76 (Kuliouou House Lots; Old National Guard Rifle Range on Oahu) be repealed in their entirety.

In conference the conferees concluded that the language in S. D. 1 which provided

for continuation of the Phase I, Magic Island development with funds heretofore appropriated was unnecessary. Opinions of the Attorney General to the House Committee Chairman on Lands dated April 13, 1970 and to the Senate Committee Chairman on Lands and Natural Resources dated May 12, 1970, verify that funds appropriated as Item 1 (F) (6) of Act 195, S. L. H. 1965 (\$1,000,000) and Act 201, 1963 S.L.H. (\$1,500,000), or so much thereof as remains unexpended, may be expended by the Department of Land and Natural Resources for the continued development of Phase I, Magic Island as a State park regardless of whether S. C. R. 63 of the 1969 Session is repealed or not. This language has, therefore, been deleted by the Conference Committee.

The conferees have also agreed that the language quoted earlier in this committee report providing that no hotel, resort or similar commercial buildings shall be developed on the lands makai of Ala Moana Park or Kewalo Peninsula should also be deleted, because of the House position that such language may impliedly authorize other types of developments in such area.

The conferees have also agreed that all references to S. C. R.’s other than S. C. R. 63 should be deleted, and that if any other 1969 S. C. R.’s under Act 68, 1968 Session should merit repeal, such should be separately considered.

Having thus compromised its differences, the Conference Committee has rewritten S. C. R. No. 56, S. D. 1, H. D. 1 so that it represents approximately a mid-point version of the positions of the two houses and repeals outright S. C. R. No. 63 only. Your conferees would like to make it clear, however, that reference to the continued development of Phase I, Magic Island, for park and recreation purposes was deleted because the Attorney General has determined that reference thereto is unnecessary, and not because of any lack of favor of such continued development. Your conferees strongly approve of the use of the aforesaid appropriations for continued development of Phase I of Magic

Island for park and recreation purposes.

Your Committee on Conference is in accord with the intent and purpose of **S. C. R. No. 56, S. D. 1, H. D. 1**, as amended herein, and recommends its adoption in the form attached hereto as **S. C. R. No. 56, S. D. 1, H. D. 1, C. D. 1**.

Representatives Serizawa, Kawakami and Aduja.

Managers on the part of the House.

Senators Lanham, Yoshinaga and Henderson.

Managers on the part of the Senate.

## SPECIAL COMMITTEE REPORTS

**Special Com. Rep. 1**

Your Committee on Credentials begs leave to report that it has thoroughly investigated, considered and reviewed the matter of the seating of Sarah K. Pule and Hiram L. Fong, Jr. as members of the House of Representatives of the Fifth Legislature of the State of Hawaii, Regular Session of 1970, and finds that they are duly qualified to sit as members of the House of Representatives for the representative districts as follows:

Fifth District: Sarah K. Pule

Fifteenth District: Hiram L. Fong, Jr.

Your Committee, to which was referred the letter of resignation of Representative Akoni Pule from the Fifth Representative District and the communication from the Governor of the State of Hawaii on the appointment of Sarah K. Pule to fill the vacancy created by the resignation, has reviewed the letter of resignation, the communication of appointment, and her qualification, and finds her to be qualified and recommends that Sarah K. Pule be seated as a member of the House of Representatives from the Fifth Representative District.

The determination of the member elect for the sixth seat to which the Fifteenth Representative District is entitled has been the subject of unfortunate controversy and confusion. The tortuous road toward the determination thereof has caused undue anxiety to both honorable men involved in the contest from circumstances innocent of their doing.

Your Committee notes that the Hawaii State Constitution empowers each house to be the judge of the elections, returns and qualifications of its own members. In recommending to the House with respect to the exercise of this power, your Committee has considered the totality of all the factors bearing upon the elections, returns and qualifications. And consistent with your Committee's statements and rec-

ommendations set forth in its **Special Com. Rep. Nos. 1 and 2** (1969), your Committee has reviewed and assessed due weight to the decision of the State Supreme Court in **Akizaki v. Fong**, No. 4864 (1969), along with all the other factors bearing upon the elections, returns and qualifications, including the issuance of the certificate of election by the Lieutenant Governor to Hiram L. Fong, Jr. pursuant to the results of the special election held on January 10, 1970.

With due attention and consideration of all the facts before it, your Committee finds Hiram L. Fong, Jr. to be qualified and recommends that he be seated as a member of the House of Representatives from the Fifteenth Representative District.

Signed by Representatives Oshiro, Garcia, Kunitura, Menor, Suwa, de la Cruz, Iha, Lee and Soares.

**Special Com. Rep. 2**

Your Joint Interim Committee on Budget Format and Review, appointed to determine a budget format suitable to the needs of the legislature and to make recommendations to the 1970 regular session of the legislature, begs leave to report as follows:

**DIRECTION TO THE COMMITTEE**

The basis for the establishment of your committee and the assignment of responsibilities to it is contained in **conference committee report no. 23** to the general appropriations bill (H. B. 1, H. D. 2, S. D. 1, C. D. 1) and **conference committee report no. 18** to the capital improvements appropriations bill (S. B. 2, S. D. 2, H. D. 2, C. D. 1). The two reports, in common, recommended that a budget format suitable to the needs of the legislature be determined or developed during the interim period and that recommendations be made to the legislature on the budget format to be enacted into law. In addition, **conference committee report no. 18** directed that the



budget format to be developed provide for budgeting with a planning focus and follow the approach which has come to be known as Planning-Programming-Budgeting (PPB). Both reports also requested that appropriate recommendations be made concerning an effective process for legislative review of the budget.

In reviewing the tasks assigned to your committee, it decided at the outset to give the highest priority to the development of a new budget format. The conference committee reports had defined the urgency of this task and had pointed out the desirability of synchronizing a new budget format with the preparation of the first biennial budget, which is required by the Constitution to be submitted to the legislature in 1971. The reports also reminded your committee that exigencies, in turn, require that the legislature be prepared to specify its budget format requirements in the 1970 session. Your committee has approached its tasks in accordance with these priorities.

#### **DIRECTION TO THE ADMINISTRATION**

Through its recommendations in the conference committee reports, the legislature had intended that the administration participate in the development of a new budget format. Both reports requested the department of budget and finance, the department of planning and economic development, and the central analysis group to coordinate the preparation of alternative budget formats to be submitted by September 1, 1969, at the latest. The format subsequently approved or developed was to have been used by the administration as the basis for submitting a supplementary budget to the 1970 session of the legislature, in addition to the traditional budget.

Your committee was not in a position to approve any budget format proposal of the administration, for the reason that no coordinated proposal was submitted. In October, your committee did receive suggestions from the central analysis group on certain aspects of the budget. However, your committee was also informed at that

time by the State director of finance that the suggestions made by the central analysis group represented the views only of that group and that the CAG function, then in the office of the governor, was soon to be transferred to the department of budget and finance. In view of these circumstances, the task of developing a new budget format devolved solely to a legislative effort borne by your committee.

#### **TASKS ACCOMPLISHED**

Your committee is pleased to report that during the interim period, it has accomplished two principal tasks assigned to it:

1. A new format for the budget and other information to be presented have been developed and are attached to this special committee report.
2. Recommendations concerning the format to be enacted into law have been formulated and are contained in this report.

As directed by the conference committee reports, technical assistance was furnished to your committee by the office of the legislative auditor. Various alternatives concerning almost every aspect of the budget were furnished to and considered by your committee, and it is confident that the best of the alternatives have been distilled and merged into the format which your committee has prepared and now recommends through this report.

#### **BACKGROUND TO THE DEVELOPMENT OF THE NEW BUDGET FORMAT**

The development of the new budget format involved more than the mere specification of forms. Your committee found it necessary to conduct a thorough review of the basic functions of budget systems, budget development trends and emerging concepts in the United States, budget development in Hawaii, and the implications of the 1968 amendments to the State Constitution. The review conducted is summarized here so that the legislature may have some perspective from which it may evaluate your committee's recommendations.

### **The Functions of Budget Systems.**

Every budget system serves three basic functions; planning, management and control. Planning is concerned with determining objectives identifying alternative ways to attaining stated objectives, weighing alternatives and determining the amount and kinds of resources to be used in accomplishing end results. **Management** involves the translation of plans into specific activities, organizing the units to carry out the programs, acquiring the necessary resources, and using the resources acquired effectively and efficiently in the accomplishment of the organization's objectives. **Control** deals with the actual execution of programs and with the means to insure that specific tasks are in fact carried out, that funds are expended only for purposes authorized and that policies and procedures relating to matters such as personnel recruitment, purchases, travel and subsistence are adhered to. All budget systems serve the three basic functions, but equal emphasis is not usually given to all of them. The history of government budgets in the United States has been one of shifts in emphasis from one function to another.

**Budget Development Trends in the United States.** There have been three identifiable stages in the development of the federal budget. In the first stage, the emphasis was on control; in the second stage, management was the orientation; and in the third and current stage, the focus is on planning. Among some state and local governments, budgets have gone through similar stages of development, although there are other jurisdictions which have not advanced beyond the first or second stages.

The budget associated with the first stage and its emphasis on control is generally referred to as a line-item budget. For each unit of government, the line-item budget specifies in detail the numerous items required for the unit's operations, including such requirements as personnel, supplies, equipment and rentals. By enumerating the items and objects for which expenditures are to be made and by imposing limitations on the amounts which might be spent for each, the line-item budget seeks to insure that funds are expended

only as authorized.

The management oriented budget associated with the second stage of budget development has come to be known as the performance budget. In such a budget, expenditures are classified by organizations, and for each organizational unit, by functions and activities. The cost of each activity is generally calculated on a unit cost basis, and the figure opposite an activity reflects the amount of that activity contemplated for performance. The cost of an activity is usually separated into the following parts: (1) the cost of providing the existing level of performance; (2) the cost of workload increase; and (3) the cost of expansion or new activity. The performance budget enables management to monitor the performance of activities by work-cost measures, and it is designed to insure the work efficiency of operating units.

The planning emphasis in budgeting has emerged with the growing recognition that the problems of control and performance are better left to the line supervisors and middle managers, and that top-level decision-makers, whether in the executive branch or the legislature, should concern themselves with the objectives of government and the efficient allocation of resources to attain those objectives. The planning emphasis in budgeting emerged prominently in the past decade, first with its introduction into the U.S. department of defense in 1961, and then with its adoption in 1965 for the federal government. Soon thereafter, a number of state and local governments were engaged in implementing planning-budget concepts.

The distinguishing characteristics of the planning-budget can best be discerned by comparing it with the performance budget. While the performance budget is concerned with the process of work, the planning budget focuses on the purposes of work; while the performance budget is classified by functions and activities, the planning budget is classified by programs without regard to organizational lines; while the performance budget involves work measures, the planning budget calls for effectiveness measures; and while the

performance budget is accompanied by narratives which justify, the planning budget requires analytic narratives explaining the objectives being pursued, the alternatives considered and the analysis that was performed.

**Budget Development in Hawaii.** As with the general trend in the United States, budgeting in Hawaii has also evolved from a control orientation to a management orientation to the current interest in planning. During its territorial period, Hawaii's budgets emphasized line-item control, and the appropriation acts classified expenditures by organizations units and by objects or items of expenditure. In 1959, the legislature moved into what has been identified as the second stage of budget development by appropriating funds in a performance budget format. The biennial budget enacted by the last territorial legislature placed each department into one of seven functional areas: economic development and natural resources, education, health and welfare, protective services, central services, judicial branch, and subsidies to counties and private agencies. The major divisions of each department were then identified and, for each major division, funds were appropriated by major activities rather than by items of expenditure.

The format that the 1959 territorial legislature adopted represents essentially the format which exists today, although the number and kinds of functional grouping have altered slightly, due to the changes in emphasis and the Hawaii State Reorganization Act of 1960. The functional areas today are: education; development and natural resources; health, protective and social services (including the judiciary); finance, commerce and staff departments; other appropriations; and subsidies to counties and private agencies.

Legislative interest and action toward a planning-oriented budget gained momentum in the second half of the past decade, but the movement towards a planning emphasis may be discerned as early as the 1950's. Particularly significant was Act 150, S.L.H. 1957, which created the office of planning, the forerunner of the current

department of planning and economic development. Act 150 also mandated the development of a long-range, economic development, general plan for the State. Among the objectives to be sought in the general plan were the development of economic sectors, other than pineapple, sugar and defense, to keep pace with population projections and anticipated employment needs and the equalization of emphasis of governmental efforts between the neighbor island and Oahu. The act further provided for a review by the planning office of all departmental capital improvement proposals to determine conformance and consistency with the general plan and the submission of the State's capital improvement budget to the legislature in a format which would show programming for at least six years.

The economic boom and population increase which accompanied statehood resulted in demands for new governmental programs, particularly in education, health, and welfare services. Problems became more complex, and as government programs multiplied in number, size and scope, the legislature became increasingly aware of the necessity for governmental units to coordinate their efforts in attaining governmental objectives. At the same time, it became increasingly difficult for the legislature to decide questions of how best to allocate State resources among competing programs. More and more, the legislature found itself asking, "Why are we doing this? What are we trying to accomplish? What end results are we seeking? How can we determine that government programs are actually meeting the needs of the people?" Answers to these questions were hard to come by, and it was of little comfort to be informed by the departments that the activities were "necessary to improve" the lot of the citizens. The results were inevitable. Numerous legislative requests for planning by the departments began to surface. Unfortunately, these early demands for planning were accompanied by few guidelines, and such planning as did take place were fragmented efforts.

Possibly the first comprehensive planning guidelines to a department were those

guidelines issued to the department of education in 1966. In that year, the legislature appropriated funds in a lump sum to the department of education and the university of Hawaii. The lump sum appropriation was an expression of the legislature's priority with respect to State programs. Education was considered so important an aspect of governmental endeavor that the legislature felt that the end of education could best be met by providing the department some flexibility in using the funds appropriated to it. However, in its direction to the department of education, the legislature formulated guidelines which it expected the department to follow, including: (1) the preparation of a state educational blueprint and master plan for the future in terms of the total educational program; and (2) the preparation of operational plans which would clearly specify for each program the specific long and short range goals and the means of accomplishing such goals.

When the response of the department of education failed to meet legislative expectations, the legislature in 1967 formulated a more detailed framework for the department, the cornerstone of which was the linking of planning with budgeting. It called on the department to formulate statements of objectives for all areas of educational endeavor, and the specific measures by which the success or failure in attaining objectives may be assessed. In addition, total resources over a multi-year period were to be determined, and analysis was to be performed of alternatives. In essence, the department was called upon to implement the planning in budgeting approach known as Planning-Programming-Budgeting.

Other legislative actions towards a planning budget soon followed:

\*In January 1968, the legislature sponsored a seminar on Planning-Programming-Budgeting.

\*In the 1968 legislative session, the legislature requested the administration to develop a State agricultural plan following a Planning-Programming-Budgeting approach.

\*Also in the 1968 legislative session, the joint Senate-House interim committee on capital improvements recommended the integration of the capital improvements and operating budgets and that the State adopt Planning-Programming-Budgeting.

Thus, while the establishment of your joint committee on budget format and review and the rendering of its report herewith are the most recent legislative actions towards a planning budget, the recommendations of your committee may best be viewed as the culmination of a number of preceding legislative actions and as part of long-standing and accelerating legislative interest.

The executive branch also has expressed its support for a planning budget. In 1960, a study commissioned by the then department of budget and review reported the need for information not only on the amount of work being performed, but also on the effectiveness of programs in achieving objectives. The report recommended a "program analysis working paper" for each State program, and it was an attempt to inject some form of analysis into the budget process. The effort, which evolved into the preparation of program evaluation reports, has not met the administration's needs and expectations. As the administrative director stated at the 1968 seminar on Planning-Programming-Budgeting, the program evaluation reports remain primarily descriptions of programs which serve as justifications for budget requests. They contain no analysis, and they do not provide a basis for decisions. Nonetheless, the administration considered the program evaluation report as a step forward.

In addition to the department of education Planning-Programming-Budgeting effort, requested by the legislature in 1967 and which continues today, the administration issued a report in October 1967, recommending that the State embark on a program to improve its budgeting process by emphasizing the planning function of the budget. In the *State of Hawaii General Plan Revision Program* which was issued in 1968, it was recommended that the State establish a continuing "Comprehensive

Planning Program” which would involve the development of a program-oriented budget which displays the full cost of programs, development of a government-wide program structure to permit identification of resources committed to broad government missions regardless of where they occur in the State’s administrative organization, an information system to support the program, the development of “functional planning” so that activities within two or more departments serving the same objective may be evaluated within the context of a broader area of State responsibility, and the application of systems techniques in the State’s planning efforts.

In 1968 and 1969, the central analysis group, then in the office of the governor, coordinated the preparation of department comprehensive plans intended to include multi-year financial, output and manpower plans for recommended programs and to establish the analytical basis for programs, including procedures for evaluation and reporting progress. These efforts demonstrate the convergence of executive branch interest with legislative interest in the development of budgeting with a planning emphasis.

**The 1968 Constitutional Amendments.**

Prior to the 1968 amendments, those provisions relating to the budget provided that the governor would submit a proposed State budget *annually*, the proposed budget would contain a complete plan of proposed *general fund* expenditures, and the budget would be compiled in *two parts* — one setting forth all proposed *operating* expenditures, and the other, all proposed *capital improvements* expenditures.

The Constitution now provides the following with respect to the budget:

\*The governor is to submit a proposed State budget *biennially*, effective in 1971, when the first biennial budget is to be submitted to the legislature.

\*The budget is to contain a complete plan of *proposed expenditures* (deleting the previous reference to the general fund).

\*The budget is to be submitted “in a form prescribed by law” (deleting the previous reference to a two-part budget).

The constitutional convention’s committee on taxation and finance, which drafted the amendments, reported that among the objectives of requiring biennial budgeting are:

“1. To improve planning by enforcing a longer range view of governmental programs.

“2. To alleviate the administrative burden of almost perpetual involvement in the existing annual budgeting process.

“3. To permit more intensive analysis of selected areas of programs by the legislature in alternate years.”

The committee on taxation and finance also reported that it had deleted the requirement that the budget be in two parts, leaving to the legislature the responsibility of specifying the format of the budget, in order “to permit responsiveness to changing budget concepts, such as the Planning-Programming-Budgeting System . . . .”

Your committee has examined the implications of the 1968 amendments. *First*, the deletion from the Constitution of all prescriptions regarding the State budget format greatly facilitates the search for a new budget system and process. The format of a budget is part and parcel of any budgetary system and it should subserve rather than dominate the total system. With the removal of the constitutional prescriptions, a total system may now be devised. *Second*, the mandate that the new budget cycle be implemented commencing with the 1971-73 fiscal biennium accelerates the timetable within which the new budget system must be designed and the revised budget process specified. *Third*, despite some attempts in the convention to restrict the traditional legislative power of review, the legislature retains this power intact. However, the change to the biennial cycle requires that in even-numbered years, the legislature must receive information and data of the kind that will enable it to examine the effectiveness of State pro-

grams and the direction in which the State should progress in future years. Without such information, legislative review would be ineffectual, and the legislature's activity in the years when the full budget is now before it would consist largely of reacting to executive recommendations for amendments to the existing budget.

In essence, the implications of the constitutional amendments have necessitated your committee to examine not only the kinds of information which the budget should contain, but also the kinds of information which should be submitted annually if the legislature is to exercise any effective review, whether in the year the biennial budget is submitted or the year when none is before it.

#### **THE APPROACH TAKEN: PLANNING-PROGRAMMING-BUDGETING**

The trends in budget development, nationally and in Hawaii, coupled with the constitutional requirement that the legislature specify the budget format, logically persuade the formal consideration at this time of a budget format which emphasizes and accommodates planning in budgeting. In developing the budget format, your committee has followed the planning in budgeting approach known as Planning-Programming-Budgeting.

**PPB AND PPBS.** PPB (Planning-Programming-Budgeting) and PPBS (Planning-Programming-Budgeting System) should be distinguished, although both acronyms are used to describe the stress given to the planning function of the budget.

PPB refers to a planning budget or to a budget which emphasizes the planning function. The alternatives to PPB are control budget (line-item budget) and management budget (performance budget). PPBS describes the parts and processes through and by which the planning focus is brought to bear on the budget. There is more than one way of budgeting with emphasis on planning; thus, there is more than one possible system in PPB.

**The Meaning of Planning in PPB.** Plan-

ning in budgeting is concerned with how the resources should be allocated to attain defined end results. It deals with questions of the results or conditions that government should seek to attain, the means by which the ends may be achieved and the amount and kinds of resources required, both now and in the future, to accomplish these ends.

**Analysis.** At the core of planning in budgeting (PPB) is analysis. Through analysis, governmental purposes are specified and the means or programs to be undertaken and the amounts and kinds of resources to be spent in pursuit of the ends are determined.

The major parts of analysis or the steps in planning (and the major characteristics of planning in budgeting) are:

**\*Formulating objectives** or the end-purposes to be sought. Early decisions must be made as to which among several end results should be pursued. Usually there is a hierarchy of objectives, each major objective having subobjectives. Objectives should be as specific as possible, and the lower the level of objectives in the hierarchy, the more specific they are.

The establishment of objectives is crucial in planning because objectives provide the basis for (a) determining what programs are related to one another, (b) determining whether a program is achieving anything worthwhile, and (c) determining the criterion of performance.

**\*Identifying effectiveness measures** (means of determining whether the ends being sought are in fact being attained).

**\*Determining alternative ways (or programs)** in which the ends may be attained (including the different ways in which each alternative may be structured in terms of activities and resources).

**\*Determining the future cost implications** of each alternative. The *full* costs must be identified, including both operational and capital improvements costs. The



interest here is in knowing what the future implications are in terms of costs if that alternative is selected.

**\*Determining the future benefit implications** of each alternative. Benefits are the returns to be expected by pursuing that alternative.

**\*Identifying the major assumptions and uncertainties of the future.**

**\*Identifying the major cost and benefit tradeoffs among the alternatives** in the light of the assumptions and uncertainties. There are two kinds of tradeoffs required here: (1) tradeoffs as among the alternatives in pursuit of an objective and (2) tradeoffs as among the different objectives to be pursued. The question is, for a given sum of money, which alternative for an objective (or program serving differing objectives) is likely to bring the greater incremental benefit or to attain a given level of attainment, which alternative costs the least?

While the parts of analysis are set forth above in what appears to be a sequential order, the different phases blend into each other, and more often than not, each part is considered in an iterative manner.

**Programming.** Planning takes place in the context of a long time period. The time frame may differ from one program to another. Thus, depending on the objective being pursued, the time frame for one program may be six years, ten years, twenty years, or more.

It is not feasible to lay out in a systematic, year-by-year basis, the costs to be incurred over the next ten, twenty, or more years, nor are the estimates of costs and benefits likely to be precise over a long time frame. Thus, plans must be programmed over a more feasible timetable — usually five or six years. Programming simply indicates how much of the plans are to be implemented over a short foreseeable future. Costs and output implications are more precisely identified for each of the five or six years for each program selected to be undertaken.

**Budgeting.** Budgeting is the end product

of planning. It is a monetary expression of the plan to be submitted to the legislature for funding. Moneys are appropriated only for the first year (or the first two years in a biennial budget), but the appropriation is made with knowledge of the future fiscal implications of the immediate commitments of resources.

For the information of the legislature, the budget should be accompanied by reports on the results of prior years' spending and by narratives explaining the objectives of the programs for which money is being sought, the alternatives considered, the costs and benefits identified for each alternative, the assumptions and uncertainties considered, and the tradeoffs performed.

### THE FORMAT

In developing the format which your committee recommends to the legislature, it sought first to establish the general principles which shall be accommodated in the format, it then determined the information which is to be presented as part of the executive budget and the information which is to be contained in other reports, and finally, it agreed on the specifications of each display to be contained in each of the documents.

**General principles.** The following principles guided the development of the format.

1. The budget shall be displayed by programs, grouped in a program structure under the objectives which the programs serve and grouped without regard to their places in the organizational structure.

2. The full costs of each program shall be identified.

3. The objectives, planned program size, and levels of effectiveness of each program shall be identified.

4. Program and financial plans shall be presented which extend beyond the immediate forthcoming fiscal period.

5. Information identifying and explaining variances from planned performance shall be presented.

### Components of the format.

1. The recommendations of the governor for the ensuing fiscal biennium, and information related thereto, shall be contained in the document, *Executive Budget for the Fiscal Biennium*. Relevant portions of the *Executive Budget* shall also be used to submit such amendments to the budget as may be proposed by the governor in even-numbered years.

2. Program and financial plans covering a period of six years shall be contained in the document *A Report of Program and Financial Plans*.

3. Variances from planned performance shall be contained in the document, *The Variance Report*.

The *Executive Budget for the Fiscal Biennium* shall, in general, contain the governor's recommendations and his proposals for revenues and expenditures for the ensuing biennium. Unless otherwise specified, information shall be presented for each year of the fiscal biennium, with comparative data for the current year and the preceding year. Specifically, the following information shall be presented:

\*Proposed expenditures, categorized by research and development, capital investment, non-capital investment, and operating; means of financing; and number of personnel positions; for each level of the program structure.

\*Comparison of the estimated expenditures of the current biennium and the funds requested for the budget biennium of programs at the lowest level of the program structure, and identification of the major reasons between the two.

\*Measures of effectiveness and planned levels of effectiveness for each level of the program structure.

\*Program size indicators and planned program size for each level of the program structure.

\*Crosswalks or reconciliation of the planned program expenditures for each

program at the lowest level of the program structure with the departments of government responsible for expending the funds.

\*Summary of capital improvement expenditures by programs and projects, showing for each project total costs, prior appropriations, funds requested for each year of the budget biennium, estimates for four years beyond the budget biennium, categorized by costs for land acquisition, design and construction, with means of financing identified.

\*State financial summaries which display total expenditures, resources and proposed revenue changes; expenditures, resources and proposed revenue changes of the general fund; and expenditures, resources and proposed revenue changes of special funds.

\*Tax revenue estimates from authorized taxes at authorized rates, revenues from sources other than taxes at authorized rates, proposed changes in tax and non-tax revenues, for the general fund and special funds.

\*Fund balance estimates of individual special funds.

\*Proposed borrowing by types of bonds categorized by bond issuance to meet current requirements and bond issuance to meet requirements of prior periods.

\*Tentative schedule of issuance of bonds by quarters and categorized by types of bonds.

\*Debt service requirements categorized by general obligation bonds outstanding and general obligation bonds to be issued, projected five years beyond the budget biennium, with comparative data for one year preceding the budget biennium.

\*Statement of the funded debt as of the beginning of budget biennium, including information of the legal debt limit, the debt chargeable to the legal debt limit, the legal debt margin and details thereof.

*The Report of Program and Financial*

*Plans* shall, in general, contain a description of the programs recommended, a summary of the analysis leading to the recommendations, and a description of that portion of the program plans to be implemented in the ensuing six years, together with the six-year cost implications of the recommended programs. Comparative data for the current year and the preceding year shall be included. Specifically, the report shall present for each year specified, the following information:

\*Total costs, means of financing and number of personnel positions for each level of the program structure.

\*Expenditures planned for each level in the program structure categorized by research and development, capital investment, non-capital investment and operating. For each program at the lowest level in the program structure, expenditures will also be shown by the sub-categories research, test, and evaluation under *research and development*; personal services, other current expenses, equipment, motor vehicles, and such other classifications as may be determined to be appropriate under *operating*; land acquisition (comprised of land cost, consultant services and staff services), design (comprised of consultant services and staff services) and construction (comprised of building, equipment, landscaping, consultant services and staff services) under *capital investment*. For each program at the lowest level in the program structure, the program revenues shall be shown and expenditures shall be recapitulated by source of financing.

\*Statements of objectives, measures of effectiveness, and planned levels of effectiveness for each level of the program structure.

\*Statements which explain the plans for the programs at each level in the program structure which are designed to lead to the attainment of objectives, and which describe the analysis which led to the selection of the objectives and the allocation of resources among the programs.

\*Program size indicators and planned

program size for each program at the lowest level of the program structure.

\*Detailed plans for each program at the lowest level of the program structure including objectives, measures of effectiveness, planned levels of effectiveness, program activities, measures of program size, planned program size levels and a summary of analysis conducted which led to the plans. The summary of the results of analysis shall include: a statement of the program issues; the objectives being pursued and the activities to be undertaken; the alternatives, the costs and effectiveness levels; the effectiveness of the program in the past, the causes of their success or lack of success; the size of the program planned; how cost and revenue figures were arrived at; events which could effect results in the plan; significant differences in the plan from prior performance.

\*Financial plan and implementation schedule of capital improvements which display the costs of land, design and construction, prior appropriations, source of financing; and the start and completion dates of land acquisition, design, construction, and occupancy.

\*Crosswalks or reconciliation of the planned program expenditures for each program at the lowest level in the program structure with the departments of government responsible for expending the funds in the budget biennium.

\*Receipt and revenue plans which display total expenditures, resources and proposed revenue changes; expenditures and resources and proposed revenue changes of the general fund; and expenditures and resources and proposed revenue changes of special funds.

\*Fund balance estimates of individual special funds.

\*Tax revenue estimates from authorized taxes at authorized rates, revenues from sources other than taxes at authorized rates, proposed changes in tax and non-tax revenues for the general fund and special funds.

\*Proposed borrowing by types of bonds, with borrowing categorized by bond issuance to meet current requirements and bond issuance to meet requirements of prior periods.

\*Narratives and statistical displays which describe the present and projected economic condition of the State, the factors which affect and indicate the trend of the economy, and the basis upon which tax and non-tax revenues were made.

The *Variance Report* shall, in general, compare budgeted and actual expenditures, program size and effectiveness with reasons for major deviations. Specifically, the report shall present the following information:

\*The prior estimate, the actual, and the difference between the two, of the total expenditures and the levels of program effectiveness attained, for the preceding year and the first quarter of the current year for each level of the program structure.

\*The prior estimate, the present estimate, and the difference between the two, of the total expenditures and the levels of program effectiveness to be attained, for the last three quarters of the current year for each level of the program structure.

\*For each program at the lowest level of the program structure, there shall be displayed the budgeted and actual total expenditures for the preceding year and the budgeted and estimated total expenditures for the current year, categorized by life-cycle costs, and an explanation of the differences therein, with the differences classified as being due to personnel costs, the size of the clientele group, the schedule for implementation, the level of effectiveness sought, the addition or deletion of a program or activity, or the cost of goods and services.

\*For each program at the lowest level of the program structure, there shall be displayed the budgeted and actual expenditures for the preceding year and

the first quarter of the current year, and the budgeted and estimated expenditures for the last three quarters of the current year, categorized by research and development (including research, planning, and test and evaluation), investment (including non-capital and capital), and operating (including personal services, other current expenses, equipment, and motor vehicles); and an explanation of the reasons for the differences therein, with the differences classified as being due to personnel costs, the size of the clientele group, the schedule for implementation, the level of effectiveness sought, the addition or deletion of a program or activity, or the cost of goods and services.

\*For each program at the lowest level of the program structure, the planned and actual program size and levels of program effectiveness for the preceding year and the planned and estimated program size and levels of program effectiveness for the current year with an explanation of the differences therein.

#### IMPLEMENTATION

Your committee is aware that the full implementation of a budgetary system which emphasizes the planning function of the budget cannot be expected within a short period of time. Traditional attitudes must be overcome, and personnel must be trained. Nevertheless, your committee believes that a definite timetable should be formulated for the implementation of planning in budgeting. In arriving at its recommendations, your committee has considered three basic issues.

**Incremental versus Uniform Implementation.** The crux of the issue is whether PPB and the new format should be applied on a piecemeal basis or whether it should be applied to all programs of the State. Your committee believes that the program approach, rather than the departmental approach, as called for by PPB and as incorporated in the format, requires that the implementation be uniformly on a statewide across-the-board basis. If only certain programs were to be brought under PPB and the new format initially, there

would be agencies which would have some programs under PPB and not in others. This would be as confusing to the executive branch as it would be to the legislature. In addition, incremental implementation may suggest to some that the new format is experimental and, possibly, nothing more than a passing exercise. For PPB and the new format to be of any utility to the executive as well as the legislature, those who shall be working with it must be convinced that far from being merely an exercise, it is in fact to be used as the basis for decision-making.

**Implementation of the PPB Structure versus Actually Doing Analysis.** The essence of this issue is whether the formal PPB structure or system, including the formalization of a program structure, the identification of program objectives, the determination of effectiveness measures and program size indicators, and the budget format itself, should precede or follow the actual doing of analysis. Your committee is aware that analysis is at the core of PPB, and that it is the actual doing of analysis which makes PPB operational. At the same time, however, it believes, as is evident by its recommendation for a new format, that some formal PPB structure must be established at the outset of implementation. There are several reasons why your committee believes this to be desirable.

1. Analysis cannot occur in a vacuum. The worth of any piece of analysis is its ability to find its way in the budget. Indeed, the *raison d'être* of PPB is to link analysis to budgeting. A formal structure provides that link; it furnishes the means of transmitting relevant information derived from analysis to the executive and the legislature at the appropriate time.

2. The formal structure induces analysis; it encourages and even compels people to think in program terms.

3. A formal structure institutionalizes analysis and encourages its systematic generation; it insists that analysis become a normal, routine process of government rather than sporadic efforts.

4. A formal structure provides a frame-

work for analysis. The arrangement of governmental programs according to common objectives insures that all relevant program activities are included in the analysis of major government programs.

5. A formal structure identifies the different governmental agencies whose programs are designed to attain a common objective. Such identification induces the various agencies to communicate with one another and provides a basis for determining which program issues and policies require coordinated and cooperative effort.

6. Even if PPB is not implemented in government in the full operational sense, each of the steps required in formalizing the structure has an intrinsic value in itself.

Your committee believes that both the formal structure and analysis must be developed simultaneously, although not necessarily at the same speed. While the recommendation for adoption of a new budget format at this time as part of the formal PPB structure may appear to suggest that structure has been favored over analysis, the basis for your committee's recommendation is not "either — or" but to encourage the emergence of analysis as the structure itself is established.

With this purpose in mind, your committee believes that the following would be a reasonable timetable for the development of analysis.

**1971:**

\*analysis of changes to FY 1970-71 programs

\*identification by departments of areas for analysis in 1971-72

\*selection by legislature for analysis.

**1972:**

\*legislative review of analysis performed

\*selection of areas for analysis for 1972-73.

**1973:**

\*legislative review of analysis performed

\*selection of areas for analysis for 1973-74.

Initial Dual Submission of the Budget versus Single Submission in the New format. Your committee believes that there should be a transition period before complete conversion to the new format. Dual submission of the budget, one in the current, traditional form, and one under the new format, appears to your committee to be a prudent course for the first submission. This will enable the legislature to fully assess the new format, compare it with the traditional format, and make such changes as may be desirable or necessary prior to commitment to single submission of the budget in the new format.

#### RECOMMENDATIONS

**Implementation Schedule.** Your committee recommends the following schedule in implementing the new format:

Not less than twenty days before the legislature convenes for the 1971 regular session: the governor shall submit two budgets, one under the present format and one under the new format.

Not less than twenty days before the legislature convenes for the 1971 regular session and annually thereafter: the governor shall submit the *Report of Program and Financial Plans*.

No later than December 1, 1972 and annually thereafter: the governor shall submit the *Variance Report*.

Not less than twenty days before the legislature convenes for the 1973 regular session and biennially thereafter: the governor shall submit the budget under the new format.

**Legislation.** Your committee has requested that appropriate legislation be prepared to enact the new budget format and implementation schedule into law and recommends early passage of such legislation in the 1970 regular session in order to provide the administration with as much

time as possible in preparing the first biennial budget.

#### **Recommendations to the Administration.**

Your committee recommends that the administration carefully review the new format to determine: (a) the information requirements of the new format; (b) the accounting requirements of the new format. The administration should proceed with dedicated dispatch to insure that the statewide information system (SWIS) and the statewide accounting system (SWAS) are capable of supporting data requirements by the time the first biennial budget is implemented.

Your committee recommends that the administration proceed at once to establish a systematic training program in Planning-Programming-Budgeting for State officials and employees, with such training to be tailored to various levels of needs and requirements.

Your committee also recommends that the administration submit to the 1971 regular session of the legislature such recommendations for improving the new format as it may determine to be appropriate; such submission to be made 30 days prior to the session.

**Uncompleted Task.** Your committee was charged with the responsibility of determining the process by which the budget is to be reviewed by the legislature. As your committee has reported, the development of the new budget format received the higher priority in view of the necessity to recommend legislation to the 1970 legislative session and prevented your committee from fully considering the budget review process. To complete this remaining task, your committee recommends that a joint interim committee be appointed to study the review process in the period between the end of the 1970 regular session and the beginning of the 1971 regular session and to make appropriate recommendations to the Sixth State Legislature.

Representatives Wakatsuki, Lee, Minn, Suwa, Taira, Ushijima, R. Wong, Devereux and Lum.



Members of the House.

Senators Hulten, Ching, Fernandes,  
Yamasaki, Yoshinaga and Anderson.  
Members of the Senate.

### Special Com. Rep. 3

Your joint Senate-House interim committee appointed to work with the department of education, pursuant to **conference committee report no. 23**, attached to **H. B. 1, C. D. 1** (Act 154, S.L.H. 1969) begs leave to report as follows:

#### BACKGROUND

The present effort of the joint committee traces its history to 1967 when a joint interim committee composed of members from both houses of the legislature was appointed to work with the department of education in developing a new budget request format, reflecting the "planning-programming-budgeting" approach which would enable the legislature to identify the department's objectives, programs to carry out these objectives, possible alternatives and costs, and which would also allow the legislature to measure and evaluate the department's progress in attaining its objectives. This step was taken due to the inability of the department to properly report and account in a manner which would permit the legislature to carry out its responsibility of making budget decisions. The new budget format was intended to enable the legislature to better assess the effectiveness and efficiency with which the department is operating.

The 1967 joint committee and the department of education agreed to confine, initially, their work to the major disciplines, viewing each of them in its entirety from kindergarten to grade 12. The first area selected to be placed on the new format was language arts. The joint committee was pleased with the format developed for language arts as it appeared to provide the kind of information the legislature needed to make meaningful decisions. The 1968 legislature concurred with the recommendations of the joint committee as set forth in **special committee report no. 2**, February 1968. Among other matters, the joint

committee recommended that the entire public education system be cast in the PPBS format by December 31, 1969; that the department maintain the language arts planning, programming, budgeting staff as the core of the group which will cast the total educational system into the PPBS format; and that a joint interim committee from the legislature be appointed to work during the interim preceding the 1969 session in the same manner that the first joint committee worked with the department.

In 1968, the joint committee and the department focused on the subject areas of math, counseling and guidance, social studies, vocational education, and science. The products submitted were the results of work done by various program specialists in the department of education, with some technical assistance of the office of the legislative auditor.

Although the resulting documents were far from perfect, the interim committee was of the belief that a good beginning had been made in each of the areas covered by the documents as they were put together in a fashion as to enable the legislature to understand the programs of the department and to raise fundamental questions which lead to better decision-making.

The joint committee identified a number of problem areas, the more serious being (1) the failure of the department to get started on the projects early in the year, not providing analytic training to the specialists prior to their doing of analysis, and not availing itself sufficiently of the technical assistance of the office of the legislative auditor; (2) the failure of the department to maintain the planning, programming and budgeting staff which had worked on language arts in 1967-68 as the analytic core to cast the total educational system into the PPB format, the group being assigned other responsibilities in the department; and (3) the failure of the department to make modifications to its accounting system and its other information collection system whereby the department can generate the data necessary for the kind of analysis demanded by the PPB system.

The joint committee, in **special commit-**

tee report (no. 2, Senate) and (no. 3, House) 1969, recommended:

1. That the work done in the areas of language arts, social studies, mathematics, science, practical arts, vocational-technical, and guidance and counseling be reviewed, improved and updated.

2. That (a) the department complete the PPB program analyses in the entire curricular area by August of 1969; (b) the department complete PPB program analyses of other educational areas by December 31, 1969; and (c) the entire department's budget be submitted in the PPB format at the 1970 session of the State legislature.

3. That, in the light of biennial budgeting which becomes effective in 1971, the cost of the programs selected be projected for a period of six, rather than five, years.

4. That a joint committee composed of members of both houses of the legislature be appointed to work with the department of education during the 1969 session of the legislature and during the interim between the 1969 and the 1970 sessions in the same manner that the first and second joint committees worked with the department, with the office of the legislative auditor providing technical assistance to the joint committee.

5. That the department organize a technical, analytical PPB staff to be responsible for all PPB program analyses and for the casting of the total educational endeavor in the planning, programming, budgeting format and for providing assistance to the program specialists, and that it formulate and execute plans for the training of this central staff and the program specialists.

6. That the department begin at once to modify its accounting and other information systems in such fashion as to enable the collection of such data as are necessary for a successful implementation of the planning, programming, budgeting system.

The 1969 legislature concurred with the recommendations of the joint committee

as contained in the special committee report and in conference committee report no. 23, attached to H. B. no. 1 (operating budget), urged the department to heed the concerns expressed in the joint committee's special report regarding the hazards of delaying implementing actions.

#### ORGANIZATION OF THE COMMITTEE

Your committee consisted of Senator Stanley I. Hara, who served both as chairman of the Senate members and of the joint interim committee; Senator D. G. Anderson; Senator Donald D. H. Ching; Representative Robert S. Taira, who served as chairman of the members of the House; and Representatives Frank C. Judd, Akira Sakima and James H. Wakatsuki. With the exception of Senator Ching and Representative Wakatsuki, all members served on the joint interim committee on education between the 1968 and 1969 legislative sessions.

#### WORK PROGRESS

The recommendation made by the joint committee in special committee report no. 3, dated March 3, 1969, that the department complete PPB program analyses of all educational areas by December 31, 1969 and submit the department's entire budget in the PPB format at the 1970 session of the legislature, was subsequently revised so as to target for completion only the curricular programs by the end of 1969.

The department of education submitted to the joint interim committee documents in the following subject areas: social studies, mathematics, science, practical arts, vocational-technical, counseling and guidance, music, physical education, health education, art, special education, and foreign languages. The first six subject areas noted above were continued efforts from 1968. In addition, updated documents for language arts were submitted.

Documents in each of the subject areas consist of *Volume I, Six-Year Financial and Output Plans* and *Volume II, Analytic Document*. The language arts documents

comprise a *Variance Report*, which notes the differences between actual performances and planned performances and the reasons therefor. In place of *Volume III, Program Memorandum*, which was in previous years submitted for each curricular area, the department submitted a *Superintendent's Program Memorandum*, which contains the program recommendations of the assistant superintendent of instructional services (Dr. Arthur F. Mann) to the superintendent of education from all of the alternative programs presented in the analytic documents.

Your joint committee and the department of education met to review and discuss these documents at intervals as follows: October 22, 1969, October 28, 1969, November 5, 1969, November 12, 1969, November 19, 1969, December 2, 1969 and December 15, 1969.

Your committee notes that generally the analytic documents are an improvement over those submitted during the past year in terms of brevity and clarity of language. However, your committee finds that many of the documents require extensive revision. Your committee, with the assistance of the office of the legislative auditor, has informed the department both verbally and in writing of the specific deficiencies in individual analytic documents. These documents generally lack complete description of the present program, system definition, identification and real issues, specificity in program objectives, strong competing alternatives, full cost and benefit information, and in-depth analysis and tradeoffs of costs and benefits of alternatives. Of course, at this stage in the development of the format, sophisticated analysis is not to be expected. However, your committee believes that much more can be done than has been exhibited in the present efforts.

The *Superintendent's Program Memorandum* which contains recommendations to the superintendent of programs selected in all course areas from the alternatives presented in the analytic documents lack analysis as to the reasons and bases for the selections therein. Thus, from a budget point of view, a rational decision cannot

be made as to the worth of the whole curriculum package. What the department overlooked in preparing the memorandum was that analysis occurs at various levels of the program structure. Thus tradeoffs of costs and benefits of the various subject matter areas ought to have been done for curriculum as a package.

In spite of the shortcomings noted above, your committee is aware of the tremendous effort in terms of time that the program specialists devoted to the endeavor and is appreciative of that fact. Your committee is of the continuing belief that the documents present a good beginning, and, despite their limited usefulness at this time, the documents do assist the legislature in understanding better the programs of the department and in raising fundamental questions relevant to decision-making.

It should be noted that the primary focus of the joint committee has been to develop with the department of education a meaningful format and to induce analysis to occur. Thus, although your joint committee finds considerable merit in some of the objectives and programs contained in the documents, this does not mean that your committee has approved the substances thereof. Judgment on these substantive matters is being reserved by your joint committee until supplementary budgets based on the analyses performed are presented to and discussed with the appropriate legislative committees.

#### PROBLEMS ENCOUNTERED

With respect to the recommendations advanced by the joint committee as reflected in **special committee report no. 3**, dated March 3, 1969, your committee finds the department to be in substantial compliance with all but those concerned with the modification of the departmental accounting and other information systems to facilitate the collection of needed data and the organization and proper utilization of the central analytic staff. These problems and others are discussed below.

1. As in the past efforts, the present work was hampered to some degree by the

lack of all essential data required for analysis. The joint committee, from the very inception of the PPB effort with the department, has been cognizant of and concerned about the need for the generation of relevant data for analysis. The recommendation contained in the 1969 special committee report was an expression of this concern. However, the department has yet to take meaningful steps to modify its accounting and other information systems to assure the flow of such pertinent data.

2. The joint committee which was appointed to work during the 1967-68 interim recommended in its 1968 report to the legislature that the department maintain the planning, programming and budgeting staff which worked on the language arts effort and utilize it as the "core" of the group to cast the total educational endeavor in the PPB format. The committee pointed out that the experience brought to task by this group would greatly "enhance the quality" of the finished product. The joint committee's 1969 report noted with some dismay that the department had failed to maintain this language arts planning, programming, budgeting staff as the analytic core and had assigned other responsibilities to the group. Its recommendation contained in the 1969 report that the department establish a central analytic group in the superintendent's office stemmed from this finding.

In 1969, the department did create such a group. However, your joint committee is disturbed that the department has failed to heed the request of the legislature that the analytic staff be responsible for all of the department's PPB analysis and effort and train and provide assistance to the program specialists. Your committee has found that the analytic group has provided little formal training to the program specialists and that, of the six professionals and one clerk assigned to the group, only one and one-half positions actually lent assistance to the program specialists in the preparation of the analytic documents. Your committee has further found that the major role played by the one and one-half positions was one of doing critiques of the work done by the specialists, and that the analytic work was, in the main, left to the

program specialists. In the light of the task required and the general lack of training and experience of the specialists in analysis, such assistance was, at best, minimal. Indeed, acting as critics of the work of the program specialists was not the primary role of the analytic group envisioned by your joint committee. Your joint committee had anticipated that the analytic group would be actively assisting the specialists in the performance of analysis until such time as the specialists gained sufficient experience of doing analysis by themselves. Your committee is certain that, had proper help been provided, the products submitted this year would have shown a vast improvement over what they actually are.

3. In the 1968 effort, the program specialists initially were not encouraged by the department to seek the technical assistance of the office of the legislative auditor, but as the deadline for completion of work loomed closer, such assistance was sought. The technical services of the auditor's office were again available to the department in 1969. It was the committee's belief that it might be some time before the department's analytic staff would be able to function adequately by itself, and hence requested the auditor's office to make its services accessible to the department. However, despite the limited role played by the analytic group and the lack of training and skills in analysis on the part of the program specialists, the specialists were not only not encouraged, but in fact restrained, by the analytic staff from seeking the technical aid of the auditor's office. Your committee has found that this situation has led to a conflict between the program specialists and the analytic staff which has impeded the present effort.

4. The department has been engaged in the placement of all course areas into the PPB format since 1967. Although much of the work done this year requires revision, your committee and the department believe that it is time for the department to expand its efforts into other areas of educational endeavor. However, before any other area is subjected to analysis, the department needs to categorize *all* of its programs and activities into a meaningful

structure, identify the objectives for every level of the program hierarchy and for each program, and determine the measures of effectiveness for each statement of objective. Over the past several years, your committee had repeatedly requested the department to complete this task. Your committee finds that, to date, this undertaking is incomplete. Planning, programming, budgeting requires a "system" approach to analysis, and the system is, to a large degree, defined by the program structure. Thus, without a complete program structure, no real analysis can be properly performed.

5. In the effort to date, your committee permitted the department to defer integrating capital improvements costs with operating costs in estimating the future fiscal impact of the department's programs. With the near-completion of placing all of the curricular areas in the PPB format and as the department proceeds to analyze other aspects of education, your committee believes that a concerted effort must now be made to integrate capital and operating costs in costing the various educational programs. Without such integration, the full costs of programs cannot be readily appreciated as to permit intelligent decisions to be made about them.

6. In the initial language arts endeavor in 1967, your committee noted some movement on the part of the analysts doing analysis at the State central office to articulate with those in the fields about the work they were doing. In the subsequent efforts, however, there has been very little evidence of communication between the analysts at the State central office and those in the fields. Your committee believes that, for the planning-programming-budgeting approach to be successful, the meaning, purpose and scope of this approach must be appreciated by all who are affected. This demands that there be articulation between the State central office and the districts and schools about PPB. Indeed, it would appear wise, and sometimes essential, that there be participation by persons other than the analyst in some stages of the analysis. Thus, for example, the selection of objectives for a given program might well be

arrived at upon discussion with people required to implement the program. Your committee believes that much work remains to be done in this area of articulation.

#### RECOMMENDATIONS

The foregoing problems lead your committee to conclude that much work yet remains to be done to routinize the planning-programming-budgeting approach as the method or system in which educational budgets are put together and accomplishments reported to the legislature. Your committee affirms that the planning-programming-budgeting approach enables the legislature to make intelligent assessment of the department's activities, the emphasis it is giving and whether or not the department is operating in an efficient manner. Your joint committee thus recommends as follows:

1. The department continue to improve and update the work done in the curricular area.

2. The department continue to work towards a full implementation of the PPB system and to the use of the PPB format in casting the budget for the total department. Specifically, your committee recommends that (a) the department complete its program structure for education as a whole, together with statements of objectives for every level of the program hierarchy and measures of effectiveness for each objective, by April 1, 1970; (b) the department prepare and submit by June 1, 1970 for concurrence by the joint interim committee, appointed in the manner hereinafter set forth, a schedule of priority as to those educational areas which shall be subjected to analysis in the interim between this session and the 1971 session, together with a timetable for completion, which shall not be later than November 30, 1970; and (c) the department submit a supplemental budget for education in toto in the PPB format at the 1971 session of the State legislature.

3. In casting the entire education into the PPB format, and in the analysis to be performed hereafter, the department in-

tegrate the capital and operating costs in costing out the various programs.

4. The department continue to develop the capability of an analytic staff responsible for all PPB analyses and for the casting of the total educational endeavor in the planning, programming, budgeting format and for providing technical assistance to the program specialists, and that it formulate and execute plans for the training of all personnel engaged in the PPB effort.

5. The department take immediate steps to articulate and communicate with the various levels of its organization with respect to PPB in general and while analysis is being performed.

6. A joint committee composed of members of the Senate and members of the House of Representatives be appointed to work between the 1970 session and the 1971 session of the legislature with the department of education in the same manner that this joint committee worked with the department during the interim preceding this session of the legislature; and that technical assistance be provided to the joint committee by the office of the legislative auditor. It is your committee's opinion that until such time that the department has organized a fully-trained and dedicated analytic core (as recommended herein) and analysis is systematically and routinely generated, the joint effort by a legislative interim committee and the department must continue.

7. The board of education lend every assistance to the superintendent of education, including authorizing additional personnel to work on the planning-programming-budgeting format and in the gathering of such data and formulating of such policies as may be necessary to expedite the work on the format.

8. The department modify its accounting and other information systems in such fashion as to enable the collection of such data as are necessary for a successful implementation of the planning, programming, budgeting system.

Representatives Taira, Sakima, Waka-

tsuki and Judd.  
Members of the House.

Senators Hara, Ching and Anderson.  
Members of the Senate.

#### **Special Com. Rep. 4**

Your Interim Committee, created pursuant to **House Resolution No. 254**, 1969 session, entitled: "A RESOLUTION REQUESTING APPOINTMENT OF A HOUSE INTERIM COMMITTEE TO CONDUCT A STUDY COVERING THE EFFECTIVENESS OF LEGISLATION TO PROTECT CHILDREN FROM ABUSE", begs leave to report as follows:

The purpose of this resolution is to conduct a study on the effectiveness of Hawaii's mandatory child abuse and neglect reporting law, Chapter 350, Hawaii Revised Statutes. Through public hearings and research, information on past, present, and possible future practices dealing with child abuse and neglect reporting were collected and analyzed. In conjunction with the study on the reporting law, your Committee explored and actualized the establishment of the twenty-four hour Child Protective Services Center now situated at the Kauikeolani Children's Hospital.

The following persons representing State and City and County departments and agencies, and private organizations testified at public hearings before your Committee on the child abuse and neglect reporting law.

#### **Department of Social Services**

William Among, Edwin Tam,  
Ping Kyan Minn, Clara Boyer

#### **Department of the Attorney General**

Alana W. Lau

#### **Department of Education**

Dr. Richard Ando, Patricia Wallace

#### **Family Court**

Judge Samuel P. King,  
Wayne Kanagawa, Mary Jane Lee

#### **Progressive Neighborhood Program**

Dr. Hirobumi Uno



**Office of the Prosecuting Attorney**

Ernest Ito

**Honolulu Police Department**

Lt. James Kendrick

**Kauaikeolani Children's Hospital**

Dr. Harry C. Shirkey

**University of Hawaii,  
School of Medicine**

Dr. Walter Char, Dr. John McDermott

**U.S. Army Tripler General Hospital**

Colonel Thomas B. Hauschild

**Hawaii Academy of Pediatrics**

Dr. Calvin C. J. Sia

**Child and Family Service**

The Reverend Charles A. Wothke

**Ad Hoc Committee for the  
Protection of Children**

Kay Foy, Mickey Hummer

**Commission on Children and Youth**

Howard H. C. Yuh

**John Howard Association**

Stephen Lane

In its study of Hawaii's mandatory child abuse and neglect reporting legislation, your Committee concludes that Hawaii's reporting law is one of the more progressive and effective statutes to date on this social problem. Difficulties with child abuse and neglect reporting in Hawaii were the result not of the wording nor the intent of the reporting statute but of problems encountered by governmental agencies in implementing it. The following is a discussion by sections of the reporting legislation, Chapter 350, Hawaii Revised Statutes, in regard to your Committee's findings.

**Reports (Section 350-1)**

Hawaii's law on child abuse and neglect reporting is mandatory in nature. Statutes in the forty-nine other states and Washington, D.C. are divided between permissive and mandatory reporting. Your Committee believes that the protective services

offered by welfare agencies, the rulings on the juvenile court, and the sanctions of criminal law can have effect only if cases of child abuse and neglect are reported and become known. Therefore, statutes which mandate certain groups to report suspected cases of child abuse and neglect are an integral part of the attempt through legislation to protect and promote the well-being of children. For this reason, your Committee is in full support of the mandatory condition of Section 350-1, Hawaii Revised Statutes.

Hawaii's child abuse and neglect reporting law mandates that "any doctor, which for the purposes of this chapter means any person licensed by the State to render services in medicine, osteopathy, dentistry, or any of the other healing arts, examining, attending, or treating a minor, or any registered nurse, school teacher, social worker, or coroner . . ." shall report all injuries to said minor resulting from abuse or neglect.

This listing of mandatory reporters takes into account three important factors:

1) Doctors who better than any other individual can determine whether or not the child's injuries are accidental, are mandated to report.

2) Others, such as nurses, school teachers, social workers and coroners, may observe cases of abuse and neglect in the course of professional activities or everyday contact with children. These persons are mandated to report.

3) Legislative provisions for mandatory reporting by these groups do not and should not preclude voluntary reporting on the part of others having information concerning child abuse and neglect.

It was recommended by individuals testifying at public hearings before your Committee that the mandatory reporting law should be further broadened to mandate "anyone," not only doctors, nurses, school teachers, social workers, and coroners, to report child abuse and neglect cases. An analysis on reporting laws made recently under the guidance of the Ameri-

can Humane Association expressed approval of such universal reporting on the grounds that it enlarges the potential for casefinding. Four states (Nebraska, Tennessee, Utah, and Alabama) have universal reporting laws which require any person having knowledge of child abuse and neglect to report them. In Maryland and Iowa, the statute lists a group of professionals who **must** report, but also provides that any person **may** report, a condition which gives immunity against legal liability to any good faith reporter (See **Immunity from Liability, (Section 350-3)** of this report.)

Your Committee believes that only persons who have special training to recognize abuse and neglect, such as doctors, nurses, school teachers, social workers and coroners, should be mandated to report. Further, your Committee believes that if the reporting groups should be broadened to include "anyone," the impact of reporting may be diffused whereby everybody's duty may easily become nobody's duty to the detriment of the abused or neglected child. Your Committee, therefore, maintains that the list of persons mandated to report in Section 350-1, Hawaii Revised Statutes, is more conducive to effective reporting of child abuse and neglect. Your Committee further maintains, as noted above, that this list of persons mandated to report does not and should not preclude voluntary reporting on the part of others having information concerning child abuse and neglect and, therefore, does not limit the potential for casefinding.

Finally, your Committee believes that the mandatory requirement for reporting child abuse and neglect cases can be of assistance to doctors, nurses, school teachers, social workers, and coroners who must often times explain their actions to protesting parents. With the mandatory aspect, these persons who are listed would be conforming to the law when making reports on abuse and neglect cases.

#### **Action on Reporting (Section 350-2)**

Reporting statutes across the nation differ as to whom reports of suspected abuse and neglect cases should be made.

Originally, the Federal Children's Bureau recommended that reports be made "to an appropriate police authority," because the police was considered the only service available in every community on a twenty-four hour basis. With rapid expansion of protective services and the institutions of comprehensive child welfare programs, the Bureau has revised its original recommendation and now designates public welfare agencies which offer child protective services as the body to which reports should be made. In areas where such services are not available, the Bureau suggests its original recommendations of the "appropriate police authority." The American Humane Association has endorsed without qualification the practice of reporting cases to public or private welfare agencies which provide child protective services.

Hawaii's mandatory reporting statute specifies that the report of child abuse and neglect cases be made to the "department of social services" who "upon receiving such report, shall immediately take necessary action toward preventing further abuses, safeguarding and enhancing the welfare of such minor, and preserving family life wherever possible." Furthermore, "if the injury or abuse to the minor is so serious that criminal prosecution is indicated, the department shall, in addition to taking such action under this section as it deems necessary, report its findings to the police or the office of the prosecuting attorney."

In its recent hearings, your Committee questioned representatives from the State Department of Social Services, the Honolulu Police Department, and the Office of the Prosecuting Attorney on the effectiveness and practicality of this section of the reporting legislation. All three departments replied affirmatively and noted that the coordinated actions of the departments made for an efficacious carrying out of the legislation.

Taking into account the Federal Children's Bureau's recommendations, the American Humane Association's endorsement, and the practices of Hawaii's Department of Social Services, Honolulu Po-

lice Department, and the Office of the Prosecuting Attorney, your Committee believes that the section of the legislation as stated above is in accordance with best procedure.

#### **Central Registry (Section 350-2)**

The maintenance of a state-wide central registry of reported information in child abuse and neglect cases is an important part of a program designed to deal with these problems. Hawaii's reporting statute requires in general terms the maintenance of a central registry: "The department shall maintain a central registry of reported cases and may adopt such rules and regulations as may be necessary." The reports filed will indicate incidence of abuse and neglect, the age and sex of the abused child, the nature of the injuries, the identity and some characteristics of the child abuser, and other material upon which physicians, social workers, and researchers can draw. Some states and local welfare departments collect information for statistical and research purposes only and do not allow doctors and social workers to check into specific cases in the central registry.

In addition to collecting pertinent data, the central registry has a second purpose in pointing out "repeater" cases. Parents who have abused their children on several occasions sometimes go from doctor to doctor and hospital to hospital in an attempt to escape attention. Because of this problem of "hospital skipping," it is important that the registry cover as wide a geographical area as possible. Suggestions have been made that records on child abuse and neglect be kept not only on a state-wide but also on a nation-wide basis to deal with this problem.

In all consideration, your Committee recommends the retention of this section of the reporting legislation in the firm belief that the data from the central registry can yield conclusions to great practical importance in dealing with the problem of child abuse and neglect.

#### **Immunity from Liability (Section 350-3)**

The threat of liability has acted as a

deterrent to people in the reporting of child abuse and neglect cases. One of the general aims of child abuse reporting laws is to reduce this fear by making those who report in "good faith" immune from liability. Section 350-3 of Hawaii's statute states that "anyone participating in good faith in the making of a report pursuant to this chapter shall have immunity from any liability, civil or criminal, that might be otherwise incurred or imposed by or as a result of the making of such report."

During hearings held by your Committee, it was pointed out that the phrase "pursuant to this chapter" referred to those persons listed in Section 350-1 and therefore, provided immunity from liability only to doctors, nurses, school teachers, social workers, and coroners. Your Committee, upon consideration of Section 350-1, recommends that it be amended in the following respect to provide immunity from liability to all persons who report cases of child abuse and neglect in "good faith".

Section 350-1, Hawaii Revised Statutes, is hereby amended by adding before the first paragraph the figure "(1)" and by adding a new paragraph at the end of said section to read as follows: "(2)" Any other person who has reason to believe that a minor has had injury inflicted upon him as a result of abuse or neglect may report the matter orally to the Department of Social Services."

Therefore, with the above amendment made to Section 350-1, the Section 350-3 which provides for immunity from liability to those listed in 350-1 will cover all persons making reports in good faith to the Department of Social Services.

The Committee believes the broadening of the immunity from liability coverage to include not only doctors, nurses, teachers, social workers, and coroners, but everyone making a report will alleviate the fears held by many persons over liability. The Committee further believes this amendment may lead to more effective usage of the mandatory reporting legislation.

#### **Exemption (Section 350-4)**

In our society there are persons for whom religious conviction is a vital force in their lives. Therefore, laws generally do not interfere with the religious manner in which these parents provide for their children. However, when a parent's indifference or brutality indicates that the children are not being provided for according to tenets and practices of a recognized religion, laws allow for the State to interfere on behalf of the children involved.

Section 350-4, Hawaii Revised Statutes, states as follows: "No child who in good faith is under treatment by spiritual means alone through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof shall, for this reason alone, be considered to be medically neglected under this chapter."

Your Committee believes this carefully worded section reflects a compromise between competing considerations by setting such limitations to religious exemption as: "in good faith" and "recognized church or religious denomination by a duly accredited practitioner" and "for this reason alone." Therefore, your Committee recommends that Section 350-4 remains unamended.

#### **Penalty Clause**

Twenty-seven of the mandatory reporting statutes across the nation carry penal sanctions for failure to report abuse and neglect cases. The penalties run from Vermont's "not more than \$25.00" to Pennsylvania's "not exceeding \$500.00 or . . . imprisonment not exceeding one year or both." Hawaii's mandatory reporting statute does not have a penalty clause for failure to report.

The question of whether or not such a clause should be included in Hawaii's statute was brought up during the public hearings held by your Committee. It is the belief of your Committee that placing a punitive aspect to the reporting law will not add significantly to the effectiveness of the law. According to reports on the penal section of reporting laws, criminal sanction has rarely been invoked. Most of the states

impose a penalty only for "knowing" and "wilful" violations of the reporting law. However, to say that a person "knowingly" and wilfully" failed to report a case of child abuse and neglect is a difficult matter to prove in court. Your Committee further believes that an educational rather than a punitive attitude toward the failure to report on the part of society will lead to better and more effective reporting. Therefore, your Committee recommends that no penalty clause be amended into the mandatory reporting law.

#### **Child Protective Services**

It must be pointed out that the mandatory reporting law is exactly that — a reporting law. After the report is made, some remedial action must be taken. Studies show that in every community a multi-disciplinary network of protection must be developed to implement the objective of the reporting law. If child protective services are not available, people will no longer report, for it is the promise that something will be done that encourages people to report.

In Hawaii, the need for better implementation of the 24-hour protective services for child abuse and neglect cases was discussed during the hearings. Your Committee, in cooperation with the Governor's Office, the Department of Social Services, and the Kauaikeolani Children's Hospital, and with the assistance of the Family Court, the Honolulu Police Department, and the Ad Hoc Committee for the Protection of Children, worked toward the establishment of a multi-disciplinary center which is open to serve the public on a 24-hour basis. Presently located on the grounds of the Kauaikeolani Children's Hospital, the Child Protective Service Center is staffed by doctors and social workers who together will provide for the protection and care of abused and neglected children, and will work toward the prevention of such future actions through research and the education of the public.

Because the legislature was not in session during this period, funding for the new Child Protective Services Center had to be found elsewhere. The progressive

Neighborhoods Task Force, under the Governor's Office, determined that the Center would be of benefit to those residents under its programs, and therefore, provided financial support to the Center. The sum of \$27,679.50 was allocated to the Center for the nine-month period of operation from October 1, 1969, to June 30, 1970. For the next fiscal year, plans are to appropriate the necessary funds under the budget of the Department of Social Services.

#### Findings

Although it is too soon to make ultimate

judgments about the practical effects of the child abuse reporting law, some preliminary observations may be made. First of all reports are being made under the present reporting statute as shown by the following data taken from the August 19, 1969, testimony of Mr. Edwin Tam, Public Welfare Administrator, Department of Social Services. The information covers a period April 1 - July 31, 1969, which is the interim period between the end of the session of the Fifth Legislature and the beginning of the hearings on child abuse and neglect held by your Interim Committee.

Table 1  
Geographic Location of the Reported Incidents  
April 1 — July 31, 1969

District	Number	Percent
Honolulu .....	15	25.0
Windward .....	16	26.7
Leeward, including Wahiawa .....	29	48.3
Total .....	60	100.0

Table 2  
Number of Abuse/Neglect Cases Registered  
with the State Central Registry by Counties  
April 1 — July 31, 1969

County	Number	Percent
Honolulu .....	60	81.1
Hawaii .....	6	8.1
Maui .....	7	9.5
Kauai .....	1	1.3
Total .....	74	100.0

Table 3  
Sources Reporting Abuse/Neglect Incidents  
April 1 — July 31, 1969

Source	Number	Percent
Private Medical Doctor .....	4	5.4
Hospital or Clinic .....	5	6.8
Police .....	4	5.4
Social Agency .....	21	28.3
School .....	10	13.6
Public Health Nurse .....	1	1.3
Parent .....	7	9.5
Neighbor .....	13	17.6
Relative .....	4	5.4
Friend .....	1	1.3
Anonymous .....	4	5.4
Total .....	74	100.0

Table 4  
Existence of Prior Reports of Abuse/Neglect

Status	Number	Percent
Existence of Prior Abuse/Neglect Report .....	15	20.3
No Prior Abuse/Neglect Report .....	50	67.6
Unknown .....	9	12.1
	<u>74</u>	<u>100.0</u>

On October 1, 1969, the new Child Protective Services Center at the Kauhaleolani Children's Hospital went into operation. Through articles in newspapers and magazines, and through announcements over the radio and television, the problems of child abuse and neglect were discussed and the resources of the new Center explained. This burst of cooperative activity by the news media alerted the people to the need and urgency of filing the re-

quired reports. For the month of October, the new Center recorded 55 new cases involving 97 children; and in November there were 42 new cases concerning 63 children. In comparing the 97 new cases for a period of two months, with the previously reported 60 cases (see Table 1) for a period of four months on Oahu only, it is a promising beginning for the new Child Protective Services Center.

Table 5  
Sources Reporting Abuse/Neglect Incidents  
October 1 — November 30, 1969

Source	Number	Percent
Private Medical Doctor .....	2	2.1
Hospital or Clinic .....	3	3.1
Police .....	13	13.4
Social Agency .....	14	14.4
School .....	29	29.9
Public Health Nurse .....	1	1.0
Parent .....	3	3.1
Neighbor .....	23	23.7
Relative .....	2	2.1
Friend .....	0	0.0
Anonymous .....	7	7.2
	<u>97</u>	<u>100.0</u>

Your Committee is fully cognizant of the fact that the mandatory reporting law is but a first step in correcting child abuse and neglect. It is also aware that the complex social-legal-medical problems of child abuse and neglect cannot be solved by passing a law. The more vital aspect is the implementation of the reporting law. This requires a full understanding by doctors, hospitals, courts, protective agencies, schools, and the police of their responsibility in assuring coordinated, total services needed by children and their parents. The effectiveness of the entire legal framework, furthermore, depends on the

awareness of our citizens of the kinds of resources that are available to combat the problem of child abuse and neglect. To assure public awareness and the best utilization of our resources, the following questions should be considered over and over again to insure that growth of the protective services will be equal to the need.

- a) Could we develop programs which would increase public understanding of problems of child abuse and neglect?
- b) Could we make greater use of existing community agencies such as those of



law enforcement, courts, public welfare, public health, family counseling agencies, schools, and recreational personnel which are traditionally available at the community level to identify child abuse problems early so that appropriate protective action may be taken?

c) Would we develop approaches to help these community resources work together for effective protective planning once the abused and neglected children have been identified?

Your Committee, in analyzing the data received through public hearings and added research, affirms that Hawaii's mandatory reporting law, Chapter 350, Hawaii Revised Statutes, in effect since 1967, has resulted in child abuse and neglect reporting and a better system of data collection through the central registry. One amendment to Chapter 350, Hawaii Revised Statutes, is recommended by your Committee to make for more effective utilization of the statute as explained in **Immunity from Liability (Section 350-3)** of this report. A suggested bill to this effect is attached. Finally, with the recent establishment of the Child Protective Services Center at the Kauaikeolani Children's Hospital, better implementation of the objectives of the mandatory reporting law will result in a further determination of the effectiveness of the statute.

Signed by Representatives Alcon, Aki-zaki, Iha, Inaba and Aduja.

H. B. \_\_\_\_\_

#### A BILL FOR AN ACT

#### RELATING TO REPORTING OF CHILD ABUSE

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. Section 350-1, Hawaii Revised Statutes, is hereby amended by adding before the first paragraph the figure "(1)" and by adding a new paragraph at the end of said section to read as follows: "(2) Any other person who has reason to believe that a minor has had injury inflicted

upon him as a result of abuse or neglect may report the matter orally to the Department of Social Services."

SECTION 2. New material is underscored. In printing this Act, the revisor of statutes may exclude the brackets, the bracketed material, or the underscoring.

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

INTRODUCED BY: \_\_\_\_\_

#### Special Com. Rep. 5

The Interim Committee to Improve the Structure and Operation of the Judicial Branch which was created pursuant to **Senate Concurrent Resolution No. 78**, Regular Session of 1969, begs leave to report as follows:

#### I. Purpose of Senate Concurrent Resolution No. 78.

**Senate Concurrent Resolution No. 78** requested the creation of an interim committee "charged with the responsibility of making a comprehensive study and analysis together with recommendations based thereon for the legislative or administrative action, as the cases may dictate, to improve the structure and operation of the judicial branch . . ." More specifically the Committee was asked to give special attention, but not be limited to, the following matters:

1. The overall structure of the branch with special emphasis on the relationship between the supreme court, circuit courts, and the district courts; and
2. Methods whereby the operations and procedures of these courts may be improved; and
3. The possibility of totally revamping the district court system; and
4. The adequacy of the number of circuit courts and district courts and their location throughout the State; and
5. Original and appellate jurisdiction of

the courts and the role of trial *de novo* offer (sic) prior trial in the judicial process along with the relationship and activities of the courts respecting reviews of and appeals from administrative agencies or officers; and

6. The activities and adequacy of procedures available to special courts and whether these can be improved; and

7. The adequacy and methods of staffing and budgeting and administrative procedures within the branch, including regard for the possible increased use of computers for data processing; and

8. The adequacy of physical and research facilities within the branch; and

9. The roles and functions of the Judicial Council and whether they should and can be improved; and

10. Whether new advisory bodies, professional or citizen groups interested in judicial process should be created or encouraged in their activities; . . .”

In view of the broad scope of review called for by the Concurrent Resolution, the Committee held a series of public hearings and invited the general public and related public and private organizations to present testimony on any aspect of the judiciary. Public hearings were held in Honolulu, Hilo, Wailuku, and Lihue.

## II. Findings and Recommendations of the Committee.

Your Committee finds that the judicial mechanism of our State is operationally sound and effective in responding to the needs of the people. With some minor exceptions, the Committee encountered few complaints or recommendations for changes in the Supreme and circuit courts. Delay in litigation which was a major complaint a few years ago has been reduced substantially. With respect to the district courts, however, the Committee proposes some far-reaching changes which are designed to improve the performance of these courts as well as raise their stature and dignity. These recommendations are

as follows:

1. The district courts be made courts of record.

2. Appeal from the district courts be made to the Supreme Court.

3. Provision of a right of rehearing for the defendant in a criminal case for the purpose of reviewing the sentence imposed.

4. Authorize the use of electronic devices in the event that qualified court reporters are not available.

5. Increase the district courts' exclusive jurisdiction to \$500 and concurrent jurisdiction to \$5,000.

6. Establish four judicial districts, each district boundary to be coextensive with the circuit court boundary.

7. Make all magistrates serve full time.

8. Aid in the attraction and retention of qualified magistrates by increasing their term from four to five years, raising their qualifications, and by calling them district judges.

Your Committee notes the completion of a detailed study on the feasibility and social importance of a law school. With the above study as a framework for analysis, the Committee recommends that steps be taken this year for the establishment of a law school at the University of Hawaii.

Your Committee also recommends that:

1. The Revisor of Statutes be transferred from the judicial branch to the legislative branch;

2. The institution of a simplified, streamlined and well-publicized small claims procedure;

3. Greater data processing capability for the judiciary be developed;

4. There be continued support for the

building programs of the judiciary;

5. Greater legal research service be provided to circuit court judges by the gradual replacement of the bailiff position with a law clerk position; and

6. Appointment and replacement of family court referee be made by the chief justice or by the family court judge with the concurrence of the chief justice.

Your Committee recommends for further study by the judiciary:

1. The establishment of uniform bail standards and procedures at all courts.

2. The increased use of summons or citations.

3. The increased use of a "deferred prosecution" program.

4. A review of State law or policy on court records.

### III. Recommendations on Improving the District Courts.

Your Committee received numerous suggestions to improve the District Courts. Such interest in changes are not unusual in view of the fact that the basic structure of the district courts was set in the 1840's and has continued with minor modification through the years.

In the beginning the district magistrates were appointed by the governor of the island with the advice of the Supreme Court. The Constitution of 1852 stated:

"In order that the people may not suffer from long continuance in place of any District Justice who shall fail of discharging the important duties of his office with ability and fidelity, all commissions of District Justices shall expire and become void in the term of two years from their respective dates."

These words do not reflect great confidence in the abilities of district justices. They reflect instead a situation of poor communications and a lack of legally

trained personnel. Accordingly the civil jurisdiction of the district courts in 1874 was concurrent with that of the circuit courts in amounts up to \$200. The criminal jurisdiction from the beginning has been limited to criminal offenses punishable by fine, or by imprisonment not exceeding one year whether with or without hard labor, or with or without fine. The primary purpose of the district courts was to dispose of small local disputes, leaving the more important disputes for settlement by the Supreme or Circuit courts which came to each district once or twice a year.

The Hawaii of the 1970's is vastly different from the Hawaii of the 1800's. The population of the islands in 1840 was estimated at 103,000. Today it is estimated at 770,000. Trained lawyers were few in number in the 1800's, the first one having come to Hawaii in 1844 and the court system was based primarily on men selected for their character and standing in the community. Today there are over 800 licensed attorneys in this State.

Another change is the advance in the methods of transportation which make all areas within each respective island a single community for those with modern methods of transportation. District boundaries which were of great importance in the early years today seem obsolete and are a source of difficulties in cases involving the highly mobile segment of our population.

Today, the district courts still retain vestiges of the courts of old. Most apparent is the fact that they are not courts of records. Therefore, a person who is dissatisfied with the disposition of his case at the district court may appeal to the circuit court and get a completely new trial. Though the present Chief Justice has seen fit to appoint only attorneys as district magistrates, the statutes still permit him to appoint legal practitioners. The State is divided into 27 judicial districts which are presided over by 22 magistrates, of whom nine are full-time and thirteen are part-time. The civil jurisdiction of the courts has increased slightly over the years. District courts now have exclusive jurisdiction of cases not exceeding \$50.00 and concurrent jurisdiction in cases involv-

ing amounts up to \$2,000.

Your Committee proposes several changes to the district court system to meet the changes wrought by our increase in population, our growing corps of attorneys, and the advances of transportation and communication. These changes are designed to accomplish the following:

a) improve the performance of and increase the stature and dignity of the district courts by according them greater responsibilities in our judicial system. To this end the Committee proposes that the district courts be made courts of record; that their civil jurisdiction be increased to provide exclusive jurisdiction of cases involving amounts up to \$500 and concurrent jurisdiction with the circuit courts of cases up to \$5,000; that the numerous district boundaries be replaced by four district boundaries coextensive with the circuit court boundaries; that the district magistrates serve full time and be called district judges, be attorneys licensed to practice law in this State for at least five years, and serve five-year terms.

b) confirm our confidence in the unified three-tiered structure consisting of the Supreme Court, Circuit Courts and the District Courts. Your Committee considered and rejected a suggestion to expand the circuit courts to take over the present workload of the district courts. Under this suggestion the circuit court would have divisions, such as we presently have as the Family and Tax Courts, to take over the lesser civil and criminal cases. Your Committee feels, however, that such circuit court divisions would merely be duplication of present district court practices and procedures. Probably the major change under the suggestion would be the replacement of district magistrates by circuit court judges who would be appointed by the governor and confirmed by the Senate, be paid more and serve for ten years. Your Committee feels, however, that such changes are possible under our present district court system and the Committee has proposed some upgrading in this area. Your Committee believes, however, that there is a decided advantage in having a separate district court system. The district

courts handle the greatest number of court cases in the State. In the fiscal year 1968-69, there were 344,452 filings in the district courts compared to 27,328 filings in the circuit courts. Accordingly the district courts should be designed to handle the volume quickly and efficiently and its calendar should be current. To maintain a current calendar, the court must be flexible and innovative. It is the firm belief of your Committee that a separate district court system will give it greater freedom to effect necessary changes or to suggest legislative changes.

In keeping with the Committee's intent that the district courts maintain a current calendar, the proposal that jury trials be allowed in the district courts was rejected. At the present time, a request for a jury trial where a jury trial is guaranteed, automatically sends the case to the circuit court where the jury trial is available. Your Committee feels that the present procedure should be retained. Jury trials are time consuming and may detract from the speedy character of district court procedures. In addition, your Committee notes that there are practical problems in authorizing jury trials in the district courts. District court courtrooms do not now have provisions for juries and in many cases, lack of space in the building makes such provisions very difficult. Your Committee feels, however, that there may be a time in the future when the circuit courts may be overwhelmed with jury trials and the holding of jury trials in the district courts may be necessary. Thus your Committee notes with favor the present practice of designing new district court courtrooms with adequate space for the accommodation of jury trials should they be necessary.

While the Committee endorses the adoption of district court procedures to accommodate a large volume of cases quickly and efficiently, the Committee is aware that sufficient number of magistrates and court personnel should be assigned to handle the tremendous caseload with dignity and to avoid the appearance of dispensing a cafeteria system of justice. To this end, the appropriations committees of both houses of the Legislature are urged to give careful consideration to the manpower

request of the district courts.

The recommended changes on the district court level are as follows:

**1. District courts be made courts of record.**

District courts presently are not courts of record. Therefore, a person who is dissatisfied with the decision by the district court may appeal to the circuit court and receive a completely new trial. This procedure of trial de novo has resulted in inefficiency, costly duplication and great uncertainty. In addition it has brought about a curious situation whereby a person charged with a misdemeanor or traffic offense may have as a matter of right two trials — in the district court and the circuit court — whereas a person charged with a felony is allowed only one trial — in the circuit court. Another reason for making the district courts courts of record is to compel litigants to put forth their best cases at the district court level. Testimony has been received pointing to instances where evidence available at the district court level is revealed for the first time in a circuit court trial. This is probably prompted by the feeling that a less-than-best effort at the district court is not fatal in view of the right to trial de novo at the circuit court.

**2. Appeal from the district courts be made to the Supreme Court.**

Making the district courts courts of record will mean that appeals will be limited to questions of law. As to where the appeals should be made, your Committee considered several possibilities. The Hawaii County Bar Association recommended the creation of a special three-judge court of appeals, consisting of two circuit court judges and one district magistrate. Appeal on the record to the circuit court was another possibility. In approaching this problem the Committee felt it essential that the misdemeanor or civil litigant in the district court have the same basis and opportunity for appeal — no more, nor less in number and quality — than a felon or civil litigant in the circuit court. Logically, therefore, there should be one appeal and that appeal should

be final. In view of these considerations your Committee recommends that appeals from the district courts be made to the Supreme Court. The Supreme Court is the highest court in the State and its decisions are final. It has the necessary appellate procedures and is therefore in the best position to take on these additional appeals. Appeal to a circuit court judge whose decision would be final was thought to be unfair and may lead to decisions which are irreconcilable with Supreme Court decisions. A similar problem would arise with a special panel of circuit and district judges.

Your Committee is aware that district court appeals will add to an already heavy Supreme Court workload. Your Committee recognizes, therefore, that future changes may be necessary should the workload of the Supreme Court be too great. The creation of a new court of appeals to hear both circuit and district court appeals or the sitting of the Supreme Court in divisions may be explored at that time.

In order to minimize district court appeals to the Supreme Court, your Committee proposes that the judiciary establish through rules, a procedure whereby a defendant in a criminal case may obtain a rehearing on his sentence. Since the district courts have a heavy caseload, the magistrates are presently unable to inquire very deeply into the character of the defendant or the extenuating circumstances of the case before imposing a sentence. As a result, it is not unusual that a magistrate may impose a harsher sentence than he would have had he had the time to make a complete investigation. Your Committee believes that a rehearing by the sentencing magistrate will alleviate this situation.

**3. Authorize the use of electronic devices in the event that court reporters are not available.**

Making the district courts courts of record will require verbatim transcripts of all proceedings at the district court. At present district courts in the County of Hawaii and the City and County of Honolulu operate with court reporters. District courts

in Maui and Kauai do not. This is the result of a severe shortage of qualified shorthand reporters in this State. Since this shortage is not expected to improve in the future, the requirement of verbatim transcripts in all district courts will aggravate the situation. The judiciary has therefore recommended the authorization by the Legislature of the use of electronic recording devices in the event that court reporters are not available. The recent experiences of many mainland jurisdiction indicate that sufficiently sophisticated recording devices are available to make this avenue successful. The Committee therefore recommends legislative amendment to authorize the use of electronic recording devices for the taking of testimony and proceedings. It is not the intent of your Committee that court reporters be phased out in the district courts but merely that the electronic devices be available for use should difficulties arise in filling court reporter positions.

**4. Increase district courts's exclusive jurisdiction to \$500 and concurrent jurisdiction to \$5,000.**

Presently the civil jurisdiction of the district court is exclusive in matter involving less than \$50 and concurrent with the circuit court in matters involving less than \$2,000. Your Committee feels that inflation has made present jurisdictional limits too low and recommends that exclusive jurisdiction be increased to \$500 and concurrent jurisdiction be raised to \$5,000. Increase of this jurisdictional amount would permit the district courts, in light of the increasing demand for judicial service, to assume a greater share of the judicial workload and thereby help relieve congestion at the circuit court level.

**5. Establish four judicial districts, each district boundary to be coextensive with the circuit court boundary.**

There are presently 27 judicial districts in the State. Historically, perhaps, these judicial districts were set up to provide easy access for those who would otherwise have to travel long distances to and from court. But modern modes of transportation no longer make this a valid objection to

the establishment of a single judicial district for each county and its adoption would eliminate minor jurisdictional problems. The major advantage lies in the defendants' choice as to where his case may be tried. The defendant who lives in one district, received a citation in another district have the case heard close to his place of employment. This is particularly true of traffic offenses where the defendant may lose more in wages by appearing in court than by paying the penalty set for him. This change would also permit the more efficient use of magistrates. Magistrates with light workload can easily drive to another court to hear cases there. Finally this change would give the judiciary greater flexibility to hold court sessions in such places as may be necessitated by population shifts or other factors.

**6. All magistrates serve full time.**

Under the present system there are thirteen part-time magistrates who are not precluded from practicing law. Part-time magistrates present serious conflict of interest problems, especially in small jurisdictions, and your Committee feels that the time has come to turn to a system with full-time magistrates. With the larger districts, full-time magistrates may "ride the circuit" and thereby provide a more efficient use of our judicial talent. Your Committee further believes that full-time magistrates will result in better justice since the magistrates can devote more time to research, attend meetings and conferences and also provide greater uniformity in sentences and decisions. Your Committee intends that the conversion to full-time magistrates be phased in to permit each of the present magistrates to serve out their terms.

The provision of full-time magistrates will reduce the number of magistrates needed in the system. The Honolulu district court is presently staffed by five full-time magistrates and four per diem magistrates. If all magistrates were full time, the district would require seven magistrates by 1972. The rural Oahu districts now have five part-time magistrates and one full-time magistrate. The workload of these districts would require three full-time magistrates



by 1972. The Maui district courts could be served by two full-time magistrates with part-time help for the island of Molokai. The Hawaii district courts workload could also be met by two full-time magistrates. The change to full time on Kauai would require only one magistrate. Your Committee also recommends the continued use of per diem magistrates to act in the event of illness, vacation or disqualification of the full-time magistrates. The total annual cost for the present judicial manpower for the district courts is \$351,091. The change to all full-time magistrates would cost \$390,555 per year.

**7. Aid the attraction and retention of qualified magistrates by increasing their term from four to five years, raising their qualifications and by calling them district judges.**

Your Committee feels that the aim of giving the district courts greater stature and dignity would not be successful without some improvements in the lot of the district magistrates. Since the term magistrate conveys the feeling that the person is not legally qualified, your Committee proposes that they be called district judges. To recognize the availability of many qualified attorneys in Hawaii, and to insure that the judges are well qualified, your Committee proposes that the district judges have been attorneys licensed to practice law in this State for at least five years. Finally, in order to attract and retain the best qualified men to the bench, your Committee recommends an increase in the district judge's term from four years to five years. It is the opinion of your Committee that the change to full time, the increase in tenure and qualification of district judges, their greater responsibility, and their recent pay increase will attract to the bench well-qualified men who will in turn help increase the stature and dignity of our district courts.

**IV. Establishing a Law School for Hawaii.**

In recent years suggestions have been made from time to time that a law school be established at the University of Hawaii. Some of these suggestions have been quite unrealistic, calling for the use of practicing

attorneys to teach courses on a part-time basis and for improvised library resources. Your Committee notes, however, the recent publication of "The School of Law, University of Hawaii: Its Feasibility and Social Importance", by William C. Warren, Dean of the Columbia University School of Law and Edward A. Mearns, Jr., Professor at the Northwestern University School of Law. This study proposed a first-rate institution with full-time professors and a well-stocked library. The study presents detailed recommendations for the faculty, students, curriculum, library, space requirements and finances. The study also recognizes the role of the law school in community service, continuing legal education, legal aid, and the potential for research institutes.

Using the above study as a framework for analysis, your Committee recommends that steps be taken this year for the establishment of a law school at the University of Hawaii. Your Committee is convinced that the benefits that a law school provides to the people of Hawaii is sufficient to place it ahead of numerous other projects clamoring for available tax dollars.

First of all, your Committee believes that a need exists for a law school in Hawaii. Using lawyers to population as a measure, Hawaii in 1961 had a ratio of 76 lawyers per 100,000 population, placing it fiftieth among the states. In 1964 the ratio had risen to 94 lawyers per 100,000 population, placing it 45th among the states. Analysis of the number of persons who took the Law School Admission Test at the University of Hawaii indicate that a significant number of students may be interested in studying law in Hawaii. Your Committee believes that the rapid growth of population along with a sharply rising demand for legal services in Hawaii as well as throughout the country, will continue, thereby causing vastly higher standards of admission at most existing schools and the consequent rejection of many qualified applicants. A local law school would make it possible for more young men and women to attend a law school at lower cost than if they were required (as they are presently) to take their legal education on the main-

land.

Secondly, your Committee believes that Hawaii can develop an institution with an imaginative and innovative curriculum designed to attract top students and professors. For example:

(a) We can utilize our natural geographical and ethnic advantages to provide for the legal education needs of the Trust Territories and indeed, of the Pacific. One suggestion is to provide a training program for legal and para-legal personnel from Micronesia. Another suggestion is the establishment of a study of East Asian law at the East-West Center. This program would attract top scholars from the Orient and from the mainland whose presence alone would enhance the school's reputation and whose capabilities could be utilized by the school in many ways outside of the East Asian law program.

(b) Law students could participate in many community programs which would be of benefit to themselves as well as to the community. A legal intern program could place several law students each year in public agencies dealing with the poor, in field research activities, and in institutions whose inmates might need legal help. Law students could assist lawyers already involved in service to the poor, including the defense of persons accused of crimes. The trend in corrections is away from outmoded concepts like prolonged punitive detention and toward supervised probation, minimum security institutions, half-way houses, and other rehabilitation programs designed to bring convicted persons back into society. Hawaii has already moved in this direction and we may well take the lead in progressive innovations. Law students are intensely interested in such programs and can learn a lot from working in them while at the same time providing intelligent, inexpensive and dedicated service to the programs. These are only some of the programs that can be offered to law students. These programs are aimed at getting the students away from the campus and out into the community. They can learn a great deal more about the law, about peoples' needs and about the real difficulties of making the former

serve the latter. They would learn a lot and help the community while they learn.

Thirdly, your Committee also believes that a law school will make vital contributions to the people of this State.

(a) A major contribution will be the encouragement of legal reform through research. Through the years, the Legislative Reference Bureau has performed valuable services along this front and the creation of a good law school would greatly increase the State's legal research resources.

(b) Our judicial system has no independent body criticizing it. No one analyzes the decisions of our courts and subjects them to open criticism if they fail to meet the problems of today or if they are the result of faulty reasoning. If we had such a body, judicial reform would undoubtedly move more quickly.

(c) A law school would be of great benefit to the Legislature as well as the judiciary. Hawaii faces many problems now and is likely to experience much more as our urban centers increase, our economic patterns change and as our population grows. In many of these problems the participation of lawyers, of high caliber, both teachers and students is extremely helpful if analysis and planning are to go forward on a realistic footing. Persons with law training can provide an invaluable addition to any research or study group because lawyers are trained to ask the hard questions and insist on answers. Another vital contribution that a law school may make to a community has to do with the continuing education of practicing lawyers. This benefits not only the lawyers but the entire community because acceptance of new and progressive ideas hastens the acceptance of these ideas throughout the community.

The Warren and Mearns study on the law school calls for three years of planning before actual teaching begins. During this time the dean would lay the necessary groundwork — recruiting faculty, developing curriculum, starting a library, initiate and supervise the construction of law school facilities. The proposed annual bud-

gets for the first eight years is as follows:

First planning year — \$23,650  
 Second planning year — \$342,000  
     Alternate second planning year —  
     \$110,500  
 Third planning year — \$342,000  
     Alternate third planning year —  
     \$110,500  
 First year of teaching — \$434,200  
     Alternate first year of teaching —  
     \$176,900  
 Second year of teaching — \$471,300  
     Alternate second year of teaching —  
     \$214,000  
 Third year of teaching — \$458,300  
     Alternate third year of teaching —  
     \$201,000  
 Fourth year of teaching — \$470,300  
     Alternate fourth year of teaching —  
     \$211,000  
 Fifth year of teaching — \$489,800  
     Alternate fifth year of teaching —  
     \$227,500

(See Appendix A for detailed expenditure list.)

In review of the programs requested above, your Committee believes that Hawaii has the resources to begin and maintain a first-class law school.

#### V. Transfer of the Office of the Revisor of Statutes.

The office of the revisor of statutes in Hawaii is placed organizationally in the judicial branch with the revisor being appointed by the Supreme Court. The office was created by Act 191, Regular Session of 1959 (Ch. 2, HRS).

The principal duties of the revisor in the order of their priority are:

1. The publication of the session laws;
2. The publication of supplements to the revised laws;
3. The review of annotations to the revised laws;
4. The continuous revision of the statute laws of Hawaii; and

5. Such other related duties as may be assigned by the supreme court.

When Act 191 was being considered, thought was given to placing the office with either the Legislative Reference Bureau or the Office of the Attorney General, but the final decision at that time was to place it with the Supreme Court.

We believe that it is timely that this decision be reviewed. Practically since its creation, the appropriateness of the organizational placement of the office has been questioned. The 1960 *Annual Report of the Judiciary* (page 17) notes:

“It appears, however, that the type of work performed by the Revisor of Statutes is one which is more closely related to the legislative or legal branches of the State than the judiciary. Consideration might be given by the Legislature as to whether or not it might not be functionally more appropriate and consistent to attach that Office to the Attorney General’s Department or the Legislative Reference Bureau.”

In January, 1966, the Legislative Auditor published a report, *Examination of the Office of Revisor of Statutes* (Audit Report No. 66-1). On the matter of functions and organization of the Office of the Revisor of Statutes, the Legislative Auditor recommended:

#### “Function

We recommend that the functions of the Revisor of Statutes be expanded to include preventive maintenance of the statutes. Preventive activities would include bill drafting, and the review of bills prior to introduction and prior to passage on third reading. Preventive efforts will reduce the amount of corrective work required of the Revisor. The addition of this new function could be expeditiously handled by the Revisor’s staff since preventive and corrective activities both require the application of the same skills and knowledge and since there is no significant overlapping of peak workload periods between these two activities.

### Organization

We recommend that the statutory revision function be transferred from the Supreme Court to the Legislative Reference Bureau. Compatible and related legislative service functions would thus be situated under one organization. Moreover, this merger will make possible the elimination of many of the existing operating inefficiencies of the Revisor's Office which are caused mainly by the inflexibilities of manpower utilization imposed on a small organization. Finally, this merger of organizations will permit the training of more technical personnel on statutory revision thus obviating future shortages of skilled personnel." (p. 64)

The judiciary has testified that since the Office of the Revisor of Statutes is not functionally interrelated with any other of the Supreme Court's organizational subunits or sub-functions and since its work is closely related to the legislative process, it recommends legislation transferring the Office of the Revisor of Statutes to the legislative branch. Your Committee concurs with the judiciary. The work of the Revisor of Statutes is more closely related to the legislative branch and its placement in that branch should be seriously considered. Your Committee, however, felt it beyond its powers and did not consider to which office in the legislative branch it should be transferred.

### VI. Institution of a Small Claims Procedure.

Your Committee feels that Hawaii needs a simplified, streamlined and well-publicized small claims procedures for its citizens. The existing small claims procedures result in unnecessary formal requirements and excessive costs upon debtors and creditors. It is not unusual for a creditor who must resort to our present procedures to have to spend up to 50 per cent of an account receivable to obtain a judicial settlement. Your Committee is aware that many valid though small claims are left unresolved or uncollected under our present system. The complexity of the procedure usually makes an attorney

necessary and the claimant often finds the legal costs too high in relation to the amount to be collected. Your Committee proposes, therefore, that a simple procedure be instituted whereby a person without the aid of an attorney can institute a suit and follow it through to judgment and collection.

Your Committee did not go into the specifics of such procedure. Several proposals have been introduced in prior sessions and the judiciary is presently devising a system for introduction at this session of the Legislature. Your Committee notes, however, two major policy questions involved in any small claims procedure. First there is the problem as to the extent of assistance provided by the court. Should the court clerk prepare the complaints for the claimants? Should the court clerk thereafter enforce the judgment for the claimant? Testimony was received by your Committee to the effect that getting a judgment was only 10 per cent of the battle, and that collection of the judgment amounted to 90 per cent. Thus it is said that a small claims procedure, to be effective, must provide for court enforcement of the judgment. Court assistance in collection, however, is a very expensive proposition. The second question that arises is the availability of the procedure — that is, who can file under the small claims procedure? Since the court will be providing technical assistance, should this procedure or assistance be limited to individual citizens? What about small family-run commercial operations? Should the large merchandising firms, such as Sears or Penneys, be able to file under this procedure? These questions point out the complexity of the small claims concept. Your Committee, therefore, urges that all legislators give serious consideration to the various proposals that will be presented at this session of the Legislature.

### VII. Data Processing for the Judiciary.

The Judiciary has testified that a primary goal of the administration has been to integrate modern management methods throughout the Judiciary. In the search for better techniques for accomplishing the work of the courts, the administration

made some headway but their efforts would be greatly enhanced by the use of sophisticated data processing equipment.

An early inventory of the activities of the Judiciary identified 11 categories of work that would eventually require this type of support.

These areas are as follows:

1. Traffic violations processing and driver point system.
2. Jury selection and processing.
3. Case index and docketing.
4. Statistical reporting and research.
5. Alimony and support enforcement system.
6. Accounting for guardianship funds.
7. Processing of small estates.
8. Court calendaring at all levels.
9. Fiscal accounting for divisions as well as the department.
10. Personnel record keeping and processing for both the departmental staff and probationers.

Of first priority is the program at the Traffic Violations Bureau in Honolulu. Equipment is needed there to accomplish both a high volume of processing as well as for record storage. The everyday processing requires a system capable of handling the ever-increasing volume of citations. Also involved are the processing for bail forfeiture, setting cases for court, preparation of penal summons, and bench warrants as well as license suspension notices.

Of equal importance is the development of a data processing system for record keeping as required by the State of Hawaii Driver Point System. These records number several hundred thousand and are maintained in the Honolulu Traffic Violations Bureau. They must be maintained on

a current status to provide for an equitable system of bail forfeiture as well as furnish a properly administered system of courtroom assessed penalties. The equipment necessary to accomplish both the above tasks of processing as well as providing information in readily accessible form for the Traffic Violations Bureau would also be capable of servicing numerous other areas of the Judiciary.

The jury selection process in the First Circuit requires the initial screening of 37,000 people to obtain a final selection of 6,000. All of the processing, selection, and payroll disbursing have been adapted to the computer. This system has also been used for the Third Circuit, using lesser numbers with favorable results. The selection process is presently accomplished on borrowed time on State equipment or by purchased time from private service agencies.

The Indexing System of the First Circuit Court and the Statewide Statistical Reporting System are presently accomplished by use of private service bureaus. Both of these functions are accomplished at considerable expense to the State and because of this cost, have never been developed to their capacity.

The remaining categories which include alimony and support enforcement system, accounting for guardianship funds, processing of small estates, court calendaring at all levels, fiscal accounting for divisions as well as the department and personnel record keeping and processing for both the departmental staff and probationers, have no computer support.

The Judiciary has testified that three years of effort have been expended in an attempt to develop an integrated data processing capability for the judiciary. Several sets of specifications have been prepared but these have not resulted in any form of action that can be considered a solution to its problems. In his testimony before the Committee in October, Mr. Eugene Harrison, Director of the Statewide Information System, said that the computer now used by the Department of Accounting and General Services was earmarked for the

judiciary. When asked when the transfer would occur, he replied, "I would guess by the end of this year." He further testified that he had "one man assigned full time to the judiciary simply to maintain this communication (communication between SWIS and the judiciary)." Since October, your Committee has not seen any progress in developing the data processing capability of the judiciary, nor has communications between the two organizations improved. Your Committee finds this situation very upsetting. The Statewide Information System was designed to handle with appropriate automation the processing of data to provide all control and statistical information needed by the three branches of government for decision making and policy development. While the Committee recognizes that the agency has been beset by problems of organization and changing computer technology, it feels that greater progress should have been made in the past three years. Your Committee, therefore, requests that the Statewide Information System carefully reconsider (a) the several sets of specifications prepared for the judiciary and (b) the timetable for transfer of the computer to the judiciary to the end that they be provided with an integrated data processing capability.

#### **VIII. Physical Facilities for the Judiciary.**

With regard to physical facilities to house the judicial functions, your Committee notes that considerable progress has been made in the past few years and requests continued support in this area from members of the Legislature. While on the neighbor islands for the public hearings, your Committee made on-site inspection of many of the judicial facilities. The following is a status report on the facilities requirements of the judiciary.

Although there is a serious need for more space in nearly all parts of the State, the most critical problems are to be found on the Island of Oahu. In the planning stage is a Judicial Complex for Honolulu that will house the Supreme Court and its several related functions, the circuit courts, and the family court. This complex alone will require 400,000 square feet of space

to provide for growth of the Judiciary for the next decade and a half. This project will require the full support of the Legislature in coming sessions in order to resolve the critical space problem.

Of equal importance is the need for a complex to house the district courts of Honolulu along with the Violations Bureau. This particular problem has been overshadowed by the need for the Judicial Complex mentioned above, but it is every bit as critical a problem. The present building is overcrowded as well as inadequate for the purpose. The solution to this problem will require, in addition to planning for a building, a choice of site. The present site is almost in its entirety owned by the City and County of Honolulu with the State owning only a small segment on which the present building is situated. The Judiciary has pointed out the need for new court facilities in Kaneohe. In other areas on Oahu, progress has been made in the form of new facilities or planning for joint facilities. A new courthouse will soon be under construction in Pearl City that will serve the Ewa District Court and the Family Court Probation Service. In Waialua and Waianae planning will begin soon for civic centers to include a district court building.

With regard to the Second Judicial Circuit, testimony was received pointing to the need for new buildings in Wailuku, Makawao, Lahaina, Lanai, and Molokai. The Wailuku District Court will move soon to interim facilities necessitated by the demolition of the old armory building. The move will be made to the second floor of the old tax building to space that is from the outset inadequate and poorly designed for the judicial function. A proposed solution is the development of an additional floor on the top of the State Office Building. Planning moves ahead to locate the Lahaina District Court in the new Civic Center Complex located just north of Lahaina which should solve the problem for an indefinite period. The District Courts of both Molokai and Lanai are in dilapidated buildings that have passed the stage of renovation. In both of these areas, the most economic approach would seem to be one of participation in a Civic Center



arrangement.

The Third Judicial Circuit, as the result of recent developments, reflects the highest status in the area of physical facilities. With the move of the Third Circuit Court and the South Hilo District Court to the new State Office Building, a number of serious problems have been alleviated. Planning continues to place the Judiciary in Civic Center Developments in both Waimea and North Kohala. The Kona District Court which serves both the district and the circuit court is in need of renovation to upgrade the building for use by a full-time staff as well as for jury trials. The Hamakua District Court at Honokaa has been funded and bids accepted.

The Fifth Judicial Circuit is experiencing some relief in the court's efforts to develop adequate physical facilities. With the move of a number of agencies into the new State Office Building, the present courthouse is being renovated to house all of the judicial functions located in Lihue. Construction is complete on the District Court of Hanalei and planning will begin on the Koloa District Court. Funds to develop a District Court facility at Waimea and at Kapaa are needed to complete the Judiciary building program on Kauai.

#### **IX. Legal and Administrative Research.**

The research needs of the judiciary can generally be classified into two areas: Legal research and administrative research. Your Committee commends the judiciary for its progress in meeting the legal research needs of the judicial branch as well as community. A statewide system of law library service was established in July, 1969, and consists of the central collection in the Supreme Court Law Library and smaller collections in each of the neighbor island circuits with minimal reference tools in each of the administrative district magistrate's courts.

In the area of legal research service, some resources are already available. Each justice of the Supreme Court has a law clerk assigned to assist him in the preparation of opinions of the Supreme Court. At the circuit and district court level, such

service is not available. Your Committee feels that at the Circuit Court, the calendar has increased sufficiently, the legal issues have grown more complex and the administrative responsibilities have increased such that the provision of a law clerk for each circuit court judge should be seriously considered. Your Committee recommends that a gradual program be started to reclassify the present bailiff's position to a law clerk position. It is the intent of your Committee that such reclassification be made only when vacancies arise.

Your Committee is aware of the desirability of a research staff for special projects such as the penal law and civil code revision. The availability of a permanent research staff would greatly increase the effectiveness of the Judicial Council or the special study group by following through their recommendations on an extensive basis. However, since the projects often require expertise in certain areas of the law, your Committee feels that the research needs would be better met by a request to the Legislature for funds and the subsequent hiring of persons qualified in the subject matter. In this way the judiciary would be assured of capable research assistance in any field of study.

#### **X. Appointment of Family Court Referees.**

Your Committee notes that under the Family Court Act, the referee is appointed and serves at the pleasure of the judge or senior judge of the family court. Your Committee considers this an anomaly within the present judicial structure and recommends that such appointment and replacement be made either by the chief justice or by the family court judge with the concurrence of the chief justice. The chief justice is, under the Constitution, the administrative head of the courts. As such, he assigns judges from one circuit court to another for temporary service. He designates the family court judges of the first circuit. He appoints the district magistrates and administrative director of the courts. Accordingly, your Committee feels that he shall be the appointing and replacing authority with regard to family

court referees.

#### **XI. Recommendations for further study.**

##### **a. uniform bail standards and procedures at all courts.**

Testimony has been received urging several changes in our bail system. At the present time, a person eighteen years or older, who is charged with a bailable offense may apply to the circuit court for release on his own recognizance. There are no uniform guidelines for this "own recognizance" program and the extent and success of the program varies with the circuits. There is no established "own recognizance" program in the district courts. Thus an unfortunate situation exists in Hawaii which favors the release without bail of a person accused of a felony while a person accused of a misdemeanor must ordinarily post bail of at least \$25.00, have a bondsman post it for him for a fee of \$10.50, or remain in detention until at least his first court appearance. Your Committee therefore recommends that serious consideration be given to the establishment of uniform bail standards and procedures by court rule which would be applicable to all courts, including the district courts. These standards and procedures should promote the release on recognizance of all persons charged with a bailable offense who would not be likely to evade prosecution.

Your Committee also recommends that the judiciary look into the plight of persons arrested on the weekend. Proper procedures should be arranged to insure these people are not detained unnecessarily merely because they were unfortunate enough to be arrested over the weekend.

##### **b. increased use of summons or citation.**

The judiciary should investigate the increased use of a summons or citation in specified situations as is now done in the case of most traffic violations. This recommended procedure will avoid undue incarceration of persons prior to court appearance, reduce the cost of detaining persons who are charged with criminal acts without complicating the procedures for

orderly court appearances.

##### **c. increased use of a "deferred prosecution" program.**

The federal courts in the past few years, and very recently the public prosecutor of the City and County of Honolulu, have experimented with a "deferred prosecution" program which enabled the prosecuting authority to impose a preadjudication probation on a defendant instead of setting the case for trial. Such defendants who successfully meet the conditions imposed on them receive a nolle prosequi at the end of the term agreed upon. Testimony was received indicating that the program has been used successfully in the federal courts with first-offense marijuana cases. Your Committee urges the prosecuting authorities within the State to consider experimental implementation of such a system which might result in the early rehabilitation of criminal offenders without the stigma of a criminal record.

While deferred prosecution programs have ample precedent, the prosecuting attorneys within the State are uncertain as to its operation and consequences. Accordingly, your Committee recommends and calls attention to a new program proposed by the State Law Enforcement and Juvenile Delinquency Planning Agency which will encourage prosecuting authorities to engage in experimental deferred prosecution programs while conducting a simultaneous evaluation and study of the program to determine its feasible scope and delineate guidelines for its operation.

While the number of violators who would fall into this category is undeterminable at this time, experienced prosecutors and defense counsels have expressed the concern that many offenses are committed without a "criminal mind or heart" and are usually a result of the rapid social and economic changes in our society. Your Committee feels that prosecutors should not be oblivious to the mitigating and extenuating human consideration involved in criminal conduct and should avoid prosecutions which permanently injure a law violator without com-

mensurate benefit to the community. The deferred prosecution program is a commendable method of rehabilitating law violators without attaching to them a prejudicial and irreversible stigma of criminality for a single and minor offense for which there is only a moral but not a legal defense.

**d. review State law or policy on court records.**

Your Committee received testimony from the Hawaii Association of Medical Record Librarians asking for a review of present State law and policy regarding the detailed requirements of our evidence

laws, fees for court appearances and depositions and the proper disposition of medical records which have been introduced as evidence. Your Committee has referred this problem to the Medical-Legal Committee of the Hawaii Bar Association and the judiciary is requested to provide assistance if necessary.

Representatives Kato, Duponte, Oshiro and Miho.

Members of the House.

Senators Ushijima, Ariyoshi and Yee.

Members of the Senate.

### APPENDIX A

#### LAW SCHOOL ANNUAL BUDGETS

(The following budgets are taken from the Warren and Mearns study, "The School of Law, University of Hawaii: Its Feasibility and Social Importance.")

#### LAW SCHOOL BUDGET — FIRST PLANNING YEAR (1969-1970)

	<b>Sub-total</b>	<b>Total</b>
Administration		
Staff		
Dean	\$ 11,000	
Librarian	6,700	
Secretary	2,700	\$ 20,400
	<hr/>	
Expense		
Office Supplies and Equipment	1,000	
Travel, Communication, etc.	2,000	3,000
	<hr/>	
Benefits		250
		<hr/>
<b>TOTAL EXPENSE</b>		<b>\$ 23,650</b>

#### LAW SCHOOL BUDGET — SECOND PLANNING YEAR (1970-1971)

	<b>Sub-total</b>	<b>Total</b>
Administration		
Staff		
Dean	\$ 33,000	
Secretary	8,000	
Assistant Dean	16,000	
Secretary	8,000	\$ 65,000
	<hr/>	

Expense		
Office Supplies and Equipment	1,500	
Travel, Communication, etc.	5,000	6,500
	<hr/>	
Library		
Staff		
Librarian	20,000	
Acquisitions Librarian	11,000	
Cataloguer	11,000	
2 Secretaries	10,000	52,000
	<hr/>	
Expense		
Equipment, Supplies, Binding	4,000	
Books — Acquisitions	200,000	204,000
	<hr/>	
Benefits Program		14,500
		<hr/>
TOTAL EXPENSE		\$342,000

## ALTERNATIVE BUDGET — SECOND PLANNING YEAR (1970-1971)

	Sub-total	Total
Administration		
Staff		
Dean	\$ 33,000	
Secretary	8,000	
Assistant Dean	16,000	
Secretary	8,000	\$ 65,000
	<hr/>	
Expense		
Office Supplies and Equipment	1,500	
Travel, Communication, etc.	5,000	6,500
	<hr/>	
Library		
Staff		
Librarian	20,000	
Secretary	5,000	25,000
	<hr/>	
Expense		
Equipment, Supplies, Binding	2,000	2,000
	<hr/>	
Benefits Program		12,000
		<hr/>
TOTAL EXPENSE		\$110,500

## LAW SCHOOL BUDGET — THIRD PLANNING YEAR (1971-1972)

	Sub-total	Total
Administration		
Staff		
Dean	\$ 33,000	
Secretary	8,000	
Assistant Dean	16,000	
Secretary	8,000	\$ 65,000
	<hr/>	
Expense		
Office Supplies and Equipment	1,500	
Travel, Communication, etc.	5,000	6,500
	<hr/>	
Library		
Staff		
Librarian	20,000	
Acquisitions Librarian	11,000	
Cataloguer	11,000	
2 Secretaries	10,000	52,000
	<hr/>	
Expense		
Equipment, Supplies, Binding	4,000	
Books — Acquisitions	200,000	204,000
	<hr/>	
Benefits Program		14,500
		<hr/>
TOTAL EXPENSE		\$342,000

## ALTERNATIVE BUDGET — THIRD PLANNING YEAR (1971-1972)

	Sub-total	Total
Administration		
Staff		
Dean	\$ 33,000	
Secretary	8,000	
Assistant Dean	16,000	
Secretary	8,000	\$ 65,000
	<hr/>	
Expense		
Office Supplies and Equipment	1,500	
Travel, Communication, etc.	5,000	6,500
	<hr/>	
Library		
Staff		
Librarian	20,000	
Secretary	5,000	25,000
	<hr/>	
Expense		
Equipment, Supplies, Binding	2,000	2,000
	<hr/>	
Benefits Program		12,000
		<hr/>
TOTAL EXPENSE		\$110,500

## LAW SCHOOL BUDGET — FIRST YEAR IN OPERATION (1972-1973)

	Sub-total	Total
Administration		
Staff		
Dean	\$ 33,000	
Secretary	8,000	
Assistant Dean-Registrar	16,000	
Secretary	8,000	\$ 65,000
	<hr/>	
Expense		
Dean's Discretionary Fund	3,000	
(Name) Lectureship Series	1,200	
Office Supplies and Equipment	2,300	
Travel, Communication, Printing, Dues	7,500	14,000
	<hr/>	
Faculty		
2 Professors (\$19,000-\$23,000)	42,000	
1 Non-Full Professor (\$13,000-\$19,000)	15,000	
- Adjunct Professors (\$2,000)	—	
- (Student Research Assistants)	—	
1 Secretary	8,000	65,000
	<hr/>	
Library		
Staff		
Librarian	20,000	
Acquisitions Librarian	11,000	
Cataloguer	11,000	
3 Clerk-typists	15,000	
Student Desk Attendants	3,000	60,000
	<hr/>	
Expense		
Equipment, Supplies, Binding	7,500	
Books — Acquisitions and Continuations	50,000	57,500
	<hr/>	
Benefits Program		24,400
Maintenance		102,300
Scholarships		5,000
		<hr/>
TOTAL OPERATING EXPENSE		\$393,200
BUILDING EXPENSE — PUBLIC LOANS (INTEREST)		105,000
		<hr/>
TOTAL EXPENSE		\$498,200
TOTAL OPERATING INCOME (Tuition)		64,000
		<hr/>
NET PROFIT (Loss)		(\$434,200)



## ALTERNATIVE BUDGET — FIRST YEAR IN OPERATION (1972-1973)

	Sub-total	Total
Administration		
Staff		
Dean	\$ 33,000	
Secretary	8,000	
Assistant Dean-Registrar	16,000	
Secretary	8,000	\$ 65,000
	<hr/>	
Expense		
Dean's Discretionary Fund	3,000	
(Name) Lectureship Series	1,200	
Office Supplies and Equipment	2,300	
Travel, Communication, Printing, Dues	7,500	14,000
	<hr/>	
Faculty		
2 Professors (\$19,000-\$23,000)	42,000	
1 Non-Full Professor (\$13,000-\$19,000)	15,000	
- Adjunct Professors (\$2,000)	—	
- (Student Research Assistants)	—	
1 Secretary	8,000	65,000
	<hr/>	
Library		
Staff		
Librarian	20,000	
Acquisitions Librarian	11,000	
Cataloguer	11,000	
3 Clerk-typists	15,000	
Student Desk Attendants	3,000	60,000
	<hr/>	
Expense		
Equipment, Supplies, Binding		7,500
Benefits Program		24,400
Scholarships		5,000
		<hr/>
TOTAL OPERATING EXPENSE		\$240,900
TOTAL OPERATING INCOME (Tuition)		64,000
		<hr/>
NET PROFIT (Loss)		(\$176,900)

## LAW SCHOOL BUDGET — SECOND YEAR IN OPERATION (1973-1974)

	Sub-total	Total
Administration		
Staff		
Dean	\$ 33,000	
Secretary	8,000	
Assistant Dean-Registrar	17,000	
Secretary	8,000	
Secretary (Part-time)	4,000	\$ 70,000
	<hr/>	
Expense		
Dean's Discretionary Fund	3,000	
(Name) Lectureship Series	1,200	
Office Supplies and Equipment	2,300	
Travel, Communications, Printing, Dues	7,500	14,000
	<hr/>	
Faculty		
4 Professors (\$19,000-\$23,000)	84,000	
2 Non-Full Professors (\$13,000-\$19,000)	30,000	
1 Adjunct Professor (\$2,000)	2,000	
4 Student Research Assistants (\$500)	2,000	
3 Secretaries (1 clerk-typist)	24,000	142,000
	<hr/>	
Library		
Staff		
Librarian	21,000	
Acquisitions Librarian	11,500	
Cataloguer	11,500	
3 Clerk-typists	16,000	
Student Desk Attendants	3,000	63,000
	<hr/>	
Expense		
Equipment, Supplies, Binding	7,500	
Books — Acquisitions and Continuations	50,000	57,500
	<hr/>	
Benefits Program		35,500
Maintenance		102,300
Scholarships		10,000
		<hr/>
TOTAL OPERATING EXPENSE		\$494,300
BUILDING EXPENSE — PUBLIC LOANS (INTEREST)		105,000
		<hr/>
TOTAL EXPENSE		\$599,300
TOTAL OPERATING INCOME (Tuition)		128,000
		<hr/>
NET PROFIT (Loss)		(\$471,300)

## ALTERNATIVE BUDGET — SECOND YEAR IN OPERATION (1973-1974)

	Sub-total	Total
Administration		
Staff		
Dean	\$ 33,000	
Secretary	8,000	
Assistant Dean-Registrar	17,000	
Secretary	8,000	
Secretary (Part-time)	4,000	\$ 70,000
	<hr/>	
Expense		
Dean's Discretionary Fund	3,000	
(Name) Lectureship Series	1,200	
Office Supplies and Equipment	2,300	
Travel, Communications, Printing, Dues	7,500	14,000
	<hr/>	
Faculty		
4 Professors (\$19,000-\$23,000)	84,000	
2 Non-Full Professors (\$13,000-\$19,000)	30,000	
1 Adjunct Professor (\$2,000)	2,000	
4 Student Research Assistants (\$500)	2,000	
3 Secretaries (1 clerk-typist)	24,000	142,000
	<hr/>	
Library		
Staff		
Librarian	21,000	
Acquisitions Librarian	11,500	
Cataloguer	11,500	
3 Clerk-typists	16,000	
Student Desk Attendants	3,000	63,000
	<hr/>	
Expense		
Equipment, Supplies, Binding		7,500
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Benefits Program		35,500
Scholarships		10,000
		<hr/>
TOTAL OPERATING EXPENSE		\$342,000
TOTAL OPERATING INCOME (Tuition)		128,000
		<hr/>
NET PROFIT (Loss)		(\$214,000)

## LAW SCHOOL BUDGET — THIRD YEAR IN OPERATION (1974-1975)

	Sub-total	Total
Administration		
Staff		
Dean	\$ 34,000	
Secretary	8,500	
Assistant Dean-Registrar	17,000	
Secretary	8,500	
Secretary	8,000	\$ 76,000
	<hr/>	
Expense		
Dean's Discretionary Fund	3,000	
(Name) Lectureship Series	1,200	
Office Supplies and Equipment	2,800	
Travel, Communication, Printing, Dues	8,500	15,500
	<hr/>	
Faculty		
5 Professors (\$19,000-\$23,000)	105,000	
2 Non-Full Professors (\$13,000-\$19,000)	31,000	
2 Adjunct Professors (\$2,000)	4,000	
5 Student Research Assistants (\$500)	2,500	
4 Secretaries (2 clerk-typists)	32,000	174,500
	<hr/>	
Library		
Staff		
Librarian	21,000	
Acquisitions Librarian	11,500	
Cataloguer	11,500	
3 Clerk-typists	17,000	
Student Desk Attendants	3,000	64,000
	<hr/>	
Expense		
Equipment, Supplies, Binding, etc.	7,500	
Books — Acquisitions and Continuations	50,000	57,500
	<hr/>	
Benefits Program		40,500
Maintenance		102,300
Scholarships		15,000
		<hr/>
TOTAL OPERATING EXPENSE		\$545,300
BUILDING EXPENSE — PUBLIC LOANS (INTEREST)		105,000
		<hr/>
TOTAL EXPENSE		\$650,300
TOTAL OPERATING INCOME (Tuition)		192,000
		<hr/>
NET PROFIT (Loss)		(\$458,300)

## ALTERNATIVE BUDGET — THIRD YEAR IN OPERATION (1974-1975)

	Sub-total	Total
Administration		
Staff		
Dean	\$ 34,000	
Secretary	8,500	
Assistant Dean-Registrar	17,000	
Secretary	8,500	
Secretary	8,000	\$ 76,000
	<hr/>	
Expense		
Dean's Discretionary Fund	3,000	
(Name) Lectureship Series	1,200	
Office Supplies and Equipment	2,800	
Travel, Communication, Printing, Dues	8,500	15,500
	<hr/>	
Faculty		
5 Professors (\$19,000-\$23,000)	105,000	
2 Non-Full Professors (\$13,000-\$19,000)	31,000	
2 Adjunct Professors (\$2,000)	4,000	
5 Student Research Assistants (\$500)	2,500	
4 Secretaries (2 clerk-typists)	32,000	174,500
	<hr/>	
Library		
Staff		
Librarian	21,000	
Acquisitions Librarian	11,500	
Cataloguer	11,500	
3 Clerk-typists	17,000	
Student Desk Attendants	3,000	64,000
	<hr/>	
Expense		
Equipment, Supplies, Binding, etc.	7,500	7,500
	<hr/>	
Benefits Program		40,500
Scholarships		15,000
		<hr/>
TOTAL OPERATING EXPENSE		\$393,000
TOTAL OPERATING INCOME (Tuition)		192,000
		<hr/>
NET PROFIT (Loss)		(\$201,000)

## LAW SCHOOL BUDGET — FOURTH YEAR IN OPERATION (1975-1976)

	Sub-total	Total
Administration		
Staff		
Dean	\$ 34,000	
Secretary	8,600	
Assistant Dean-Registrar	17,500	
Secretary	8,600	
Secretary	8,300	\$ 77,000
	<hr/>	
Expense		
Dean's Discretionary Fund	3,000	
(Name) Lectureship Series	1,200	
Office Supplies and Equipment	3,300	
Travel, Communications, Printing, Dues	8,500	16,000
	<hr/>	
Faculty		
6 Professors (\$19,000-23,000)	128,000	
2 Non-Full Professors (\$13,000-\$19,000)	32,000	
3 Adjunct Professors (\$2,000)	6,000	
6 Student Research Assistants (\$500)	3,000	
4 Secretaries (2 clerk-typists)	32,000	201,000
	<hr/>	
Library		
Staff		
Librarian	22,000	
Acquisitions Librarian	12,000	
Cataloguer	12,000	
4 Clerk-typists	22,000	
Student Desk Attendants	3,000	71,000
	<hr/>	
Expense		
Equipment, Supplies, Binding, etc.	8,000	
Books — Acquisitions and Continuations	52,000	60,000
	<hr/>	
Benefits Program		45,000
Maintenance		102,300
Scholarships		17,000
		<hr/>
TOTAL OPERATING EXPENSE		\$589,300
BUILDING EXPENSE — PUBLIC LOANS (INTEREST)		105,000
		<hr/>
TOTAL EXPENSE		\$694,300
TOTAL OPERATING INCOME (Tuition)		224,000
		<hr/>
NET PROFIT (Loss)		(\$470,300)



## ALTERNATIVE BUDGET — FOURTH YEAR IN OPERATION (1975-1976)

	Sub-total	Total
Administration		
Staff		
Dean	\$ 34,000	
Secretary	8,600	
Assistant Dean-Registrar	17,500	
Secretary	8,600	
Secretary	8,300	\$ 77,000
Expense		
Dean's Discretionary Fund	3,000	
(Name) Lectureship Series	1,200	
Office Supplies and Equipment	3,300	
Travel, Communications, Printing, Dues	8,500	16,000
Faculty		
6 Professors (\$19,000-23,000)	128,000	
2 Non-Full Professors (\$13,000-\$19,000)	32,000	
3 Adjunct Professors (\$2,000)	6,000	
6 Student Research Assistants (\$500)	3,000	
4 Secretaries (2 clerk-typists)	32,000	201,000
Library		
Staff		
Librarian	22,000	
Acquisitions Librarian	12,000	
Cataloguer	12,000	
4 Clerk-typists	22,000	
Student Desk Attendants	3,000	71,000
Expense		
Equipment, Supplies, Binding, etc.	8,000	8,000
Benefits Program		45,000
Scholarships		17,000
TOTAL OPERATING EXPENSE		\$435,000
TOTAL OPERATING INCOME (Tuition)		224,000
NET PROFIT (Loss)		(\$211,000)

## LAW SCHOOL BUDGET — FIFTH YEAR IN OPERATION (1976-1977)

	Sub-total	Total
<b>Administration</b>		
<b>Staff</b>		
Dean	\$ 35,000	
Secretary	8,600	
Assistant Dean-Registrar	17,500	
Secretary	8,600	
Secretary	8,300	\$ 78,000
<b>Expense</b>		
Dean's Discretionary Fund	3,000	
(Name) Lectureship Series	1,200	
Office Supplies and Equipment	3,300	
Travel, Communications, Printing, Dues	9,000	16,500
<b>Faculty</b>		
6 Professors (\$19,000-23,000)	130,000	
3 Non-Full Professors (\$13,000-\$19,000)	48,000	
3 Adjunct Professors (\$2,000)	6,000	
6 Student Research Assistants (\$500)	3,000	
5 Secretaries (2 clerk-typists)	40,000	227,000
<b>Library</b>		
<b>Staff</b>		
Librarian	22,000	
Acquisitions Librarian	12,000	
Cataloguer	12,000	
4 Clerk-typists	22,000	
Student Desk Attendants	3,000	71,000
<b>Expense</b>		
Equipment, Supplies, Binding, etc.	8,000	
Books — Acquisitions and Continuations	55,000	63,000
Benefits Program		49,000
Maintenance		102,300
Scholarships		18,000
<b>TOTAL OPERATING EXPENSE</b>		<b>\$624,800</b>
<b>BUILDING EXPENSE — PUBLIC LOANS (INTEREST)</b>		<b>105,000</b>
<b>TOTAL EXPENSE</b>		<b>\$729,800</b>
<b>TOTAL OPERATING INCOME*</b>		<b>240,000</b>
<b>NET PROFIT (Loss)</b>		<b>(\$489,800)</b>

\*(By 1976-1977, a tuition increase to \$1800 might be appropriate. This increase would produce income of \$270,000 for the 150 projected enrollment, and a \$459,800 loss instead of the budgeted \$489,800 loss.)

## ALTERNATIVE BUDGET — FIFTH YEAR IN OPERATION (1976-1977)

	Sub-total	Total
Administration		
Staff		
Dean	\$ 35,000	
Secretary	8,600	
Assistant Dean-Registrar	17,500	
Secretary	8,600	
Secretary	8,300	\$ 78,000
	<hr/>	
Expense		
Dean's Discretionary Fund	3,000	
(Name) Lectureship Series	1,200	
Office Supplies and Equipment	3,300	
Travel, Communications, Printing, Dues	9,000	16,500
	<hr/>	
Faculty		
6 Professors (\$19,000-23,000)	130,000	
3 Non-Full Professors (\$13,000-\$19,000)	48,000	
3 Adjunct Professors (\$2,000)	6,000	
6 Student Research Assistants (\$500)	3,000	
5 Secretaries (2 clerk-typists)	40,000	227,000
	<hr/>	
Library		
Staff		
Librarian	22,000	
Acquisitions Librarian	12,000	
Cataloguer	12,000	
4 Clerk-typists	22,000	
Student Desk Attendants	3,000	71,000
	<hr/>	
Expense		
Equipment, Supplies, Binding, etc.	8,000	8,000
	<hr/>	
Benefits Program		49,000
Scholarships		18,000
		<hr/>
TOTAL OPERATING EXPENSE		\$467,500
TOTAL OPERATING INCOME*		240,000
		<hr/>
NET PROFIT (Loss)		(\$227,500)

\*(By 1976-1977, a tuition increase to \$1800 might be appropriate. This increase would produce income of \$270,000 for the 150 projected enrollment, and a \$197,500 loss instead of the budgeted \$227,500 loss.)

**Special Com. Rep. 6**

Your Interim Committee to Study the Laws Governing Public Lands which was organized pursuant to **House Resolution 274** of the 1969 Regular Session, begs leave to submit its report for your consideration.

The purpose of the Committee as set forth in **H. R. 274** was to review and appraise the existing land laws of the State governing the management and disposition of public lands to meet the needs and best interests of the populace. In the course of its work, your Committee found it necessary to expand the scope of the subject under study and consider the problem of housing. This was in recognition of the strong interlocking relationship between the availability of land and the supply of housing. This expansion of your Committee's work is considered to be within the broad mandate of the resolution which calls for an assessment of present land policies in light of the socioeconomic changes since 1962 and the critical urban and rural needs of the State.

No problem is more pressing than that of providing adequate housing for the people of the State. The severity of the problem has been analyzed in numerous studies and accentuates the need for a concerted effort by government to alleviate the shortage. Your Committee recognizes that there is no definitive solution to the problem of housing in Hawaii. Land is only part of the answer because an enlightened land policy is not a solution in itself but merely one of the factors which facilitates the development of housing. Other obstacles are also present in the lack of availability of money and labor to support expanding construction industry needs. Only cooperation and coordination among all sectors of the State, both private and public, will assure success in obtaining the goal of decent housing for all residents.

The lack of refined qualitative data as well as a lack of a complete quantitative picture of the housing problem and its effect should not preclude necessary ameliorative action as soon as possible. There is no question but that a one-time addition of 10,000 moderately priced units in

Honolulu having the existing percentage distribution of size and tenure characteristics would help to alleviate the excess demand situation amply documented by available evidence. These units could be composed completely of rental units, and still contribute to lower purchase prices as the result of increased satisfaction of demand.

Although additional insight might be needed in a later phase of an effective housing program, the quest for more refined information should not provide an excuse for avoiding the obvious steps necessary at the present time. As a practical matter any program to increase the housing supply at this time, in whatever combination of private and public participation, would not produce more units in two or three years than could be easily absorbed in view of the severe shortage.

Your Committee has met with a broad range of individuals from all sectors of the community who are involved in the problems of land development and housing. From these meetings and deliberations, your Committee presents its report and proposals to the Fifth Legislature for further consideration. The proposals can be classified as both short-term and long-term courses of action designed to provide government as well as private industry the needed flexibility in meeting the crisis. It is the hope that with these tools, support will be forthcoming from the community and the county governments to solve the problem which the State faces.

Signed by Representatives Serizawa, Kawakami, Uechi, Shigemura, de la Cruz and Saiki.

REPORT OF THE  
HOUSE INTERIM COMMITTEE  
TO STUDY THE LAWS  
GOVERNING PUBLIC LANDS

January 15, 1970

I. RECOMMENDATIONS ON  
LAND POLICY

**Introduction**

Land is one of Hawaii's most valuable resources both because of the scarcity of

land in an island state and because the pattern of land ownership is heavily concentrated in federal, state, and private landowners. The constant problem which faces the State's policymakers is the method by which land resources will be utilized to result in optimum benefits to the people and contribute to the general well-being of the community. This determination of best use, by necessity, extends not only to public lands but also to lands held by private landowners whose actions affect the economy and livelihood of a large portion of the populace. Land policies as they effect housing, then, cover both the private and the public sector.

The relationship between the availability of land and the supply of housing is a critical one. Because of the scarcity of supply, the cost of raw land used for housing in Hawaii is high relative to raw land costs in other states. Land improvement costs are also high although this component of total land costs varies considerably with the location of the parcel and the character of the terrain. While available figures on land improvement costs tend to be general, these costs are most often cited by developers and contractors as major contributors to housing costs. Some representative figures on Oahu are given in the following table which illustrate these points.

Table I  
ON-SITE/OFF-SITE IMPROVEMENT COSTS OF  
SUBDIVISIONS IN HONOLULU

Development Features	Construction Cost (per sq. ft.)
Level lot, no off-site improvement required	\$ .65 - \$ .75
Level lot with an off-site improvement, FHA-VA loan commitment	.75 - .90
Semi-level lot, water reservoir tank or sewage treatment plant required, FHA-VA loan commitment	.90 - 1.05
Extensive on-site and off-site improvements	1.05 - 1.25

**Source:** Figures provided by Planning Department, City and County of Honolulu, based on a telephone survey of subdivision tract developers and consultants.

Statistics from the Federal Housing Administration also confirm the high land costs in Hawaii. The average market price of the site for FHA homes in Hawaii in 1967 was 39.4 per cent of total property value for new homes and 42.0 per cent of the total for existing homes. In contrast, the national averages were 19.7 and 21.1 per cent, respectively. Since 1960, the site cost in Hawaii has increased 81.5 per cent for new homes and 95.9 per cent for existing homes. The 1967 Hawaii averages exceeded those on the mainland by 212.6 per cent for new homes and 265.3 per cent for existing homes.<sup>1</sup>

The scarcity of land in Hawaii has another effect on the high cost of housing. The lack of large blocks of land suitable for new developments as tract housing

means that developers, whether established or potential developers, are unable to add to the stock of housing. The effects of this scarcity is represented in the prices of existing housing which are rising far beyond the cost of identifiable inputs.

It is apparent, then, that greater availability of land will have a positive effect on the housing situation. Even if there were no pronounced decrease in the price of raw land, greater availability of land would have effects which would tend to reduce the cost of housing in Hawaii. The problem is particularly acute on Oahu where over

<sup>1</sup> See: U.S., Federal Housing Administration, **FHA Homes 1967** (Washington, n.d.).

80 per cent of the total population of the State resides. The following recommendations aim to provide more land for housing in the State.

### Recommendations

#### A. Making State Land Available

In order to make more land available, the committee recommends that the state government take the initiative under its existing public land laws to develop a systematic program to dispose of public lands suitable for residential purposes. Although the lack of an updated inventory of state lands makes it difficult to locate buildable parcels, any state-owned land on a grade of less than 20 per cent should be considered potential additions to available land for housing. Throughout its deliberations, the committee has noted that the existing land laws, if properly implemented and adequately funded, will meet many of the problems posed in the housing crisis. The laws, however, require some revision. The proposed adjustments and amendments to Chapter 171, Hawaii Revised Statutes, on the Management and Disposition of Public Lands would ensure greater availability of such public land with new income and other requirements which would enable more residents to take advantage of opportunities of acquiring land for residential use. A readjustment in income requirements is based on the committee's recognition that it is the lower moderate income group, sometimes referred to as the "gap group", whose family income is in excess of that permitted for entry in public housing but still too low to achieve home ownership due to high prices, who require legislative attention. Proposed amendments to the law would also reduce the chances of speculative gain in the purchase and resale of state lands. A summary of the recommendations follows:

#### Chapter 171 MANAGEMENT AND DISPOSITION OF PUBLIC LANDS

A. Sales or leases of residential lots (Section 171-45)

**Present provision:** Board of Land and Natural Resources disposes of land for residential purposes by sale in fee simple at public auction and by lease at public auction or by drawing of lots.

**Recommendation:** Because bidding in public auction raises the prices of such lots beyond the means of most moderate income families, the Board should dispose of land for residential purposes at the upset price by drawing of lot of eligible persons. Only land in higher-priced areas like Diamond Head would be offered in public auction.

#### B. Residence lots, requirements (Section 171-48)

1. **Present provision:** Does not restrict persons who already own fee simple lands for residential purposes from purchasing or leasing a lot from the State.

**Recommendation:** Prohibit an individual who himself or whose spouse or both (when husband and wife are living together) owns or own fee simple land suitable for residential purposes in the same political subdivision from purchasing or leasing a lot. Requirement to be added that the lot or home so purchased must be used as the principal domicile of the purchaser.

2. **Present provision:** Requires lessee or purchaser to construct a dwelling within two years. (This is contained in the sales agreement, and is not a statutory requirement.)

**Recommendation:** Require a time limit in the statute, but leave the term unspecified to be determined by the committee at a later date.

3. **Present provision:** No gross income requirements of purchaser.

**Recommendation:** Incorporate language of section 206-9(4).

#### C. Unsold, forfeited, surrendered lots (Section 171-49)

**Present provision:** Disposed of by auction



or if only one person has applied for lot, by sale at not less than upset price.

**Recommendation:** Dispose of lots by drawing of eligible persons.

**D. Exchanges (Section 171-50)**

**Recommendation by resolution:** Permit exchanges of public land for private land for residential purposes.

**E. Income requirements for lease (Section 171-74)**

**Present provision:** Maximum limit to qualify is a gross income of \$6,500 a year including gross income of spouse.

**Recommendation:** Raise limit to \$15,000 a year.

**F. Restriction on resales**

**Present provision:** No statutory restrictions.

**Recommendations:**

1. Restrict original purchaser from offering lot for resale for the first 10 years unless it is first offered to the Board.
2. Repurchase price should be determined to prevent speculative gain (original purchase price plus interest for an unimproved lot and original purchase price plus interest and actual costs of improvements on an improved lot).

**G. Land set aside for public use (Section 171-11)**

**Recommendation by resolution:** Encourage the administration to locate public institutions wherever feasible on neighbor islands where more state land is available. Encourage the withdrawal of buildable acreage reserved to various public institutions which are not being utilized to free land on Oahu suitable for residential purposes.

**B. Making Private Land Available**

Although the state government owns over 38 per cent of the total land area in

Hawaii, not all of this land is available or suitable for housing, and it is not distributed evenly among the islands. On Oahu, where the housing pressure is greatest, only 14.8 per cent of the total area is owned by the State. Thus, the rapid disposition of public lands on Oahu will not, alone, alleviate the land scarcity problem. Much of the existing housing problem on Oahu could be alleviated if the existing acreage which is urban zoned but undeveloped and in private land were put into residential development as soon as possible. Instead, much of the land is lying idle for speculative purposes.

The committee has re-examined Chapter 206 on Oahu Land Development which authorizes the Board of Land and Natural Resources to exercise the power of eminent domain by condemning private lands and thereafter putting the land into development for residential use. The committee recommends that the implementation of this law be considered where conditions may warrant. The amendments which are recommended are aimed at updating the law and coordinating the changes with Chapter 171.

Chapter 206

OAHU LAND DEVELOPMENT

**A. Property acquired for development (Section 206-7)**

**Present provision:** The law exempts lands under the "process of subdivision" from condemnation.

**Recommendation:** "Process of subdivision" should be more clearly defined to avoid token development.

**B. Development of lands acquired (Section 206-8)**

**Present provision:** Board contracts with private developer through bidding procedure for the development of housing.

**Recommendation:** Amend the law so the Board may contract with private developer through negotiation as provided in Act 68, 1968.

**C. Restrictions on resales (Section 206-10)**

**Present provision:** Restricts original purchaser from offering a lot for resale for the first five years unless it is first offered to the Board.

**Recommendation:** Raise the restriction to ten years and the repurchase price should be determined to prevent speculative gain by formula recommended under F in discussion of Chapter 171, Hawaii Revised Statutes.

#### D. Building structures on lots (Section 206-10)

**Present provision:** Requires original purchaser to build residence within two years of date of purchase.

**Recommendation:** Leave the time requirement unspecified to be determined by the committee at a later date.

#### C. Land Use Law

The original intent of the Land Use Law remains as valid as at the time of enactment. It is still important and desirable that agriculture remain viable in the state economy while at the same time, it is necessary that urban growth be encouraged in an orderly and planned manner. The committee is continuing its re-examination of Chapter 205 on the Land Use Commission and recommends a deferral of legislative action until the final report now being prepared by the consulting firm of Eckbo, Dean, Austin, and Williams is submitted during the 1970 session.

In its deliberations during the interim period, the committee has been cognizant of the many problems which have been faced by the Land Use Commission in the implementation of the law and the effects of the decisions of the commission on the availability of land for residential use. There is no question that the need for urban-zoned land is most critical on Oahu but the lack of accurate statistics compounds the difficulty of proper decision-making. No state agency, at the present time, can provide statistics on how much of the existing urban-zoned acreage is vacant or idle.

At the specific request of the committee,

the Legislative Reference Bureau and the Land Study Bureau of the University of Hawaii are presently engaged in a study of vacant urban-zoned lands on Oahu. While the findings of the study are expected to be approximate, they will contribute to the bases upon which the Committee on Public Lands hopes to make recommendations concerning Chapter 205 during the regular session.

#### D. Land Improvement Standards and Requirements

Hawaii is unique in that most of the off-site improvements in any new subdivision are made by the developers who subsequently dedicate such off-site improvements as sewer and water facilities to the county. Since many such off-site improvements are made by government bodies on the mainland, any comparison of developers' off-site improvement cost with those on the mainland may overstate the difference. That is, some of the differences may be more apparent than real since the homeowner would pay for some of the off-site improvements through taxes on the mainland while in Hawaii, improvements would be paid for directly in the price of the house.

To reduce costs, proposals are often advanced that subdivision regulations which require curbs and gutters, underground wiring and other improvements prior to development and construction, impose costs upon buyers who might benefit by a deferral. However, it must not be overlooked that a deferral may ultimately prove more costly if these facilities are installed after a tract has been built up since incurring the costs in early stages would probably take advantage of larger scale production economies and may actually reduce consumers' costs in the long run. On the assumption that the safety and engineering characteristics are justified by engineering standards and on the assumption that costly off-site improvements such as underground utilities are desired by the community, there is relatively little room for reducing the land improvement cost component of land. Nevertheless, consideration could be given to whether the state or county governments could participate

in paying for the off-site development costs either on housing developed on state lands by private developers or in improvement districts under Chapter 67, Hawaii Revised Statutes. The committee, therefore, recommends that the Department of Land and Natural Resources and the Department of Budget and Finance be requested to conduct a cost feasibility study of state financing of off-site improvement costs in development tracts and report their findings to the next Legislature for further action.

#### E. Leasing of State Lands

Because of the higher costs to the purchasers involved in the disposition of state lands in fee simple, increased use of residential leaseholds appears to be a more desirable method of disposition of state lands because of lower initial costs incurred by the lessees. Chapter 171 already allows the lessee to purchase the land at a later date in fee simple.

There are, however, no guidelines as to which policy would be more suitable for disposition of public lands given present conditions of land scarcity, the tight money market, and increasing demands for home ownership by residents. The committee, therefore, recommends that the Department of Land and Natural Resources and the Land Study Bureau of the University of Hawaii be requested to conduct a study to determine whether sale or lease of single-family dwelling lots would be the form most suitable for efficient and equitable disposition of public lands in today's market conditions, and to make recommendations for action to the next Legislature.

## II. RECOMMENDATIONS ON STATE FUNDING FOR CONSTRUCTION LOANS AND MORTGAGES

### Introduction

If the scarcity of land available for housing were overcome through the use of measures recommended in Part I of this report, housing still would not be put on the market if developers and contractors

could not get construction loans or prospective buyers could not obtain mortgage financing.

The competition for construction and mortgage money is more acute whenever a tight money market prevails. At the present time the prime interest rate has been raised to an unprecedented level, and money is available at prohibitive interest rates. The financing arrangements add considerably to the cost of housing in a tight money market, but the absence of such funds would be an even more serious problem.

The State already has at its disposal a number of existing programs which could make money available for construction loans and temporary mortgage financing as long as the housing crisis coincides with the national tight money period. The committee, however, recognizes that laws cannot be implemented as long as the funding is inadequate and recommends that appropriations be made where the effects will be most beneficial.

### Recommendations

#### A. Mortgage Loans

In the tight money market which exists today, even if public lands were offered for sale at low prices to eligible buyers, many residents would be unable to meet the mortgage requirements of commercial lending institutions. In recognition of this problem a mortgage loan program was set up for purchasers of state land but the eligibility requirements are outdated and the funding for the program is minimal. The committee recommends that the requirements be raised in Part I of Chapter 207, Hawaii Revised Statutes, to accommodate the "gap group" families seeking to purchase state land for residential purposes.

For purchasers of homes on other than state lands and for mortgage loans to private developers, Chapter 361, the Community Home Mortgage Program, was enacted in 1967, but this program has not been implemented due to financial and other difficulties. The committee recommends

that this law be utilized to provide needed mortgage funds to eligible home buyers and that a number of requirements be updated. The recommended changes are as follow:

Chapter 207  
MORTGAGE LOANS

Part I. Home Loans for Middle-Income Home Buyers on State Lands

A. Qualification for loans (Section 207-2)

**Present provision:** To qualify, an applicant must not have a gross annual income in excess of \$7,000 including the gross income of his spouse.

**Recommendation:** Raise the gross annual income limit to \$15,000.

B. Bond authorization (Section 207-6)

**Present provision:** General obligation bonds not to exceed \$500,000 for the granting of loans pursuant to chapter.

**Recommendation:** Raise limit to \$15 million.

Chapter 361  
COMMUNITY HOME  
MORTGAGE PROGRAM

A. Definitions and requirements (Section 361-1, 361-2)

**Present provisions:**

1. Does not include as eligible developers, those under section 236 of the National Housing Act, which has replaced section 221(d)(3) for housing development.
2. Restricts eligibility to loans on which unpaid principal balance does not exceed \$22,500 per unit.
3. Restricts eligibility to residents whose annual gross income does not exceed income limitations under section 221(d)(3) or the National Housing Act by twenty per cent.

**Recommendation:** Insert section 236 in the Act and revise both unpaid principal bal-

ance amounts and income eligibility limits upward.

B. Appropriate the sum of \$5 million from general revenues to the director of finance and the community home mortgage fund to substitute for the community home mortgage bonds special fund.

C. Encourage by resolution that Chapter 361 be used as the state equivalent of the Federal National Mortgage Association.

B. Construction Loans

Nonprofit housing sponsors often find the need for assistance in "seed money" loans necessary to cover initial costs involved in planning before the project begins construction. Act 25 was passed in 1968 and established the Housing Development Fund which provides "seed money" at 6 per cent simple interest to nonprofit developers. The Act was funded originally with a \$100,000 appropriation. The committee recommends that an additional appropriation of \$100,000 be made available for use in the Housing Development Fund.

To provide assistance to county governmental agencies and other developers of housing, Act 239 was enacted in 1969 which authorized the Hawaii Housing Authority to make low-interest mortgage loans from the proceeds of tax-exempt general obligation bonds. The committee recommends that Act 239 be expanded to allow the Hawaii Housing Authority to also provide short-term (interim construction) financing for low-and moderate-income housing otherwise available only at high interest rates and supplemental loans which would provide a developer with funds to reduce his total mortgage assistance amount to within maximum federal cost limits.

C. Reallocation of CIP Funds and State Retirement System Funds

If housing is thought to be a significant priority and if the State wishes to minimize the overheated inflationary situation, the committee recommends that the State cut back on the capital improvements program

making that money available for construction loans and mortgage loans. Since the money would be used for loans rather than actual construction, the reallocation would only be a deferral of the capital improvements program rather than a permanent reduction. By the time the housing crisis and the national tight money situation subsides, the loans could be refinanced in the private sector and made available for the capital improvements program which would be more easily implemented in view of the greater availability of contractors and building resources in general. The committee, therefore, recommends that the Governor be requested to re-examine capital improvement programs in the State. The committee also recommends that more mortgage loan funds be made available to state workers through the State Retirement System.

### III. RECOMMENDATIONS ON TAXATION

#### A. Tax Exemptions — Limited Profit Developers

Nonprofit developers of housing projects for low- and moderate-income families are already exempted from property and general excise taxes if they are mortgagors under section 221(d)(3) or section 236 of the National Housing Act. Limited profit developers under the same sections of the National Housing Act also provide the same type of low- and moderate-income housing needed to alleviate the shortage in the State. Studies indicate that the same exemptions, if accorded to housing projects of limited profit developers would reduce rents in such projects by approximately twenty per cent. Since the limited profit developers are regulated by the FHA in regard to rents, charges, rate of return and operation, there is greater assurance that any tax benefits will be passed on to the desired beneficiary, namely the renter. The committee recommends the following changes:

#### Chapter 237

### GENERAL EXCISE TAX LAW

#### A. Exemptions for low- and moderate-income housing (Section 237-29)

**Present provision:** Exempts gross proceeds received by contractors for construction of multi-unit residential buildings developed, owned and operated by nonprofit corporations and also gross proceeds received from a tenant as rent in a nonprofit corporation housing project under sections 221(d)(3) and 236 of the National Housing Act.

**Recommendation:** Extend the same exemptions to limited dividend, limited profit corporations or associations who are mortgagors under the same sections of the National Housing Act.

#### Chapter 246

### REAL PROPERTY TAX LAW

#### A. Exemptions for low- and moderate-income housing (Section 246-39)

**Present provision:** Exempts real property used for a housing project developed, owned, and operated by a nonprofit corporation or association under section 221(d)(3) and 236 of the National Housing Act.

**Recommendation:** Extend same exemption to limited profit, limited dividend corporations under the same sections of the National Housing Act.

#### B. Other Tax Measures

The committee recommends that renters in the State be allowed to claim a credit against their state income tax liability to be limited to those households with annual incomes below a maximum set by the Legislature, and recommends that such legislation be enacted.

The committee also recommends that dedication period under Chapter 246, Real Property Tax Law, be altered to prevent speculation in the following manner:

#### Lands dedicated for agricultural use (Section 246-12)

**Present provision:** Allows dedication for a minimum period of ten years, subject to cancellation upon five years' notice any time after the fifth year.

**Recommendation:** Raise minimum to fifteen years subject to cancellation upon five years' notice any time after the tenth year.

The committee further recommends that the Department of Taxation be requested to do all things possible to remove the current discrepancies between real property tax zoning and land use zoning particularly in reference to vacant urban-zoned land. The intent would be to discourage speculation and make it prohibitive for speculators to acquire land or have land use zoning changed while awaiting even larger capital gains.

#### IV. RECOMMENDATIONS ON REORGANIZATION OF HOUSING PROGRAMS

At the present time, under different sections of the Hawaii Revised Statutes, the programs as they deal with housing and loans for housing are divided among three different agencies. The Department of Land and Natural Resources is responsible for the administration of Chapter 206 and developing residential lots under Act 68, 1968 while the Hawaii Housing Authority administers the condemnation program under Chapter 516. For financing and mortgage loans, the Hawaii Housing Authority administers loans under Act 25, 1968 and Act 239, 1969 while the Department of Budget and Finance handles loans under Chapters 207 and 361. In order that one responsible agency be given the authority to administer housing-related programs, the committee recommends that the Legislature consider a study to reorganize state programs and increase the authority of the HHA.

The committee further recommends the following changes to facilitate the present operations of the HHA.

##### A. Establishment of nonprofit housing development corporations

Enable the HHA to establish nonprofit housing development corporations separate from the Authority which would be empowered to develop moderate income housing, making it eligible for federal funds

which HHA cannot qualify for now since it already accepts federal funds under other programs.

##### B. Housing owners — State rent supplements (Section 359-124)

Include mention of section 236, National Housing Act among those sections under which mortgagors (private nonprofit or limited dividend corporations) qualify for receipt of rent supplements on behalf of "qualified tenants".

##### C. Residential leaseholds — Chapter 516

Enact an appropriation bill for the sum of \$ \_\_\_\_\_, to the Hawaii Housing Authority to be deposited into the fee simple residential revolving fund as authorized by section 516-44.

#### V. RECOMMENDATIONS ON INCREASING FLEXIBILITY OF GOVERNMENT CODES

##### Introduction

The various county codes and ordinances which regulate zoning, building, electrical, and plumbing installations, subdivisions, and housing have often been mentioned as one area in which revision and re-examination could result in substantial reduction in housing construction costs. The committee recognizes the inherent dangers in revising codes which are designed to protect the public against faulty design or construction, health hazards, and undesirable environmental planning, but it also recognizes that overly restrictive requirements may present major obstacles to the providing of more housing.

While evidence is lacking that county codes have exerted any discouraging effects on cost reducing innovations, there is a need for better coordination and more uniformity of standards among the counties so that arbitrary restrictions will not unnecessarily add to construction costs and the price to the buyer. This becomes important in view of the need to encourage cost reductions that can come about through mass production and prefabricated

components in housing. For mobile homes and factory-built housing, it is apparent that cost savings can come about only if there is a uniform acceptance among counties that such housing units meet minimum standards of all the jurisdictions.

The problems which are posed by housing requirements are more properly the responsibility of the counties, but the committee recognizes that as housing reaches a crisis stage, state initiative and action may be necessary in order to provide the means to a solution. In the area of new legislation, the committee, therefore, recommends the enactment of an Emergency Housing Law which would provide for the pre-emption of certain county zoning codes thereby allowing higher densities which would result in savings in the final price of the unit, or allowing special zoning districts where the developer — either governmental or private nonprofit or limited profit — would be allowed to construct housing using experimental techniques exempted from county codes if they did not endanger the safety, health, and welfare of the occupants. Such a law would be operative upon criteria set by the Legislature and would serve as a state tool to meet any housing crisis.

The committee further recommends that a Factory-Built Housing Park Law be enacted to allow factory-built housing to be erected in specially designated parks, exempt from county zoning ordinances thereby producing greater cost savings to residents through higher densities and factory-produced housing units.

#### A. Emergency Housing Law

**State authority.** In Hawaii, the counties derive their zoning power from section 46-4, Hawaii Revised Statutes, delegating the zoning power to the counties and section 205-5, HRS, on the use of zoning by the Land Use Commission. The building code power is found in separate sections for each county: Hawaii, section 65-71; Honolulu, section 70-71; Kauai, section 65-71; and Maui, section 66-71.

Thus, all zoning and building powers used by the counties are granted by state

statute. Zoning ordinances must conform with the general law of the State other than zoning statutes, except where by express provision they prevail over inconsistent general state law.<sup>1</sup> A good example is section 205-5 which would give the State Land Use Commission all zoning power, but for the exception made for county zoning. Therefore, it may be said that unless a state general law exempts county zoning ordinances from its effect, such state law will prevail in case of conflict over county zoning ordinances.<sup>2</sup> If the state statute specifically mentions its superiority over the county zoning ordinance, there can be little doubt that the state statute will prevail.

The same conclusion applies to building codes. The general rule that ordinances must conform and not conflict with state law or policy and cannot invade any matter exclusively governed by statute governs building codes and ordinances. A state may pre-empt the field of building regulations.<sup>3</sup>

Therefore, there is little question that emergency legislation may set aside zoning and building codes or ordinances.

The second question is the necessity for standards in emergency legislation, when the legislature delegates the responsibility of declaring an emergency to the governor.

Unfortunately, there is no authority directly in point. However, in delegating responsibilities to the executive branch of government, the legislature must set forth intelligible principles governing the body authorized to take the responsibilities.<sup>4</sup> The Congress or legislature has the exclusive power to determine primary or fundamental rules for the governing of future conduct. Having exercised this power by promulgating a primary principle or law, Congress or the legislature may confer

<sup>1</sup>8 McQuillin, sec. 25.58.

<sup>2</sup>6 McQuillin, sec. 21.32.

<sup>3</sup>7 McQuillin, sec. 24.510.

<sup>4</sup>J. W. Hampton, Jr. & Co. v. United States, 276 U.S. 394 (1928).



upon some executive administrative office the authority to establish policies subordinate to and consistent with the pronouncement.<sup>5</sup> This requirement of setting principles by which to act is justified as the executive power is taken to be little more than a supervisory power and a power to frame rules and regulations to govern the ways and means of executing the provisions of statutes.<sup>6</sup> In prior emergencies, such as the banking holidays, where the governor acted without legislative determination and not upon statutory provisions, some form of legislative ratification was considered necessary to retroactively authorize the action taken.<sup>7</sup>

Thus, in order for the legislature to delegate the power to declare an emergency to the governor, standards of finding an emergency exists should be set forth in the legislation. A further need for such standards may be found in the fact that the courts generally look first to the findings of fact of an emergency as set forth by the legislature and then at the law itself. "All matters relating to the policy, wisdom, or expediency of particular regulations under the police power are exclusively or primarily for legislative rather than judicial determination, and the determination of the legislature in this regard will not be disturbed by the courts, unless such regulation has no relation to the ends for which the police power exists."<sup>8</sup> It is only partially true that the findings of the legislature will not be disturbed by the courts. There is a split in the court decisions on whether or not the findings of the legislature are conclusive on the courts.<sup>9</sup> The question in Hawaii is open.

Since the courts place great emphasis upon the findings of the legislature in emergency legislation, it would be best to place standards for the finding of an emergency in any legislation allowing the governor to declare the emergency.

**Suggested Criteria for Emergency Law.** The quantitative evidence of the existence and extent of the housing problem discussed hereafter suggests criteria for an emergency housing law. Explicit goals which can be quantified are essential for the formulation and evaluation of any

public policy. This section suggests that the proper goals for a housing program would be quantified as follows:

- (1) A minimum 4 per cent vacancy rate;
- (2) Housing prices which increase only at the same rate as an appropriate index of building material and labor costs;
- (3) A waiting list for HHA programs which never exceeds 500 families.

If these housing goals are not satisfied in any year, the administration would have the responsibility to utilize the proposed emergency law to pre-empt county ordinances in providing more housing.

(1) **Low Vacancy Rates.** At the present time the vacancy rate for single-family units is less than 1 per cent in Honolulu and less than 2 per cent for apartments. Since a rate of about 4 or 5 per cent is considered necessary to provide for desirable worker mobility and consumer choice, it is obvious that the Honolulu vacancy rates are low. The unusual nature of the Honolulu vacancy rates also stands out when they are compared to the prevailing rates in cities on the mainland. For example, Los Angeles has a 7 per cent vacancy rate for apartments and over 2 per cent rate for single-family homes. While vacancy rates are also low in other cities and becoming lower all over the country, the extraordinarily low rates in Honolulu indicate a housing shortage problem in excess of that caused by any national housing problem becoming apparent elsewhere.

<sup>5</sup>Spater, "Constitutional Law — The Delegation of Federal Legislative Power to Executive or Administrative Agencies," 31 *Michigan Law Review* 786 (1933).

<sup>6</sup>Culp, "Executive Power in Emergencies," 31 *Michigan Law Review* 1074 (1933).

<sup>7</sup>*Ibid.*

<sup>8</sup>16 C.J.S. *Constitutional Law*, sec. 198.

<sup>9</sup>7 *American Law Reports* 519.

Vacancy rates, then, are the best measure of balance of supply and demand. The excessively low vacancy rates indicate a chronic lack of balance between the supply and demand of housing.

(2) **Prices Rising in Excess of Cost and Mainland Prices.** The price of housing is rising just as the prices in general are increasing in the current inflationary period. However, what is noteworthy and what does indicate an unusual shortage situation, is the extent to which housing prices and rents are increasing at a much faster rate than other prices, including the price of material and labor inputs into housing. For instance, the price of existing houses, net of site, sold with FHA financing increased 10 per cent per year in the 1965-1968 period while the index of total material prices and labor wage rates was increasing 5 per cent per year. Furthermore, the prices of existing housing in Honolulu, net of site, were increasing at a much more rapid rate than the price of existing housing prices on the mainland.<sup>10</sup> These pronounced increases of prices in excess of local cost and mainland house prices are a reliable indicator that the quantity of housing demanded by the market is considerably in excess of the amount of housing provided by the market. Such comparisons also indicate that the recent behavior of Honolulu housing prices cannot be attributed entirely to the national inflation problem; the shortage of housing in Hawaii and resulting price increases are extreme even by mainland standards.

While such rapidly increasing prices are reliable measures of shortage between quantity supplied and the amount effectively demanded, they do not measure or reflect need. Those families whose incomes are too low to permit them to even consider buying a home are not in the purchase market. Thus, their unsatisfied need is not reflected in the shortage implied by the prices increasing in excess of the cost of inputs. For this reason the market shortage understates the extent of unfulfilled housing need or requirements. The

difference between a market shortage and need can be illustrated by the extreme case where prices were so high that nobody was seeking a house; the high prices have cleared the market with no market shortage housing, but in a more fundamental sense a shortage still exists.

(3) **Waiting Lists at the Hawaii Housing Authority.** While rising prices are a reliable indicator of unsatisfied demand in the housing market they do not measure the need of those who do not have enough income to even be in the market. For this purpose other indirect measures have to be used such as the waiting list for accommodation at the various facilities offered by the Hawaii Housing Authority. The waiting list for support by HHA programs such as rent supplements would also be relevant. The waiting list for accommodation at public housing currently has about 4,000 names.

The number of substandard housing units along with the number of adequate housing units with families living doubled-up might provide further indication of the total scope of current housing needs or requirements. However, since reliable data are lacking for such measures and since it cannot be assumed that all families in such situations would spend additional money to live in better units even if available, such measures cannot be considered reliable indications of need. Thus, it has to be assumed that any real need by families for such reasons would be reflected by their seeking a place on the HHA waiting list.

#### B. **Factory-Built Housing Park Law**

Factory-built homes and mobile homes are not new types of housing units on the

<sup>10</sup>Prices of newly constructed houses are increasing at a very rapid rate also; but since there is a tendency for the residential construction industry to build more higher-priced units for higher-income groups in shortage situations, the use of average new house prices is not as revealing as the use of existing house prices; existing house prices abstract from quality or size differences per housing unit.

mainland but are new in the Hawaiian market. The committee recommends the enactment of a Factory-Built Housing Park Law because of the severity of the housing problem and the need to redirect consumer demands and to readjust housing preferences in line with the demand for lower-priced units.

The legislation which is proposed is in recognition that with the increasing scarcity of land, consumers may have to forego the seemingly universal goal of a detached home in the suburbs for a lower-priced unit in a neighborhood with greater density. A park made up of factory-built housing can be attractive additions to a community with proper planning and control and would provide developers with another alternative to bring more housing to residents. A report on factory-built homes and mobile homes is attached.

#### Appendix

### FACTORY-BUILT (INDUSTRIALIZED) HOUSING

#### Prefabrication in General

Much attention has been focused in the past decade on prefabrication as a possible answer in reducing the costs of construction. Indeed, the prefabrication process is already an integral part of the building industry since almost all dwelling units and buildings are using prefabricated components which are shipped from the plant to the site and include such items as prehung doors, pre-cut window frames, floor panels, and roof trusses. To date, however, the reductions in initial building costs derived from such methods have not generally met expectations.<sup>1</sup>

Despite the dual constraints of lack of public acceptance based on tradition and some industry resistance, indications are strong that the growth rate of prefabrication will be a constant one and the attention will increasingly be directed toward factory-built houses. Except for mobile

homes (which are discussed in the following section of this report), the totally factory-produced and assembled dwelling unit will probably not be entirely feasible for sometime yet,<sup>2</sup> and factory-built housing in Hawaii will probably take two basic forms:

1. **Modular** — This involves the off-site construction of almost all elements of the frame and shell. Walls, floors, and roofs (or sometimes complete rooms or units) are constructed off site in modules as separate items and assembled on site.

2. **Sectionalized** — This involves units for which walls, floors, and roofs are assembled in the plant instead of being shipped as modules for assembly on site. Each house section may average 12 feet in width and 60 feet in length, and two sections are combined on a permanent foundation to make a complete unit.<sup>3</sup> (The technology is similar to that used in producing "double-wide" mobile homes.)

Unlike mobile homes, factory-built houses have not had wide popular acceptance. There are an estimated 4,200 plants on the mainland producing prefabricated homes or components with a heavy concentration in the mid-West. Of the 1.3 million (non-farm) family homes started in 1967, however, only an estimated 230,000 units (18.5 per cent) were factory built. Production figures for 1967 indicate that 70 per cent of the output was for single-family homes ranging from 980 to 2,000 square feet of living space while 30 per

<sup>1</sup>U.S., Congress, Subcommittee on Urban Affairs of the Joint Economic Committee, **Industrialized Housing**, 91st Cong., 1st Sess., 1969, p. 193.

<sup>2</sup>*Ibid.*, p. 194.

<sup>3</sup>U.S., National Commission on Urban Problems, **Building the American City**, 91st Cong., 1st Sess., 1968, House Doc. 91-34, p. 433.

cent of the output went to low-rise garden apartments. The use of wood in frame construction predominates in these units although pre-cast concrete has been used

for units produced in western states. Prices varied according to size, style, and level of amenities but F.O.B. factory price of one mainland manufacturer is as follows:<sup>4</sup>

Table 1

## PRICE COMPONENTS OF FACTORY-BUILT HOMES (MAINLAND)

Size (Sq. Ft.)	Factory Price	F.O.B. Cost Per Sq. Ft.	Cost Per Sq. Ft. Erected on Site
960	\$ 9,724	\$10.13	\$11.70
1,175	9,867	8.40	9.87
1,435	10,610	7.39	8.39
1,633	14,526	8.89	10.24
2,199	17,683	8.07	9.24

The profit record of home manufacturers has not been good. Annual sales of units of one of the largest manufacturers actually declined by a third between 1959 and 1967 (23,000 units to 15,000 units) with earnings of sales in 1967 of only one-tenth of 1 per cent on investment. Many smaller companies have worse profit margins, and most have been able to operate only because of profits on land and home financing.<sup>5</sup> With new permissive state legislation, however, the production is expected to

pick up.

**Factory-Built Housing for Hawaii**

A few manufacturers have recently announced that they will produce prefabricated housing units in Hawaii in order to provide low-cost housing. The initial concentration will be on single-family dwellings but some manufacturers are also considering the production of prefabricated apartments and duplexes. A partial list follows:

<sup>4</sup>Ibid., pp. 433-436.

<sup>5</sup>Ibid., p. 437.

Table 2  
PROPOSED PRICES OF FACTORY-BUILT HOMES (HAWAII)

Firm	Size (Sq. Ft.)	Factory Price	F.O.B. Cost Per Sq. Ft. <sup>a</sup>
California-Hawaiian Land Corp.	1,230	\$12,500 <sup>b</sup>	\$10.16
Pana-Vista Building Systems	550	8,500 <sup>c</sup>	15.45
Lockwood Buildings, Ltd. (Rotorua, N.Z.)	900	12,500	13.89
	(unspecified)	8,000 <sup>d</sup>	

<sup>a</sup> Tabulations are by the researcher and do not exclude amenities listed below.

<sup>b</sup> Double wall, wolmanized lumber, including carpeting, range, oven, garbage disposal, water heater.

<sup>c</sup> Double wall, wolmanized lumber, including carpeting, range, oven, refrigerator, water heater.

<sup>d</sup> A 3-bedroom house delivered, unassembled, including shipping costs. Does not include appliances.

Source: Honolulu Star-Bulletin, 11/19/69, 11/20/69;  
Honolulu Advertiser, 12/4/69.

Although these figures are estimates and not much can be concluded definitively about whether actual prices will be as quoted, these prices still may not necessarily be competitive with conventional housing construction costs in Hawaii which average \$17.50 per sq. ft. (Hawaii Homebuilders Association) since the figures in the above table do not reflect the total cost per sq. ft. after the unit has been erected on site — a cost which may be considerable since it involves hauling or shipping costs from plant to house site and labor costs for erection and assembly on the site.

#### Code and Labor Problems

One of the major obstacles for factory-built housing on the mainland has been the different local building codes making it difficult to standardize production. To correct this situation, states such as California

have passed new legislation substituting a state code for local codes where factory-built housing is concerned. Ohio, New York and Massachusetts also have similar legislation. The California legislation permits manufacturers of factory-built housing to engage in volume production previously hampered by a lack of uniformity among codes. The law involves total local pre-emption to the extent that the manufacturer wishes to use the state code, but the manufacturer has the option to use local codes if he so desires. This pre-emption, it should be re-emphasized, is only for factory-built housing.

It would appear that housing or building code problems in Hawaii will be minimal. Pana-Vista claims that its design has already been certified as complying with Honolulu building regulations and has been registered with HUD for use as low-

and moderate-income housing.<sup>6</sup> It might be reasonable to expect that a unit which passes Honolulu's code would pass the codes for other counties, but in the event that conflicts do arise, a state building code for factory-built housing may be a consideration for the Legislature.

Labor union objections, however, will not be as easily met. The unions are willing to permit factory-built housing as long as union labor works in the factory. The Hawaii Carpenters Union Local 745 (AFL-CIO) has taken this position,<sup>7</sup> and California-Hawaiian Land Corporation expects that all its employees will be union members.<sup>8</sup> Although many mainland manufacturers are not unionized, some have settled with labor unions, although paying lower rates than those required for on-site work. The substitution of industrial labor, with an hourly cost of about \$3.00 per hour, for craft labor which ranges \$5.00-\$10.00 per hour<sup>9</sup> in California, may be one of the few advantages that will keep factory-built housing on a competitive basis in Hawaii. How this problem will be met and how costs will be affected remain to be seen.

Still basic to the question of whether pre-fabricated or factory-built housing is an answer to providing low-cost housing to residents of the State is the cost of land. There is no doubt that factory-built housing has produced cost savings on the mainland and might do so in Hawaii but the housing tracts may have to follow mobile home park patterns. This is because considering both the off-site and on-site development costs involved, greater cost efficiency could probably be gained by higher density in parks or special zones as used by mobile homes.

## MOBILE HOMES AND MOBILE HOME PARKS

### General Background

The mobile home which is under consideration as an addition to Hawaii's housing

supply is a self-contained dwelling unit which is used primarily for permanent housing and does not include recreational vehicles such as campers, travel trailers and motor homes. Attention has been directed to mobile homes primarily because they are sold for less than conventional single-family dwellings on the mainland and are usually located in mobile home parks which permit higher densities.

For all practical purposes, today's mobile home is "mobile" only once when it is moved from factory to home site and thereafter, it is occupied for permanent housing. The mobile home has expanded in dimensions and liveability considerably in the last decade. In recent years, the trend has been toward the production of "doublewides" which average about 1,000 square feet in living space and consist of two 12-foot wide sections which are moved separately and joined on the job site making a home 24 feet wide with the length varying but averaging about 60 feet. Some homes are also produced in 10 foot wide sections and are joined making a home 20 feet wide. (See floor plans, Exhibit A, following this section.)

Such units can sell for as low as \$5,000 in California without furnishings and range upwards according to the amenities which are added. Fully furnished units have built-in appliances, carpets and draperies, air conditioning and heating units and all furniture and prices average about \$15,000 in California. That these units have gained popular acceptance on the mainland is evidenced by the fact that some six million

<sup>6</sup>Honolulu Star-Bulletin, November 20, 1969.

<sup>7</sup>Honolulu Star-Bulletin, October, 21, 1969.

<sup>8</sup>Honolulu Advertiser, November 19, 1969.

<sup>9</sup>Information provided by the Office of Assemblyman Pete Wilson (California).

Americans live in mobile homes today.<sup>1</sup> In California, the proportion is higher. The *Los Angeles Times* estimates that 20 percent of all Californians live in mobile homes,<sup>2</sup> while Mr. Paul Solomon, Housing Standards Coordinator for the Department of Housing and Community Development for California, estimates an even higher figure — 750,000 people occupying an estimated 400,000 mobile homes in the State.<sup>3</sup> In 1968, the mobile home industry turned out 317,950 units and expects to produce 350,000 units in 1969. In ten years, the industry expects to be producing 700,000 units annually.<sup>4</sup> From these figures, one can conclude that mobile homes are and will be a significant factor in housing for the nation.

### Mobile Homes for Hawaii

The potential of mobile homes for Hawaii is promising from a number of viewpoints. The use of "doublewide" mobile homes which produce rectangular units ranging from 20 feet to 24 feet wide in 2- or 3-bedroom arrangements is a form of low-cost housing which will be competitive in price with any existing types of home construction in Hawaii's market today. The estimates per square foot cost for a mobile home for a basic unit unfurnished, produced in a Hawaii factory and placed on site, is projected by one manufacturer at \$10 per square foot as compared to the following:

#### Average Construction Costs of Typical Single-Family Dwellings in Honolulu<sup>5</sup>

Source	Construction Cost (per sq. ft.)
Quality Pacific Construction Company (Mililani Town Tract)	\$15.50
Hawaii Homebuilders Association State Department of Taxation (Valuation for assessment purpose)	17.50
City & County Building Department (Valuation for permit application)	15.20
City & County Planning Department (Telephone survey of tract housing contractors)	14.00
	15.00

The mobile home, from a cost angle, then, should be considered seriously if the unit is produced in Hawaii. It is, however, probably too costly to ship completed units from California. Doublewides are probably the type best suited for Hawaii because they provide adequate living space and have the shape of conventional housing. With imaginative use of aluminum or vinyl siding and alteration of rooflines with overhangs, the mobile home resembles any other type of rectangular dwelling when put on a permanent foundation and should not pose any aesthetic objection. The problem of appearance, then, is not a major one and is easily surmountable through alterations in design during factory production. Since any transportation of mobile homes from factory to site will not

be over long distances there do not appear to be any reasons why the designs could not be adapted to meet public tastes.

<sup>1</sup>Honolulu Star-Bulletin, September 24, 1969.

<sup>2</sup>Los Angeles Times, October 17, 1969.

<sup>3</sup>Interview with Paul Solomon, Housing Standards Coordinator, Department of Housing and Community Development (California), November 20, 1969.

<sup>4</sup>Los Angeles Times, October 17, 1969.

<sup>5</sup>Information provided by the Planning Department, City and County of Honolulu.



### Mobile Home Parks

Most mobile home models with a few adjustments will meet the existing building and housing code requirements of the counties, but must be installed on a standard sized lot on a permanent foundation making it, in essence, no different from any conventional single-family dwelling. While this would meet the market for those with lots who are seeking low-cost housing to place on their lots, it would not provide housing in the volume that can best take advantage of what mobile homes can offer.

It is the mobile home park which can provide more housing on a limited amount of land through higher density. From an economic standpoint, the mobile home park must be a sizable operation to support the facilities and services provided and a minimum of 50 spaces is probably necessary and should be closer to 100.<sup>6</sup> Attractive lay-outs which provide centralized recreational and service facilities can be a substantial addition to a community with proper controls. At the present time, Honolulu's Comprehensive Zoning Code does not allow mobile home parks, but good planning generally dictates that mobile homes should not be placed anywhere but in a well-planned mobile home park.<sup>7</sup> It is possible that a planned unit development concept utilizing mobile homes could meet existing CZC standards, but site improvement costs would be prohibitive in most cases.

Although a number of mobile home parks in California have regulation-size street widths, sidewalks, underground wiring, and other improvements which have been dedicated to the local jurisdiction and are based on owner-occupied, fee-simple improved lots which average 5,000 square feet and sell for \$5,000-\$6,000 (for park plan, see Exhibit B), most mobile home parks are under private management which provide smaller lots of 3,000 square feet or less which are rented to tenants. Streets are paved but no sidewalks, curbs, or gutters are installed. These may or may not be attractive from an aesthetic standpoint depending upon the requirements of private management and the tenants themselves who rent or lease the lots.

The general consensus among planners and architects with whom the committee has met is that mobile home parks can be attractive if properly planned, but it has been the observation of the committee that the market for mobile homes in the better-planned (and more expensive) parks in California are geared for retirees or adults-only and are not family-oriented for people with children under 18 years of age. Whether family parks are feasible with proper balances for aesthetics is questionable if the advantage of higher densities is negated by the costs of site development required by the CZC or for aesthetic purposes.

### Moderate-Income or Low-Income Housing

A proper question to consider at this juncture, then, is who will live in such mobile home parks if they are allowed in Hawaii? Are mobile home parks to be geared for the kind of market as exists in California for adults-only or retirees or can mobile home parks be adapted in Hawaii for middle-income families in the "gap group" who do not qualify for public housing yet do not have the income to obtain mortgages to purchase their own homes? Can the mobile home park be also adapted for low-income public housing?

As an answer to the "gap group" housing, much will depend on how financing for such housing can be arranged. The usual pattern on the mainland is for a 7 to 10 years mortgage on mobile homes with a requirement of a 20 to 30 percent down payment. The financing arrangement is similar to auto loans except lower terms on financing is given to mobile homes because the depreciation rate is lower but

<sup>6</sup>Ernest R. Bartley and Frederick H. Bair, Jr., **Mobile Home Parks and Comprehensive Community Planning**, University of Florida, Public Administration Clearing Service, Studies in Public Administration, No. 19 (University of Florida, 1960), p. 35.

<sup>7</sup>*Ibid.*, p. 13.

unlike many houses, the mobile home loses a great deal of its resale value at the end of a short period which explains its short financing period<sup>8</sup> (see Exhibit C). In recognition of the growing market in mobile homes, it was announced recently by the Federal Home Loan Bank Board that loans on mobile homes would be authorized for the first time through savings and loan associations. In California, the savings and loan associations are now allowed to lend up to 5 percent of their assets on mobile homes. Interest rates, however, will be high between conventional home rates and automobiles or about 12 to 14 per cent.<sup>9</sup> If financing is not available on a longer basis than 10 years, and if site development increases costs beyond the purchase power of "gap group" families, mobile home parks run by the State as moderate-income rental units might be considered as an alternative to the sale of mobile homes with fee simple lots to families. Despite what appears to be a rapid deterioration rate, there is some evidence that mobile homes made of materials resistant to rot, termites, and designed for minimum maintenance for both the interior and exterior, may be a desirable alternative to conventional housing as rental units.

As a possible solution to low-income housing demands, the mobile home is also worthy of consideration. The federal government already has recognized this possibility and two mobile home executives have been appointed to President Nixon's Task Force on Low-Income Housing.<sup>10</sup> If mobile homes are not the answer to alleviating some of the pressures on Hawaii's housing, what should not be rejected is the **technology** used in building a mobile home for it is applicable in producing low-cost units which can be suited to many needs in Hawaii including portable classrooms.

Mobile homes as low-cost housing is only one consideration. Given the scarcity of available land on Oahu, another question arises whether mobile home parks would be utilizing land efficiently. Higher densities could be obtained through high-rise or other multi-unit type apartments or town house developments which could be planned to provide for green or open

spaces. Individual mobile homes placed on lots of 3,000 square feet might be a luxury that the State could ill-afford if it were developing its own lands for such parks to meet the demands for housing.

#### Mobile Homes and the Law

If mobile home parks are to be allowed, new legislation will be required. At the present time there is no state statute dealing with mobile home parks. The Department of Health under Chapter 15 of its Public Health Regulations administers rules and regulations concerning trailers and trailer camps but these have never been actually enforced as far as can be determined. These regulations were enacted pursuant to general public health authority conferred by section 904 of the Revised Laws of Hawaii 1935 (now sec. 321-11, Hawaii Revised Statutes) and are outdated and inadequate for today's situation (Exhibit D). Furthermore, it is questionable whether state rules and regulations apply, since the CZC in Honolulu does not allow mobile home parks in any form.

If the mobile home park is to be allowed, it would require an amendment to the Honolulu CZC or a pre-emption on the part of the State to allow special zoning for mobile home parks. The present California statute (copies at LRB) sets minimum requirements which counties and other local jurisdictions may upgrade and the State does pre-empt county zoning where the counties fail to enforce mobile home park regulations of their own. One alternative that might be considered is that mobile home parks be allowed only if they are state-run operations which can either be sold or rented regardless of present county zoning. State-run parks would

<sup>8</sup>U.S., National Commission on Urban Problems, **Building the American City**, 91st Cong., 1st Sess., 1968, House Doc. 91-34, p. 439.

<sup>9</sup>Los Angeles Herald-Examiner, November 19, 1969.

<sup>10</sup>Western Mobile Home News, November 17, 1969.

ensure that regulations would be met.

Taxation will pose another problem if mobile home parks are allowed. In all states which have mobile home parks, the taxation of mobile homes is based on the determination that mobile homes are taxed as personal property as are motor vehicles, the tax generally taking the form of a vehicle license tax fee. Mobile home parks are levied a property tax exclusive of the mobile homes parked thereon, based on assessed values as determined by local assessors. The advantages of keeping the wheels on a mobile home which is for all practical purposes permanently parked, then is apparent, since the "tax" on the mobile home in the form of license fees is much less than a real property tax.<sup>11</sup> The entire problem can be avoided in Hawaii, if mobile homes, whether they are on individually owned fee simple lots or in mobile home parks, are required to be placed on permanent foundations. They can then be assessed as real property in the conventional manner.

Legislation may need to be forthcoming shortly if the manufacturers who have announced plans to produce mobile homes in Hawaii or are interested in producing mobile homes actually begin manufacturing units. Proper regulation and control are necessary, if Hawaii is to avoid the mistakes of the mainland states. Without proper legislation, mobile homes may become a blight, but with proper controls, they may be a partial answer to Hawaii's housing problem.

#### PUBLIC HEALTH REGULATIONS Board of Health, Territory of Hawaii

The following regulations are prescribed pursuant to the authority conferred upon the Board of Health of the Territory of Hawaii by Section 904 of the Revised Laws of Hawaii 1935, and every other power thereto enabling. When approved by the Governor and published these regulations have the force and effect of law.

#### CHAPTER 15 TRAILERS AND TRAILER CAMPS

**Section 1. Definitions.** As used in these regulations:

a. The terms "house trailer" and "trailer" mean any car, trailer or similar mobile unit which is intended, or may be used, for semi-permanent or temporary living quarters.

b. The term "trailer camp" means any tract or parcel of land maintained, offered or used for the parking or camping of any house trailer.

**Section 2. House trailers.** No person shall sell, offer for sale or use any trailer for dwelling purposes unless the trailer has been approved by the Board of Health as being adequate to provide for the maintenance of the health of the occupants. Each house trailer shall be suitable in size, design, materials employed in construction, and equipment. Each house trailer shall be fitted with durable rust-proof screens of sixteen mesh or more per inch for door and window openings. If any house trailer is equipped with a cooking stove it shall also be equipped with a sink and the necessary appurtenances thereto, including provision for water to be piped into the trailer. Every proprietor of a trailer camp shall be responsible for compliance with the provisions of this paragraph by the occupants of house trailers parked in said camps.

Whenever any house trailer is approved by the Board of Health, such approval will be given for the accommodation of a specified number of persons, and no house trailer shall be used, or permitted to be used, for the accommodation of more persons than have been so approved.

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<sup>11</sup>California, Senate, **An Evaluation of the Taxation of Mobilehomes in California**, May, 1965, p. 10.

**Section 3. Parking.** No trailer shall be parked for occupancy for dwelling purposes in any place not previously approved for such purposes by the Board of Health.

Every trailer at all times shall have in plain view inside the trailer a four-inch by six-inch card under glass or other transparent covering, reading as follows in letters at least one-fourth of an inch high:

“Trailers shall be parked only in places and under conditions which have been approved for that purpose in writing by the Board of Health.”

**Section 4. Trailer camps.**

a. **Submission of plans.** No trailer camp shall be used or occupied until and unless there has been obtained from the Board of Health a letter certifying that the project is approved as in compliance with all Board of Health regulations. As the basis for such approval the applicant shall submit his plans and sufficient information to enable the Board of Health to determine whether or not the project should be approved. Such plans and information may be submitted for conditional approval before construction is commenced, but nevertheless the trailer camp shall be subject to the approval of the Board of Health when ready for occupancy.

Whenever any trailer camp is approved by the Board of Health such approval will be given for the accommodation of a specified number of persons and a specified number of house trailers, and no trailer camp shall be used or permitted to be used for the accommodation of house trailers or persons in excess of the number so approved.

b. **Location of trailer camps.** No trailer camp shall be so located that the drainage therefrom shall endanger any water supply. All trailer camps shall be well drained and located in areas free from ponds, swamps and similar places where mosquitoes may breed.

c. **Floor elevation of house trailers.** All house trailers when parked shall be maintained at the normal riding heights of the

units while travelling. The space between the ground and the floor of the house trailer shall be maintained free of all obstructions, with the exception of jacks or blocks of a type acceptable to the Board of Health provided to support the house trailer.

d. **Spacing of house trailers.** Each house trailer, or car and house trailer together, shall be allotted a space of not less than eight hundred square feet, hereinafter called the “house trailer site.” Each house trailer site shall abut on a driveway or clear unoccupied space of not less than twenty feet in width, which space shall have an unobstructed access to a public street or alley. There shall be a space of at least ten feet between each house trailer, or any item of equipment or obstruction appurtenant thereto, and any other car, house trailer, building or other structure, or obstruction.

Each house trailer site shall be used only for the parking of the mobile unit proper, which may include an automobile in addition to the house trailer. There may be appurtenant to the trailer an awning or similar arrangement intended for recreational purposes, but all accommodations for dwelling or cooking purposes shall be contained within the mobile unit proper.

e. **Distance from nearest boundary.** No trailer, automobile, building, warehouse, or other structure, item of equipment, or obstruction, either temporary or permanent, shall be located within five feet of the boundaries of the properties adjoining the trailer camp.

f. **Maintenance of grounds.** Trailer camps, including all portions of the grounds, shall be maintained in a clean condition, free from trash, litter, junk and other undesirable matter. Walkways serving community facilities shall be maintained in good condition, free from obstructions.

g. **Caretaker.** Every trailer camp shall be provided with at least one competent attendant or caretaker acceptable to the Board of Health, who shall have the following duties:

(1) To maintain the camp, its facilities and equipment in a clean, orderly and sanitary condition.

(2) To keep a record of all house trailers parked in the trailer camp, including the name of the owner, the license number, and the number of occupants of each unit with their names.

**h. Water and electricity.** An adequate supply of potable water under pressure shall be provided in all parts of the trailer camp.

At least one water supply outlet shall be provided for every house trailer unit in a manner which will facilitate connection.

Special hoses shall be kept for the filling of water tanks if any of the house trailers parked in the trailer camp are provided with such water tanks, and when not in use such special hoses shall be stored off the ground under sanitary conditions. Such hoses shall not be used for any purposes other than the watering of house trailers and shall be so handled and used as not to cause contamination of water either in trailer tanks or in the water supply system.

An adequate and readily accessible electric service connection shall be provided for each house trailer.

**i. Toilets, and bathing and laundry facilities.**

(1) **Buildings, etc.** Toilets and bathing and laundry facilities shall be provided as hereinafter set forth in conveniently located, well-constructed buildings, having good natural and artificial lighting, adequate ventilation, and floors of concrete or other impervious material. Concrete curbing extending at least six inches above the floor shall be provided, and the floor shall be sloped to adequate drains. The interior walls and ceilings of such buildings shall be of smooth material, painted with a durable light-colored paint. The Board of Health regulations pertaining to ratproofing shall be observed.

The floors in shower and toilet rooms shall be disinfected daily by the use of chlorine compounds or other materials in strength approved by the Board of Health.

Walkways shall be provided from house trailer sites to toilet and shower facilities. Such walkways shall be constructed so as to provide proper drainage.

(2) **Toilet facilities.** Water flush toilet facilities shall be provided, at least one for each fifteen persons or fraction thereof. Separate toilet facilities marked with appropriate signs shall be provided for males and females. At least one urinal shall be provided in each toilet building for males. Entrances to toilet facilities intended for use by members of the opposite sex shall be spaced more than twenty feet apart.

Toilet buildings shall be located so that for each house trailer camping space there shall be toilet facilities within one hundred and eighty feet.

Separate lavatories shall be provided for each sex, with soap and individual towels. For every three toilets, or toilets and urinals, or portion thereof, there shall be provided one lavatory.

No house trailer in which there is installed a private chemical toilet shall be permitted in any trailer camp unless adequate facilities are provided for such unit for removing the contents of the system.

No house trailer in which there is installed a water flush toilet shall be permitted in any trailer camp unless the toilet is connected to a sewerage system in accordance with the Board of Health regulations.

(3) **Showers.** Separate showers marked with appropriate signs shall be provided for males and females. One shower head, with hot and cold water, shall be provided for each sex for each ten house trailers or fraction thereof. No wooden or cloth mats, grids or walkways

shall be permitted in or in connection with any shower building.

(4) **Laundries.** One laundry unit, consisting of two laundry tubs with hot and cold running water, shall be provided for each fifteen house trailers or fraction thereof. At least five feet of clothesline for each house trailer, but in no case less than fifty feet, shall be provided for each laundry unit in locations easily accessible from the laundry tubs.

j. **Slop sinks.** Slop sinks properly trapped and vented shall be provided in convenient locations, at least one within two hundred feet of each house trailer camping space. Slop sinks shall be equipped with water faucets which shall be protected against back siphonage. Slop sinks shall be so constructed and installed that they may be used for the cleaning of both cans and slop jars.

k. **Disposal of sewage and other water carried waste.** Sewage and other water carried waste shall be disposed of into a municipal sewerage system or substitute acceptable to the Board of Health. A sewer connection shall be made available at each house trailer site, for connection to the combined liquid waste outlet of the trailer. The type of connection used must comply with the applicable Board of Health regulations.

If any trailer is equipped with an ice box, the occupants thereof shall not empty the drainage waters or permit same to be emptied, onto the ground.

l. **Garbage.** One fly-tight metal container for the disposition of garbage and other refuse shall be provided for each house trailer. At least one depository for the emptying of garbage shall be provided within one hundred feet of each house trailer camping space. Such depository shall be fly-tight, water-tight and ratproof.

Subsections f and g relating to the maintenance of the grounds and the caretaker shall apply to the condition of garbage cans, and it shall be the duty of the caretaker to see to it that garbage

cans are emptied at least once a week, and not allowed to become foul smelling, or breeding places for flies.

The disposition of garbage shall be in compliance with the applicable Board of Health rules and ordinances.

m. **Additional buildings.** No lean-tos or other structures shall be permitted in the trailer camp unless included in the plans and information submitted to and having the approval of the Board of Health.

n. **Compliance with other regulations.** House trailer camps, and the plumbing and other installations therein, shall be established, constructed, installed and maintained in accordance with all applicable statutes, ordinances and regulations, in addition to these regulations.

**Section 5. Penalty.** Violation of these regulations is a misdemeanor, punishable as provided in Section 906 of the Revised Laws of Hawaii 1935, as amended by Act 18 of the Session Laws of 1943.

Prescribed this 25th day of January, 1945.

BOARD OF HEALTH  
TERRITORY OF HAWAII  
By C. L. WILBAR, JR., President

The foregoing regulations of the Board of Health of the Territory of Hawaii are hereby approved as to form this 30th day of January, 1945.

RHODA V. LEWIS  
Assistant Attorney General

The foregoing regulations of the Board of Health of the Territory of Hawaii are hereby approved this 1st day of February, 1945.

INGRAM M. STAINBACK  
Governor of Hawaii

(Advertiser, February 5, 1945)

**Special Com. Rep. 7**

Your Joint House-Senate Interim Committee on Labor authorized to study the State's manpower needs, pursuant to **House Concurrent Resolution No. 101** entitled:

“REQUESTING THE SPEAKER OF THE HOUSE AND THE PRESIDENT OF THE SENATE TO AUTHORIZE THE HOUSE AND SENATE LABOR COMMITTEES MEETING JOINTLY AS AN INTERIM JOINT LEGISLATIVE COMMITTEE HEADED BY THE RESPECTIVE HEADS OF THE HOUSE AND SENATE LABOR COMMITTEES TO STUDY THE STATE'S MANPOWER NEEDS AND TO REPORT BACK TO THE 1970 LEGISLATURE.”,

begs leave to report as follows:

The purpose of our study was to document and assess the State's manpower needs and to suggest means to meet these needs.

Your Committee, in outlining the recommendations herein, has been very cognizant of the tremendous increase in the economic growth within the State. Economic growth rates which have affected the whole State—jobs, prosperity, opportunity and increases in revenues to the State of Hawaii.

Your Committee, therefore, is aware that we are living in an era of rising hopes and growing expectations, accompanied by the development of a live and significant series of aspirations on the part of the people of the State of Hawaii. Essentially, the statewide programs that have been set in motion to increase these trends of rising hopes and expectations by the governor and his administration are now moving forward with various degrees of success and speed.

However, at the same time, your Committee is concerned that many types of programs need to be pushed vigorously to stimulate further progress.

Housing — certainly the need to alleviate the shortage of decent homes and to provide a suitable living environment for the lower and middle income groups in our society. Education — the development of the individual and the State demand that education at every level and in every discipline be strengthened and its effectiveness enhanced. Welfare, accompanied by a better understanding of what the issues are, along with improvements to the welfare program is a pressing need. And most importantly, **jobs** for all who need them through the many programs provided by government initiative.

Your Committee, however, in its assessment of the State's manpower situation does not intend to discuss with temerity the State's needs in the fields of housing, in education, and in welfare. In view of the foregoing, your Committee feels that the area of manpower is just one area of concern, and it is an extremely important one. Nevertheless, it is only one side of a quadruped that needs to be attacked simultaneously from all sides.

It is with this premise that your Committee has studied the State's manpower needs. Our recommendations which follow are intended to insure that each citizen will experience the fulfillment of their hopes and expectation in their future in the State of Hawaii.

**BACKGROUND**

During the 1968 session, the legislature determined that there was a decided and immediate need to conduct a study relating to the manpower needs of Hawaii's industries, particularly the needs of the tourist industry. The need for a study was prompted by the growing concern that there was a lack of a clear understanding of the employment needs of the tourist industry and the ways these needs could be best filled. The need for information and responses was felt to be necessary before any action be taken by agencies to support, stimulate or undertake the importation of labor.

During the 1968 session, the legislature adopted **House Concurrent Resolution No. 7**, entitled: “REQUESTING THE



ADVISORY COMMISSION ON MANPOWER AND FULL EMPLOYMENT TO CONTRACT FOR OR TO STUDY AND MAKE RECOMMENDATIONS ON THE DESIRABILITY OF BRINGING EMPLOYEES INTO THE STATE OF HAWAII FOR THE TOURIST INDUSTRY." The report indicated that it was not appropriate to encourage the importation of labor to meet the needs of the tourist industry until a pilot action-research program could be made to test the theory that local employee shortages can best be met by attempting to increase the work force by using the State's labor force reserve.

At the 1969 session, the legislature passed **House Bill No. 28, H. D. 2**, (ACT 251, S.L.H. 1969) as a result of the study recommendations of the **House Concurrent Resolution No. 7** manpower study.

The limitations regarding the scope of 1968 study, however, did not permit the legislature to make an assessment of the manpower needs of the other industries besides the tourist related industries. Therefore, several legislators sponsored **House Concurrent Resolution No. 101**, which proposed that during the interim period between the 1969 and 1970 sessions, the House and Senate Labor Committees assume the responsibility for a study of the State's manpower needs and consider alternative ways by which these needs may be met, before considering the importation of labor.

#### ORGANIZATION

Having been duly authorized, your Committee held its initial meeting on July 3, 1969 with members of the Commission on Manpower and Full Employment and representatives of the Department of Labor and Industrial Relations who served in an advisory capacity to the Committee. Upon the advice of these two respective groups, it was agreed that the study could best be conducted by a two phase approach:

1. **First phase** — An analysis of the problems having to do with what manpower is needed to meet the current needs of the State.

2. **Second phase** — A continuation of the analysis involving constant up-dating of manpower trends and forecasts through the coordination of manpower activities and human resources delivery systems.

The Senate Majority Office was requested to provide staff assistance for the study.

#### WORK PROGRESS

Your Committee, the Commission on Manpower and Full Employment and representatives of the Department of Labor and Industrial Relations met at frequent intervals to formulate plans for the study. We met as follows: July 3, 1969; July 17, 1969; August 21, 1969; and September 24, 1969.

Your Committee, in its attempt for a better understanding of the current problems of manpower, conducted the following statewide public hearings: November 20, 1969 in Lihue, Kauai; November 24 and 25, 1969 in Honolulu, Oahu; December 3, 1969 in Wailuku, Maui; and December 4, 1969 in Hilo, Hawaii.

Your Committee believes that substantial progress has been made during this interim study. It should be noted that due to the limitations of time and a lack of reliable data, the first phase is not complete. It is our belief, however, that a good beginning has been established in the effort to assess the manpower needs of the State.

Your Committee wishes to acknowledge the cooperation of the Department of Labor and Industrial Relations; Commission on Manpower and Full Employment; the City and County of Honolulu, the County of Kauai; the County of Maui and the County of Hawaii; the Community College System; the various agencies involved with the problems of manpower, the many businesses and industries representing the State's total employment spectrum; and the various labor unions, who testified at the hearings. The credit for the success of this Joint effort must go to them.

#### AN ASSESSMENT OF THE STATE'S MANPOWER NEEDS

Your Committee respectfully submits the study entitled: "REPORT OF THE SENATE AND HOUSE LABOR COMMITTEES IN RESPONSE TO HOUSE CONCURRENT RESOLUTION NO. 101.". Your Committee has reviewed the study, approves its contents and supports its recommendations.

The study sets forth a framework based on certain economic assumptions against which the employment and unemployment trends affecting manpower developments in future can be analyzed.

Since the study only reflects on the present manpower needs of the State, your Committee concludes that there is at present, limited data on the work force supply and industry's demand for trained workers. This limitation is due partly to the Department of Labor and Industrial Relations lack of sufficient capabilities to perform manpower analyses, to make economic forecasts and to formulate the State's strategies to cope with the State's tight labor market.

While the study revealed that some industries, particularly the pineapple, construction and hotel, are experiencing shortages, your Committee feels that it is not as critical to the continued economic health of our State. Therefore, your Committee wishes to emphasize the major conclusion that the need to support and encourage importation of labor is not necessary at the present time.

However, your Committee deems it appropriate to cite some specific concerns revealed by the study which deserve immediate attention.

**1. Commission on Manpower and Full Employment.** Your Committee finds that there is a critical need to broaden the Commission's responsibilities, particularly the concernment of the State's human resources that compose the current and potential work force.

**2. Manpower Plan and Area Skills Survey.** Your Committee believes that there is a strong need to formulate a systematic manpower plan in addition to conducting an area skills survey for each island. There is no present way beyond speculation to

arrive at reliable data in assessing the present and future manpower needs because of the lack of a systematic manpower plan and area skills survey.

**3. ACT 251.** Although much progress has been made in implementing training programs under ACT 251, your Committee finds that, for ACT 251 to be successful, it must be given priority within the department. Your Committee believes that much work remains to be done in the area of extensive experimentation for methods of increasing the work force.

Your Committee is cognizant of the efforts of the Department of Labor and Industrial Relations to improve manpower recruitment, utilization and retention in the State. It hopes that the Department will continue its current undertaking and maintain its working relationship with the industries that have expressed labor shortages as well.

## RECOMMENDATIONS

Your Committee believes that the study of the problems of manpower should be considered and evaluated by the Commission on Manpower and Full Employment and the Department of Labor and Industrial Relations and that there should be appropriate follow-up by the legislature. Your joint committee thus recommends as follows:

1. The study be transmitted to the Commission and Department for their protracted consideration and perusal and to all other affected State departments and agencies.

2. The Commission and Department submit its views on the study recommendations to the chairmen of the joint committee by February 20, 1970.

Representatives Takamine, Iha, Alcon, de la Cruz, Inaba, Kawakami, Lee, Pule, Ushijima, Aduja, Judd and Lum.  
Members of the House.

Senators Yoshinaga, Lanham, Yamasaki, Anderson and Ansai.  
Members of the Senate.

REPORT OF THE SENATE AND  
HOUSE LABOR COMMITTEES IN  
RESPONSE TO HOUSE CONCURRENT  
RESOLUTION NO. 101

CHAPTER 1

Introduction

Economic growth rates affect the whole State of Hawaii — jobs, prosperity, opportunity and generates revenues to raise the general standard of living for the people of Hawaii.

Growth stimulates the public appetite for education, increases opportunities in skilled and professional work and rises the expectations and wage bargaining power of our people.

The past few years have brought the greatest period of economic growth and general development in Hawaii's history. Each year brings a record for new industrial development in the State. New industry means new jobs. Employment is forging ahead to an expected new annual high of 302,900 in FY 1969 and in the process is decimating unemployment to 8,500 for a mere 2.7 percent rate. The assumed employment trend for FY 1970 is for a 4.4 percent gain bringing statewide employment to 316,300.

Stimulated by industrial growth, personal income has increased impressively, surpassing \$2.4 billion in 1968 while the annual average wage was estimated to be \$6,760.

However, industrialization introduces a multitude of manpower problems, particularly the full utilization of our human resources. In Hawaii, attention to manpower problems is a relatively new phenomenon, receiving a substantial amount of attention due to the tremendous increase in economic activity within the State.

This attention has been shifted from production to people and we are now concerned with how we can meet the criticisms of large sectors of our population who,

because of limited education and training, poor environment and other barriers, cannot compete on an equal basis with these more generously endowed.

This report is devoted to focusing attention on Hawaii's manpower situation — what the issues are and where the real problems exist.

Subsequent reports by the Department of Labor and Industrial Relations will focus on the designing and planning of a systematic approach in assessing the manpower needs of the State.

The background of the study, purpose of the study, approach of the study, and organization of this report are also set forth in this introduction.

**BACKGROUND**

During the 1968 session, the Hawaii State Legislature expressed a general concern about whether there were sufficient numbers of trained persons to meet the increased growth of the tourist industry. This concern generally brought up the question of whether or not importation of additional personnel was necessary to serve the tourist industry.

More specific, the legislature felt that there was no clear understanding of the employment needs of the tourist industry and answers to the ways these needs can best be met were unavailable.

In order to resolve these problems, the legislature adopted **House Concurrent Resolution No. 7**, entitled: "REQUESTING THE ADVISORY COMMISSION ON MANPOWER AND FULL EMPLOYMENT TO CONTRACT FOR OR TO STUDY AND MAKE RECOMMENDATIONS ON THE DESIRABILITY OF BRINGING EMPLOYEES INTO THE STATE OF HAWAII FOR THE TOURIST INDUSTRY.". The Committee, after study and deliberations, recommended setting up a Pilot Hotel Industry Human Resources and Manpower Training

Center. The Center would provide for human resource development, training and services to the people of the State in order to qualify them for hotel industry employment. Through the pilot testing program, substantial local additions could be made to the state labor force by making provisions for training, transportation, nursery school care for pre-school children, health needs, job restructuring and other possible barriers to employment.

As a result of this recommendation for suggested legislation, **House Bill No. 28, H. D. 2, (ACT 251, S.L.H. 1969)** was enacted by the 1969 Legislature. The purpose of this Act is to establish manpower development and training programs in the State of Hawaii and to determine the extent to which the manpower needs of the State's economy can be met by increasing trained local labor.

In order to follow up on the study and extend the study to cover the total manpower needs of the State, the legislature adopted **House Concurrent Resolution No. 101** on May 15, 1969, which authorized the House and Senate Labor Committees to conduct a study focusing on the question of how can Hawaii insure full development and participation of its workforce (1) to meet the increased labor demands because of industrialization; and (2) whether importation of labor is necessary to meet this demand.

The Senate Majority Office was requested to provide staff assistance and support for the study.

#### **Purpose of the Study**

The purpose of the study was to document and assess the proposed solutions to meet the manpower needs of the State before action is taken by any agency to encourage, support, stimulate or undertake labor importation.

#### **Approach**

In view of the limited time available for the study, the Commission on Manpower and Full Employment and Department of Labor and Industrial Relations suggested

that a two phase study approach be undertaken, a short range approach to meet the requirements of **House Concurrent Resolution No. 101** and a long range study plan to meet the overall state manpower requirements.

1. First phase — An analysis of the problems having to do with what manpower is needed to meet the current needs of the State.

2. Second phase — A continuation of the analysis involving constant up-dating of manpower trends and forecasts through the coordination of manpower activities and human resources delivery systems.

In general, the initial step was one of seeking information pertaining to the present manpower situation of the State and making a cursory examination of the anticipated needs over a five year period of time. Public hearings were held to seek the opinions of manpower users. A cross-section of State and County agencies, businesses and industries, labor unions, the Community College System and organizations involved with manpower development and training participated at the public hearings. Reviews were also made of pertinent literature — documents, reports and studies dealing with the manpower problems and prospects.

#### **Organization of the Report**

The remainder of this study is organized in the following manner. In Chapter II, the economic assumptions for manpower developments is reviewed. Chapter III deals with the analysis of the manpower outlook for the State of Hawaii. Chapter IV provides the manpower and labor needs by Counties. Chapter V contains the conclusions drawn from an interpretation of the findings. Chapter VI presents the summary and recommendations.

### **CHAPTER II**

#### **ECONOMIC ASSUMPTIONS FOR MANPOWER DEVELOPMENTS IN FISCAL YEAR 1970**

In any attempt to project the anticipated

needs for manpower in the future, certain premises must be made. This report though dealing with only a short range look at manpower, considers the stating of certain economic assumptions essential in forecasting employment and unemployment trends for the forthcoming years. The following assumptions have been selected from the State of Hawaii Comprehensive Manpower Plan for Fiscal Year 1970 and are considered to be the most significant in terms of affecting manpower developments.

The economic assumptions for the government sector are: on the international front, military actions are expected to continue the utilization of young manpower. Meanwhile, defense agencies in Hawaii are under directive to reduce their civilian work forces possibly back to 1966 levels; nationally, federal non-defense activities should expand according to increased program commitments and services while on the state and county government levels, expansion is expected to set new records in keeping with the needs of a growing population and demands for new urban and social programs.

Personal income — and spending is sure to set new heights in Hawaii to affect a variety of outcomes. The total personal income figure for 1968 was \$2.4 billion while the annual average wage was estimated to be \$6,760. Negotiated wage escalations in the private sector plus anticipated increases for government workers both at the state and federal levels should keep ringing up retail sales despite continuation of the federal surtax.

Visitor tallies for the State are expected to soar well above the 1.2 million mark set for 1968. Inauguration of the jumbo Boeing 747 jets in December 1969 should jolt visitor volume sharply upward. A second postponement of the recently awarded Hawaii air routes to five airlines has delayed visitor industry hopes of expanded service being available early within this current fiscal year. This service which commenced in late 1969 has further added to the heavy tourist traffic.

Service labor, particularly for hotels, is

becoming a premium. Fortunately, rising labor force participation especially from secondary family workers and in-migration has supplied much of the current need. Future labor needs are not likely to be as well supplied which means that employers must find new ways of performing production, sales or service or create new labor sources.

The construction industry will also face a dearth of manpower due to a combination of fluctuating labor demands, the sudden spurt of many building projects, and out-moded training programs. Its skilled craft trades are attractive to many young men who are, however, discouraged by the rigidity of the training programs. Construction projects are expected to be in high gear restrained only by the leverage of release of funds for capital improvement projects. Labor shortages, however, are expected to delay the fruition of many projects, contribute to higher costs and depress the size of the industry's employment gain.

Sugar and pineapple are expected to play their usual major, though declining roles in the over-all economy. The sugar industry has sought to meet its problem of recruiting field help by crop and technological innovation and by consolidation of plantation operations. Pineapple companies have resorted to inter-island and inter-state importation of labor and is also relying upon mechanized techniques as a way of substituting for labor. Reduction of about 80 jobs resulting from a stopwatch study has recently taken place in three Maui companies and portends similar future action in paring down present plantation operations which could be contracted out.

The over-all outlook in the State labor force is for a minimum increment of 4 percent, mostly dependent upon service, trade, government, transportation and utilities strength and limited only by widespread worker shortages.

### CHAPTER III

#### MANPOWER OUTLOOK FOR THE STATE OF HAWAII FISCAL YEAR 1970

The following analysis<sup>1</sup> prepared by the Hawaii State Manpower Coordinating Committee and submitted with testimony by the Department of Labor and Industrial Relations to the joint committee is incorporated herein to provide a general overview of the industry and occupation trends and implications for manpower for fiscal year 1970.

### **The Employment Perspective for the State of Hawaii**

In FY 1969, employment rose to a new high annual average of 302,900, a remarkable growth of 13,700 jobs and second only to the 1965-1966 inflation of well over 14,000. The assumed employment trend for FY 1970 is for a 4.4 percent gain bringing statewide employment to 316,300.

About 87 percent of total state employment in 1970 will fall into the nonagricultural wage and salary industries and only four in every hundred jobs will be located in agricultural wage and salary firms. The 1970 trend in the sugar industry will be atypical due to the one-month sugar strike from February 17 - March 17, 1969; the artificial upturn will mask a contraction of 2-3 percent through the attrition of older workers. Pineapple farms are expected to lose about 100 workers also through retirements.

### **Industry Trends**

Heavy contributors to the employment advance will be trades and service employers who should account for over 62 percent of the nonagricultural wage and salary employment growth. Employers in retail business who now claim 15 percent of all jobs will be the big hirers in 1970 as Hawaii's personal income gains will continue to stimulate record sales especially in family clothing stores, gift shops, home furnishers and restaurants. Following closely will be the hotel segment with an estimated 2,500 openings, almost 60 percent of which will occur on Oahu. Other service firms will add well over 2,000 job opportunities, most accruing to developments in a variety of business services ranging from photocopying to building maintenance, personal and medical service

expansion.

Government agencies rank third, trailing private industry trades and service enterprises, in anticipated employment expansion for 1970. State government should capture the lead in job gain since unlike many other state governments, Hawaii's State Government includes social and educative functions — two areas of significantly mushrooming government services. Local government will show a modest increase owing to the necessity and, in some cases, urgency of physical improvements in urban and outlying rural communities. In accordance with the assumption of reduced federal defense agency civilian manpower, the national government sector in Hawaii is estimated to lose almost 500 jobs.

Both the transportation and communications industries are expected to experience vigorous new directions in the coming year to the tune of 900 new jobs, respectively. In transportation, the introduction of new aircraft by intrastate and interstate airlines will greatly enlarge passenger capacities as well as air freight possibilities. Additional warehousing activities should serve to complement trade and transportation industry needs while smaller gains are expected among tour and local transportation companies. The "muscle" in the communications group is the telephone industry upon which population, government and private business expansion and military contracts combine to impose a staggering public utility obligation that is subject to rapid technological innovations.

Financial institutions are at the heart of Hawaii's economic growth, lending money to provide the capital upon which many a new business is built. As in other areas of the business world, services are being modified and expanded in keeping with client needs — hence major banks seem to be branching out into the data processing field and into consumer information ser-

<sup>1</sup>State of Hawaii Comprehensive Manpower Plan, Fiscal Year 1970, p. S-B4-1 — S-B4-4.



vices. Life insurance in the 50th State has been good business all during the 1960's and has almost doubled in volume over the last decade. The real estate category tends to be elusive since many operative builders may be really contractors or budding hotel operations. Employment increases will be shared mostly between the latter-type employers, suburban banks and centralized banking services for an approximate projected increase of 600.

Construction is by all measures the most difficult industry to assess. Its volatile behavior due to its dependency upon a number of factors — availability of money, construction supplies and costs, labor and wages, bidding cycles, federal grants and loans — any one of which could hinder the business and in some cases affect it seriously. At this time, the flaw in its future prosperity is the acute labor shortage. It is expected that lack of workers will constrain employment growth of the industry considerably, though this does not mean that production will be depressed. Rather, it probably will be the opposite — reliance upon the current work force will be so great that labor-pooling efforts may be necessary. Overtime work and higher paychecks will be common while industry, unions and government evolve better ways of planning and training for construction manpower needs. Limited importation of workers from the mainland has already begun to ease the supply dilemma while restraint on state capital improvement programs seeks to ease the demand end. There is no doubt that the state is in a period of virtual construction glut — caused by broad commercial expansion, delayed action on many building projects resulting from the 1966-67 money crunch, the awakening of neighbor island economies, the transportation problems between employment and resident centers, urban redevelopment and resort complexes, the public facilities necessary for servicing increased population and lastly, private residential housing, which many observers feel is being neglected.

As with agriculture, manufacturing activities in the State will show only a slight upturn — and only as a result of the sugar industry's labor-management dispute which should push sugar mill employment

down to about 5,000 in FY 1969 compared to the FY 1967 average of 5,300. Hawaii's manufacturing sector is classified predominantly in the non-durables category, two-thirds of which is comprised of the processing of food and drink products. Although pineapple canneries are expected to ebb further down to an average annual work force of only 4,800 in 1970 largely attributed to competition from foreign pineapple growers and from other domestic fruit, drink products such as canned soda pop and alcoholic beverages are being produced in mounting volume.

In durable goods manufacturing, concrete and wood products have been energized by the construction boom to the extent of an anticipated 8 percent combined industry employment surge in FY 1969 which is expected to decelerate to 3.6 percent in FY 1970 as a consequence of related construction manpower shortages.

Although there has been considerable discussion regarding the establishment of a second oil refinery at the Campbell Industrial Park, such a development has not been included in the employment projections for 1970 since planning is still under way and sufficient lead time is required for the erection of the automated systems that are characteristics of modern-day refineries.

#### Occupation Trends

The demand for workers exists along such a broad front of industries and occupations that it would not be far from the truth to say that most job classifications in Hawaii will have some job opening in the next year. Of the 196 significant occupations listed in the Hawaii State Department of Labor's Occupational Employment Trend series in March 1969, 73 were in demand, 105 in balance (supply was sufficient for demand) and 18 were listed as surplus.

Shortages have existed for skilled craftsmen and structural workers since last summer when a deluge of back-logged building projects caught the construction industry by surprise and quickly over-



whelmed available work force capacity. The problem is really one of smoothing out the peaks and valleys of manpower requirements in the construction business. In low building periods, workers are laid off and due to personal hardship, some may decide to go into more stable jobs. In high activity periods unemployed workers are recalled and those who are fortunate enough to be working regularly are worked overtime. Any labor reserve is rapidly absorbed and there is no time to train new workers.

Professional personnel have been in high demand and curiously enough have been well supplied by in-migrant sources which is both a blessing and a handicap. Positions are filled — but only temporarily in such occupations as teachers, social worker, registered nurse, engineer and counselor. New residents find it difficult to adjust to the high living costs particularly of home ownership. Others find cultural adaptation and distance from the mainland centers of education, recreation and social opportunities too great a disadvantage. Others return home merely because they never seriously intended to stay but came for the experience, for the glamour and excitement — or whatever the lure of Hawaii means to different people.

Service jobs are in plentiful evidence particularly in the hotel industry. It is not too clear as to how employment and wages are worked out according to the classifications of regular, intermittent and short-time workers and a study is currently being made to determine what earnings levels exist. It is estimated that half of the hotel work force are part-time or moon-lighting workers.<sup>2</sup> New employment demands seem to be easily filled through raiding other firms in the industry or raiding other industries, through new labor force entrants and through in-migrants. Prospective acceleration of employment could fall back upon the alternatives of split duties (lower staffing ratio per room), generally reduced services and mechanized systems (in food service). The relatively short training period for service jobs, the high wages being won by the big hotel unions and the glamour image of the industry seem to spell adequate attraction

of workers — at least in Honolulu. The neighbor islands may not fare as well since their population and hence, labor reserves are smaller. Also commuting distances between resort and residential centers discourage women workers and shift work must sometimes be rearranged to compensate for travel time.

#### CHAPTER IV

#### MANPOWER AND LABOR NEEDS BY COUNTIES

#### COUNTY OF KAUAI

The Kauai County General Plan reveals that Kauai's labor force is in transition from an agriculture-oriented to service-oriented group. Kauai's labor force has climbed from 11,400 in 1960 to 11,700 in 1965 and is expected to hit an average level of 13,600 in 1970 and 15,300 by 1975. The County of Kauai is also expected to go from 3.1 percent to a 2.9 percent unemployment rate in 1975 and has maintained an average reserve of 450 active job seekers.

Kauai, with a population of 32,000, shows the highest labor force participation rate of 74 percent in comparison with the other islands. This is the percent of the population ages 16-64, who are in the labor force. This suggests that Kauai is utilizing her population resources more than other areas although only half of the working age women are currently in the work force.

#### Present Needs

Reports show that at the present time, the County reflects no real critical shortage of labor, but illustrates the tight labor market on Kauai. The construction industry, already strained to near capacity, is finding it difficult to supply the demand for all new resorts and meet the needs for public improvements and private housing developments.

The tourist industry also has felt the

<sup>2</sup>“Hawaii's Manpower Shortage Grows Critical”, **Hawaii Business**, January 1969, p. 16-21.

manpower strain and there is considerable moonlighting to fill part-time hotel jobs.

The greatest need appears to be in the agricultural sector, notably the pineapple field jobs. However, assumptions made by consultants who prepared the revised General Plan predict the phasing out of the pineapple industry on Kauai.

In order to maximize the use of the existing labor, some basic problems have to be resolved.

These are:

1. Lack of adequate transportation facilities to enable individuals to reach their destination for employment.
2. Lack of provisions for baby-sitting to enable mothers to work.
3. Lack of incentives to apply for generally low-paying jobs.

#### CITY AND COUNTY OF HONOLULU

The City and County of Honolulu's labor force is currently measured at 260,000. In 1960, it was 184,650, in 1965 it was 214,600 and in 1975 it is anticipated to be about 295,600.

The City and County of Honolulu has long dominated the State's labor force increasing its lion's share of the State's jobs from 78 percent in 1960 to 81 percent currently. This concentration of jobs is an inevitable result of being the State's center for business and finance, the State Capitol and tourist hub, Pacific military command and higher education resources.

#### **Present Needs**

Employment on this metropolitan island city-county has raced from 179,350 in 1960 to 207,450 in 1965 and is expected to go to 256,300 in 1970 and further upward to about 286,800 in 1975. This means over 30,000 new workers who will, among other things add to the demands for transportation, housing, education and child care services.

The Honolulu labor force reserve or unemployment has diminished from 7,100 in 1965 to 6,350 currently. Projected reserves of active jobseekers for 1970-1975 are estimated at 6,700-7,800 or about 2.6 percent of the labor force.

Individuals who may be potentially available for work, if given the appropriate conditions, may be illustrated by the relationship of Honolulu's labor force to its population, specifically its working age population. The civilian resident population has expanded from 453,600 in 1960 to 529,600 in mid-1965 and is expected to be 601,800 in 1970 and 670,550 in 1975. Assessing that proportion of the working age population ages 18-64 years who are in the labor force shows that the labor force participation rate for Honolulu is about 73 percent which is lower than that of Kauai. There are several reasons which may account for this small difference. One is the presence of a large student population pursuing advanced education; another is the presence of large in-migrant groups who may not be readily absorbed into the labor force and a third reason is the problem of disadvantaged and alienated groups.

#### **Present Problems**

There are a number of job shortages in Honolulu from highly specialized professional occupations to unmet demands in domestic positions. State and local government needs are acute in many occupations. Tourist-related industries are constantly involved in training programs to keep pace with the rapid expansion of the visitor industry. Service stations seem to be trapped between the competitive production of the car manufacturers and the transportation problems of urban communities which is manifested in endless car repair and servicing. The construction industry has problems in trying to anticipate and provide for an adequate work force for fat as well as lean years.

It is not possible to generalize on the reasons underlying these specific and varied job shortages. Each type of job demand must be evaluated in terms of realistic job requirements and market competitiveness. There is considerable

evidence of mis-matching of available labor with demand factors. One way in which this can be shown is by expressing the number of applicants that were referred for each job replacement made.

The highest referral rate occurred in the finance, insurance and real estate industry while the lowest rate was attributed to government.

#### COUNTY OF MAUI

The County of Maui has experienced a steady rise in population somewhat in excess of 50,000 people and is now optimistic that this upward trend will continue, possibly approaching the 200,000 mark by 1990.

Although much of this present and future growth can be attributed to the increase in the tourist industry, the County of Maui does not intend to rely entirely upon this single segment of the economy. The present administration of the County of Maui is committed to a concept of balanced growth, with continued emphasis on agricultural activities, industry, business and associated services and research and development.

The current labor force for the County of Maui is estimated at 20,000 as compared to 16,800 in 1960 and 18,600 in 1965. It is conservatively estimated that by 1975, the labor force will increase to 21,300, a rise of approximately 7 percent. It is also anticipated that unemployment should remain at current levels, at around 700 persons.

The active labor force reserve or those without jobs and seeking employment has numbered between 600 and 700 during the past several years. With regard to those individuals who may be potentially available for work, it is estimated that there are about 500 persons in the County at present.

Another group of persons who may be expected to meet the manpower needs of the County of Maui are the 200 high school graduates seeking full-time employment upon graduation and those completing

post-high school vocational and technical training.

#### Present Needs

At the present time, the County does not believe that a critical manpower shortage exists, except in certain specialized fields. Surveys conducted by the Maui Office of Economic Opportunity revealed a considerable labor force reserve which is still untapped as stipulated in the above paragraph. This consists of a great percentage of housewives, students available for part-time work, new arrivals from other countries and others who are under-employed. Further, it is anticipated that this reserve, together with the manpower provided through substantial increase in population, will generally be available to meet the County's needs in the foreseeable future.

Again, the greatest need appears to be in the agricultural sector, particularly in pineapple field jobs. Presently, these jobs are staffed primarily by older persons and new arrivals, the majority being immigrants from other countries. As the younger segment of Maui's population is inclined to favor tourist-related occupations, the replacement for field workers will probably have to come from the ranks of the immigrants.

#### Present Problems

In the County of Maui, certain problems exist in solving ultimate manpower requirements.

These are:

1. Lack of training — Lack of training involves deficiencies in technical skills, verbal or communicative skills, or social and personal skills.
2. Lack of adequate housing — Housing and not manpower appears to be Maui's critical shortage. A comprehensive housing program for the County of Maui has been submitted by the Administration to the County Council to alleviate the situation.

2. Transportation — Unless housing is readily available close to the job sites, transportation will be a barrier to employment.

#### COUNTY OF HAWAII

Hawaii County's population, which stood at 73,325 in 1950, declined to a low point in 1960 when the count was estimated at 61,332. By mid-1960, an upward trend was seen and the estimate for 1969 was 69,600.

The labor force for the County of Hawaii is estimated at 26,870. Average monthly employment on Hawaii during fiscal year 1968-1969 stood at 26,000 and compares favorably with 23,000 employed in 1965 and 21,500 employed in 1960. A trend which reflects the fluctuation of the population for the same period.

In projecting the level of employment to 1975, it is anticipated that a modest increase of 3,000 - 4,000 will take place. Relatively speaking, the greatest increase is expected to take place in the service industry where the labor force will rise more than 25 percent. The hotel segment of this industry will add more than one-third of its current force.

#### Present Needs

Turning to the question of supply and demand, there are at present a shortage of workers in a number of occupation in the County of Hawaii. In construction, employers demands for carpenters and painters are not being met while job opportunities exist in the wholesale and retail trades and in service occupations.

There is also some concern expressed for the labor situation in agriculture although the need has not yet been fully quantified in commodity categories.

The labor reserve force for Hawaii County as measured by unemployment remains at the 800-1,000 level and has been fairly constant for a number of years. In addition to active job seekers, it is estimated that there are nearly 1,200 un-

deremployed persons on Hawaii at the present time. In addition, it is estimated that 400 students completing high school and post-high school vocational and technical training will be seeking employment annually.

#### Present Problems

Statistics show that there exists upwards of 800 persons who may be potentially available for work if certain barriers to employment are removed. These persons may be added to the labor force if problems such as housing, lack of trainable skills, child care, transportation and certain employment conditions were resolved.

#### CHAPTER V

#### CONCLUSIONS

One may conclude from the admittedly limited data on the work force supply and industry's demand for trained workers that there are no pronounced critical shortages existing at the present time. Aside from the reported difficulties of peak load labor requirements for pineapple harvesting and processing and the publicized shortages of the construction and hotel industries, there is no evidence of any major economic inhibiting because of the acute labor shortage in any sector of the economy. Complaints have been registered at the public hearings, but there is no substantial evidence that any sector has been materially affected.

The following are the conclusions drawn from the interpretation of the findings:

1. In estimating the future work force needs of the State for the next five years, two conservative assumptions can be made from trends established over the past ten years.

The assumptions are that the population will increase at a rate of 3.2% as it has for the past ten years and the need for a work force will increase at a rate of at least 3% (as it actually has in the last ten years; in the past year 1969, the labor participation rate went up 4.4%).

	Population <sup>1</sup>	Labor Force <sup>2</sup>	Labor Force Reserve <sup>3</sup>
1969	773,700	302,900	Estimated at 8% of the non-participating adult population.
1970	828,200	316,300	
1975	906,000	388,097	

2. The State's work force in 1969 found the means to grow by 13,400 in spite of all the talk of labor shortages. This was the second highest yearly increment in recent years, the other coming during a period of statistically greater unemployment.

3. There is a need to broaden the responsibilities of the Commission on Manpower and Full Employment to provide for comprehensive manpower responsibility. At the present time, the Commission's basic responsibilities are limited to identifying and assessing the impact of technological change on the State's production and employment, reviewing and evaluating the State's manpower programs, making legislative and administrative recommendations in these areas, and creating public awareness and understanding of the problems and potentials of the new automation and technological changes.

4. The Department of Labor and Industrial Relations lacks sufficient capabilities to perform manpower analyses, to make economic forecasts and to formulate the State's strategies to cope with the State's tight labor market.

5. There is a need for closer coordination between the community colleges and its advisory committees. There is evidence that there is a lack of coordination in defining needs for training programs and in the development of curricula to meet the present and future needs of industry for trained personnel.

6. The Department of Labor and Industrial Relations is moving toward full implementation (ACT 251) to help resolve imbalances between the worker supply and

industry's demand for workers by providing the mechanisms through which such barriers to employment as lack of training, transportation, child care and health services may be alleviated.

7. Generally, Hawaii's present manpower needs can best be met by effective recruitment, utilization and retention of the local work force. What evidence there is points to the fact that we have not yet taken full advantage of our tight labor market emphasizing the need to put more of our State's human resources: the under-employed, the unemployed, the would-be employed, the hard-core, the physically handicapped, the school dropout, the senior citizen, the technically displaced, the new arrivals, the mentally educable and trainable, the delinquent, and the working woman into satisfactory and rewarding career lines.

8. In this connection, we find that it is not necessary to encourage and support the massive importation of outside labor. The concepts of orderly growth and a balanced economy, together with the recommendations enumerated herein, will adequately handle the present manpower requirements of the State of Hawaii.

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<sup>1</sup>Series B Projection General Plan Revision, Department of Planning and Economic Development, 1967.

<sup>2</sup>State of Hawaii, Comprehensive Manpower Plan, Fiscal Year 1970, 1969.

<sup>3</sup>United States Department of Labor, Study Report No. 110, July 1969.

## CHAPTER VI

SUMMARY AND  
RECOMMENDATIONS

Generally, the State today lacks meaningful comprehensive manpower planning. This is attributed to a lack of sufficient planning and research capabilities of the State central staff agencies and commissions involved with the full development and participation of Hawaii's work force to meet the increased labor demands. In this final chapter, we recommend several courses of actions which are intended to insure that necessary manpower will be provided to cope with the State's tight labor market:

The recommendations are:

1. That the Commission on Manpower and Full Employment be responsible for the overall planning, review and allocation of federal manpower funds; and provide the assistance, liaison, information, innovating suggestions, monitoring, coordination and evaluation of the various manpower programs operating in the State.

In order to broaden the Commission's responsibilities, ACT 270, S.L.H. 1965, the State Manpower Commission Act, should be amended to:

a. provide for the language and structural changes and staff additions that will allow for such comprehensive responsibilities;

b. provide for an inter-agency liaison committee which shall include: the governor's administrative director; the directors of the Departments of Labor and Industrial Relations, Planning and Economic Development, Health, Personnel Services, Social Services, and Agriculture; the Superintendent of Education; the State Office of Economic Opportunity director; the director of the Community College Services; the director of the Law Enforcement and Juvenile Delinquency Planning Agency; the executive officer of the State Voc-Ed Coordinating Committee; and the executive secretaries of the Commission

on Children and Youth and the Commission on Aging; and representatives of other similar related advisory bodies as needed;

c. provide for the State CAMPS process and staff to be made officially a Commission responsibility;

d. provide for the inclusion of the chairman of each County Manpower Committee as a regular member of the proposed Commission and to provide for direct representatives from the poor;

e. provide for Commission representation on the Progressive Neighborhood Task Force;

f. require an annual statewide manpower plan to be submitted to the Governor;

g. provide for exploring whether the Commission should remain housed in DPED, or attached to the Governor's office or some other State agency.

2. That the work done by the Department of Labor and Industrial Relations in the areas of manpower recruitment, utilization and retention be reviewed, improved and updated.

3. That the department design and plan for a full implementation of a systematic manpower plan to retrieve substantive data on manpower and to use this plan in its future assessments of present and anticipated manpower needs of the State. Specifically, it is recommended that the department involve all of the agencies listed under the proposed inter-agency liaison committee in sub-paragraph b under recommendation No. 1 in addition to representatives from the County governmental agencies in the development of this plan.

4. That the department immediately modify its research and statistics staff to be responsible for all manpower analyses and for the planning of a machine information computerized system to execute plans for a manpower area skills survey to be conducted for each of the islands. With respect to this effort and its relationship to the manpower plan under

consideration, close coordination should be maintained so as to insure the eventual melding of the respective final products.

5. That the department continue to work towards full implementation of programs under ACT 251. In this connection, it should be noted that more proposals should be considered and more programs started to alleviate the shortages in the hotel and construction industries and to provide for extensive experimentation of methods to increase the work force from the local non-participating population.

6. That the department continue its current undertaking and maintain its working relationship with the industries experiencing labor shortages.

7. That closer coordination be established between the community colleges and its advisory committees for the purposes of determining the manpower and training needs of the community and in the development of curricula suited to meet these needs.

8. That the Commission on Manpower and Full Employment make available their assistance and advice to the Department of Labor and Industrial Relations to expedite the work in planning for the research endeavors.

#### H. C. R. NO. 101

REQUESTING THE SPEAKER OF THE HOUSE AND THE PRESIDENT OF THE SENATE TO AUTHORIZE THE HOUSE AND SENATE LABOR COMMITTEES MEETING JOINTLY AS AN INTERIM JOINT LEGISLATIVE COMMITTEE HEADED BY THE RESPECTIVE HEADS OF THE HOUSE AND SENATE LABOR COMMITTEES TO STUDY THE STATE'S MANPOWER NEEDS AND TO REPORT BACK TO THE 1970 LEGISLATURE.

WHEREAS, the tremendous increase in economic activity within the State has raised the question whether the local manpower is sufficient to meet the needs of all the varied businesses for employees; and

WHEREAS, many and varied possible solutions, including importation of both mainland and foreign labor have been suggested as a means of meeting these needs; and

WHEREAS, H. B. No. 28 appropriates \$300,000 to establish manpower development and training programs designed to increase the availability of local manpower and to assure that available local manpower is exhausted before importation of labor from outside is considered; and

WHEREAS, before action is taken by any agency to encourage, support, stimulate or undertake labor importation, the results of these proposed courses of action should be studied; now, therefore,

BE IT RESOLVED by the House of Representatives of the Fifth Legislature of the State of Hawaii; Regular Session of 1969, the Senate concurring, that the Speaker of the House and the President of the Senate are requested to authorize the House and Senate Labor Committees meeting jointly to study the aforementioned question and report back to the next session of the legislature, no later than five days prior to its convening, on the State's manpower needs, and suggested means to meet these needs; and

BE IT FURTHER RESOLVED that the State Department of Labor and Industrial Relations and the State Commission on Manpower and Full Employment are requested to make their resources available in an advisory capacity to the joint House-Senate Labor Committee; and

BE IT FURTHER RESOLVED that certified copies of this Resolution be transmitted to the Chairmen of the House and Senate Labor Committee, the Department of Labor and Industrial Relations, and the State Advisory Commission on Manpower and Full Employment.

OFFERED BY: YOSHITO TAKAMINE

and others

H. C. R. NO. 101



THE HOUSE OF  
REPRESENTATIVES OF THE  
STATE OF HAWAII

Honolulu, Hawaii  
May 15, 1969

We hereby certify that the foregoing  
Concurrent Resolution was this day adopt-  
ed by the House of Representatives of the  
Fifth Legislature of the State of Hawaii,  
Regular Session of 1969.

Tadao Beppu  
Speaker, House of Representatives

Shigeto Kanemoto  
Clerk, House of Representatives

THE SENATE OF  
THE STATE OF HAWAII

Honolulu, Hawaii  
May 19, 1969

We hereby certify that the foregoing  
Concurrent Resolution was this day adopt-  
ed by the Senate of the Fifth Legislature  
of the State of Hawaii.

President of the Senate

Clerk of the Senate

**Special Com. Rep. 8**

Your Interim Committee created pur-  
suant to **House Resolution No. 235**, entitled:  
"HOUSE RESOLUTION APPOINT-  
ING A HOUSE INTERIM COMMIT-  
TEE TO CONDUCT AN INVESTIGA-  
TION AND STUDY ON THE FEASI-  
BILITY OF REGULATING THE  
PRODUCTION, REFINING AND  
DISTRIBUTION OF OIL AS A PUB-  
LIC UTILITY," begs leave to report as  
follows:

The purpose of the resolution is to pro-  
vide for a study of the feasibility of regu-  
lating the production, refining and distri-  
bution of oil as a public utility. Inherent  
in this study is the view toward the achieve-

ment of a fair price that a consumer must  
pay for energy from oil and its derivatives  
and the assurance of a fair rate of return  
for the entrepreneur.

Initially, a review of the underlying con-  
ditions and concerns which prompted the  
resolution will be helpful in understanding  
the kind and scope of the investigation  
required and the capacity for fulfillment  
thereof.

Hawaii, indeed, is unique among the  
fifty states of the Union in that it does  
not have readily available to its economy  
such energy sources as coal, natural gas,  
or hydroelectric power, consequently, Ha-  
waii is dependent upon import of oil for  
its energy to generate its electricity, to  
manufacture its synthetic gas, and to drive  
its automobiles, trucks, and industrial and  
agricultural machines. There is only one  
oil refinery in the State, and this single  
refiner could arbitrarily control the supply,  
the cost of oil in the State and the ultimate  
price to the consumer, all to the detriment  
and prejudice to the general welfare and  
prosperity of the State which depends upon  
the availability of an adequate supply of  
oil at reasonable prices to the consumer.  
Thus, your Interim Committee was ap-  
pointed to explore the feasibility of regulat-  
ing the activities of the oil industry or any  
part thereof.

In its investigation upon the subject  
question, your Committee finds that the  
regulation of production, refining and dis-  
tribution of oil as a public utility involves  
a complex array of public policies, the end  
purposes of much of which are not always  
consistent and the effects of which are at  
best speculative in most cases. The  
breadth and depth of study required be-  
cause of the intricacies in the operation  
and arrangements peculiar to the oil indus-  
try appear to require such resources, per-  
sonnel, and time far beyond that contem-  
plated by or at your Committee's disposal.  
Your Committee also refers to the exten-  
sive record compiled by the Special House  
Interim Committee in its investigation of  
the oil industry and its pricing policies in  
Hawaii pursuant to **H. R. No. 123** (1969),  
which record attests to the many consid-  
erations that must be thoroughly explored  
and understood before sound recommen-

dation can be advanced with certainty. Thus, specific conclusions cannot be formulated at this time.

Notwithstanding these limitations which can be overcome in time, your Committee was able to identify and determine the certain general policy issues fundamental toward a direction and ultimate achievement of the purposes sought by the resolution. The fundamental general policy issues which deserve attention, study and determination are:

1. Whether the subject matter falls under the definition of a "public utility"; or whether the subject regulation can be constitutionally affected; i.e. is it sufficiently affected with a public interest;
2. Whether the regulation of the oil refineries would in fact result in the consumers of the State of Hawaii benefiting in a reduction in electric, gas and gasoline prices inasmuch as the majority of the energy produced is through residual fuel;
3. Whether the regulation of the petroleum industry might lower the competitive edge which makes the entry of liquefied natural gas (LNG) into Hawaii's market an unattractive venture; and
4. Whether regulation might preclude emergence of another refinery which may be planning to operate in Hawaii.

Other attendant concerns should be noted. For instance, no other state in the Union regulates the production, refining and distribution of oil as a public utility. While the economic conditions indigent and peculiar to Hawaii may well support the novelty of such a regulation. It does, understandably, cause your Committee to exercise deliberate thought with respect to the relative merits and ramifications.

Your Committee's exposure to the basics of this feasibility study indicates that a study of this kind would require consultation service from experts. Your Committee has been advised that it is also difficult to find an expert who is not associated with the oil refining firms or the federal government. The State Regulatory Agency will

have equal difficulty in staffing experts in this field. Additionally, regulation of the kind contemplated requires correlation with mainland confidential production costs and methods which are not available to the public in detail as required. Trade secrets and other information of a confidential nature which are necessary to assess feasibility on regulation are often unavailable or difficult to obtain.

It is also instructive to note that there is pending Civil No. 2826 in the United States District Court, an anti-trust suit filed by the State of Hawaii against Standard Oil Company of California, Union Oil Company of California, and Shell Oil Company. Your Committee has been advised by the House Attorney that there is no legal restriction in your committee's right to advocate regulation by the Public Utilities Commission of the oil industry preceded by intensive investigative hearings. However, your Committee has also been advised that any such publicity emanating from the investigations and hearings as would prejudice a fair trial of the pending suit could cause a change of venue or a postponement of the trial until the publicity has sufficiently dissipated.

In view of the foregoing, your Committee recommends that:

1. The Interim Committee on the feasibility of regulating the production, refining and distribution of oil as a public utility, appointed pursuant to **H. R. 235** (1969), be further continued to pursue its over-all mission;
2. With the consent of the Speaker of the House of Representatives, the said Interim Committee be authorized to employ or contract for technical legislative staff for the duration of its study; and
3. The Public Utilities Commission of the State of Hawaii, Department of Regulatory Agencies, and any other resource agencies, be called upon to assist the Interim Committee in the study and funds be provided to retain professional consultation services to the extent possible to expedite the study.

Signed by Representatives Baptiste, Suwa, Takitani, Ushijima, R. Wong and Miho.

#### Special Com. Rep. 9

Your Interim Committee, created pursuant to **House Resolution No. 229**, 1969 session, entitled: "APPOINTING A HOUSE INTERIM COMMITTEE TO CONTINUE INVESTIGATION AND STUDY THE QUESTION WHETHER OR NOT THE LEGISLATIVE BODIES OF THE COUNTIES AND THE CITY AND COUNTY OF HONOLULU SHOULD BE EMPOWERED TO AUTHORIZE BY FRANCHISE THE CONSTRUCTION, MAINTENANCE, AND OPERATION OF COMMUNITY ANTENNA SYSTEMS," begs leave to report as follows:

The purpose of this resolution is to conduct a study of the community antenna television (CATV) industry in Hawaii and to determine whether or not the county governments should be the governmental body to issue franchises for the construction, maintenance, and operation of community antenna television systems. Connected with the granting of franchises is the critical question of the regulating of the community antenna television industry, a question which your committee fully analyzed and herein makes its report.

It is the belief of your Committee that television today plays a vital role in the educational process of societal development. With one of the five locally available channels devoted exclusively to educational programs (Channel 11), and a growing number of special telecasts which deal with a range of educational subjects being televised on the other four channels, the exposure to television has a marked importance in the intellectual and cultural growth of our citizens.

However, because of the mountainous topography of our island state and a growing concentration of high-rise buildings in given areas, certain people in Hawaii are being deprived access to television through

off-the-air broadcasting. Furthermore, many areas without this communication medium are culturally or economically deprived areas. The advent of cable television could bring about a considerable impact on the development of these areas in making available to the people both educational programming and entertainment through a highly economical medium. Furthermore, schools in these areas will especially benefit through the use of CATV facilities to receive broadcasts from Hawaii's educational television station.

For people living in these fringe areas where off-the-air broadcasting is substandard if not impossible, cable television is the only present solution to their television reception problems. Your Committee, therefore, made an extensive study of the CATV industry in Hawaii and herein submits its findings and its recommendations.

#### Findings

The emergence of cable television as a rapidly expanding and increasingly important division of the communications industry has concerned officials of the federal, state, and municipal levels of government as to how the industry should be considered from the standpoint of regulation. From its beginnings in 1949, the cable television industry had developed from a small radio antenna capable of receiving a signal from one TV station to an industry which in the near future will expand into new dimensions of communication services that will alter the patterns of societal living. Among the many predicted services of the cable television industry are electronic mail delivery, facsimile reproduction of newspapers, magazines, and documents, and shopping and banking from home.

This rapid growth has caused the Federal Communications Commission to change its regulatory policy from one of no jurisdiction to one of increased jurisdiction over the CATV industry. This assumption of control over the CATV industry has resulted in Supreme Court decisions to determine the right of juris-

diction over cable television by both the federal and state governments. Areas of concern have included copyright royalty payments, expansion of the industry into big cities in competition with broadcast stations, ownership of CATV companies by utility companies and broadcast stations, program origination by CATV companies, uniform technical standards, and use of satellites for transmission among many, many other areas. Important questions regarding the role of CATV in the communications field are still being answered as officials on all levels of government continue their study of this rapidly developing industry to determine what kinds of regulation are necessary under present and anticipated technology.

The critical problem facing the CATV industry in Hawaii today is one of local development and expansion. Since February, 1969, construction of facilities for the CATV industry has come to a near standstill as a result of petitions filed before the Federal Communications Commission by two CATV companies in opposition to applications submitted by the Hawaiian Telephone Company. The applications filed by the Hawaiian Telephone Company are for certificates of public necessity and convenience to construct or operate facilities used to provide CATV channel service pursuant to Section 214 of the Communications Act and Part 63 of the Commission's Rules.

Because cable television companies presently are not franchised by any governmental agency to operate in Hawaii, the companies have had to rely primarily on the Hawaiian Telephone Company for the furnishing of necessary facilities of operation. The two companies which are exceptions to this are Kaiser-TelePrompTer and Island Cablevision, Inc. which provided for cable television facilities in the initial developmental plans of the Kaiser Hawaii-Kai and the Mililani Town subdivisions respectively. All other CATV companies in Hawaii have had to arrange with the telephone company for the installation and maintenance of necessary poles, conduits, cables and other facilities leading from the CATV companies' headend equipment to the sites of

the consumer utilizing CATV service. This arrangement between the telephone company and a CATV company is commonly referred to as a leaseback arrangement. Without these facilities being furnished by the telephone company, the CATV companies desirous of servicing already established communities have no other means of obtaining the necessary facilities and rights-of-way for operation.

The Hawaiian Telephone Company, in order to provide these facilities to CATV companies as a public utility, was initially required to file a tariff with the Hawaii Public Utilities Commission. This was the PUC Tariff No. 10. However, the Federal Communications Commission in 1966 concluded that provision by common carriers of local facilities for CATV companies was provision of interstate rather than intrastate service. Therefore, the tariffs concerning this service had to be filed with the Federal Communications Commission rather than with state agencies. In essence these local facilities were held to be interstate facilities under FCC authority because the customer, that is the CATV company, used the facilities as a link to forward an interstate broadcast television signal. In June, 1968, the Commission found Section 214 of the Federal Communications Act applicable to the construction and operation of CATV channel distribution facilities by common carriers (telephone companies). Section 214 of the Act states that no construction of interstate common carrier lines shall take place without prior certification by the Commission that the public interest and convenience will be served thereby, and accordingly the Commission ordered that no further construction of such facilities take place until certification had been applied for and received.

Therefore, since June, 1968, the Hawaiian Telephone Company, as a common carrier, has been required to file Section 214 applications for certification with the FCC for construction of CATV facilities. After a Section 214 application for certification is received by the FCC, public notice of the filing is given and for 30 days thereafter, oppositions to the application may be filed with the FCC. Subsequently,

two CATV companies in Hawaii opposed the applications for certification of the Hawaiian Telephone Company on the basis that the telephone company has refused to enter into pole attachment agreements with the CATV companies and is therefore engaging in anti-competitive activities. A pole attachment agreement allows a CATV company to attach its cables to the telephone company's poles or lay its cables in the conduits of the telephone company for a fee. The petitions further stated that the State of Hawaii is presently considering the question of its franchising authority, and that no FCC action on the Section 214 applications ought to be taken until that question has been resolved.

Because of these petitions, all construction by the Hawaiian Telephone Company in furnishing necessary facilities for CATV companies came to a complete halt in February, 1969. Until the FCC rules on these applications which have been opposed, no further construction by the Hawaiian Telephone Company of CATV facilities can take place.

In checking with the FCC, it was discovered that because of a considerable backlog of cases currently pending before the FCC, the opposed applications may not be placed under consideration by the FCC until 1972 or 1973. Until that time many areas on Kauai, Maui, Oahu, and Hawaii will be without television reception as off-the-air reception is grossly substandard if not virtually impossible in these fringe areas.

In an effort to alleviate the stymied situation of the CATV industry, the Hawaiian Telephone Company in December, 1969, reversed its long held policy of not granting pole attachment agreements to CATV companies and announced that such arrangements can now be made with the Hawaiian Telephone Company. This would appear to nullify the petitions filed with the FCC against Hawaiian Telephone Company's Section 214 applications. However, it has been the policy of General Telephone and Electronics, Inc., of which Hawaiian Telephone Company is a wholly

owned subsidiary, to grant pole attachment agreements only to **any duly franchised CATV applicant.**

Presently, CATV companies are not franchised by any governmental agency to operate in the State. Therefore, no pole attachment agreements can be signed between the Hawaiian Telephone Company and the local CATV companies. As a result, no alleviation of the long stymied situation of CATV facility construction by the Hawaiian Telephone Company has resulted from this recent pole attachment announcement.

Your Committee, therefore, recognizes the urgent need for legislation which would grant franchise rights to CATV companies to operate in Hawaii. With franchise rights, the CATV companies would be able to construct their own facilities and not be impeded by the Section 214 certification for construction which only common carriers, i.e., telephone companies, must apply for with the FCC.

Franchise rights would also grant the CATV companies the opportunity to enter into pole attachment agreements with the telephone company. The FCC has recently stipulated that the seven opposed Section 214 applications of the Hawaiian Telephone Company will be authorized as soon as the telephone company can show the FCC that an option for pole attachment agreements is being offered to the CATV companies. The Hawaiian Telephone Company has related to your Committee that a pole attachment agreement is presently being drawn up, and after its completion, will be submitted to the Hawaii PUC for approval. Upon such approval, the Hawaiian Telephone Company can then enter into pole attachment agreements with any duly franchised CATV company.

#### **Recommendations**

Your Committee believes that the most feasible course of action under present conditions is to grant franchise rights to CATV companies to enable them to (1) construct, maintain, and operate their own CATV systems, (2) enter into pole attachment agreements with the telephone

company, or (3) lease facilities, or wide spectrum services, from the telephone company.

The question then arises as to which governmental body will be empowered to grant the necessary franchises for CATV operations. As mentioned earlier, connected with franchise rights is the critical problem of regulation. If regulation of the CATV industry is deemed necessary, which governmental body will do the regulating and in what specific areas?

It is the feeling of your Committee that the franchise granting body and the regulating body should be one and the same and not two separate bodies. In considering the question of who will do the franchising and the regulating, there are actually only three alternatives: the federal government, the state government, or local county and city government.

The Federal Government is presently studying the question of division of regulatory functions among federal, state or local authorities with respect to the local communications systems and its construction of facilities, terms and conditions of access by those offering communications services and charges to the public, licensing practices and the like. This area of inquest is one of many areas presented for comment in the Federal Communications Commission Docket No. 18397, which was released on December 13, 1968.

However, the actions of the FCC in regard to awarding of CATV franchises, the regulating of subscriber rates, and the type of service provided indicates that the FCC has not preempted nor intends any preemption in the immediate future in these areas of present concern to the State of Hawaii. The Federal Government, under the Federal Communications Commission, has been primarily concerned with the broadcasting aspects of the CATV industry.

One of the earliest pronouncements of the Commission's position on these matters can be found in Paragraph 32 of FCC Docket No. 15971, adopted on April 22, 1965:

“Third, in the event that it is ultimately determined that the Commission has jurisdiction over all CATV systems, we do not contemplate regulation of such matters as CATV rates to subscribers, the extent of service to be provided, or the award of CATV franchises. Apart from the areas in which the Commission has specifically indicated concern and until such time as regulatory measures are proposed, no Federal preemption is intended.”

The FCC repeated this position in its recent December 13, 1968, Docket No. 18397 stating that the local state or municipal governments should be the entity concerned with the regulation of franchises, rates, and services of the CATV industry. These are the areas of present concern to the State of Hawaii, and as long as these areas of franchises, rates, and services are not preempted by the Federal Government, any state legislation dealing with these matters is valid and constitutional provided any power the FCC may have remains dormant and unexercised.

The encouragement by the Federal Communications Commission of state and local regulation in areas of franchises, rates, and services is in the public interest for it keeps government close to the governed and thereby assures responsive protection of consumer interests by state and local officials. The state and local authorities would also have a better knowledge of the legal, technical, financial and character qualifications of each franchise applicant. Furthermore, service standards and rate structures usually vary from state to state and even within a single state depending on the geography, topography, technology and economic considerations of the areas concerned. Therefore, state or local rather than federal agencies would be better equipped to determine the reasonableness and justness of proposed rates and to decide upon the individual requirements of differing localities with respect to safe and adequate services and facilities.

Presently three state governments, Nevada, Connecticut, and Rhode Island, regulate the CATV industry through state agencies. In the remaining states, the mu-



municipal governments grant the CATV franchises and regulate the industry. It is the belief of your Committee that as the CATV industry continues to expand into different communication dimensions, problems of a regulatory nature will multiply. An anticipated result is that the increased regulatory problems will generate a change in the regulatory structure from local authority to state authority. This evolutionary process occurred in the regulation of electric, gas, and telephone utilities and is expected to occur in the field of CATV as it develops more and more the operational characteristics of a utility.

In considering whether or not the county governments should be empowered to grant franchises to the CATV companies, your Committee invited all four counties to testify on **House Resolution No. 229**. The City and County of Honolulu and the County of Kauai both expressed keen interest in having the franchise granting power vested in county governments. The County of Maui raised the question of federal or state jurisdiction in defining CATV as either a communication medium or a utility, and preferred not to submit an answer until further studies have been made. The County of Hawaii recommended state control over franchising and regulating of the CATV industry.

Taking into account the expressed wishes of the four counties, your Committee looked into the practices of the municipal government in other states in regard to the franchising and regulating of CATV. According to reports, municipal regulation has been greatly ineffectual because one of the primary objectives of CATV franchises has been the revenue to the municipality rather than the protection of the customer in terms of reasonable rates charged and adequate services offered by the CATV companies. Furthermore, without being provided with technical staff to supply the necessary expertise, most local officials have been unequipped to regulate the rapidly changing CATV industry. As a result, after the franchise is granted to a CATV company, regulation of the company's rates and services has been totally ineffectual.

Cable television is a relatively new industry here in the State of Hawaii, and the knowledge concerning the legal, technical, and financial aspects of the industry is not readily available at the county levels of government. Such knowledge is essential for the franchising and regulating of the CATV industry, for its growth has been tremendous in the past ten years and plans for the future include a wired-city concept. To keep abreast of the changes, and to anticipate the problems and potential of this industry require a sound background and a continuing funnel of information.

Of further importance in considering the county governments as franchising bodies is the measure of standardization and uniformity desirable in any form of regulation. The rules and regulations concerning the CATV industry could differ markedly from one county to the other resulting in difficult and perhaps chaotic situations for the CATV companies wishing to operate in different areas in the state. Furthermore differing rules and regulations could vary the standards of services and rates being charged to subscribers from county to county. In terms of regulation, a set of standards applicable to the entire state would be in the best interest of the public.

In view of the above, your Committee believes that the county governments are not the proper authority to handle the monumental task of setting up the necessary rules and regulations for the franchising and regulating of the CATV industry, and implementing them effectively.

Your Committee, therefore, recommends that the State government be empowered to both issue franchises and regulate the CATV industry in Hawaii.

Three states, Nevada, Connecticut, and Rhode Island, now franchise and regulate the CATV industry on the state level with twelve other states now considering state regulation of CATV distribution systems. These twelve other states are Arkansas, Florida, Hawaii, Maryland, Massachusetts, New Jersey, New York, Oklahoma, Pennsylvania, Vermont, Washington, and West Virginia. The three states that do



regulate the CATV industry have comprehensive legislation regarding franchise areas, rates and services. The state agency empowered with the franchising and regulating of CATV in these three states is the public utility commission because the respective state legislatures ruled that CATV systems were public utilities and should be regulated accordingly.

Upon deciding on empowering the state government to both franchise and regulate the cable television industry, your Committee considered three alternative methods of administration. These three alternatives were (1) the Public Utilities Commission, (2) a new CATV Commission, and (3) a temporary period of authority vested in the Director of Regulatory Agencies.

In considering the first alternative method of administration, that of the Public Utilities Commission, your Committee requested and received from the Office of the Attorney General an opinion on whether or not the Hawaii Public Utilities Commission has the authority to regulate cable television systems as public utilities under present statutes. The opinion from the Attorney General stated that the Public Utilities Commission may regulate a CATV system as a public utility under certain conditions:

“ . . . we believe that the Public Utilities Commission may regulate a CATV system as a ‘public utility’ (involving the ‘transmission of intelligence by electricity’) under Chapter 269, H.R.S., to assure adequate service to the public at reasonable rates without undue discrimination, if it finds that (a) such system needs to be regulated; (b) such system has been dedicated to the public use; and (c) the scope of regulation by the Public Utilities Commission does not conflict with that of the FCC.”

In its determination of whether or not the CATV systems in Hawaii should be classified under traditional public utility concepts of regulation, your Committee recognized the importance of basing its de-

cision on a study of present practices of the industry rather than on the potential for expanded services in the future.

It is the belief of your Committee that the CATV industry in Hawaii operating with the technology available today is characterized more as a private business enterprise than as a public utility. Competitive forces and business risks which are almost totally lacking in public utility industries are still inherent factors in the CATV industry. The cable television industry is composed not of one company but of a number of companies competing in the marketplace for the distribution of broadcast signals via cables to different areas in the state. Because of the nature of its operation and the presently small subscriber market it serves, the CATV industry is not considered to be dedicated to public use for access on a nondiscriminatory basis. This is not to deny the advent of such a situation if potential plans for the industry materialize. Present cable television operations in Hawaii consist primarily of transmitting the five television broadcast signals via cables to certain areas in the state where broadcast signals cannot be received off-the-air because of topographical reasons or the proximity to high-rise buildings. Cable television, therefore, is confined presently to a small market, for the great majority of homes with television sets are receiving signals through off-the-air broadcasting. However, as the industry expands from one which presently transmits television broadcast signals via cables to one which will offer banking and shopping services from home; facsimile reproduction of newspapers, magazines, and documents; teaching machine services; municipal surveillance of public areas for protection against crime, fire detection, control of air pollution and traffic control; and a number of other services on over fifty channels, the market for these additional services which are not limited to television entertainment will increase considerably. It would then be appropriate to determine that the cable television industry is dedicated to the public use and should be regulated as a public utility.

In further analyzing the present charac-

teristics of cable television, your Committee took into consideration the two-segment division of the communications industry in the United States: the mass media and the common carriers. Public regulation of these two segments vary markedly. Certain mass media such as newspapers and magazines are unregulated while others such as radio, television, and CATV are regulated primarily to the extent of entry. On the other hand the common carriers which include telephone, telegraph, TWX, private line transmission and microwave systems, are regulated in regard to both pricing and entry.

The Federal Communications Commission has determined that under present conditions, cable television is not defined as a common carrier. The FCC will continue its observation of the CATV industry in this respect. Your Committee is in full agreement with this federal determination, and moreover, is fully cognizant of the fact that if the present trend in growth continues in the cable television industry, the industry will evolve into common carrier practices. At that point in time, the industry will be classified as a common carrier by the Federal Communications Commission and will be duly regulated as a public utility on the state level.

In consideration of the findings stated above, your Committee concluded that a public utility approach to regulation of the cable television industry is not appropriate at this time and decided not to place it under the Public Utilities Commission. The second alternative method of administration, that of a CATV Commission, was studied and set aside by your Committee because of the time factor involved. To set up a new CATV Commission may take many weeks and months of deliberation in appointing the five commissioners and in hiring the necessary staffing.

Because of the pressing need for **immediate** expansion and development of the CATV industry to service the people of this state, your Committee finds that the franchising and regulatory powers over the CATV companies should be vested temporarily in the Director of Regulatory

Agencies. To aid him in his monumental task of determining franchising and regulating procedures, provisions have been made within the proposed legislation for an Advisory Committee made up of one person from the CATV industry, one person from the utility company servicing the industry, and three persons who are not in any way connected with either the CATV industry or the utility company. This Committee upon its formation will assist the Director in an advisory capacity.

The Director, for a period lasting until January 1, 1973, and for as long thereafter as the Legislature has not designated a successive body, shall have the authority to issue nonexclusive permits (franchises) to CATV companies which will enable the companies in specified geographic areas to either (1) construct, maintain, and operate their own facilities, (2) enter into pole attachment agreements with the telephone company, or (3) lease the necessary facilities, or wide spectrum services from the telephone company. He shall also have the power of surveillance over rates charged to customers to see that these rates are reasonable. Furthermore, he shall determine and enforce the necessary rules and regulations relating to adequacy of service, prevention or elimination of unjust discrimination between subscribers, abandonment or suspension of service, financial responsibility of companies, safety of operation and equipment, and other matters to accomplish the purposes of the proposed legislation.

This period of temporary authority vested in the Director of Regulatory Agencies is, your Committee believes, the most feasible solution to the pressing needs for CATV services by the people of Hawaii. This period of temporary authority will also allow the Legislature to further study the growth, practices, and potential of this relatively new industry to determine what regulatory body should eventually be vested with authority over the cable television industry.

A proposed legislation which takes into consideration the findings and recommendations of your Committee in regard to the cable television industry is attached hereto.

Signed by Representatives Ushijima, Baptiste, Kondo, Roehrig, Judd and Meyer.

**Special Com. Rep. 10**

Your Special Committee to Investigate the Price of Oil and its Derivatives in Hawaii begs leave to report as follows:

Your Committee was established pursuant to **H. R. No. 123, H. D. 1**, Regular Session of 1969. During October and November, 1969, public hearing were conducted at which time officials of the following companies appeared:

Armour Oil Company  
Phillips Petroleum Company  
Texaco, Inc.  
Time Oil Company

The cooperation of these companies in providing testimony and materials to your Committee is appreciated.

Unfortunately, our information on petroleum prices and marketing practices is seriously incomplete because the remaining three oil companies doing business here — very large marketers — refused to appear on the grounds that the subject under consideration by your Committee has been preempted by the State's anti-trust suit against the, **State of Hawaii vs. Standard Oil Company of California, Union Oil Company of California, Shell Oil Company and Chevron Asphalt Company**, now pending before the U.S. District Court in Civil Action No. 2826.

The companies that refused to testify before your Committee are:

Shell Oil Company  
Standard Oil Company of California  
Union Oil Company

Shell and Union filed a motion in the court for an order prohibiting your Committee from taking testimony from them. Standard indicated that it would be willing to testify — but only if Shell and Union also appeared. While we believe that our hearings and our requests to the oil com-

panies to appear were a proper and legitimate activity and that no undue conflict existed with the anti-trust suit, we have decided to postpone hearings with these three companies until certain legal questions have been resolved.

It should be stated for the record at this time that your Committee is not interested in passing judgment on the merits of the anti-trust suit. This is a judicial function and we fully acknowledge the jurisdiction of the court. However, under the provisions of **H. R. No. 123**, we too have a responsibility to fulfill. We have been mandated by the House of Representatives to ascertain the facts surrounding the price of oil and oil products in Hawaii and to recommend appropriate legislation based on our findings. Although our investigation was not as thorough as we would have liked because of the matter of the anti-trust suit, we are prepared to report as follows on our findings and recommendations:

**THE NATIONAL SITUATION**

Nationally, the last several months have brought about a great increase in Federal attention to various facets of the oil industry's activities. The preferential treatment given to the industry under the Federal tax laws and the provisions of the Oil Import Quota Program has of late come under vigorous criticism. Oil has also come under attack because of its contribution role in environmental pollution — to both our air and our waters. It appears that significant changes in Federal policies relating to oil may well come about in the months ahead.

The 27½% depletion allowance — which allowed an oil company to set aside 27½% of their gross income on oil and gas production, up to a limit of 50% of their net income from it — was singled out for criticism in last year's wave of demand for tax reform. In effect, the allowance had meant that, for oil and gas producing companies, between 40 and 50% of net profit was tax-free. Because of the depletion allowance and several other tax preferences enjoyed by oil companies, the oil industry was greatly under-taxed in comparison to most other industries and to individual tax-

payers. Under strong pressure, Congress has lowered the depletion allowance to 22% as one of the provisions of the Tax Reform Act of 1969. The Oil Import Quota Program, another preferential advantage given to the oil industry by the Federal government, has also come under close scrutiny by Congress. In addition, a Cabinet-level Task Force on Oil Imports has been conducting studies into the Oil Import Quota Program. Statements and testimony have been submitted to the Task Force by Hawaii's Congressional delegation, State government, business groups, as well as by your Committee. The Program, which has served to insulate this country from the international oil market and thus to maintain high domestic prices, is now under strong challenge.

The realization that the Program is costing the American consumers up to \$7-8 billion a year in higher oil prices while its professed purpose — protecting national security — is not demonstrably being fulfilled has prompted heavy demand for its reform. The inequities of the Program, especially with respect to the granting and exchanging of import quota "tickets", has raised opposition from within as well as without the industry.

In its recommendations to the President, the Task Force proposed that the Quota Program be overhauled in favor of a tariff arrangement to be effective in 1971. This was anticipated to bring about a general reduction in the domestic price of crude. However, the President has not acted on this recommendation. He has instead established a new, permanent Oil Policy Committee to make further studies.

We believe this step to be a setback for Hawaii inasmuch as the merits of our case has been amply demonstrated to the Federal authorities and any further delays in granting us relief would only add to our difficulties. We must, therefore, intensify our efforts at this time. Your Committee fully intends to continue its own efforts.

The U.S. Senate Subcommittee on Anti-trust and Monopoly, chaired by Senator Philip A. Hart, has conducted extensive hearings on the oil industry. Special em-

phasis was placed during these hearings on the detrimental effects of the Oil Import Quota Program. The Chairman of your Committee and Mr. William Summers Johnson, Director of Finance of the City and County of Honolulu, have both testified at different times before the Hart Subcommittee in Washington. We sought to bring to the Subcommittee's attention the discriminatory and detrimental impact of the Oil Import Quota Program on Hawaii. Our plight was noted with considerable sympathy by the Subcommittee, and we are hopeful that it will recommend Hawaii's exemption from the Program. Senator Hiram L. Fong sits as a member of the Subcommittee and is expected to continue his efforts toward obtaining relief for Hawaii, equitable relief being exemption from the Program.

Senator Hart has expressed considerable indignation over the practice of gasoline exchanges between the oil companies. In Hawaii's case, gasoline refined at the Barbers Point refinery is supplied to all of the oil companies in the State to be sold under their individual brand names. This practice would appear to belie the advertising claims of the companies as to the competing merits of their products. Senator Hart, supported by Senator Fong, has referred this matter to the U.S. Justice Department for investigation and possible legal action.

With these developments on the national level, the chances of obtaining meaningful reforms in Federal oil policies appear better now than at any time in many years. There is, however, no assurance that reforms will indeed come. For this to happen, continued demand and pressure must be exerted. Hawaii, with its dependence on oil and its interest in lower oil prices, must continue its own campaign in this area. Action is needed now while the momentum is still high.

#### THE HAWAII SITUATION

The details of Hawaii's plight in regards to high oil and oil products prices have been publically stated many times and need not be repeated here. The report "Appraisal and Recommendations Re: Energy

Problems in the State of Hawaii," which was submitted to the 1969 session of the Legislature, outlined the problems.

The major observation of that report was that the oil industry in Hawaii is characterized by a lack of meaningful price competition. The reference, of course, is to the activities of the major oil companies and not to the individual retail dealers. Our further investigation has reinforced that earlier finding.

The most obvious example of lack of price competition is the wholesale price of gasoline. Since late 1962, the downtown Honolulu wholesale price for major brand regular gasoline has remained at 18.4c a gallon, exclusive of taxes. There has been no fluctuations — up or down — throughout this period. In the meanwhile, wholesale prices have fluctuated in the West Coast cities studied by our committee, both in terms of posted prices and even more so in terms of actual transaction prices.

With respect to the oil industry as it exists in Hawaii, it is obvious that no meaningful price competition exists. The wholesale pricing structure is artificially and arbitrarily maintained. The major oil companies do not base their Hawaii pricing policies on their costs of doing business here but, rather, on west coast posted prices plus freight costs from the west coast.

Hawaii's high oil price problems arise from the Oil Import Quota Program.

While the Hawaii refinery is operated by Standard Oil Company of California, it processes substantial amounts of foreign oil originally allocated to other oil companies, but reallocated to Standard through a series of exchanges. Standard supplies from its local refinery the other companies with the bulk of their gasoline requirements in Hawaii. In effect, the Hawaii refinery is a joint enterprise of all the seven oil companies marketing in the State.

As operated, the program permits the importation into Hawaii of sufficient quantities of low-cost foreign crude oil to meet

the needs of Standard's Hawaii refinery — and to meet the bulk of the needs of the other companies for gasoline distributed in Hawaii.

Furthermore, this crude is produced abroad by the 5 major oil companies marketing in Hawaii, or by subsidiaries in which these companies are whole or part owners. However, the program effectively precludes the importation for sale in Hawaii's domestic market of refined products produced in the same areas of the world, and it thus insulates the high prices of the few local marketers from the competition of other major and non-major companies.

The following estimates may be of interest: If the foreign crude oil which is now being brought into the state were brought in at world market prices, it would cost approximately \$2.00 a barrel (\$1.40 oil cost + 50c shipping cost + 10c tariff). By comparison, west coast domestic crude oil costs \$3.17 on the west coast. This amounts to a 34% differential. Even so, the Honolulu wholesale price for regular gasoline is 18.4c a gallon, as compared to an average Los Angeles wholesale price (in 1967) of 14.9c. This is a differential of 24%. It can be said, therefore, that compared to Los Angeles, Honolulu is being overcharged 58% (34% + 24%) in the wholesale price of gasoline. A 58% overcharge in wholesale gasoline prices in Hawaii amounted \$19 million in 1967, on the basis of 180.4 million gallons sold in that year.

Gasoline sales in the state amount to 1/5 of total sales of petroleum products. If the same overcharges apply to the other oil products, the total overcharge is \$95 million a year, at 1967 consumption rates.

These are — of course — only rough estimates of the overcharges we have to pay. They serve to indicate the general magnitude of Hawaii's high oil price problem. More precise information can come only from an analysis of the financial and operational records of the oil companies.

Some comment should be made on the two proposed new refineries, in order to

clarify some public misconceptions. In essence, they will not — and they are not intended to — provide relief to the consumers of Hawaii.

One of the proposed refineries, planned by the Dillingham Corporation, will process domestic oil in cooperation with Continental Oil Company. Thus it will hardly be in a position to put pressures on the prices of the major oil companies, even if it had the desire for such competition.

The other proposed refinery, by Hawaiian Independent Refinery, Inc., plans to operate in a foreign trade subzone, utilizing foreign oil, and to find all or substantially all of its market abroad — that is, to supply jet fuel and marine fuel to craft en route to foreign destinations.

Both refineries, your Committee understands, are oriented towards servicing the aviation jet fuel market, not the local market. Their merits as commercial enterprises are beyond the scope of this report, but we want to point out that they are not expected to be substantially competitive in Hawaii's domestic market — at least not anytime soon.

Relief for Hawaii from high oil prices is possible but much more work will have to be done before the goal is achieved. Your Committee is not discouraged by the apparent slow pace of progress in this area.

We fully realize the enormity of our task. We are prepared to continue our efforts in the months ahead.

#### RECOMMENDATIONS

In order to achieve relief for Hawaii from high oil prices, it will be necessary for the State to take affirmative action. The need for action at this time has been amply demonstrated. Following are some recommendations which are thus presented to the Legislature for consideration.

##### 1. THE STATE SHOULD INVESTIGATE THE FEASIBILITY OF CONSTRUCTING AND OPERATING AN OIL TERMINAL AND STORAGE FACILITY.

Such a facility would assist in introducing meaningful price competition. As matters now stand, all of the oil companies marketing in Hawaii depend in whole or in large part on the local refinery for their local requirements of gasoline.

Under these circumstances the other major companies are reluctant to disturb the existing price structure and simply follow Standard's prices (conversely, Standard's witnesses have testified that Standard sets its prices in Hawaii "to meet competition").

A public terminal and storage facility would enable independent companies to bring in and store their own supplies from west coast sources and hopefully, later, from foreign sources. Gasoline even from the west coast can be profitably marketed in Hawaii. Such a facility would permit independents to come in without fear of having their supplies cut off. Preliminary discussions with several independent oilmen have indicated an interest in entering in Hawaii market under these circumstances. Some of these companies have approached the State asking that land be made available to them so that they can put up their own terminal and storage

Our recommendation is that the State itself put up the facility, rather than putting land up for bid. If land were put up for bid, chances are that one of the major oil

companies would pre-empt the land, to exclude new independents. Further, a publically-owned facility would be available to any company wishing to use it and would thus invite more than one new competitor.

##### 2. A PETROLEUM CONTROL COMMISSION SHOULD BE ESTABLISHED TO REGULATE THE OIL INDUSTRY IN HAWAII.

Since oil is Hawaii's basic energy source, and since the public utility companies which depend on oil are now regulated, it logically follows that the prices of fuel on which the utility depend should also be regulated.



Precedence exists for State regulation of the industry. A number of oil-producing states regulate the amounts of oil which are produced, and these State regulations are made effective through inter-state compacts. The most well-known of such state regulatory agencies is the Texas Railroad Commission. What the present regulation essentially accomplishes is maintenance of high prices for oil, for the benefit of the industry.

If state regulation can be established to benefit the oil industry, state regulation can be established to protect the consumer.

### 3. THE REPORTS ON THE "LIGHT FUEL TAX BASE, COLLECTIONS AND DISTRIBUTION" ISSUED BY THE DEPARTMENT OF TAXATION SHOULD LIST THE DATA BY INDIVIDUAL OIL COMPANIES.

One of the problems encountered in any examination of the operations of the oil companies in Hawaii is the scarcity of information on their individual volumes of business in the State. The Department of Taxation reports now consolidate data for the various companies.

According to a tabulation by the American Petroleum Institute, approximately three-fourths of the states do issue fuel tax data on a by-company basis. We know of no reason why Hawaii should not make such data available on a company-by-company basis.

### 4. HAWAII SHOULD CONTINUE ITS EFFORTS TO SEEK EXEMPTION FROM THE OIL IMPORT QUOTA PROGRAM.

Exemption, at this time, will be the best and most effective remedy to Hawaii's energy problems. The argument for the Oil Import Quota Program is that it reserves the domestic U.S. market for domestic crude oil. But, as has been indicated, the Program does not in fact reserve the Hawaii market for domestic crude — the Hawaii market is supplied from foreign crude.

Conditions seem as favorable now as they ever will be for Hawaii's appeal to receive favorable consideration from the Federal government.

It appears that the President is not prepared to accept the Task Force recommendation that the Oil Import Quota Program be replaced by a system of tariffs. If this is the case, then, the Program will probably be continued — possibly with some modifications. In any event, some kind of decision will have to be made in the near future.

Under these circumstances, it is important that Hawaii remain especially alert to assure the most advantageous outcome possible for our State.

### 5. ALTERNATIVE SOURCES OF ENERGY SHOULD BE EXPLORED IN ORDER TO END HAWAII'S DEPENDENCE ON OIL.

As long as we remain almost completely dependent on oil for our energy requirements, we will continue to be economically subject to the dictates of oil. This is not a healthy situation for Hawaii, even if the oil industry should take a completely benevolent attitude toward us. In order to maintain freedom to direct our future growth and keep our options open, alternative sources of energy must be found.

The technological development of nuclear power has advanced now to the point where it is now commercially feasible.

It offers the possibility of abundant low-cost energy for the state, and this possibility should be thoroughly explored. Another possibility which might be worth considering is geothermal power. Although earlier investigations into this area have not been fruitful, it may be worthwhile to reexplore this source in light of recent technological advances.

What is needed is a thorough study of Hawaii's present and projected future energy requirements with a view towards defining our goals, identifying our options and then directing our development.



**6. THE POSSIBILITIES OF LIQUIDIFIED PETROLEUM GAS (LPG) AS A FUEL SOURCE FOR HAWAII SHOULD BE EXAMINED.**

The reported advantages of LPG for motor vehicular fuel have been brought to your Committee's attention. These include less air pollution and lower operating cost. Existing vehicles can be readily converted to use LPG and the automotive manufacturers are now producing LPG-operated vehicles.

At present, the cost of LPG in Hawaii is comparatively higher than that of gasoline. To make LPG feasible for Hawaii would require exemption from the Oil Import Quota Program and, possibly the Jones Act as well.

The possibilities of LPG are real. The City and County of Honolulu has been using some LPG-operated trucks on a trial basis. The test results thus far have been encouraging.

Further study is clearly called for.

**7. AN EXEMPTION FROM THE JONES ACT SHOULD BE SOUGHT FOR HAWAII TO ALLOW FOR THE LOW-COST DELIVERY OF ALASKAN PETROLEUM PRODUCTS.**

The discovery of large reserves of oil in Alaska will not benefit Hawaii unless the products can be brought here at low cost.

Presently, trade between Alaska and Hawaii is minimal — one reason being the high cost of shipping. Presently, Japan is bringing in quantities of Alaskan oil products which are shipped to Japan in Japanese on other foreign tankers. In this way, Alaskan oil is available to Japan at prices competitive with world market prices.

If foreign tankers were to be permitted to bring oil from Alaska to Hawaii, we too might be able to realize some savings in cost.

It should be pointed out that, at present, there are no American oil tankers plying

the waters between Alaska and Hawaii. We know of no plans to start such a trade. Thus, an exemption to the Jones Act would not displace any existing or planned American shipping. The fact of the matter is, American shipping is not interested in providing Alaska-Hawaii service and the Jones Act precludes foreign shipping to meet the unfilled need. Clearly, then, the Jones Act — like the Oil Import Quota Program — is not applicable to us.

**8. THE HOUSE SPECIAL COMMITTEE TO INVESTIGATE THE PRICE OF OIL AND ITS DERIVATIVES IN HAWAII SHOULD BE AUTHORIZED TO CONTINUE ITS EFFORTS.**

Recent developments — both nationally and locally — have clearly moved the issues of oil prices and oil policies to the forefront of public concern. The efforts of the Hawaii State Legislature in recent years — in seeking exemption from the Oil Import Quota Program, in investigating the price of oil in Hawaii and in looking into other oil-related areas such as air pollution, etc. — have contributed to the growing public awareness.

The months ahead will be critical. Changes in Federal policies on oil imports are being awaited. New developments in handling, shipping and utilization of various petroleum products may have significant impact on Hawaii. Alternative energy sources are currently being considered which may well revolutionize Hawaii energy situation.

Clearly, the Legislature must keep up with these fast-breaking developments. In order to maintain continuity and to keep us moving ahead, your Committee requests that it be authorized to continue its efforts.

Signed by Representatives R. Wong, Suwa, Lee, Sakima and Lum.

**Special Com. Rep. 11**

Your Joint Interim Committee on Corrections, established under the provisions of S. R. 190 and H. R. 295, begs leave to report as follows:

The Committee was established for the purpose of making recommendations for the improvement of the corrections system of the State of Hawaii.

In arriving at its conclusions the Committee has had the benefit of two substantial studies: 1) the National Council on Crime and Delinquency Report, "Corrections in Hawaii, a Survey of Correctional Services in Hawaii," released in October 1969, and 2) the "Comprehensive Law Enforcement Plan and Action Grant Application for Fiscal Year 1970" of the State Law Enforcement and Juvenile Delinquency Planning Agency, released in December 1969.

In addition the Committee toured correctional facilities and conducted public hearings on the various islands. See Appendix A for facilities toured and witnesses testifying.

It was abundantly clear from the testimony that key corrections personnel in Hawaii are well aware of the new corrections theory emphasizing the treatment of offenders as human beings rather than undesirable citizens to be punished for misdeeds resulting so often from an unfortunate family environment and background.

#### **New Corrections Philosophy**

What, then, is "new corrections"? What can be done now to implement it? And what is not immediately possible but so desirable that steps should be defined for achieving it?

Basically the positive approach to corrections is that: 1) Recognition that the vast majority of those convicted of crime sooner or later will be back in the community and that therefore the goal of corrections should be to change the offender's attitude and behavior so that he is ultimately able to function in society as a useful citizen; 2) Realization that the most effective way to achieve this goal is by integrating the offender in the community through community-based correctional programs designed to supervise him in his interaction within the community.

The key words are "community-based" and "reintegration." The less the offender is cut off from the community the greater his chances are of successfully rejoining it. And if he can participate in class release or work release programs, interacting with the community even as he furthers his education and develops employable skills, so much the more are the scales tipped in his — and society's — favor.

It follows that only those offenders for whom it is necessary (roughly 20%) should be kept in a maximum security situation. Long periods of isolation in traditional jail-like institutions have little rehabilitative value. Most correctional facilities need to be constructed as informal institutions for small groups.

Yet, as the President's Commission on Law Enforcement and Administration of Justice points out in **The Challenge of Crime in a Free Society**, "the most striking fact about the correctional apparatus today is that, although the rehabilitation of criminals is presumably its major purpose, 'the custody of criminals is actually its major task. . . . What this emphasis on custody means in practice is that the enormous potential of the correctional apparatus for making creative decisions about its treatment of convicts is largely unfulfilled.'"

Whatever creative decisions may be made, their success will depend on the people who implement them. One fact becomes overwhelmingly clear from the testimony and reports: the crying need in the corrections system for more and better trained personnel. Some at present are doing a heroic job, overburdened, underpaid and with little opportunity to upgrade themselves educationally. Thus a corollary need is for funds — money to create more positions, money to attract, train and hold qualified people.

#### **Recommendations for Immediate Implementation**

The committee therefore, as a first step, recommends appropriate action to:

1. **Provide for more probation and parole officers.** Reduction of the caseload makes

possible a more effective job. The more adequate the job, the lower the rate of recidivism (sometimes as high as 70%). This would reduce crime at a prime source.

**2. Raise the salary scale for corrections personnel.** A comprehensive review of jobs in corrections should be undertaken immediately for this purpose. Increased pay will aid recruitment and retention of personnel. There are presently many authorized positions which remain vacant.

**3. Provide for in-service training and educational leave with pay and stipends for corrections personnel,** particularly guards, matrons, probation and parole officers, counselors and house parents. In a recent poll of the approximately 555 regularly employed state correctional workers, 125 declared their willingness to pursue further education in order to enhance their careers in corrections. Those not attending school would need updating and improvement through in-service training.

These first three recommendations deal with personnel. Other major recommendations for immediate implementation, all essential though not necessarily listed in the order of importance, are:

**4. Establish a comprehensive research and statistical program under the aegis of the State Law Enforcement and Juvenile Delinquency Planning Agency.** Hawaii has no such data now upon which sound correctional and administrative planning can be based. This statewide bureau would be responsible for collecting, analyzing, interpreting, publishing and distributing statistical information relating to the entire corrections continuum. In this way on-going programs could be evaluated in terms of their current effectiveness.

**5. Transfer jails from the counties to the State.** Police responsibility is fundamentally that of prevention, detection and apprehension, not correction. Testimony indicated the police departments are well aware of this and favor the transfer. Transfer of county personnel to the State will require adjustments in pay and retirement credit.

**6. Reassess present facilities** with a view to their most effective utilization in terms of successfully reintegrating their occupants into society. The committee recommends consideration of the following possibilities:

a. **Oahu Prison** — Raze the present antiquated facilities and construct new correctional units making the most of the valuable "in-community" location of this site. These new units could be maximum, medium or minimum security units, or a graduated combination of all or any of the three. Minimum security units would include such centers as conditional release, pre-parole or diagnostic.

b. **Honolulu Jail (Halawa)** — Phase into some portion of the State correctional program.

c. **Hawaii Youth Correctional Facility** — Utilize part of the present 557-acre site for medium or minimum security facilities with adjoining educational opportunities, such as a community college, to be made available to inmates.

d. **Olinda and Kulani Honor Camps** — Develop a program to utilize these facilities to maximum capacity. They are presently only about one-third occupied.

**7. Explore sites for acquisition and construction of small minimum security community-based correctional facilities.**

These would be functional in a variety of ways to enhance reintegration of occupants.

In addition your Committee urges that applicable NCCD recommendations for the improvement of departmental operations which can be implemented administratively be so implemented.

Your Committee further urges that programs of vocational rehabilitation and psychiatric treatment be developed to the fullest possible extent.

**NOTE:** The excellent recommendations of the State Law Enforcement and Juvenile Delinquency Planning Agency totaling \$1,046,226, including many recommendations in the field of corrections, will necessitate a state matching appropriation of only \$230,000. This is possible because the proposals will be funded, under the provisions of the Omnibus Crime control and Safe Streets Act, on a 60% federal-40% state basis, with state funds being either matching or in kind.

#### **For The Future**

The foregoing recommendations can be implemented now. What about the future?

As pointed out in the National Council on Crime and Delinquency survey, certain aspects of Hawaii's correctional program are already in advance of other states and its youth, receptiveness and progressiveness make it a prime state to implement a successful program of community-based correctional services to serve as a model for the entire country. Utilizing the report not as a blueprint but as a guidepost, the Committee recommends that its insight and data be the basis of a long-range program which will make available differential treatment with certain degrees of control in order to most effectively and humanely change the offender's attitude and behavior, so that he functions in the community as a useful person. Data from the research bureau would provide on-going evaluation and point the way to further progress.

Representatives Alcon, Baptiste, Inaba, Takitani, R. Wong and Ajifu.  
Members of the House.

Senators Yano, Ching and Yee.  
Members of the Senate.

#### **Appendix A**

#### **FACILITIES TOURED AND WITNESSES TESTIFYING**

The Joint Interim Committee on Corrections toured correctional facilities on Oahu, Maui and Hawaii and conducted a

series of public hearings (Oahu, Nov. 17-20; Maui, Dec. 9; Hawaii, Dec. 10). The Committee also solicited written testimony from key personnel involved in the corrections system on Kauai and met informally with the guards at Honolulu Jail.

Facilities visited included the Honolulu Jail at Halawa, Oahu; the Maui Detention Home, Maui County Jail, Olinda Honor Camp and Kahakuloa Road Project on Maui; and the Hawaii County Jail and Kulani Honor Camp on the Big Island.

Those testifying at the public hearings were:

**Oahu** — TULLY McCREA, Western Director, National Council on Crime and Delinquency; DAN SCHOENBACHER, State NCCD Director; DR. IRWIN TANAKA, Director, State Law Enforcement and Juvenile Delinquency Planning Agency; KENDRICK WONG, LEJDPA Corrections Specialist; RAY BELNAP, Corrections Division Administrator, Department of Social Services; DR. JOHN J. BLAYLOCK, Chief, Mental Health Team for Courts and Corrections; EMMETT CAHILL, Executive Director, John Howard Association; ANDREW LYONS, Program Director, John Howard Association; STEPHEN LANE, Counselor, John Howard Association; STANLEY KAIN, Executive Director, Hawaii Council of Churches; ALVARO MONIZ, Captain, Honolulu County Jail; ANTONE S. OLIM, Hawaii State Prison Administrator; DR. ARNOLD GOLDEN, Psychiatrist, (Hawaii State Prison), Courts and Corrections Team, Mental Health Division; REV. HOLLIS MAXIM, former prison chaplain; KAYO R. CHUNG, Superintendent, Hawaii Youth Correctional Facility; CREIGHTON MATTOON, Psychologist (Hawaii Youth Correctional Facility), Mental Health Team for Courts and Corrections; MOSES OME, Administrator, Juvenile Parole Branch; MICHAEL KAKESAKO, Administrator, Conditional Release Center; two anonymous inmates from the Conditional Release Center; one anonymous parolee; MASARU OSHIRO, Chairman, Board of Paroles

and Pardons; RUSS TAKAKI, Administrator, Field Services, Board of Pardons and Pardons; SCOTT W. WOLFE, Administrator, Board of Pardons and Pardons; ALLEN R. TRUBITT, President, Democratic Action Group; HERMAN T. F. LUM, Judge (Criminal Calendar), First Circuit Court; SAMUEL P. KING, Judge, Family Court, First Circuit Court; KUNITO SADAOKA, Probation Administrator, Adult Probation Division, First Circuit Court; WAYNE Y. KANAGAWA, Director, Family Court, First Circuit; ROBERT WONG, Administrator, Detention Services, Family Court, First Circuit; WALTER T. Y. ING, Supervising Probation Officer, Children & Youth Services Branch, Family Court, First Circuit; MICKEY HUMMER, Legal Aid Society.

**Maui** — AUGUST MARKHAM, Probation Administrator, Second Circuit Court; S. GEORGE FUKUOKA, Judge, Second Circuit Court; ABRAHAM AIONA, Chief of Police, County of Maui; ALFRED SOUZA, Superintendent, Olinda Honor Camp; KAZUMI KOBAYASHI, Correctional Counselor, Olinda Honor Camp.

**Hawaii** — NELSON DOI, Judge, Third Circuit Court; SAMUEL S. KAWAHARA, Superintendent, Kulani Honor Camp; CLARENCE ANDRADE, Correctional Counselor, Kulani Honor Camp; CAPTAIN ROBERT PUNG for ANTHONY PAUL, Chief of Police, County of Hawaii; SHUNICHI KIMURA, Mayor, County of Hawaii; MILTON HAKODA, Hawaii District Administrator, Division of Vocational Rehabilitation; LAWRENCE HIROKAWA, Parole Officer, Board of Pardons & Pardons; WALLACE AKI, Principal, Adult Community Schools.

#### Special Com. Rep. 12

Your Joint House-Senate Interim Committee on Uniform Consumer Credit Code created pursuant to S. C. R. No. 82, H. D. 1, entitled:

“SENATE CONCURRENT RESOLUTION REQUESTING AN INTERIM JOINT COMMITTEE STUDY ON

#### THE UNIFORM CONSUMER CREDIT CODE.”

begs leave to report as follows:

The purpose of S. C. R. No. 82, H. D. 1, is to provide for a detailed and comprehensive study of the Uniform Consumer Credit Code (hereinafter the UCCC), which was introduced in the Regular Session of 1969 as S. B. No. 9, entitled: “A BILL FOR AN ACT RELATING TO CERTAIN CONSUMER AND OTHER CREDIT TRANSACTIONS AND CONSTITUTING THE UNIFORM CONSUMER CREDIT CODE”.

The Uniform Consumer Credit Code is intended as a comprehensive measure to consolidate and revise the law relating to (1) consumer loans, credit sales, and leases, of goods, services, and certain interests in land; (2) usury; (3) regulation of certain practices concerned with insurance in consumer credit transactions; (4) administrative regulation of consumer credit transactions; (5) correction of those practices of creditors which are particularly subject to abuse; and (6) provisions to eliminate unconscionable conduct practiced against consumers.

The scope of the UCCC is apparent from the statement of purpose in Section 1.102(2) thereof:

- (a) to simplify, clarify and modernize the law governing retail installment sales, consumer credit, small loans and usury;
- (b) to provide rate ceilings to assure an adequate supply of credit to consumers;
- (c) to further consumer understanding of the terms of credit transactions and to foster competition among suppliers of consumer credit so that consumers may obtain credit at reasonable cost;
- (d) to protect consumer buyers, lessees, and borrowers against unfair practices by some suppliers of consumer credit, having due regard for the interests of legitimate and scrupulous creditors;

(e) to permit and encourage the development of fair and economically sound consumer credit practices;

(f) to conform the regulation of consumer credit transactions to the policies of the Federal Consumer Credit Protection Act; and

(g) to make uniform the law, including administrative rules, among the various jurisdictions.

Consumer credit is defined broadly to cover transactions involving goods, services, or interests in land, where the consumer is an individual; where the seller or lender is regularly engaged in business; where the goods, services, or interests in land are for personal, family, household, or agricultural purposes; where the debt is payable in installments or a credit service or loan charge is made; and where the amount is less than \$25,000 (with exceptions when the property involved is real property).

Your Committee held hearings and received testimony from Patricia Putman of the Legislative Reference Bureau; George Dyer, representing the Hawaii Bankers Association; B. D. McCormack, Chairman of the Credit Subcommittee of the Retail Board, Hawaii Chamber of Commerce; Ernest A. Ito, representing the Hawaiian Collectors Association, Ltd.; William Johnston of the Legal Aid Society; and Vernon Char, representing Beneficial Finance System.

In the course of the testimony received at these hearings the following issues were raised:

1. Freedom of entry into the consumer loan business. The fundamental premise on which the UCCC is founded is to have the cost of consumer financing set in the marketplace through competition among suppliers of consumer credit. The Code relaxes licensing requirements for consumer credit institutions to allow greater ease of entry into the consumer credit business. While freedom of entry is necessary to a certain extent to assure the level of competition necessary to make the UCCC

effective, there must of necessity be some limitations and restrictions placed on freedom of entry in order to protect the seeker of consumer credit from unscrupulous, under-financed and fly-by-night consumer lending institutions. Further study is, therefore, needed to formulate appropriate guidelines by which the goal of consumer protection may be reconciled with the need for effective competition in the consumer lending area.

2. The Hawaii Collectors Association, Ltd., proposed an amendment to the UCCC which would limit the penalty collectible from the assignee of a creditor who takes the assignment of a negotiable instrument from the creditor in good faith under circumstances where the creditor has violated the provisions of the UCCC applying to certain negotiable instruments or has ignored the limitations on the schedule of payments or loan term for regulated loans. Under these circumstances, the UCCC frees the debtor from his obligation to pay any service credit charge or loan finance charge and further gives the debtor the right to recover a penalty from the creditor or the creditor's assignee.

3. Attorney's fees. The UCCC limits attorney's fees collectible by a creditor from a defaulting debtor to a maximum amount of 15% of the contract amount. Under present Hawaii law, attorney's fees in the amount of 25% may be allowed. The Hawaii Bankers Association testified that the reduction in the allowable attorney's fee will have the effect of increasing the costs caused by defaulting debtors which must be absorbed by creditors and will have the effect of requiring creditors to pass these costs along in the form of higher interest rates or to avoid these costs by tightening credit among the higher risk, low income consumer group that most needs consumer credit. Further consideration is necessary to determine whether the proposed provisions of the UCCC pertaining to limitations of attorney's fees should be adopted or whether existing Hawaii law should remain in force.

4. Confession of Judgment. The UCCC contains provisions preventing the insertion into a consumer credit contract of a



provision authorizing the creditor to confess judgment on behalf of the buyer or borrower. These provisions are designed to insure that the consumer has his day in court. The Hawaii Retail Installment Sales Act contains a similar provision but the Industrial Loan Act and the Small Loan Act do not. Further study is needed to determine whether this provision of the UCCC should be adopted.

5. **Deficiency Judgment.** The UCCC provides that in the sale of goods or services of values less than \$1,000, the creditor shall be required to elect between the remedy of repossessing the goods purchased or suing the debtor for the amount owed. The Code denies the right to repossess the goods for resale and then to sue the debtor for any difference between the amount realized on the resale of the goods and the amount owed.

As the drafters of the UCCC have noted, the Act as proposed, is a careful compromise between many delicate and conflicting considerations. Whether the Act in its present form represents a suitable compromise between the interests of the consumers and creditors in the State of Hawaii is a question which requires intense investigation and study. Further, certain amendments have been proposed to the Act as it presently stands.

Changes in the UCCC were made by The National Conference of Commissioners on Uniform State Laws as of November 13, 1969, in Sections 2.202(3), 2.301(2) and (3), 2.306(2)(j), 3.202(3), 3.301(1), (2) and (3), 3.306(2)(g) and 6.104(2). Also, the Conference added a new subsection 5.203(6). These modifications are intended to eliminate possible confusion on disclosure requirements between the UCCC and the Federal Act. The modifications have the general effect of conforming the Uniform Consumer Credit Code and potential regulations thereunder with Regulation Z promulgated by the Federal Reserve Board under the Federal Truth-In-Lending Act. Indeed they were prepared at the request of the Board of Governors of the Federal Reserve System. It is doubtful that the Hawaii Uniform Consumer Credit Code will

qualify for exemption from Federal Truth-In-Lending control under Section 123 of the Federal Act if these changes are not made. The most important specific effect of these changes is to simplify disclosures in real estate transactions. In particular, they simplify the disclosure of the closing costs on all consumer credit real estate transactions and of the finance charge and unpaid balance on consumer credit transactions involving dwellings.

As mentioned above, the UCCC is intended to replace existing State statutes governing consumer credit extension and collection. All State statutes governing usury, small loans, large loans, commercial bank loans, retail installment sales, revolving credit, and home solicitation would be replaced, and in effect, combined into a single law. The duties of enforcing all of these laws would be transferred from many different agencies into one central agency. Adequate enforcement of the UCCC would then depend on how adequately this agency was staffed and funded. Adequate agency staff sizing and funding are problems which must be considered.

The Legal Aid Society upon its return from a mainland conference on consumer protection on December 24th, presented the National Consumer Act to your Committee for its consideration as an alternative to the UCCC. The National Consumer Act was prepared by the National Consumer Law Center, Boston College Law School and is intended to be a national revision and an alternative to the UCCC. Your Committee feels that the National Consumer Act should be subject to close and comprehensive study as a possible alternative to the UCCC. A comparative analysis of the proposed UCCC, the Federal Truth-In-Lending legislation, Federal Reserve Regulation Z and existing Hawaii Statutes in the area of consumer credit was completed and submitted to the interim committee after the start of the Regular Session of 1970. Further study is needed to resolve questions relating to the conformity of the UCCC with Federal Reserve Regulation Z, questions concerning the effect of the UCCC on existing Hawaii law and the consideration of the National Consumer Act as a possible alternative to the UCCC.



The Legal Aid Society pointed out in its testimony accompanying its presentation of the National Consumer Act to your Committee that the UCCC as drafted represents a compromise between the interests of consumer credit lending institutions and the seeker of consumer credit. The view point of the National Consumer Act is more favorable to the seeker of consumer credit and provides more protection to the seeker of consumer credit in several significant areas. Your Committee feels that any comprehensive legislation in the area of consumer credit should be examined from the point of view of the seeker of consumer credit with a view toward consumer protection. Therefore, your Committee finds that further study and a comparative analysis of the UCCC and the National Consumer Act in the area of consumer protection is warranted.

Consideration should be given to redrafting the law in less complicated form. The Federal Truth-In-Lending law is an example of such a simpler draft.

Section 123 of the Federal Truth-In-Lending Act provides an exemption from coverage by that Act any State legislation which is suitably similar to the Federal enactment. While the UCCC was drafted to provide just that exemption, there has been no indication from the Board of Governors of the Federal Reserve System that the UCCC in fact provides such a "suitably similar" statute. Presently, only two States, Utah and Oklahoma, have enacted the UCCC. The Oklahoma enactment of the Code contains one hundred fifty amendments to the draft of the National Conference of Commissioners or Uniform State Laws, principally in the areas of licensing and interest rate regulation. While these States have applied to the Board of Governors of the Federal Reserve Board for exemption from the provisions of the Federal enactment, the Board has not yet decided these applications. It is important, in order to avoid unnecessary duplication of disclosures, that any Hawaii enactment be in a form which is acceptable to the Federal Reserve Board.

Your Interim Committee finds that the UCCC should be subjected to further study for all of the above-cited reasons. Delay in enactment of the UCCC will not adversely affect the people of Hawaii, especially those who seek consumer credit. Existing Hawaii law is as strong or stronger than the UCCC from the viewpoint of consumer protection in several areas. For example, Chapter 479, Hawaii Revised Statutes, protects the borrowers' freedom of choice of insurance companies when he is required to carry insurance. Chapter 476, Hawaii Revised Statutes, the Retail Installment Sales Act, imposes specific requirements with regard to the form and substance of retail installment contracts and regulates many of the practices of the parties under such contracts, including particularly enforcement practices. It ties the finance charges in such contracts to the maximum rates permitted by the Industrial Loan Act. It requires certain disclosures, but no disclosure is required which is inconsistent with the requirements of the Federal Truth-In-Lending Act or Regulation Z. The Act also regulates house-to-house sales, referral sales and consumer notes.

Chapter 477, Hawaii Revised Statutes, and the regulations of the Director or Regulatory Agencies promulgated thereunder set forth additional requirements for the disclosure of finance charges in loans other than loans between business firms which exceed \$2,500. This law does not apply to retail installment contracts or to transactions governed by the Federal Truth-In-Lending Act and Regulation Z, so that its principal impact at present is on small loans between business firms.

The Interest and Usury Chapter of the Hawaii Revised Statutes Chapter 478, provides a statutory rate of 6% where there is no express written contract fixing a different rate, and it sets 1% per month as the maximum that may be agreed upon by written contract. It provides that if excess interest is charged, the contract is not rendered void thereby, and the lender can recover this principal. It also includes criminal penalties.

Act 171 of the Session Laws of 1969 provides extensive regulation over credit life insurance and credit disability insurance, and Act 175 provides for the creation of a permanent office of consumer protection.

There are also sections of other chapters, too numerous to list, providing important consumer credit protection or related thereto, including provisions relating to pawn brokers, "long-arm" service of process, attorney's fees and garnishment of wages.

Your Joint House-Senate Interim Com-

mittee recommends that action on **S. B. No. 9, S. D. 1**, be deferred in order to allow further study of the UCCC, the National Consumer Act, the requirements of Federal Reserve Board Regulation Z and Section 123 of The Federal Truth-In-Lending Act, and the effect of the above or existing Hawaii laws.

Representatives Uechi, Loo, Kato, Shigemura and Meyer.  
Members of the House.

Senators Nishimura, Lanham and Mirikitani.  
Members of the Senate.