

**SCRep. 310 Public Institutions on H.R. No. 264**

The purpose of this resolution is to request the Congress of the United States to exempt the State of Hawaii from restrictions concerning types of food which may be purchased under the food stamp program. According to the Department of Social Services and Housing the majority of families using food stamp coupons in Hawaii are Oriental or of mixed racial ancestry and suffer undue hardship when they are unable to use their food stamps to purchase foods to which they are accustomed. This limitation also tends to discourage others who are eligible from participating in the Food Stamp Program, thus nullifying the purpose for which the program was established.

To assure that all responsible agencies connected with the program are made aware of unique situation in Hawaii, your Committee recommends that the last paragraph be amended so that copies of the resolution be also sent to the Department of Agriculture and the Department of Commerce.

Your Committee concurs with the intent and purpose of H. R. No. 264, as amended herein, and recommends its adoption in the form attached hereto as H. R. No. 264, H. D. 1,

Signed by all members of the Committee.

**SCRep. 311 Finance on S.B. No. 8**

The purpose of this bill is to appropriate from the general revenues of the State for continuation of the Hawaii Planned Parenthood program for the fiscal biennium 1971-73.

The Senate has passed and transmitted a bill calling for \$123,560, or so much thereof as may be necessary, "provided the appropriation shall only be used to match federal grants required to carry out the purpose of this Act." The sum appropriated is to be expended by the Department of Health for the purpose hereof.

As the subject of population stabilization and control has been exhaustively discussed elsewhere, your Committee will not herein undertake its consideration. Suffice it to say that the family planning services of Hawaii Planned Parenthood, Inc., essentially contribute towards that end, most especially

with regard to persons of low income who cannot afford private counseling.

It is significant to note that since the inception of its services in 1969, patient visits have increased from 694 to over 4,000 in 1970. Services provided are so comprehensive in scope as to include, but are not limited to, breast and pelvic exams, screening for cervical cancer, all contraceptive methods, pregnancy testing, health education and counseling on abortion and other social problems.

Initially, Hawaii Planned Parenthood motivates the acceptance of the family planning concept by women and their partners through the work of family planning aides and the wide dissemination of public information. This is a very important component of the total program for it serves as a preventive measure to those women who either do not realize that they can prevent the birth of unwanted children or who do not recognize the value of family limitation to themselves and their families.

Your Committee believes that the program fostered by Hawaii Planned Parenthood should be a continuous one so that the uncalculable cost to society in terms of human misery and the tremendous cost with respect to public welfare benefits may eventually be significantly reduced if not totally eliminated.

Hawaii Planned Parenthood, Inc., has requested a total budget of state funds of \$123,560 for 1971-1973. The governor's recommendation was \$90,383. The increased request of \$33,177 for the biennium 1971-1973 would enable the program to receive a total of federal funds to approximately \$370,680 on the basis of 25 percent state to 75 percent federal matching. Family planning services in urban Honolulu would be increased over those given in the current budget of \$45,144 to 350 visits per month through the 1973 fiscal year. The increase in funds will enable the program to add more physician time in family clinics, employ much needed clerical help and meet anticipated increased costs of supplies and medications.

Intitially, by H.B. No. 2, H. D. 2, the General Appropriations Act, your Committee recommended an appropriation in accordance with the executive budget. Upon our consideration of S. B. No. 8, S. D. 2, and re-evaluation of our position based upon testimony presented on behalf of the Executive

Director of Hawaii Planned Parenthood, Inc., we are satisfied that this program is deserving of the full measure of its fiscal request in order to carry on its services. Therefore, this bill has been amended to provide for an appropriation in the sum of \$33,177 as supplemental to our initial recommendation of \$90,383.

Your Committee on Finance is in accord with the intent and purpose of **S. B. No. 8, S. D. 2**, as amended herein, and recommends that it pass second reading in the form attached hereto as **S. B. No. 8, S. D. 2, H. D. 1**, and be placed on the calendar for third reading.

Signed by all members of the Committee except Representative Chong.

#### SCRep. 312 Finance on H.R. No. 92

The purpose of this resolution, as amended, is to request that the Legislative Reference Bureau in cooperation with the Hawaii Farm Bureau Federation conduct a study which would recommend incentives for encouraging farmers to enter agricultural cooperatives. Findings are requested to be reported to the House twenty days prior to the next legislative session.

Cooperatives serve the purpose of providing beneficial services to their members such as marketing, purchasing, processing or distribution. Non-members cannot duplicate these services. Agricultural cooperatives in Hawaii increased from 27 in 1958 to 33 in 1970. Membership increased from 2,071 to 3,302 during the same period, and it is estimated that about 80 percent of all agricultural producers in the State now belong to cooperatives.

However, your Committee is informed by the department of agriculture that there is room for even further education of the farmer to the benefits derived from cooperatives, and the unity of their common good in numerous phases of agriculture, such as livestock feed purchase, vacuum cooling, centralized packing and grading, volume purchases of containers, etc.

In a prepared statement, the deputy to the chairman of the department testified before your Committee that;

“At present, most cooperatives are organized for purchasing benefits. We feel that

marketing cooperatives provides a virtually untapped source for the economic growth of Hawaii's agriculture industry. Incentives could be provided through tax exemptions for improvements on real property, State-supported pilot plants which directly result in formation of a cooperative to operate the facility, or grants for market promotion and development of commodities such as anthuriums, macadamia nuts and other developing sectors of the industry.”

The department of agriculture specifically suggested that the study hereby requested emphasize the potential of marketing cooperatives, and your Committee has accordingly amended the resolution by stating the same at the close of the first resolved paragraph. It is not intended thereby that other areas of cooperative endeavors should be proportionately de-emphasized in favor thereof, but, in addition to assuring that this important aspect is not overlooked, it is anticipated that there will be recommended a comprehensive program of commodity development and market promotion as incentives for encouraging farmers to enter cooperatively into this area.

Your Committee on Agriculture heretofore amended the resolution by specifically naming the Hawaii Farm Bureau Federation to cooperate with the Legislative Reference Bureau in conducting this study. However, directing the transmittal of a certified copy hereof thereto was inadvertently omitted, and your Committee has accordingly amended the resolution by stating the same at the close of the last resolved paragraph.

Your Committee on Finance concurs with the intent and purpose of **H. R. No. 92, H. D. 1**, as amended herein, and recommends its adoption in the form attached hereto as **H. R. No. 92, H. D. 2**.

Signed by all members of the Committee except Representative Chong.

#### SCRep. 313 Finance on H.C.R. No. 7

The purpose of this House Concurrent Resolution is to direct the department of education to mobilize a task force for development of a comprehensive statewide pre-school program.

Your Committee on Education, to which this matter was initially referred, reported

that it was "impressed at the hearings to learn that the department already has a planning group composed of staff members who are working on a timetable setting the completion date of the preschool plan on November, 1971, and the implementation date of this plan on September, 1972," and there was an expression of appreciation for "the importance that the department has placed on the preschool program."

Although for the present, because the planning group is composed of present staff members, no funding is required to develop the program hereby directed, nevertheless upon also learning that the department is already underway and targeting for an implementation date, the reaction of your Committee on Finance was not so much of appreciation, but of disconcertion. Why, we were prompted to inquire, was the study commenced prior to formal legislative request; or, alternatively, why, at such an advanced stage of development, are we only now called upon to formally request or ratify it?

Your Committee's calling to the present state of affairs deserves careful consideration less our recommendation hereupon be hereafter misconstrued. On the one hand, the department of education has been motivated to proceed with development of the preschool program in part by anticipated adoption of this resolution and also in part, if not originally, by mandate from the board of education; and to the extent available resources have been allocated to the task, the department is to be commended.

On the other hand, because the study is in an advanced stage of development, if legislative ratification thereof is one day to be traced and attributed to your Committee's recommendation hereupon, it is our resolve to make undeniably certain that at this point in time we are only endorsing the continuation to its conclusion of the preschool plan; and in no way is our concurrence with the intent and purpose hereof to be construed as endorsement of the program itself — if and when that matter should hereafter be referred to your Committee for implementation funding. In short, we will cross that bridge when we come to it.

Your Committee on Education recommended insertion of the provision that the

department submit the comprehensive preschool program prior to the 1972 legislative session, stating:

"The purpose of this amendment is for the reporting of the plan to be within the timetable established by the department. There were other amendments offered by the department which suggested changes not in substance but in words and phrases. Your Committee believes that these corrections can be made in the comprehensive plan to be developed by the department."

Your Committee, upon its consideration hereof, recommends that the task force should also include representatives from the Department of Health and the State Commission on Manpower and Full Employment, both because they have expressed a sincere interest in participating in the program's formulation, and because we are satisfied they can contribute constructively thereto. Such an amendment has been effected.

Your Committee on Finance concurs with the intent and purpose of **H. C. R. No. 7, H. D. 1**, as amended herein, and recommends its adoption in the form attached hereto as **H. C. R. No. 7, H. D. 2**.

Signed by all members of the Committee except Representative Chong.

**SCRep. 314 Public Institutions on H.R. No. 119**

The purpose of this resolution is to request the Department of Social Services and Housing to submit a report on the number and distribution by counties of short term residents who are receiving welfare aid.

The Supreme Court of the United States in 1969 held that the various states of the union cannot deny welfare assistance to non-residents. While this holding is applicable to all states, your Committee believes that the influx of new residents needing assistance disproportionately exceeds welfare recipients who emigrate from this state. In addition to the strain on our welfare budget, these new arrivals also contribute to other socio-economic problems. The problem is not static and the problem may become more acute if our sister states faced with the same crisis reduce benefits or impose more stringent eligibility requirements.

As requested in **H. R. No. 119**, the report will give this body a clear picture of the problem as it exists today. Your Committee believes that the scope of the report should be expanded so as to reflect future trends or directions which will assist the legislature to cope with the problem. Accordingly, your Committee recommends that **H. R. No. 119** be amended by directing the department that this study be of residents of less than a year instead of six months, and by requesting other information that will give a better insight to the problem. Other nonsubstantive style changes have been effected for purposes of clarity.

Your Committee on Public Institutions concurs with the intent and purpose of **H. R. No. 119**, as amended herein, and recommends its adoption in the form attached hereto as **H. R. No. 119, H. D. 1**.

Signed by all members of the Committee.

**SCRep. 315** Select Committee of Oahu Representatives, on **H.B. Nos. 783, 784, 919, 1250, 1256, and 1283**

The purpose of these bills is to appropriate sums of money to fund the various projects stated in their titles.

Your Committee is in accord with the intent and purpose of **H. B. Nos. 783, 784, 919, 1250, 1256, and 1283** and recommends that they pass second reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 316** Select Committee of Oahu Representatives on **H.B. Nos. 786, 788, 926 and 1050**

The purpose of these bills is to appropriate sums of money to fund the various projects stated in their titles.

Your Committee is in accord with the intent and purpose of **H. B. Nos. 786, 788, 926, and 1050**, and recommends that they pass second reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 317** Select Committee of Oahu Representatives on **H.B. Nos. 160, 175, 176, 177, 643, 644, 645, 820, 821, 822 and 1023**

The purpose of these bills is to appropriate sums of money to fund the various projects stated in their titles.

Your Committee is in accord with the intent and purpose of **H. B. Nos. 160, 175, 176, 177, 643, 644, 645, 820, 821, 822 and 1023** and recommends that they pass second reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative O'Connor.

**SCRep. 318** Select Committee of Oahu Representatives on **H.R. Nos. 809, 903, 906 and 986**

The purpose of these bills is to appropriate sums of money to fund the various projects stated in their titles.

Your Committee is in accord with the intent and purpose of **H. B. Nos. 809, 903, 906, and 986**, and recommends that they pass second reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 319** Select Committee of Oahu Representatives of **H.B. Nos. 292, 472, 707, 751, 805, 927, 934, 1147, 1148, 1149, 1150, 1151, 1350, 1351, 1354, 1356, 1357, 1358 and 1359**

The purpose of these bills is to appropriate sums of money to fund the various projects stated in their titles.

Your Committee is in accord with the intent and purpose of **H. B. Nos. 292, 472, 707, 751, 805, 927, 934, 1147, 1148, 1149, 1150, 1151, 1350, 1351, 1354, 1356, 1357, 1358, and 1359**, and recommends that they pass second reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 320** Select Committee of Oahu Representatives on **H.B. Nos. 850, 889, 991, 1049, 1227 and 1306**

The purpose of these bills is to appropriate sums of money to fund the various projects stated in their titles.

Your Committee is in accord with the intent and purpose of **H. B. Nos. 850, 889, 991,**



**1049, 1227, and 1306** and recommends that they pass second reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 321** Select Committee of Oahu Representatives on **H.B. Nos. 636, 859, 860, 861, 947, 948, 949, 950, 951, 952, 953, 1168, 1169 and 1386**

The purpose of these bills is to appropriate sums of money to fund the various projects stated in their titles.

Your Committee is in accord with the intent and purpose of **H. B. Nos. 636, 859, 860, 861, 947, 948, 949, 950, 951, 952, 953, 1168, 1169, and 1386** and recommends that they pass second reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 322** Select Committee of Oahu Representatives on **H.B. Nos. 444, 699, 825, 1018, 1027, 1028, 1267 and 1310**

The purpose of these bills is to appropriate sums of money to fund the various projects stated in their titles.

Your Committee is in accord with the intent and purpose of **H. B. Nos. 444, 699, 825, 1018, 1027, 1028, 1267, and 1310** and recommends that they pass second reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 323** Select Committee of Oahu Representatives on **H.B. Nos. 108, 109, 110, 524, 528, 747, 748, 749 and 994**

The purpose of these bills is to appropriate sums of money to fund the various projects stated in their titles.

Your Committee is in accord with the intent and purpose of **H. B. Nos. 108, 109, 110, 524, 528, 747, 748, 749, and 994** and recommends that they pass second reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 324** Select Committee of Oahu Representatives on **H.B. Nos. 738, 740, 741, 742, 743, 744, 745, 746, 944, 945, 1141 and 1411**

The purpose of these bills is to appropriate sums of money to fund the various projects stated in their titles.

Your Committee is in accord with the intent and purpose of **H. B. Nos. 738, 740, 741, 742, 743, 744, 745, 746, 944, 945, 1141, and 1141**, and recommends that they pass second reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 325** Select Committee of Oahu Representatives on **H.B. Nos. 505, 506, 509, 510, 769, 839, 846 and 1291**

The purpose of these bills is to appropriate sums of money to fund the various projects stated in their titles.

Your Committee is in accord with the intent and purpose of **H. B. Nos. 505, 506, 509, 510, 769, 839, 846, and 1291**, and recommends that they pass second reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 326** Select Committee of Oahu Representatives on **H.B. Nos. 1153, 1154, 1155, 1156, 1157, 1158, 1159, 1160, 1161, 1162, 1163, 1375, 1376, 1378, 1379, 1380, 1381, 1382, 1383, 1384 and 1385**

The purpose of these bills is to appropriate sums of money to fund the various projects stated in their titles.

Your Committee is in accord with the intent and purpose of **H. B. Nos. 1153, 1154, 1155, 1156, 1157, 1158, 1159, 1160, 1161, 1162, 1163, 1375, 1376, 1378, 1379, 1380, 1381, 1382, 1383, 1384, and 1385**, and recommends that they pass second reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 327** Select Committee of Oahu Representatives on **H.B. Nos. 141, 142, 143, 144, 198, 199, 200, 201, 725, 770, 993, 1064 and 1300**

The purpose of these bills is to appropriate sums of money to fund the various projects stated in their titles.

Your Committee is in accord with the intent and purpose of **H. B. Nos. 141, 142, 143,**

144, 198, 199, 200, 201, 725, 770, 993, 1064, and 1300 and recommends that they pass second reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 328** Select Committee on Oahu Representatives on H.B. Nos. 816, 871, 872, 873, 874, 875, 876, 933, 1008, 1009, 1010, 1012, 1013, 1054, 1247, and 1301

The purpose of these bills is to appropriate sums of money to fund the various projects stated in their titles.

Your Committee is in accord with the intent and purpose of H. B. Nos. 816, 871, 872, 873, 874, 875, 876, 933, 1008, 1009, 1010, 1012, 1013, 1054, 1247, and 1301, and recommends that they pass second reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 329** Select Committee of Oahu Representatives on H.B. Nos. 182, 186, 188, 189, 191, 502, 885, 887 and 888

The purpose of these bills is to appropriate sums of money to fund the various projects stated in their titles.

Your Committee is in accord with the intent and purpose of H. B. Nos. 182, 186, 188, 189, 191, 502, 885, 887, and 888 and recommends that they pass second reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 330** Select Committee of Oahu Representatives on H.B. Nos. 216, 220, 221, 222, 223, 224, 225, 229, 230, 234, 306, 677, 678, 679, 680, 681, 686, 687, 688, 689, 690, 695, 754, 755, 826, 827, 828, 833, 834, 835, 836, 877, 879, 880, 882, 884, 928, 956, 958, 959, 960, 961, 962, 963, 964, 965, 999, 1000, 1001, 1002, 1004, 1005, 1014, 1171, 1172, 1185, 1187, 1188, 1392 and 1399

The purpose of these bills is to appropriate sums of money to fund the various projects stated in their titles.

Your Committee is in accord with the intent and purpose of H. B. Nos. 216, 220, 221, 222, 223, 224, 225, 229, 230, 234, 306, 677, 678, 679, 680, 681, 686, 687, 688, 689, 690, 695, 754, 755, 826, 827, 828, 833, 834, 835,

836, 877, 879, 880, 881, 882, 884, 928, 956, 958, 959, 960, 961, 962, 963, 964, 965, 999, 1000, 1001, 1002, 1004, 1005, 1014, 1171, 1172, 1185, 1187, 1188, 1382 and 1399, and recommends that they pass second reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative O'Connor.

**SCRep. 331** Select Committee of Oahu Representatives on H.B. Nos. 988, 989, 1096, 1097 and 1098

The purpose of these bills is to appropriate sums of money to fund the various projects stated in their titles.

Your Committee is in accord with the intent and purpose of H. B. Nos. 988, 989, 1096, 1097, and 1098, and recommends that they pass second reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 332** Judiciary on H.B. No. 15

The purpose of this bill is to permit the county governments to impose traffic regulations on private roadways which are used by the general public.

The present law allows the City Council of Honolulu to impose traffic regulations on private roadways which have been continuously used by the general public for over five years. See section 70-102, Hawaii Revised Statutes.

This bill would extend the scope of section 70-102, Hawaii Revised Statutes, of traffic regulations on any roadway which is continuously used by the general public, regardless of the time period of such use. The necessity for the public safety is such as to require this change. Moreover, this bill permits any county government to impose these traffic regulations.

This bill replaces section 70-102, Hawaii Revised Statutes, and effectively extends its scope by allowing the government of any county to impose traffic regulations.

Your Committee upon consideration of this bill recommends that it be amended in the form attached hereto as H. B. No. 15, H. D. 1. Such amendment would allow traffic regulations to be imposed on any private roadway which is continuously used by the

general public, regardless of the time period of such use. The necessity for public safety is such as to require this change. Although it may be agreeable that a roadway used by the general public for only a short time span is not in "continuous" use, it is the opinion of Your Committee that the determination of what is "continuous" is best left to deliberations by a trier of fact of the facts and circumstances of each situation.

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

Signed by all members of the Committee.

#### SCRep. 333 Judiciary on H.B. No. 84

The purpose of this bill is to revise certain sections of the Hawaii Revised Statutes relating to civil procedure, so as to coordinate them with rules of civil procedure and eliminate inconsistencies, delete outmoded provisions, and transfer procedural matters to the rules where advisable.

Pursuant to appropriations made for the Judicial Branch, Office of Administrative Director of courts, by Act 154, L. 1969, and Act 175, L. 1970, a Committee of judges and lawyers was constituted and designated the Committee on Coordination of Rules and Statutes whose function was to prepare revisions of statutes and rules as herein before stated.

A work product of this Committee is **H. B. No. 84**. Its major recommendations for change in the existing Hawaii Revised Statutes are as follows:

1. Section 64-5. This section is clarified by dividing it into subsections.

Subsection (a) consists of the first paragraph of the section, as amended by Act 188, L. 1970. This paragraph has been revised so as to make a general statement of jurisdiction up to \$5,000 except as otherwise provided, followed by a provision that jurisdiction when it exists is exclusive up to \$500. The grant of exclusive jurisdiction is expressly made subject to subsections (b) and (c).

Subsection (b) contains the general statement that district courts shall not conduct jury trials, this being the same as the second

sentence of the second paragraph of the section as amended by Act 188. This is followed by a provision for transfer of a case in which a jury trial is demanded if there is a right to such trial. Thus district court jurisdiction in every case over \$100 depends upon waiver of a jury trial. If a jury trial is waived district court jurisdiction is exclusive up to \$500. The same is true when it has not yet been determined whether there will be a jury trial. By demanding a jury trial in his complaint a plaintiff can take the case out of the district court's jurisdiction.

Subsection (c) provides for transfer to the circuit court if a district court cannot acquire jurisdiction over parties whose presence is required. In that situation the action could be commenced in a circuit court irrespective of the amount involved. Thus the exclusive jurisdiction up to \$500 is dependent not only on waiver of a jury trial but also upon power to serve the parties.

Subsection (d) is the present first sentence of the second paragraph, as amended by Act 188. The word "original" has been omitted as unnecessary. The second sentence is contained in subsection (b).

Subsection (e) is the last paragraph of the section as amended by Act 188. The words "nor of any civil matter required by law to be tried by a jury" have been deleted as redundant.

2. Section 604-6. The last sentence has been revised so as to make applicable the rules of court as to stay of proceedings to enforce judgment.

3. Section 604-. The words "district judges" have been changed to "district courts", and the several powers have been set up in separate numbered paragraphs.

The provisions as to depositions have been omitted; this matter will be covered by chapter 624 and the rules of court.

The provision as to the granting of continuances has been omitted, it being unnecessary that there be an express grant of such power. Continuances by the clerk are the subject of a new section 604-7.5.

The provision as to subpoenas has been revised.

The provision as to alteration of judgments, introduced after the decision in *Akatsuka v McKay*, 24 Haw. 600, 604, has been revised to refer to the rules of court.

The present second paragraph relating to fees of witnesses has been revised so as to refer to the provisions contained in section 607-12, in civil cases, and section 621-7 in criminal cases, without specification of any special provisions applicable in district courts as distinguished from circuit courts.

The present third paragraph, designated subsection (b), has been revised by omitting the provision that documents may not be signed outside the State.

The present fourth paragraph designated subsection (c), has been revised to eliminate the proviso under which the power to serve summons throughout the circuit is dependent upon the action having been commenced in the circuit wherein the defendant resides. As this provision now reads it is tantamount to a requirement that an action be dismissed if not brought where defendant resides. In lieu of the proviso a venue provision has been added as subsection (d). Another change consists in the insertion of the words "Except as otherwise provided" so as to indicate that there are variations in the rule as to the jurisdiction for service of a summons or other writ. For example, a garnishee summons may be served on the comptroller outside the circuit, and a subpoena may be served where the witness is found if the subpoena has been properly endorsed.

The new subsection (d) requires that an action be filed where the defendant or a majority of the defendants reside or the claim for relief arose, unless some of the parties cannot be served in that circuit. For convenience, or upon the consent of the parties, a case may be transferred to another circuit, as is provided with respect to circuit courts by section 603-37. This is new section 604-7.3. If the case has been brought in the wrong district court it will be transferred to the proper district court, unless the court orders it dismissed in the interest of justice; this is as provided by new section 604-7.4. The new subsection (d) is prefaced by the phrase "except as otherwise provided"; this refers to section 666-6, which requires that an action for summary possession be brought in the circuit where the premises are situated.

4. Section 604-7.3. This is similar to section 603-37. It relates only to civil cases.

Section 604-7.4. Cure or waiver of defects.  
(a) The district court of a circuit in which is commenced a civil case laying venue in the wrong circuit shall transfer the case, upon or without terms and conditions as the court deems proper, to the district court of any circuit in which it could have been brought, or if it is in the interest of justice dismiss the case.

(b) Nothing in sections 604-7 to 604-7.4 shall impair the jurisdiction of a district court of any matter involving a party who does not interpose timely and sufficient objection to the venue.

5. Section 604-7.4. This proposed new section is derived from 28 U.S.C. Sec. 1406(a) and (b), which reads as follows:

**"Section 1406. Cure or waiver of defects**

(a) This district court of a district in which is filed a case laying venue in the wrong division or district shall dismiss, or if it be in the interest of justice, transfer such case to any district or division in which it could have been brought.

(b) Nothing in this chapter shall impair the jurisdiction of a district court of any matter involving a party who does not interpose timely and sufficient objection to the venue."

This new section avoids the situation presented in *Kauai v Kauai County*, 47 Haw. 271 where dismissal of the case meant that the action was barred since the statute of limitations had run.

Subsection (a) differs from the federal provision in putting the emphasis on transfer of the case instead of dismissal.

Subsection (a) further differs from the federal provision in adding the language concerning conditions. This provision will give the courts specific authority to impose terms upon a transfer in lieu of a dismissal, as may be deemed advisable to avoid prejudice to the defendant.

6. Section 604-7.5. This is similar to revised section 603-16, relating to circuit courts. It has been added so as to confer on district court clerks the same powers as to continuances.

7. Section 604-18. Pursuant to section 601-2, the Chief Justice reports to the legislature at each regular session upon the business of the department, of which he is the administrative head under Article V, sec. 5, of the State Constitution. Section 601-2(3) provides that the Chief Justice may prescribe, for all of the courts, a uniform system of keeping and periodically reporting statistics of their business. This section is unnecessary. There is no similar provision for circuit courts. Accordingly, this section has been deleted.

8. Section 604-19. This section has been omitted because the matter is covered by article V, section 6 of the Constitution.

9. Section 633-1. The subject matter of the first, third, and fourth sentences will be governed by rules of court. The second sentence is duplicated by a provision of section 604-7. Accordingly, the whole section has been deleted.

10. Section 633-2. The subject matter is covered by sections 604-7, 606-1, as amended, 606-8 and chapters 621, 622, and 651. Accordingly, the section has been deleted.

11. Sections 633-3 to 633-8. These sections have been deleted because the subject which they cover, to the extent explicit provisions are desirable, belongs in the rules of court.

12. Sections 633-11 to 633-15. These sections have been deleted as unnecessary, in view of the small claims provisions enacted by Act 182, L.1970.

13. Section 633-27. Effective January 1, 1972, Act 188, L. 1970 will further amend these provisions. Judicial districts will be abolished; rendering meaningless the provisions of paragraphs (1), (2), and (3) of this section. In lieu thereof, provision has been made as to the circuit in which the action is to be commenced. This provision is similar to section 604-7(d), as revised.

In the first paragraph a provision has been added, referring to the rules of court for the means of electing the ordinary procedures instead of the Small Claims procedures. The act does not specify how a defendant would so elect.

The reference to section 633-30 is for convenience, and does not represent a change.

14. Section 633-28. The procedural detail has been omitted; this is to be provided by the rules of court.

Since small claims procedure is optional with the parties and the right of appeal can be preserved by electing the ordinary procedures, provision has been made that there shall be no appeal from a judgment of the Small Claims Division.

A new subparagraph (b) has been added, permitting unlicensed persons to appear in the Small Claims Division with the approval of the court.

15. Section 633-29. A change has been made in order to refer to the statutes and rules of court for the fees that may be charged.

The last three sentences cover matters which should be left to the court or covered by rule. This portion of the section accordingly has been omitted.

16. Section 633-30. This section has been retained as to the jurisdictional provision; procedural details have been deleted.

17. Section 633-32. The essential provision that substantial justice shall be done without regard to the rules of evidence has been retained. The procedural detail has been deleted.

18. Sections 633-33 to 633-34. Changes in style have been made.

19. Section 633-35. A change has been made to account for the omission of section 633-36. There has been no substantive change.

20. Section 633-36. This section has been omitted as unnecessary. The rule-making power of the supreme court is conferred by Article V, section 6, of the State Constitution. The other provisions of the section relate to details which should be left to the courts.

21. Section 633-37. This section has been omitted because it relates solely to procedure.

Your Committee, upon consideration of **H. B. No. 84**, recommends that it be amended in the form attached hereto as **H.B. No. 84, H.D. 1**, for the following reasons:



(1) In Section 2, amending section 604-6, "court" has been substituted for "Judge" in the second sentence.

(2) In Section 3, amending section 604-7, paragraph (a) (3) has been changed by substituting "Enter" for "Render", and by restoring the semicolon so that the paragraph will begin "Enter final judgments;". Other changes in paragraph (3) are the addition of the words "or set aside" following the word "alter", and the retention of the provision that a judgment may be altered within ten days as an alternative to the provision of the present bill that the matter shall be governed by the rules of court. Under the proposed amendments, in the absence of rules of court governing the matter, a judgment may be altered or set aside within ten days.

(3) A further change in section 3 is in paragraph (a) (4) where a semicolon has been inserted after the words "enforce judgments". The purpose is to make clear that the enforcement of judgments, as distinguished from the punishment of criminal contempts, is not dependent upon statutory law.

(4) In Section 4 the new section 604-7.3 has been revised by deleting the provision for change of venue upon proof that fair and impartial trial cannot be had, this being inappropriate inasmuch as no jury trial is involved, and if the judge is disqualified another judge will be assigned under section 604-3.

(5) Another change in new section 604-7.3 occurs in the proviso which has been made applicable in criminal as well as civil cases. This will make possible the transfer of a criminal case to the district court of another circuit upon the consent of both the defendant and the prosecutor. Somewhat similar provisions were contained in section 604-9, prior to the amendment of that section by Act 188, Laws 1970. The provisions formerly contained in section 604-9, at least as applied, related only to a change of venue from one district to another within the same circuit. Section 604-9 provided that, with the consent of the prosecutor, the defendant could have his case transferred to the district in which he was arrested or to the district of his residence.

(6) In Section 6 new section 604-7.5 providing for continuance of a hearing or trial by the clerk has been revised by changing the specified maximum period of continuance

from three to seven days, this being desirable to take care of situations that might arise in rural district courts. Following this designated maximum the words "except as otherwise ordered by the court" have been substituted for the detailed provisions of the original bill, which are unnecessary. This new section is not limited to civil cases.

(7) A new section 6A has been inserted for the purpose of changing the word "judges" and "judge" to "courts" and "court" in section 604-8.

(8) In order to make a similar change in section 604-9 a new section 6B has been inserted.

(9) Section 6C presents a proposed new section of chapter 604, providing that the several district courts have jurisdiction of criminal offenses committed within their respective circuits or transferred to them for trial by change of venue. Formerly it was implied by portions of section 604-9 deleted by Act 188, Laws 1970, that jurisdiction was according to the place where the offense was committed. The new section is similar to paragraph (1) of section 603-21 of the circuit court chapter.

(10) Section 6D proposes the repeal of 604-12. Prior to Act 188, Laws 1970, section 604-12 had significance in enlarging the jurisdiction of district court judges to serve as committing magistrates throughout the circuit. Act 188, Laws 1970, enlarged the jurisdiction of all district courts over their respective circuits, thus taking care of this matter. To have significance section 604-12 would have to be further amended to provide for commitment by a district court of one circuit for trial in another circuit. Such a provision is unnecessary as the matter is covered by section 603-22(11) of the circuit court chapter. For these reasons it is recommended that section 604-12 be repealed.

(11) New section 6E changes the words "district judges" to "district courts" in section 604-17.

(12) A new section 8A has been inserted. This adds a section 604-20 relating to powers of the clerk, which will take the place of section 633-2, repealed by section 10. While the powers of the clerk are covered by sections appearing in other chapters, it is desirable to have a general provision in this chapter 604 itself.

(13) In Section 21 the words “attorneys’ fees” have been deleted from section 633-27 because under the amendment of section 633-34 the same will not be allowed in the small claims division as explained by paragraph (18) of this report.

(14) In Section 22 the third sentence of section 633-28, relating to small claims, has been restored. Although the procedural details are being deleted from the small claims provisions, this third sentence covers matters of legislative policy, placing a curb on the use of the clerk’s services by plaintiffs in the preparation of the papers required to be filed in the small claims division. In restoring this sentence, changes have been made in order to eliminate the specifics as to the papers required to be filed.

(15) A further change has been made in section 633-28, which is the subject of section 22. In view of there being no appeal for a judgment of the small claims division a specific provision has been inserted, immediately following the provision that there shall be no appeal, as follows: “but the court, sitting as the small claims division, may alter or set aside any judgment as provided by the rules of court”. As to the provision that there shall be no appeal, this is coupled with the provision that the use of the small claims procedure is optional with the parties, this provision remaining in section 633-27. It is to be implemented by rule of court as is provided.

(16) In Section 633-28 the new subsection (b), permitting appearance in the small claims division of a person not having a license to practice law, has been revised to specify that the services of such an unlicensed person shall be without compensation, otherwise the subsection will be inapplicable and the rendering of such services will constitute the unlawful practice of law.

(17) In Section 25 of the bill, amending section 633-32, a change has been made to substitute the word “court” for “judge”.

(18) In Section 27 of the bill a new sentence has been added to section 633-34, providing that attorneys’ fees and commissions under sections 607-14 and 607-17 shall not be allowed in the small claims division.

(19) Section 29 has been changed so that, instead of repealing 633-36, it will amend it to provide for the publication of a pamphlet

explaining the procedures of the small claims division, and for the printing of standardized forms.

(20) A new section 31A has been added, amending section 666-9, and the title has been amended to include chapter 666. This amendment provides that the return day in a summary possession proceeding shall be fixed by the court in conformity with the rules of court. The reference in the present section to 633-1 would be meaningless upon the repeal of that section, which is provided for by section 9 of the bill.

(21) Chapter 711, “criminal procedure; circuit courts”, contains several provisions tying the application thereof to courts of record. Upon the taking effect of Act 188, Laws 1970, district courts will be courts of record as provided in section 604-17. Section 31B presents a proposed new section 711-2 providing that the mere use of the term courts of record does not itself make a provision contained in chapter 711 applicable to district courts. The title has been amended to include chapter 711.

(22) To avoid unintended results Section 33 has been revised so as to:

(1) Preclude implied repeal of H.R.S. sec. 28-26 by section 28 of Act 188, L. 1970, amending H.R.S. sec. 607-2;

(2) Save rights of appeal to a circuit court for trial de novo under the former law, in pending cases or whenever the time for appeal has not expired on December 31, 1971.

As to the right of appeal, it should be noted that it would be unfair and in some cases unconstitutional, to cut off rights of appeal for trial de novo, if the case had been handled on the assumption there could be an appeal under the former law. It would be impractical to pinpoint the continued effectiveness of the former law with more exactitude than is proposed.

As to appeal to the Supreme Court under this amendment the touchstone would be the date when the case was finally decided; if prior to January 1, 1972, the former law would govern. Compare section 13 of the Admission Act, Public L. 86-3, 73 Stat. 4.

A reference to Act 188, L. 1970, has been inserted in the title.

Your Committee on Judiciary is in accord with the intent and purpose of **H.B. No. 84**, as amended herein, and recommends its passage on Second Reading in the form attached hereto as **H.B. No. 84, H.D. 1**, and placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 334 Judiciary on H.B. No. 383**

The purpose of this bill is to expand the scope of section 188-25, Hawaii Revised Statutes, prohibiting the taking of various forms of aquatic life by firearms or spear-gun.

Your Committee concurs with the findings of the Committee on Lands as reported in **Stand. Com. Rep. No. 154**, with one exception. The Committee on Lands recommended the creation of a rebuttable presumption by adding a new paragraph following the penalty provision of the bill. The concept of rebuttable presumptions, however, has been difficult for juries, lawyers, and even courts to comprehend. Accordingly, your Committee recommends that the concept of prima facie evidence be substituted in place of a rebuttable presumption. In order to effect this change, your Committee recommends that the paragraph in **H.B. No. 383, H.D. 1** establishing concept of a rebuttable presumption (p. 2, lines 9 through 13) be deleted and the following paragraph be inserted in its place:

“If there is a discernible puncture wound on the body of a fish, turtle, crustacean, mollusk, or aquatic mammal, at the time of detection of an alleged violation of this section, it is prima facie evidence that the person in possession of said fish, turtle, crustacean, mollusk or aquatic mammal, speared it.

Your Committee on Judiciary is in accord with the intent and purpose of **H.B. No. 383, H.D. 1** as amended herein, and recommends its passage on Second Reading in the form attached hereto as **H.B. No. 383, H.D. 2** and placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 335 Judiciary on H.B. No. 76**

The purpose of this bill is to expand the scope of unfair methods of competition and unfair or deceptive acts in the State's existing insurance law by amending section 431-643, Hawaii Revised Statutes.

Your Committee concurs with the findings of the Committee on Housing and Consumer Protection reported in **Stand. Com. Rep. No. 37**.

Your Committee on Judiciary is in accord with the intent and purpose of **H.B. No. 76, H.D. 1** and recommends its passage on Third Reading.

Signed by all members of the Committee.

**SCRep. 336 (Majority) Judiciary on H.B. No. 382**

The purpose of this bill is to empower fish and game wardens to arrest and physically transport violators of fish and game laws and regulations to a police station for booking in addition to issuing citations.

Your Committee concurs with the findings of the Committee on Lands as reported in **Stand. Com. Rep. No. 52**.

Your Committee on Judiciary is in accord with the intent and purpose of **H.B. No. 382** and recommends its passage on Third Reading.

Signed by all members of the Committee. Representative Lee did not concur.

**SCRep. 337 Judiciary on H.B. No. 384**

The purpose of this bill is to correct an error made in the construction of the Hawaii Revised Statutes by amending section 187-16, Hawaii Revised Statutes.

At present, section 187-16, Hawaii Revised Statutes, only pertains to the “General Provisions Relating to Fish and Game” and chapter 134 “Firearms and Ammunition”, having inadvertently omitted reference to all of the other provisions relating to fish and game.

This bill corrects the omission by making section 187-16, Hawaii Revised Statutes, applicable to all of the chapters in subtitle 5 entitled “Fish and Game”.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 384** and recommends its passage on Third Reading.

Signed by all members of the Committee.

**SCRep. 338 Higher Education on H.B. No. 1143**

The purpose of this bill is to appropriate \$75,000 to continue the planning, demonstration, and evaluation of communication networks utilization to interconnect institutions of higher education in the Pacific basin. The University at the request of Governor John A. Burns has taken leadership in arranging for the utilization of the ATS-1 satellite for Pan-Pacific educational exchange. The communication system consists of using the ATS-1 to relay messages between ground stations located in one or more communications centers with speakers and microphones. The ground stations can be located in geographic locations throughout the Pacific. Among the advantages of such a system are: (1) it permits voice dialogue; (2) many locations can be interconnected at one time; and (3) it requires very limited staff and low cost ground stations.

The University has developed a prototype ground station and successfully conducted transmission tests. The funds requested in this bill will enable the University to expand its ground stations and provide a base to move ahead with other universities in the Pacific.

The ultimate benefits of this system for Hawaii include: (1) achieving a foothold on whatever is in the future for telecommunications; (2) enabling the University to represent education in dealing with new modes of communication media; (3) getting University faculty and administrators to gain experience in use of telecommunications to achieve greater effectiveness and efficiency in communications; and (4) achieving reciprocal benefits from interchanges of knowledge and information between universities. Furthermore, this kind of communication system is especially important for Hawaii because communication through satellite achieves the best kind of communication in terms of our geographic location.

Your Committee on Higher Education is in accord with the intent and purpose of **H. B. No. 1143** and recommends its referral to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 339 (Majority) Labor on H.B. No. 574**

The purpose of this bill is to amend Chapter 444 of Hawaii Revised Statutes to (1) amend the definition of "contractor" as used therein and (2) add a new definition, that of an "employee". These amendments are intended to prevent individuals from circumventing the requirement of securing licenses before offering to undertake construction projects.

Under present law, an unlicensed person may build any structure, including those used by the general public, as long as he retains ownership during construction. The bill proposes to remedy this weakness by amending the definition of "contractor" by deleting the phrases "for another person, for a fee." The amendment would subject any person who offers to undertake or holds himself out as being able to undertake construction projects to licensing under the law.

The present law also does not contain a definition of "employee". This encourages unlicensed persons to circumvent licensing requirements by undertaking construction under a purported employment relationship with the homeowner. This bill proposes to define "employee" as someone "who works for an employer who withholds employee's taxes and contributes to employee's social security, unemployment and workmen's compensation benefits in behalf of the employee." This would render it difficult for unlicensed individuals to undertake construction jobs under the guise of being employees of homeowners.

Your Committee is in accord with the intent and purpose of **H. B. No. 574** and recommends its passage on second reading and that it be referred to your Committee on Judiciary for further consideration.

Signed by all members of the Committee. Representatives Aduja and Ajifu did not concur.

**SCRep. 340 Labor on H. B. No. 1031**

The purpose of this bill is to appropriate \$60,000 for additional staff in the department of labor and industrial relations to conduct periodic manpower skill surveys on each island on a sustained basis.

The department of labor and industrial relations is responsible for the development, preparation, and dissemination of information on employment, unemployment, and la-

bor market conditions in Hawaii. The analyses of employment, unemployment, and labor market conditions must be based in part on manpower area skill surveys. The department, however, has been unable to develop comprehensive information in the foregoing areas because of other demands on its Research and Statistics Office for research on programs administered by the department and because of urgent requests for assistance from other state and federal agencies in areas such as community planning. This bill proposes to furnish staffing for the surveys which will enable the department to make the required analyses of employment, unemployment, and labor market conditions.

Your Committee is in accord with the intent and purpose of **H. B. No. 1031** and recommends its passage on second reading and that it be referred to your Committee on Finance for further consideration.

Signed by all members of the Committee.

**SCRep. 341 Labor on H.B. No. 1032**

The purpose of this bill is to amend Chapter 394 of Hawaii Revised Statutes, the Manpower Development and Training Act, by (1) amending the purpose and focus of the Act to meet changing needs, (2) authorizing a new program designed to provide public service employment for unemployed persons and (3) providing wage payments for persons employed on the proposed public service employment projects at the prevailing rates of persons in similar public employment.

Chapter 394 was enacted in 1969 during an extremely tight labor market situation. Its focus was naturally on increasing the work force through training and the furnishing of support services such as health care. Its stated purpose 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." The drastically changed situation where the present problem is one of rising unemployment, however, requires a shift in focus. This bill therefore re-states the purpose of Chapter 394 as the establishment of manpower development and training programs and the determination of "the extent to which the employment needs of individuals can be met by either job training or a public service job or a combination of both."

The bill proposes to authorize the department of labor and industrial relations to formulate and execute a public service employment program for unemployed persons. It also proposes to pay persons employed on such projects at the prevailing rates of persons in similar public employment.

Your Committee agrees that a shift in focus for the manpower development and training program is presently required. It also agrees that the authorization of special public employment projects is desirable.

Your Committee on Labor is in accord with the purpose and intent of **H. B. No. 1032** and recommends its passage on second reading and that it be referred to your Committee on Finance for further consideration.

Signed by all members of the Committee.

**SCRep. 342 Labor on H.B. No. 1621**

The purpose of this bill is to establish a special projects and services program to provide employment for persons who would otherwise be public welfare recipients.

This bill proposes the establishment of a special projects and services program to be administered by the department of labor and industrial relations in order to provide employment for persons who would otherwise be public welfare recipients. An appropriation in an unspecified amount is proposed for the foregoing purpose.

The active caseload of the department of social services and housing has increased by more than 25% in the last year. The increase is largely due to rising unemployment in Hawaii. This bill will serve to partially alleviate the unemployment problem by providing employment in public services and on public works projects. Such a program would benefit both the persons employed and the state and is preferable to an ordinary assistance program.

Your Committee is in accord with the intent and purpose of **H. B. No. 1621** and recommends its passage on second reading and that it be referred to your Committee on Finance for further consideration.

Signed by all members of the Committee.



**SCRep. 343** (Majority) Labor on **H.B. No. 1623**

The purpose of this bill is to amend the section of the workmen's compensation law covering the enforcement of awards to (1) permit the director of labor and industrial relations to petition the circuit court for a judgment on an award on behalf of claimants and (2) permit the director to petition the court to enjoin an employer from continuing to do business if he has failed to make payments on workmen's compensation awards.

Section 386-91 of Hawaii Revised Statutes now allows any party in interest to enforce a workmen's compensation award made by the division of workmen's compensation or the labor and industrial relations appeals board by requesting the circuit court to render a judgment based upon such award. The claimant may then enforce the judgment like any other court judgment.

This bill proposes to allow the director of labor and industrial relations as well as claimants to file such petitions. Claimants are usually unrepresented by lawyers and without sufficient resources to file such actions. The proposal would provide all claimants with necessary assistance to enforce their awards against recalcitrant employers.

Section 386-91 presently has no provision which permits the director to bring an action to seek to enjoin an employer who fails to pay claimants awarded compensation benefits from doing business in the state.

Another section of the law, Section 386-123, now permits the director to seek such an injunction against employers who neglect to insure themselves or to provide security for the payment of compensation benefits. The director now proposes that injunctions against defaulting employers also be permitted in situations where they neglect to make payments on awards. The threat of such injunctions would serve as a deterrent to non-payment of awards and would improve the administration of the workmen's compensation law.

Your Committee on Labor is in accord with the intent and purpose of **H. B. No. 1623** and recommends its passage on second reading and that it be referred to your Committee on Judiciary for further consideration.

Signed by all members of the Committee. Representatives Aduja, Ajifu, Judd and Leopold did not concur.

**SCRep. 344** Lands on **H.B. No. 344**

The purpose of this bill is to fund economic development projects with respect to development of fishing, promotion of tourism, development and control of visitor facilities and oceanographic activities between the State of Hawaii and American Samoa, Guam and the Trust Territory of the Pacific Islands.

Your Committee recognizes the value of such programs and recognizes that Hawaii's role of leadership within the Pacific Basin requires that it involve itself at an early stage in that area's development.

Your Committee on Lands is in accord with the intent and purpose of **H. B. No. 344** and recommends its referral to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 345** Lands on **H.B. No. 967**

The purpose of this bill is to make an appropriation of \$26,500 for the aerial spotting of skipjack tuna schools in Hawaiian waters in aid of a determination of the feasibility of purse-seining fishing in Hawaii.

Your Committee is aware of the economic significance of skipjack tuna fishing and wishes to encourage and facilitate the development of unique methods which will result in greater productivity for our fishing industry. The use of aerial spotting, as provided in this bill, will aid in our continuing efforts in this regard.

Your Committee is in accord with the intent and purpose of **H. B. No. 967** and recommends its passage on second reading and its referral to your Committee on Finance.

Signed by all members of the Committee.

**SCRep. 346** Lands on **H.B. No. 1119**

The purpose of this bill is to appropriate out of the general revenues the sum of \$1,000,000 to be deposited in the Hawaii Fisheries New Vessel Construction Loan Revolving Fund.

The bill would compliment proposed legislation to alleviate the financial burdens upon those engaged in the fishing industry for the refurbishing of existing vessels. The trust of this pending legislation, as well as this particular bill, is to rectify the financial hardship suffered by those in the industry and to further encourage development of one of Hawaii's most important resources.

Your Committee on Lands is in accord with the intent and purpose of **H. B. No. 1119** and recommends its passage on second reading and its referral to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 347 Lands on H.B. No. 1390**

The purpose of this bill is to amend Section 171-48 of the Hawaii Revised Statutes to limit the application of subsection 171-48(6) which prohibits the purchase or lease of residential lots by an individual or his spouse in the instance that they own or lease any other land suitable for residential use. The proviso which would be added to this subsection would permit a person owning or leasing lands suitable for residential use to purchase or lease public lands suitable for residential use in the instance he submits a signed statement indicating that he will sell the previously held land within a reasonable time after acceptance of his bid on the public land. The bill requires that the transfer of the previously held property must be within three years after the bid is accepted.

Your Committee feels that such an amendment would rightfully extend the provisions of the present law to afford the residents of this state an equal opportunity to participate in the public lands program. Your Committee is of the opinion that prior ownership of a fee or lease interest in real property should not necessarily constitute a disability and that the holder of such an interest should not be forced to liquidate his holding prior to making a bid on public lands.

Your Committee suggests the following amendment to further strengthen the conditions of this provision. This amendment would follow the word "accepted", the period thereafter being changed to a semicolon and to read:

"provided, further, that failure to so divest himself of such property as he may

own or hold by lease within the required period shall automatically cancel the sale or lease for which his bid shall have been accepted and he shall forfeit all payments made thereon."

Your Committee on Lands is in accord with the intent and purpose of **H. B. No. 1390** as amended herein and recommends its passage on second reading in the form attached hereto as **H. B. No. 1390, H. D. 1**, and its referral to the Committee on Judiciary.

Signed by all members of the Committee.

**SCRep. 348 Judiciary on H.B. No. 74**

The purpose of this bill is to provide for a uniform disposition of unclaimed property in this State.

The present law provides for escheat of unclaimed property to the State if certain conditions are met, thereby foreclosing the right of the owner to the property. This bill changes existing State law by providing an orderly procedure for the deposit of such property with the State as custodian for the benefit of the owner, thus minimizing possible liability of the institutions which ordinarily hold such property. Several advantages would result from such an arrangement. First, it would serve to protect the interests of the true owners of the properties. Second, it would relieve certain institutions required to hold the property under present law from annoyance, expense, and possible liability. Third, it would minimize the prospect of multiple liability. Fourth, it would allow the State to use monies that would otherwise be available for use by the holders of such money.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 74** and recommends its passage on Second Reading and placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Judd.

**SCRep. 349 Judiciary on H.B. No. 388**

The purpose of this Act is to permit the Board of Land and Natural Resources to cancel or accept surrender of leases of public land without the requirement there be an existent "Bona fide interest in" re-leasing such

land, when the Board determines such cancellation or surrender is in the public interest subject to the consent of the lessee, his heirs and assigns and each holder of record having a security interest. Such a result would be obtained by amending paragraph 2 of Section 171-61 of the Hawaii Revised Statutes to delete the words, "and there is a bona fide applicant interested in such re-lease".

This amendment would result in the elimination of a stringent restriction, which is also being considered to be a needless deterrent to the property administration of the public lands. Further justification for this amendment would be the benefit to the prior lessee, who would no longer be required to continue under the terms of the lease until a bona fide applicant is found.

Your Committee upon consideration of **H. B. No. 388** recommends that it be amended in the form attached hereto as **H. B. No. 388, H. D. 1**. This would provide that the re-lease or sale cannot be to the lessee, his successors or assigns. Such amendment has been made to allow orderly continuity in use or disposition of State land.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 388**, as amended herein, and recommends its passage on Third Reading in the form attached hereto as **H. B. No. 388, H. D. 1**.

Signed by all members of the Committee except Representative Judd.

**SCRep. 350 Judiciary on H.B. No. 435**

The purpose of this bill is to abolish causes of action for alienation of affections, criminal conversation, seduction, and breach of contract to marry.

In the past, it may have been felt that such courses of action were necessary to protect the female sex. However, women have since achieved such educational, legal, and to a great extent economic equality with men that these causes of action have outlived their usefulness. These provisions, instead of benefiting present-day society, may have, in fact, an adverse effect by allowing spiteful or vengeful persons to employ them to harass others. It is for these reasons that your Committee recommends passage of this bill.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 435**

and recommends its passage on second Reading and placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 351 Judiciary on H.B. No. 578**

The purpose of this bill is to increase fees to be paid by applicants for medical examinations.

Present Hawaii law requires a fee of \$50 to be paid by applicants to the board of medical examiners. This bill would raise the application fee to \$125. In view of the increased costs in the processing of the application and the examining of the applicant, your Committee feels that this increase is reasonable.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 578** and recommends its passage on Third Reading.

Signed by all members of the Committee.

**SCRep. 352 Judiciary on H.B. No. 637**

The purpose of this bill is to extend to certain witnesses, before the medical review peer committees immunity from being required to testify subsequently as to the actions at the meetings of such committees, to prevent the records of such meeting from being discovered by legal process in certain instances, and to make records of patients available to the patient's duly appointed attorney, upon proper authorization thereof, without the necessity of obtaining such records through court or judicial action.

The present law does not extend immunity from civil liability to witnesses before peer review committees of medical staffs in hospitals, even though such immunity is extended to members of these groups by Act 60, L. 1970. Testimony presented by the Honolulu County Medical Society in support of this measure indicated that unless physician witnesses were granted immunity from civil liability, they would be less willing to testify at such hearings.

This would tend to limit the extent of testimony upon which the committee could base its decision, resulting in a decline in the quality of the review which the committee is designed to accomplish. Similarly, unless records of such hearings are made non-dis-

coverable, (physician) witnesses may be reluctant to testify. The grant of immunity is not intended to cover all instances of medical review committee proceedings, the bill sets forth three circumstances when this grant of immunity would not apply.

This bill would further amend the present law by making records of patients available to their duly authorized attorneys without the necessity of first instituting court action. By providing for early review of a patient's record in this manner, some of the problems faced by a potential plaintiff-litigant may be resolved.

Your Committee, upon consideration of **H. B. No. 637**, recommends the following amendments:

On page 2, line 13, insertion of the word "podiatrist", between the words "therapist", and "psychologist".

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 637**, as amended herein, and recommends its passage on Second Reading in the form attached hereto as **H. B. No. 637, H. D. 1**, and placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives O'Connor and Judd.

**SCRep. 353 Judiciary on H.B. No. 638**

The purpose of this bill is to limit the time period within which an action for a medical tort may be brought.

The present law provides no period of limitation within which an action for a medical tort must be brought. Consequently, it is conceivable that a suit may be filed years after the alleged tort, at a time when evidence tending to prove or disprove the claim may have become unavailable. Also, testimony by the Board of Underwriters of Hawaii indicated that medical malpractice insurance in Hawaii has become expensive and difficult to obtain in view of insurers being forced to maintain large reserves for long periods of time against possible loss.

This bill would provide a specific time period for the bringing of such actions. Your Committee, upon consideration of **H. B. No. 638**, recommends that it be amended in the form attached hereto as **H. B. No. 638, H. D. 1**. The amendments recommended by your

Committee would increase the maximum period of limitation from four years to six years, and would increase the maximum period of limitations after discovery of the alleged injury or after the claimant should have discovered the alleged injury through the use of reasonable diligence, from one to two years. The reason for these changes is to make the periods of limitations in these instances consistent with other limitations of action for damages for injury to persons or property.

Another amendment in line 8 of page 1 would include "podiatrist" among those affected by the provisions of this bill.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 638**, as amended herein, and recommends its passage on Second Reading in the form attached hereto as **H. B. No. 638, H. D. 1**, and placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Judd.

**SCRep. 354 Judiciary on H.B. No. 939**

The purpose of this bill is to designate the state holiday on the second Monday in October as Discoverers' Day.

The present law designates this day as Columbus Day, in honor of Christopher Columbus who, in 1492, came upon lands which are now a part of the Americas. With due deference to Columbus, it is felt that other great discoverers should not go unacknowledged for their exploits, especially those who navigated the Pacific Ocean and came upon the islands comprising the present State of Hawaii. It is fitting, therefore, that the state holiday falling on the second Monday in October should be re-named Discoverers' Day to honor all discoverers, including navigators of the Pacific such as Magellan and Cooke.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 939** and recommends its passage on Second Reading and placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 355 Judiciary on H.B. No. 1228**

The purpose of this Bill is to exempt all charitable organizations from various licensing requirements extending to or affecting auction sales.

Your Committee is in agreement that the licensing requirements are unnecessary with regard to charitable organizations and that the law of fraud generally is sufficient to prevent any potential abuse under this exemption.

For purposes of legality your Committee recommends that this Bill be amended to include the standard enactment clause following the title of the Bill.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 1228**, as amended herein and recommends its passage on Second Reading in the form attached hereto as **H. B. No. 1228, H. D. 1**, and placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Judd.

**SCRep. 356 Judiciary on H.B. No. 1556**

The purpose of this Bill is to amend Chapter 554, Hawaii Revised Statutes, relating to trusts and trustees and Section 416-21, Hawaii Revised Statutes, relating to nonprofit corporation to alleviate a serious problem imposed by the Tax Reform Act of 1969, as follows:

1. Section 1 amends Chapter 554 by adding a new section adopting provisions from the Internal Revenue Code, which were recently enacted, concerning private foundations.

2. Section 2 - Section 416-21 is amended to adopt the special provisions for nonprofit corporations, that are private foundations, as contained in the recent amendments to the Internal Revenue Code.

The Tax Reform Act of 1969, in dealing with abuses by certain tax-exempt organizations, divided those organizations into two classes one known as private foundations and the other comprising all other tax-exempt organizations. In general, private foundations consist of nonoperating charitable trusts or corporations that are not publicly-supported. The most frequent type of private foundation is a family or personal trust or foundation which distributes its funds to other charities

for use in their charitable activities. The Tax Reform Act of 1969 imposes certain restrictions on activities of private foundations and requires certain minimum distributions of income, for the purpose of insuring that the income and principal of private foundations are actually applied for charitable purposes.

The Tax Reform Act of 1969 provided sanctions to implement these restrictions and requirements, one of which is section 508(e) of the Internal Revenue Code, which provides that a private foundation shall not be exempt from Federal income tax unless the governing instrument includes provisions the effect of which are to require the private foundation to act consistent with the restriction on its activities and with the requirement that it make minimum distributions of income for charitable purposes. With respect to private foundations formed before 1970, the Act provides that the governing instrument requirement becomes effective January 1, 1972, except that the effective date is deferred during the pendency of judicial proceedings to reform the governing instrument. In the case of an irrevocable inter vivos trust or a testamentary trust it may be impossible to reform the governing instrument. If it were possible, the probate court calendar would be congested with private foundations trying to have their governing instrument reformed. In addition, there is a serious question whether the probate court could, even if it wanted to, amend the provisions of the preexisting trust to conform to the governing instrument requirement of the Tax Reform Act of 1969.

In recognition of this problem, the Internal Revenue Service issued a temporary regulation which provided that a state law that imposes the restrictions and requirements prescribed in section 508(e) will be deemed to have met the requirement that the governing instrument contain those restrictions. Failure to enact such a statute in 1971 will mean, as a practical matter, these private foundations will become subject to full Federal income tax on all their income, even though these funds paid to the Federal government in tax would otherwise have been given to operating charities to be devoted exclusively to charitable purposes.

**House Bill No. 1556** is designed to comply with that temporary regulation. A draft of the bill has been submitted to John S. Nolan, Deputy Assistant Secretary of the Treasury, who has indicated that the bill should meet the requirement of the section 508(e).



Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 1556** and recommends its passage on Second Reading and placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Judd.

**SCRep. 357 Judiciary on H.B. No. 1570**

The purpose of this Act is to amend Section 425-1, Hawaii Revised Statutes, to provide that a registration statement be filed by a Hawaii general partnership within 30 days of its formation.

When chapter 425 was amended in 1969, this 30 day requirement under former law was inadvertently omitted.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 1570** and recommends its passage on Second Reading and placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Judd.

**SCRep. 358 Finance on H.B. No. 214**

The purpose of this bill is to guarantee civil service compensation, vacation and sick leave, and retirement system rights, benefits and privileges with full credit for all past continuous service by all employees of Pahala hospital who are transferred to the new Ka'u general hospital by Act 63, Session laws of Hawaii 1969.

Said purpose is achieved by amendments to Act 63, as follows: (1) In section 3, relating to civil service status and compensation, by deleting the provision that salary shall be fixed at the rate at the time of transfer, and adding, instead that the same shall be "in accordance with the increment within the salary range or wage board level based on the employees' continuous past service with Pahala hospital." (2) By adding a new section 5, relating to vacation and sick leave, providing that any which is accumulated or earned at Pahala hospital shall be credited under chapter 79 to the extent allowed of public employees. (3) By adding a new section 6, relating to the retirement system, providing for admission therein and for prior service credits under chapter 88 for years of service at Pahala hospital.

Heretofore, your Committees on Public Employment and of Select Hawaii Representatives have expressed their accord with the intent and purpose hereof.

Your Committee on Finance is in accord with the intent and purpose of **H. B. No. 214** and recommends that it pass second reading and be placed on the calendar for third reading.

Signed by all members of the Committee except Representative Chong.

**SCRep. 359 Legislative Management** Informing the House that **House Resolution Nos. 308 to 316, House Concurrent Resolution No. 81, Standing Committee Report Nos. 305 to 358, and Standing Committee Report Nos. 360 to 386,** have been printed and distributed.

Signed by all members of the Committee.

**SCRep. 360 Public Utilities on H.R. No. 152**

The purpose of this Resolution is to request the Commission to thoroughly examine the intercorporate relationships within the General Telephone & Electronics Corporation System of which Hawaiian Telephone Company is a part; to request the Commission to look into the quality of telephone services and to hold extensive hearings into the need for the increases sought by Hawaiian Telephone Company in its rate application filed with the Commission on June 26, 1970.

The Public Utilities Commission's function to review and fix rates is a legislative function delegated to the Commission by the Legislature. While the Committee respects the integrity of the Commission, it feels in matters of extreme importance affecting the people and economy of the State of Hawaii, it should convey its concern to the Commission in order to fully protect the consumer interest.

The main thrust of Hawaiian Telephone Company's application would result in substantial increases to our residents and businesses in the State of Hawaii and that the gross revenues of Hawaiian Telephone Company in 1970 approximated \$88 million per year. Your Committee finds that Hawaiian Telephone Company is requesting a \$13,-300,000 increase for telephone services within the State of Hawaii. This represents an

approximate 24% overall increase. Increases sought by the Company for basic telephone services vary from a low of 17.5% per month on the island of Molokai to a high of 50% per month on the Island of Oahu for business customers. Increases to the residents of our State vary from a low of 20% on the Islands of Lanai and Molokai to a high of 28.8% on the Island of Oahu. The residential consumers within our State will pay an additional \$4,730,000 per year for basic telephone services while the business community will pay an additional \$3,581,000 per year for telephone services. Increases in other types of services will produce an additional \$5,005,000 per year.

Your Committee is concerned that Hawaiian is applying for an increase in rates and charges from our local residents while agreeing to a reduction in transpacific toll rates. The transpacific toll business has increased from \$2,000,000 in 1961 to approximately \$23 million per year in 1970. With the inclusion of private line services between Hawaii and the continental United States, the transpacific business amounts to approximately \$35 million. Your Committee finds that while the company is applying for a rate increase for services within the State of Hawaii, it has agreed to rate reductions through negotiations with the Federal Communications Commission. These decreases in transpacific rates vary from 30% to 50% under the rates which were in effect in 1965.

Your Committee also finds that the Hawaiian Telephone Company has been purchasing services and equipment in substantial amounts from sister corporations within the General Telephone & Electronics System: telephone equipment from Automatic Electric Co., advice and services from General Telephone Service Corporation, publication of telephone directories from General Telephone Directory Company, and computer services from General Telephone Electronics Data Company. Purchases from Automatic Electric Company alone were approximately \$2,000,000 in 1961, and increased progressively to approximately \$19 million in 1970. Hawaiian was merged into the General System in 1967. Your Committee is extremely concerned about the intercorporate transactions between Hawaiian and General since Hawaiian has purchased in 1970 more than \$20 million of services, advice and equipment from companies within the General Telephone organization.

Your Committee finds that in major cases before the Commission the Public Utilities Division requires at least 6 months after the case is presented to analyze all the pertinent facts and present an adequate case to protect the consumers within the State of Hawaii. Your Committee believes that adequate time should be given the Public Utilities Division to prepare and present an adequate case before the Commission in view of the enormity of the rate increases sought and since the Division has, in the event that it disagrees with the Commission, no right of appeal. On the other hand, the Company, if it disagrees with the decision of the Commission, has every right to appeal to the Hawaii Supreme Court.

Upon consideration of **H. R. No. 152**, your Committee has amended the Resolution by adding a proviso which would request the Public Utilities Commission to schedule the Public Utilities Division's response an additional 6 months after cross-examination has been completed in order to thoroughly study the reasons for the \$13.3 million increase as well as to study the quality of telephone services within our State. The intent of your Committee in recommending this amendment is to insure that the citizens of Hawaii are being provided services for which they are paying and whether the \$13,300,000 increase or any increase is necessary.

Your Committee concurs with the purpose of **H. R. No. 152**, as amended herein, and recommends its referral to the Joint Select Committee of Kauai, Maui, Oahu and Hawaii Representatives in the form attached hereto as **H. R. No. 152, H. D. 1**.

Signed by all members of the Committee.

**SCRep. 361 Judiciary on H.B. No. 666**

The purpose of this bill is to limit the legal liability arising out of certain scientific procedures relating to the transplantation, injection, transfusion, or transfer of human tissues, organs, blood and components thereof, to instances of negligence or willful misconduct.

There is no specific statutory section of our present law which limits liability in such instances. As a result, the body of common law must be referred to in determining the extent of such legal liability. Although the several jurisdictions are presently divided in deciding whether the doctrine of strict liability in tort should

be applied (on the theory of strict warranty liability for sales of a product), your Committee recommends that the state of the law in this area be settled by the enactment of **H. B. No. 666, H. D. 1**. This bill would provide an exception to the doctrine of strict liability on tort when there is a transfer of part of the human organism from one person to another. It is felt that the imposition of strict liability upon persons or organizations engaged in scientific procedures dealing with donating, obtaining, preparing, transplanting, injecting, transfusing, or otherwise transferring of human tissue, organ, blood, or component thereof could inhibit, at the expense of the health and welfare of the people of Hawaii, the exercise of sound medical judgment in this area and may restrict the availability of important scientific knowledge and skills. The exclusion of these matters from doctrine of strict liability as tort is in no way intended to affect remedies based upon other legal theories, such as negligence or wilful misconduct, which may be available to an enjoined aggrieved person. Perhaps at some time in the future, when the state of scientific knowledge has progressed to a point where parts of the human body available to transfer can readily be analyzed for defects, the doctrine of strict liability can attach to such transfers, as it presently attaches to transfers of consumer goods. At this stage of scientific knowledge, however, the imposition of such a doctrine may well tend to retard, rather than advance scientific knowledge.

Your Committee, upon consideration of **H. B. No. 666**, recommends that it be amended in the form attached hereto as **H. B. No. 666, H. D. 1**.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 666**, as amended herein, and recommends its passage on Second Reading in the form attached hereto as **H. B. No. 666, H. D. 1** and placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Judd.

**SCRep. 362 Lands on H.R. No. 156**

The purpose of this resolution is to request the Department of Land and Natural Resources to submit a comprehensive report on the State Park Program.

Your Committee is concerned with the rate of development of adequate camping facilities within the state, especially on the island of Oahu. Aware of the rapid increase in our population, your Committee wishes to assure adequate development of park sites in order that the resulting need might be met. By requesting a description of all state park projects, including the status of each respective project initiated after January 1, 1961, your Committee feels that this body will have adequate indication of the rate of progress in this regard.

Your Committee on Lands concurs with the intent and purpose of **H. R. No. 156** and recommends its adoption.

Signed by all members of the Committee.

**SCRep. 363 Lands on H.R. No. 122**

The purpose of this resolution is to request the Department of Land and Natural Resources to place limited restriction on fishing in certain beach areas in order to allow for replenishment of marine life.

Your Committee is aware of the fact that our state and its residents are but a part of a unified eco-system and that there has been a depletion of marine life in this state. Your Committee is concerned that indiscriminate fishing practices may further deplete this marine life resulting in a significant economic loss.

Your Committee concurs with the intent and purpose of **H. R. No. 122** and recommends its adoption.

Signed by all members of the Committee.

**SCRep. 364 Lands on H.R. No. 273**

The purpose of this resolution is to insure the great natural beauty of Tantalus as well as the safety of the residents of Tantalus slopes by designating all undeveloped land in that area for conservation use.

Your Committee is aware of the potentially hazardous condition which would be created by excavation of the steep slopes of this area. Your Committee is also aware of the soil erosion and water runoff which would also result from such development. Your Committee's concern is with regard to the need to establish further conservation and watershed areas and for that reason,

your Committee feels that this resolution is properly within the purview of the public interest and that all undeveloped land in the Bishop Estate property on the Tantalus side of Manoa Valley should be designated for conservation use.

Your Committee on Lands concurs with the intent and purpose of **H. R. No. 273** and recommends its adoption.

Signed by all members of the Committee.

**SCRep. 365 Military and Civil Defense on H.B. No. 1036**

The purpose of this bill is to appropriate funds to conduct a detailed study of the relocation of national guard, Federal Aviation Administration and civil defense facilities so that the Fort Ruger area could be developed as a park for the people of the State. The future use of Diamond Head Crater is one in which there is considerable public interest, and your Committee believes that this valuable area will remain undeveloped indefinitely unless the many conflicting opinions as to the best use for the area is resolved.

Your Committee is in accord with the intent and purpose of **H. B. No. 1036** and recommends its referral to your Committee on Transportation for its consideration.

Signed by all members of the Committee.

**SCRep. 366 Military and Civil Defense on H.B. No. 371**

The purpose of the bill is to exempt any rule promulgated under Chapter 128, Hawaii Revised Statutes, relating to the Civil Defense and Emergency Act from the rule making requirements of Chapter 91, Administrative Procedures Act.

The Governor has broad powers under Chapter 128 and can promulgate rules and regulations during an emergency without complying with the Administrative Procedures Act. In non-emergency periods the Department plans and establishes procedures for emergencies. These plans and procedures are constantly revised to adjust to manpower, equipment, and Federal requirements.

The Department of Defense has endorsed this bill because there is some doubt whether the procedures are subject to the Administrative Procedures Act. Your Committee feels

that these matters, since they do not affect the public on a day-to-day basis should not be within the rule making requirements of Chapter 91.

Your Committee is in accord with the intent and purpose of **H. B. No. 371**, and recommends its passage on Second Reading and its referral to your Committee on Judiciary.

Signed by all members of the Committee.

**SCRep. 367 Military and Civil Defense on H.B. No. 539**

The purpose of this bill is to broaden the scope of Chapter 127, Hawaii Revised Statutes, relating to disaster relief, by redefining the term "other disaster relief" to include major disasters caused by man. Only natural disasters such as tidal waves, flooding, and earthquakes are included under existing law. The bill amends the section by adding man made disasters such as oil spills, nuclear accidents, airplane crashes, and civil disturbances. Your Committee agrees with the proponents of the bill that disaster relief should be available to victims of man made disasters.

Your Committee is in accord with the intent and purpose of **H. B. No. 539**, and recommends its passage on Second Reading and its referral to your Committee on Judiciary.

Signed by all members of the Committee.

**SCRep. 368 Housing and Consumer Protection on H.B. No. 185**

The purpose of this bill is to appropriate out of the general revenues of the State of Hawaii the sum of \$5,000,000, or so much thereof as may be necessary, for the planning and construction of low income housing in Waialua, Oahu.

Your Committee is in accord with the intent and purpose of **H. B. No. 185** and recommends its passage on Second Reading and its referral to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 369 Judiciary on H.B. No. 1132**

The purpose of this Act is to provide more adequate compensation for those persons taking time off from their regular employment to fulfill their duties as citizens by serving as jurors in courts of record of the State.

Under present law jurors receive \$10 a day for jury duty unless they must travel to an island other than the one on which they reside for such duty, in which case they receive \$15 a day.

Your Committee feels that said amounts are inadequate to compensate such persons for wages lost in fulfilling their duties as citizens, and that the amounts of \$20 and \$25 per day respectively are more equitable under current economic conditions.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 1132** and recommends its passage on Second Reading and its referral to the Committee on Finance.

Signed by all members of the Committee except Representative Judd.

**SCRep. 370 (Majority) Public Utilities on H.B. No 946**

The purpose of this bill is to require that the State "Little Davis-Bacon Act" apply to any construction work contracted out by a public utility as defined in Chapter 269, Hawaii Revised Statutes. The bill would accomplish this purpose by including a public utility within the definition of a "governmental contracting agency", as that term is used in Chapter 104, Hawaii Revised Statutes, relating to wages and hours of employees on public works.

The "Little Davis-Bacon Act" is designed to provide a wage floor in construction contracts to which a governmental contracting agency is a party. However, under the present law construction work for any of Hawaii's public utilities is not covered by the provisions of Chapter 104. Your Committee feels that because the wage floor does not apply to construction projects for the utilities, there may be a subtle influence on the utility companies in deciding, in many instances, to negotiate contracts rather than to put them out to competitive bid. Consequently, contractors with union agreements may be placed in an unfavorable position in competing for construction projects because, while they do have a wage schedule which

they must meet, contractors without union agreements can pay less than the prevailing wage rate. Your Committee feels that it is in the public interest to require that a wage floor be provided for any construction of public works to which a public utility is a party.

Your Committee is in accord with the intent and purpose of **H. B. No. 946** and recommends that it pass on second reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee. Representative Judd did not concur.

**SCRep. 371 Military and Civil Defense on H.B. No. 370**

The purpose of the bill is to exempt any rule promulgated under Chapter 127, Hawaii Revised Statutes, relating to disaster relief from the requirements of the Administrative Procedures Act.

The Governor has broad powers under Chapter 127 and can promulgate rules and regulations during an emergency without complying with the Administrative Procedures Act. In non-emergency periods the department plans and establishes procedures for emergencies. These plans and procedures are constantly revised to adjust to manpower, equipment, and Federal requirements.

The Department of Defense has endorsed this bill because there is some doubt whether the procedures are subject to the Administrative Procedures Act. Your Committee feels that these matters, since they do not affect the public on a day-to-day basis should not be within the rule making requirements of Chapter 91.

Your Committee is in accord with the intent and purpose of **H. B. No. 370**, and recommends its passage on second reading and that it be placed on the calendar for third reading.

Signed by all members of the Committee.

**SCRep. 372 Judiciary on S.B. No. 69**

The purpose of this bill is to relieve the Department of Health of its present statutory responsibility for disposition of unadministered estates of deceased leprosy patients. The present law provides that unadministered estates of deceased leprosy patients are



to be handled by the Department of Health. Contrary to this general unadministered estates are handled by the judicial branch of the government.

Your Committee is in agreement that no special provisions of law are necessary for deceased leprosy patients in view of present day knowledge of this disease to the effect that persons afflicted with leprosy should not be set aside and treated differently from persons with other ailments.

Your Committee on Judiciary is in accord with the intent and purpose of **S. B. No. 69** and recommends its passage on Third Reading.

Signed by all members of the Committee except Representative Judd.

**SCRep. 373 Judiciary on S.B. No. 473**

The purpose of this bill is to increase application fees for real estate broker and salesman licenses, branch office license, reinstatement of suspended licenses, reissuance of licenses and to provide separate application and examination fees.

At present, the law provides the following fee schedules:

Application fees	\$7.50
Branch Office fees	\$3.00
Reinstatement of suspended license	\$2.00
Reissuance of license	\$1.50

This bill would create the following fee schedule:

Application fees	\$10.00
Examination fees	\$15.00
Branch Office license	\$25.00
Reinstatement of suspended license	\$ 5.00
Reissuance of license	\$ 5.00

In view of the increased administrative costs in the processing of the foregoing matters, your Committee is of the opinion that such fee increases are reasonable.

Your Committee on Judiciary is in accord with the intent and purpose of **S. B. No. 473, S. D. 1** and recommends its passage on Sec-

ond Reading and placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Judd.

**SCRep. 374 Select Committee of Kauai Representatives on H.R. No. 272**

The purpose of this resolution is to expedite construction of the Kilauea water system in order that other productive endeavours may be initiated to alleviate the loss of jobs which will occur with the imminent closing of Kilauea Plantation.

Your Committee makes note of the fact that the intent of **H. C. R. 15** which was adopted in its amended form by the Fifth Legislature of the State of Hawaii, was to encourage private developers and industries to cooperate with government in resolving a major economic problem in the community.

Your Committee further makes note that Section 1-B-60 of Act 187, Session Laws of Hawaii 1970, appropriated the sum of \$300,000 for the incremental development of the Kilauea Water System and that the County of Kauai has also appropriated the sum of \$200,000 for this project.

Accordingly, your Committee is of the opinion that the construction of the water system should be initiated immediately. Your Committee further recommends that the language of the "Be It Resolved" clause be amended so it will urge the responsible agencies to "immediately initiate the construction" of the water system instead of the phrase "with all possible speed the implementation" of the Kilauea Water System on Kauai.

Your Committee concurs with the intent and purpose of **H. R. No. 272**, as amended herein, and recommends its adoption in the form attached hereto as **H. R. No. 272, H. D. 1**.

Signed by all members of the Committee.

**SCRep. 375 Public Health, Youth and General Welfare on S.B. No. 10**

The purpose of this bill is to require emitters or potential emitters of air pollution to supply the department of health with information relative to their air pollution control devices, composition and quality of emis-

sions, and other matters relative to air pollution, and allows the department to obtain such information without the consent of the person or firm concerned.

Your Committee feels that these changes would improve on the present procedures used in obtaining information relative to air pollution. It would allow the department to act quickly, upon obtaining necessary information, to evaluate the status of and necessary actions required for the control of air pollution.

Your Committee on Public Health, Youth, and General Welfare is in accord with the intent and purpose of **S. B. No. 10, S. D. 1** and recommends its passage on Second Reading and its referral to the Committee on Judiciary.

Signed by all members of the Committee.

**SCRep. 376** Public Health, Youth and General Welfare on **H.B. No. 1461**

The purpose of this bill is to appropriate funds for additional personnel at Waimano Training School.

Your Committee finds that the additional personnel needed are the following:

1. Ten paramedical assistants to provide staff for a vacant building to affect skilled nursing care and functional development training programming for 50 male residents.
2. Five paramedical assistants for the geriatric ward to provide intensive care for an increasing number of older patients.
3. Three registered professional nurses to provide 24-hour professional coverage in cottage life branch.
4. One clerk stenographer for the cottage life branch to perform clerical chores.

Your Committee has amended the bill to insert an appropriation of \$187,637 for the above specified personnel.

Your Committee on Public Health, Youth and General Welfare is in accord with the intent and purpose of **H. B. No. 1461**, as amended herein, and recommends its passage on second reading in the form attached hereto as **H. B. No. 1461, H. D. 1**, and its referral to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 377** Public Health, Youth and General Welfare on **H.B. No. 1473**

The purpose of this bill is to appropriate \$250,000 to purchase mental health services from private agencies to provide for the identification and treatment of pre-school and young school age emotionally disturbed children.

Your Committee finds it necessary to establish a separate fund for the purpose of providing financial assistance to families whose children require specialized treatment in the form of a residential treatment facility, day treatment program, halfway house setting, emergency sheltered placement, etc. This program is designed to provide financial assistance to families who are not Department of Social Services eligible, yet are unable to afford the full cost of these kinds of services. It is proposed that these funds be used to pay the cost of care for troubled youngsters in the form of payments to caregiving agencies and facilities. Such agencies include the Salvation Army Facilities for Children, Child Development Center of the St. Francis Hospital, Adolescent Halfway House (Neighbor Islands), and Kauikeolani Children's Hospital, Inpatient Short Term Care.

#### **Salvation Army Kaimuki Children's Psychiatric Unit**

The Kaimuki Cottages Program is designed to treat emotionally disturbed preteen boys, ages 6 to 12, who have encountered critical adjustment problems. The boy's unit offers residential facility which is designed to treat the problematic behavior of the patients.

The treatment program is of moderate duration, usually 9 months to 2 years and provides a therapeutic living situation which attempts to help the boys overcome their maladaptive behavior and develop healthier ways of dealing with the world. It includes coordinated use of special education, social work services and psychiatric consultation as well as selected use of outside resources for special needs or problems.

The estimated amount of services to be purchased from the Salvation Army Facilities for Children will cost from \$40,000 to \$60,000 annually.

**Child Development Center**

The Child Development Center, in the premises of the Community Church of Honolulu is the only day-treatment program in the State for preschool age emotionally disturbed children.

The children come from a cross section of economic backgrounds regardless of their ability to pay. The financial deficit has been absorbed by various eleemosynary and trust funds in the community supplemented by donated services and facilities from St. Francis Hospital and the Community Church of Hawaii. The trust funds cannot continue to support the program longer than three years and have indeed been generous and most helpful in encouraging this type of demonstration project. The project will be unable to continue without the vital subsidy from the Department of Health provided for in this bill.

Estimated cost of services provided by the Child Development Center is \$10,000 annually.

**Adolescent Halfway Houses (Neighbor Islands)**

This program allows \$10,000 to each neighbor island Mental Health service for the purchase of halfway house services for children. This type of care is badly needed and this fund would insure that the neighbor islands would be able to fill this need locally.

**Kauikeolani Children's Hospital, Inpatient Short-Term Care**

This program provides for the Child Guidance Clinic established in 1966 and inpatient evaluations and follow-up services for youthful patients with emotional handicaps, which provide comprehensive help to emotionally crippled children who might otherwise develop severe emotional disorders of a chronic nature.

Estimated cost of services is \$20,000 annually.

Your Committee on Public Health, Youth and General Welfare is in accord with the intent and purpose of H. B. No. 1473 and recommends its passage on second reading and its referral to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 378 Public Health, Youth and General Welfare on H.B. No. 1492**

The purpose of this bill is to appropriate the sum of \$75,000 to provide free rubella blood tests for approximately 10,000 women who marry each year and approximately 16,000 who become pregnant each year in Hawaii, plus other teenage girls and adult women in the state whose physicians wish to determine if they are immune to rubella.

Contracted during the first few months of pregnancy, rubella is a known cause of severe birth defects in the unborn baby. In Hawaii, an unusually high percentage of women in the child-bearing age are susceptible to rubella and should be immunized through the use of the new rubella vaccine after the performance of a blood test (the HI or hemagglutination-inhibition test) to determine susceptibility to the disease.

It is important that women in the high risk category be known so that they may acquire a rubella-like illness before pregnancy, thus lowering the risk of bearing a defective child.

The estimated cost of providing this preventive service per year in Hawaii is approximately \$40,000; therefore, your Committee recommends the following amendment: the sum of \$75,000 be increased to \$80,000 because the original amount will not be sufficient to cover cost.

Your Committee on Public Health, Youth and General Welfare is in accord with the intent and purpose of H. B. No. 1492, as amended herein, and recommends its passage on second reading and its referral to the Committee on Finance in the form attached hereto as H. B. No. 1492, H. D. 1.

Signed by all members of the Committee.

**SCRep. 379 Public Health, Youth and General Welfare on H.B. No. 1518**

The purpose of the bill is to transform the Commission on Children and Youth into a viable action oriented organization. To attain this purpose, the bill amends the existing statute in the following ways:

1. Transfers the Commission from the Department of Budget and Finance to the Office of the Governor.

2. Expand the commission membership to cover two target groups - children 0-12 years and youth 13-24 years.

a. The proposed Coordinated Child Care Committee in the Commission on Children and Youth is designed to meet the Department of Health, Education and Welfare priorities in coordinating child development funds and programs. Federal funds can be used to staff this committee. In particular, the Coordinated Child Care Committee will be extremely useful in coordinating the preschool programs of the Department of Education and the day care programs of the Department of Social Services.

b. The proposed Action Committee for Young Adults is designed to provide a much needed structure through which young adults can propose meaningful changes in delivery of services to the young adults of the State.

3. Eliminates ex-officio members such as directors of various departments from the commission. Through the Governor's office, directors of departments can be called in to provide technical assistance on an "as needed" basis.

4. Selects Commission on Children and Youth members on the basis of their broad interest and concern for children and youth and eliminates the requirement of specialized knowledge. Specialists can be called in on an ad hoc basis.

5. Increase the number of commission meetings from three to six to provide a more interaction and discussion of the many pressing problems of children and youth awaiting study and action.

6. Emphasizes action research as the primary approach so that findings can be implemented by grappling with empirical data on what works and what does not work. The language of the statute is changed to provide that this action research be done by organizations other than the commission itself.

7. Child guidance is no longer in vogue. The emphasis is now seen in the Office of Child Development of the Department of Health, Education and Welfare.

8. Provides county committees greater autonomy in planning to meet the needs of their children and youth. Feedback from Mayor

Shunichi Kimura and Mr. Wayne Prothro of the Oahu Committee on Children and Youth on the proposed changes are positive.

9. Provides for staffing and seed money needed to give youth a "a piece of the action"; that programs are developed by and with youth, rather than for them.

Your Committee upon consideration of the bill recommends the following amendment: that one-third of the members of the commission shall be less than twenty-five years of age. In its original proposal the Governor's Action Committee for Young Adults recommended that a majority of the commission, at least 51 per cent, be between the ages of 18 through 24. Although the Administration's position is that the composition requirement needed not be spelled out in law, your Committee feels that future administrations may not be as committed to dealing with the problems and needs of our young adults; therefore your Committee feels a statutory requirement is necessary. Because of disagreement among your committee members as to the percentage of commission members less than twenty-five years of age, your Committee feels that a one-third composition of members less than twenty-five is satisfactory.

Your Committee on Public Health, Youth and General Welfare is in accord with the intent and purpose of H. B. No. 1518, as amended herein, and recommends its passage on second reading in the form attached hereto as H. B. No. 1518, H. D. 1, and its referral to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 380 Public Health, Youth and General Welfare on H.B. No. 1549**

The purpose of this bill is to appropriate \$150,000 for the formulation of an employment service for the aged.

Aged persons, unable to work more than a few hours a day, need to and would wish to supplement their incomes without resorting to public assistance benefits. Employers are reluctant to hire older persons because of the difficulty in planning schedules for part-time employees and because of alleged added costs in providing workmen's compensation insurance, pension plan benefits, and other employee fringe benefits for older workers. Your Committee finds that older persons, with

their experience, knowledge and training, should be provided the opportunity to contribute to the labor force on a part-time basis.

Your Committee has amended the bill to change the expending agency from the Commission on Aging to the Department of Labor. The commission shall act in an advisory capacity to the Department of Labor.

Your Committee on Public Health, Youth and General Welfare is in accord with the intent and purpose of **H. B. No. 1549**, as amended herein, and recommends its passage on second reading in the form attached hereto as **H. B. No. 1549, H. D. 1**, and its referral to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 381 Labor on H.B. No. 847**

The purpose of this bill is to amend Chapter 378 of Hawaii Revised Statutes, covering employment practices, to add a new part which will require private pension or retirement plans to contain provisions for the vesting of benefits thereunder. Its stated intent is "to protect older employees who are frequently forced into early retirement, which disqualifies them from receiving the full benefit of pension or retirement plans."

Pension and retirement plans offered by private employers have often been criticized for a general absence of provisions which protect employees by vesting their benefit rights after stated participation periods. This lack of vesting rights causes employees to forfeit rights under pension plans if their employment is terminated for any reason prior to normal retirement ages specified therein. In contrast, the state employees' retirement system provides for the full vesting of benefit rights after five years of membership.

This bill proposes that any employer who offers a pension or retirement plan to persons in his employment shall be required to establish provisions for vested benefit status. It does not, however, set any minimum period of participation or other requirement for vesting. The bill would further permit any employee who qualifies for early retirement to establish vested benefit status by completing a form within one year of the termination of employment. This proposal would presumably grant such an employee an option to have his rights to full retirement benefits at the normal retirement age vested for later

receipt rather than being compelled to accept early retirement benefits, which are usually substantially lower.

Your Committee agrees that all pension and retirement plans should provide for the vesting of benefits after a substantial period of membership therein. A five-year period for vesting, as established in the state's retirement law, however, may not be feasible for most private plans because of the high costs involved. Your Committee is of the opinion that a fifteen year vesting period would protect most employees and would not be inequitable. Any employee who works for a single employer for fifteen years should be able to look to such employment for some of his retirement benefits. Your Committee has therefore amended the bill to provide a fifteen year vesting requirement for all private pension and retirement plans. Your Committee also agrees that an option to establish vested status rather than early retirement benefits should be permitted employees.

Your Committee on Labor is in accord with the intent and purpose of **H. B. No. 847**, as amended herein, and recommends its passage on second reading in the form attached hereto as **H. B. No. 847, H. D. 1**, and that it be referred to your Committee on Judiciary for further consideration.

Signed by all members of the Committee.

**SCRep. 382 Labor on H.B. No. 992**

The purpose of this bill is to amend Chapter 103 of Hawaii Revised Statutes to add a new provision to cover costs for pollution control activities on public construction projects.

This bill proposes to allow an awarding agency to determine the necessity for pollution control activities over and above the ordinary specifications on a public construction project and to cover the expenses therefor on a force account basis. The contracting officer for the project will direct the installation of any required control activity. The formula for determination of the force account proposed in the bill is to take the sum of labor costs, including labor taxes and insurance, material costs, and equipment rental costs and to add thereto fixed percentage for overhead expenses, profit, and gross income taxes.



The effective control of pollution on projects is a relatively new problem for the construction industry. In view of its limited experience in environmental quality control, more favorable results in this area would probably be obtained by the use of the force account method than through ordinary bidding procedures. The contracting officer will thereby be able to maintain a better control on pollution control activities.

Your Committee on Labor is in accord with the purpose and intent of **H. B. No. 992** and recommends its passage on second reading and that it be referred to your Committee on Judiciary for further consideration.

Signed by all members of the Committee.

**SCRep. 383 Labor on H.B. No. 1033**

The purpose of this bill is to amend the section of the unemployment compensation law on eligibility for benefits to provide that a claimant who has registered for employment and continues to report at an employment service office shall be presumed to be available for work, unless there is substantial evidence to the contrary.

One of the eligibility requirements under section 383-29, Hawaii Revised Statutes, for an unemployment compensation claimant is that he be "able and available" for work. The requirement is imposed to measure the claimant's present attachment to the work force since compensation is not payable to someone who has withdrawn from the labor market. While ability for work usually is relatively easy to determine, the determination of availability for work is often difficult because of the subjective factors involved. A practice of the unemployment insurance division has been to have the claimant demonstrate his "availability" by submitting some evidence of an independent search for work on his part.

This bill proposes to amend the law to provide that a claimant who has met one of the other eligibility requirements, that of registering for work and reporting as required at an employment service office, shall be presumed to be available for work unless there is substantial evidence to the contrary. It would eliminate the practice of having the claimant submit evidence of an active, independent search for employment to demonstrate his availability.

The foregoing practice does not serve as a reliable test of claimant's availability for work and is often an open invitation to dishonesty. A list of employers on whom calls have been made is easily fabricated and the unemployment insurance division has no way to verify its accuracy unless employers maintain lists of people who have contacted them for employment. A claimant whose past attachment to the work force is proved by his past earnings record and who registers for employment to indicate his willingness to accept employment should not be compelled to go through what is often a meaningless exercise in order to collect benefits. Registration for employment and reporting at an employment service office should serve as sufficient evidence of a claimant's present attachment to the labor market, unless there is other evidence that indicates he is not.

Your Committee on Labor is in accord with the intent and purpose of **H. B. No. 1033** and recommends its passage on second reading and that it be referred to your Committee on Judiciary for further consideration.

Signed by all members of the Committee.

**SCRep. 384 Labor on H.B. No. 1233**

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

Chapter 378 presently proscribes discriminatory employment practices on the part of employers, labor unions, employment agencies, and others if such discrimination is on the basis of race, sex, age, religion, color, or ancestry.

This bill proposes to add another prohibited discriminatory practice, discrimination in employment because of a person's arrest record. The specific amendments proposed to effectuate the purpose of the bill are:

(1) The addition of a definition for the term "arrest record" to Section 378-1, of Hawaii Revised Statutes.

(2) The addition of the phrase "or arrest record" to each prohibited practice now delineated in Section 378-2 of Hawaii Revised Statutes.

(3) The addition of a new prohibited practice to Section 378-2 of Hawaii Revised Stat-



utes, inquiring about a person's arrest record as a condition of employment. The bill specifically exempts cases where persons have been convicted of crimes and not pardoned. Inquiries on convictions would presumably still be permissible.

Your Committee agrees that discrimination in employment on the basis of an arrest record is contrary to our policy to encourage equal opportunity in employment. While inquiries into a person's conviction record may be justifiable in cases, there is little justification for inquiries into a person's record of arrests which did not result in convictions. Discrimination on the basis of an "arrest record" should be added to the list of prohibited practices in Chapter 378.

Your Committee on Labor is in accord with the intent and purpose of **H. B. No. 1233** and recommends its passage on second reading and that it be referred to your Committee on Judiciary for further consideration.

Signed by all members of the Committee.

**SCRep. 385** (Majority) Labor on **H.B. No. 1437**

The purpose of this bill is to (1) enact a new chapter of Hawaii Revised Statutes to provide for the licensing and regulation of elevator mechanics and (2) add a new provision to the Industrial Safety Law which will require the department of labor and industrial relations to consult with the proposed elevator mechanics licensing board before promulgating rules and regulations covering working conditions for elevator mechanics.

The department of labor and industrial relations presently licenses and regulates elevator mechanics under Chapter 22 of its Rule XX (the state General Safety Code). Said chapter of the General Safety Code covers elevators, dumbwaiters, escalators, moving walks and manlifts and §22-13 thereof requires that any person who constructs, reconstructs, alters, adjusts or performs electrical or mechanical work on them be subject to examination and licensing by the department.

This bill proposes to enact specific statutory provisions for the licensing and regulation of persons now subject to §22-13 of Rule XX of the department of labor and industrial relations. It proposes the establishment of an elevator mechanics licensing board within

the department of regulatory agencies with powers to license mechanics and regulate their training. The bill further proposes that the department of labor and industrial relations be compelled to consult with the proposed licensing board before promulgating rules and regulations related to working conditions essential for the safe installation, repair, maintenance, or alteration of elevators, dumbwaiters, escalators, moving walks or ramps, and manlifts.

Your Committee agrees that the increasing complexity of elevators and other moving and lifting devices and their more generalized use in Hawaii require stringent provisions for the licensing and regulation of personnel who perform mechanical and electrical work on such devices. Specific statutory provisions would probably better serve the necessary licensing and regulatory functions than departmental rules and regulations.

Your Committee on Labor is in accord with the intent and purpose of **H. B. No. 1437** and recommends its passage on second reading and that it be referred to your Committee on Judiciary for further consideration.

Signed by all members of the Committee. Representative Ajifu did not concur.

**SCRep. 386** (Majority) Labor on **H.B. No. 1594**

The purpose of this bill is to amend the Hawaii Employment Relations Act by adding a new section to permit the Hawaii Employment Relations Board to determine a collective bargaining agent through a "card check."

Chapter 377, the Hawaii Employment Relations Act, now provides that whenever a question concerning representation of employees in a collective bargaining unit arises, "the board shall determine the representatives thereof by taking a secret ballot of employees and certifying . . . the results thereof". A secret ballot election is the only method the Board may follow in determining a collective bargaining representative.

This bill proposes to authorize the Board to employ another method to determine a collective bargaining representative in an appropriate unit. In labor-management relations, parties often resolve representation questions by having a disinterested third party cross-check signed cards with un-

equivocal designations of a labor organization as collective bargaining agent against other documents with the employees' signatures to determine their authenticity. After a cross-check of cards, the third party certifies the results thereof and, if a majority of the employees in a collective bargaining unit have designated the labor union as its representative, the employer recognizes the labor organization as the agent of the employees and the parties commence collective bargaining. The bill proposes to have the Hawaii Employment Relations Board conduct the cross-check of cards and certify the results thereof. Such a certification would be tantamount to a certification of the results of an election. The bill further proposes that the board shall conduct an election by secret ballot upon a showing of a use of coercion, intimidation, or fraud in obtaining signatures.

The National Labor Relations Board upholds the recognition of a collective bargaining agent on such a basis if there is no evidence that unfair labor practices were committed in the process of securing authorization cards or in the cross-check. Contracts executed with a union recognized on the basis of "card-checks" are deemed valid by the Board. The National Labor Relations Board, however, does not officially certify the results of a "card-check" since it does not participate in the process.

Your Committee is of the opinion that the determination of collective bargaining representatives may be expedited by the use of "card-checks". The present process of conducting an election in every case often results in unnecessary and prejudicial delays, especially for the employees and labor organizations. "Card-checks", with safeguards such as proposed in this bill, to conduct an election upon a showing of intimidation or coercion, would further the policy of the Hawaii Employment Relations Act.

Your Committee upon consideration of the bill has amended the bill in several respects to clarify its intent and to make it conform to the "card-check" recognition process as generally employed in labor-management relations. It has not changed the original purpose and intent of the bill.

Your Committee on Labor is in accord with the purpose and intent of **H. B. No. 1594**, as amended herein, and recommends its passage on second reading in the form attached hereto as **H. B. No. 1594, H. D. 1**,

and that it be referred to your Committee on Judiciary for further consideration.

Signed by all members of the Committee. Representatives Aduja, Ajifu, Judd and Leopold did not concur.

**SCRep. 387 Public Institutions on S.B. No. 99**

The purpose of this bill is to establish a correctional diagnostic center staffed by psychiatrists, social and correctional workers, technicians, and other personnel as may be necessary.

**S. B. No. 99** is a companion bill to **H. B. No. 357**. In addition to the establishment of a diagnostic center, both original bills appropriate funds for capital improvements. **S. B. No. 99, S. D. 1**, or the bill under consideration, has eliminated the appropriation for improvements.

Your Committee has held public hearings on both versions of the bill. Operationally, the diagnostic center has been satisfactorily functioning for almost a year. This bill will formally ratify existing practice. As for the capital improvement aspect, there are presently available unexpended funds from prior appropriations to enable the department to complete the planning of a permanent diagnostic facility. While the department and other agencies interested in this program testified in favor of **H. B. No. 357**, they all agree that **S. B. No. 99, S. D. 1**, is acceptable for the present.

Your Committee is in accord with the intent and purpose of **S. B. No. 99, S. D. 1**, and recommends its referral to your Committee on Judiciary.

Signed by all members of the Committee.

**SCRep. 388 (Majority) Transportation on H.B. No. 615**

The bill authorizes the Department of Transportation to do the following:

1. With the approval of the Governor but without public bidding, to enter into special facility leases with the airlines. The subjects of such leases are the special facilities, to wit: facilities at the airport which support the operations of the airlines, such as maintenance, reservations center, food service and training center.

2. With the approval of the Governor but without further authorization by the Legislature, to issue special revenue bonds in the name of the department and not of the State not exceeding the total sum of \$25,000,000 to finance the acquisition and/or construction of the special facilities. The revenue bonds shall be payable solely from and secured solely by the revenues derived by the department from the special facility for which they are issued.

However, a special facility lease may not be entered into under the following circumstances:

1. If the special facility is to be used to provide services, commodities, supplies or facilities adequately made available through the state airports system.

2. If the use or occupancy of the special facility adversely affects the revenues of the state airports system.

3. If the special facility lease is contrary to any resolution or certificate authorizing any state bond.

The term of the special facility lease, including any renewal and extension, is not to extend beyond 30 years or beyond the reasonable life of the special facility, whichever is lesser.

There is a definite market for this type of bond. The program is available to other leading airports, and your Committee, in view of the demand for funds for needed public improvements, is of the opinion that this financing method should be explored. Your Committee, however, recommends the following amendments:

1. Limit the special revenue bonds to fund the construction of airport improvements only. There was no testimony that there is a need to finance maritime facilities in this manner.

2. Until this pilot program has proven to be a sound fiscal policy, reduce or limit the authority from \$25,000,000 to \$15,000,000. If the experience is favorable, the sum can be increased in the future.

3. Redefine "special facility" in Section 1 of the bill by providing that the leased premises will be used exclusively for the lessee's transportation business. The intent of this

amendment is to prohibit the lessee from subletting portions of the premises and limit the use of the critical airport space for the transportation of passengers and cargo. It will also enable other qualified airlines to participate thereby broadening the credit base for these special revenue bonds.

Your Committee is in accord with the intent and purpose of **H. B. No. 615**, as amended herein, and recommends its referral in the form attached hereto as **H. B. No. 615, H. D. 1**, to your Committee on Finance.

Signed by all members of the Committee. Representative Carroll did not concur.

**SCRep. 389** Public Employment on **H.B. No. 977**

The purpose of this bill is to have firefighting personnel observe the same legal holidays as set apart and established under Section 8-1, Hawaii Revised Statutes, which section enumerates legal holidays for all other governmental personnel.

Under the present system firefighting personnel observe the holidays which are listed specifically for them under a separate section of the Hawaii Revised Statutes, namely, Section 80-4.

Your Committee feels that this bill would make it unnecessary to repeat the entire listing of holidays for firefighters, thereby precluding similar problems in the future as existed in the past. Namely, Admission Day and Columbus Day are State holidays listed under Section 8-1, Hawaii Revised Statutes, but due to oversight, they were omitted from the list of holidays for firefighting personnel.

Your Committee is in accord with the intent and purpose of **H. B. No. 977** and recommends its referral to the Joint Select Committee of Kauai, Maui, Oahu and Hawaii Representatives.

Signed by all members of the Committee.

**SCRep. 390** Public Employment on **H.B. No. 905**

The purpose of this bill is to permit any judge or elected officer who attains the limitation of 75 percent of his average final compensation the choice of retiring or continuing his employment as a judge or elected officer.

Under present statutes the retirement benefit of a judge or elected officer consists of a pension of 3.5 percent for each year of service multiplied by the average final compensation. In addition to this, there is also payable an annuity which is based on his contribution as a judge or elected officer. The total benefit is restricted to 75 percent of average final compensation. Thus, under the formula a person with approximately 21 years of credited service as a judge or elected officer would attain the 75 percent limitation. If the allowance exceeds the 75 percent limitation, the excess contributions are refunded.

Under this bill the judge or elected officer could make the election but would not be able to receive the retirement allowance until such time as he terminated his service. If the judge or elected officer elects to retire, the bill provides that he must make such election within six months following his attainment of the 75 percent limitation and upon such election, further contributions on his part in the system will terminate and the contributions already made by him shall be returned.

Your Committee is in accord with the intent and purpose of **H. B. No. 905** and recommends its referral to the Committee on Judiciary.

Signed by all members of the Committee.

**SCRep. 391 Public Employment on H.B. No. 1511**

The purpose of this bill is to permit a member of the retirement system who is on leave without pay, particularly for health reasons, to file application for ordinary disability retirement.

Under present law, an application for ordinary disability can be filed only by a member who is in service or by the head of the department. A worker who is ill may be trying to avoid the possibility of applying for disability retirement and may use up all his sick leave before it becomes clear that he is totally disabled and must take disability retirement. Your Committee finds that under the present law, such a worker is not eligible to apply for ordinary disability retirement. Consequently, only if his department puts him back on the payroll for a short period of time can he be considered in service and eligible to apply for ordinary disability retirement. This bill would correct the inequity of requiring a person to return to work, even for a short period

of time, after medical treatment demonstrates that he will not be able to work again.

Your Committee is in accord with the intent and purpose of **H. B. No. 1511** and recommends its referral to the Joint Select Committee of Kauai, Maui, Oahu and Hawaii Representatives.

Signed by all members of the Committee.

**SCRep. 392 Public Employment on H.B. No. 1512**

The purpose of this bill is to enable a member to purchase as membership service any period of absence prior to July 1, 1967, during which he was receiving workmen's compensation benefits.

Act 124, Session Laws of Hawaii 1967, which became effective July 1, 1967, provides that an employee who is on sick leave and receives workmen's compensation benefits shall continue to earn retirement credits as though he were not absent. Because of the effective date of the Act, any absence prior to July 1, 1967, cannot be creditable as membership service. This bill would allow such accreditation.

Your Committee is in accord with the intent and purpose of **H. B. No. 1512** and recommends its referral to the Joint Select Committee of Kauai, Maui, Oahu and Hawaii Representatives.

Signed by all members of the Committee.

**SCRep. 393 Public Employment on H.B. No. 1540**

The purpose of this bill, as stated in the title, is to amend Part III of Chapter 88, Hawaii Revised Statutes, by adding a new section relating to pension for city and county police.

This section presently appears in Hawaii Revised Statutes as Section 52-81, which is sought to be repealed by another bill.

**H. B. No. 1540** places the section relating to police in its proper place as Part III of Chapter 88, Hawaii Revised Statutes, entitled, "Policemen, Firemen, and Bandsmen Pension System." Your Committee finds that this bill is in effect a housekeeping bill and is needed to avoid cluttered legislation.

Your Committee is in accord with the intent and purpose of **H. B. No. 1540** and recommends its referral to the Select Committee of Oahu Representatives.

Signed by all members of the Committee.

**SCRep. 394** (Majority) Housing and Consumer Protection on **H.B. No. 57**

The purpose of this bill is to create a mechanism to be known as the Hawaii Insurance Guaranty Association which would cover those claims left unpaid as a result of an insurance company insolvency.

The Hawaii Insurance Law—Chapter 431, Hawaii Revised Statutes—gives the insurance commissioner the power to screen companies wishing to transact insurance business in the State. As a result, fortunately, no domestic insurer and only a handful of foreign insurers have ever been subject to insolvency proceedings. Your Committee feels, nonetheless, that there exists a serious gap in present statutes without this Act and that this need is also recognized nationally, as indicated by similar legislation in 19 other states.

Your Committee is in accord with the intent and purpose of **H. B. No. 57** and recommends its passage on Second Reading and its referral to the Committee on Judiciary.

Signed by all members of the Committee. Representative Fong Jr. did not concur.

**SCRep. 395** Housing and Consumer Protection on **H.B. No. 150**

The purpose of this bill is to amend Section 701 of the Hawaii Revised Statutes by adding a new section which would set restrictions on the sale and possession of master keys.

The lack of such legislation has been cited as a serious gap in existing law which has allowed numerous burglaries to be committed with abandon by those in possession of such keys. Strong testimony in support of **H. B. No. 150** by the Honolulu Police Department, representatives of the hotel industry, and the Board of Underwriters of Hawaii indicates the soundness of the proposed legislation as one of the “necessary tools to help control wholesale burglaries of hotels and office buildings”.

Your Committee on Housing and Consumer Protection is in accord with the intent and purposes of **H. B. No. 150** and recommends its passage on Second Reading and its referral to the Committee on Judiciary.

Signed by all members of the Committee.

**SCRep. 396** (Majority) Housing and Consumer Protection on **H.B. No. 262**

The purpose of this bill is to amend Chapter 487 of the Hawaii Revised Statutes by adding a new section which would give statutory foundation to the Office of Consumer Protection for entering into settlements known as “assurances of voluntary compliance.” By entering into an assurance of voluntary compliance with the Office of Consumer Protection, an alleged violator of any consumer protection law would be opting for an out-of-court settlement. This, in fact, is occurring today but the Office of Consumer Protection enters into such agreements without the backing of law. With enactment, the Office of Consumer Protection would have grounds to make the paying back of allegedly injured consumers, and the payment of costs of investigation, conditions to entering into such settlements. The bill would furthermore aid enforcement of these settlements by providing that violations of settlements would be prima facie evidence of violation in any future action brought by the Office of Consumer Protection.

Your Committee is in accord with the intent and purpose of **H. B. No. 262** and recommends its passage on Second Reading and its referral to the Committee on Judiciary.

Signed by all members of the Committee. Representatives Carroll, Fong and Uechi did not concur.

**SCRep. 397** Housing and Consumer Protection on **H.B. No. 448**

The purpose of this bill is to authorize the Hawaii Housing Authority to acquire land with either partially completed or completed site improvements and/or with completed dwellings, provided that such improvements were constructed in accordance with existing governmental subdivision standards. This Act would amend Chapter 359G, Sub-section (c) of the Hawaii Revised Statutes.



Under existing law, the HHA is authorized to acquire only raw land. As Edwin Sato, Deputy Director of the HHA testified, such a limitation puts a burden particularly upon the HHA's efforts to relocate displaced individuals. As mandated by Act 166, Session Laws of Hawaii, all State agencies which displace persons must provide a "feasible method for the relocation of families . . . in areas not generally less desirable in regard to public utilities and public and private commercial facilities at rents or prices within the financial means of the families and individuals displaced." Your Committee is in agreement with the Hawaii Housing Authority's statement that limiting the HHA to the development of raw land for the relocation of displaced families "will, in many instances . . . prohibit the use of such development as a resource for relocation."

Your Committee is in accord with the intent and purpose of **H. B. No. 448** and recommends its passage on Second Reading and its referral to the Committee on Judiciary.

Signed by all members of the Committee.

**SCRep. 398** Housing and Consumer Protection on **S.B. No. 454**

The purpose of this bill is to amend certain items in Section 467B of the Hawaii Revised Statutes. It would amend Section 467B-2 (c) by deleting reference in that paragraph to "an independent public accountant" for the reason that he is not an officer of the corporation. Further, all references in Section 2, 3, 4 and 5 of existing law to "attorney general" are supplanted by "director" inasmuch as administrative responsibility rests solely with the Director of the Department of Regulatory Agencies. Also, in Sections 4, 5 and 10, where powers are ascribed to the "attorney general or any county attorney," amendments would be made substituting "director."

Another amendment is proposed for Section 11. Under existing law, charitable organizations which do not intend to solicit and receive, and do not actually raise or receive, contributions from the public in excess of \$2,000 are exempt from Section 467B. The proposed amendment would raise the ceiling for exemptions to \$4,000, as the former ceiling is seen as being too restrictive.

Finally, **S. B. 454** would amend Section 467B by adding an item (7) in Section 11 which would exempt any Hawaii or foreign nonprofit corporation that has been on record with the Director for at least five years and is in good standing provided that the fund-raising activities are carried on by persons who are unpaid for such services. Such a provision would exempt such well-known organizations as the Shriners Hospital for Crippled Children, the American Cancer Society, Hawaii Tuberculosis and Respiratory Disease Association, etc. from the filing of a registration statement which is often burdensome and expensive.

Your Committee feels, in accordance with the testimony offered by the Department of Regulatory Agencies, that many of the proposed amendments are in the nature of corrections, and that thusly, they should be made. Furthermore, your Committee opines that the proposal to raise the qualifying amount for exemptions as well as the proposal to exempt certain non-profit organizations are worthy.

Your Committee is in accord with the intent and purpose of **S. B. 454** and recommends its passage on Second Reading and its referral to the Committee on Judiciary.

Signed by all members of the Committee.

**SCRep. 399** Housing and Consumer Protection on **H.C.R. No. 22**

The purpose of this Concurrent Resolution is to request the President of the United States to exempt Hawaii from the mandatory oil import quota program. As stated in the text of the Concurrent Resolution, "Hawaii is wholly dependent upon petroleum products for its energy" so that there is no other alternative but to pay the going, inflated rates. Moreover, as a state not having any oil producing industry to benefit from such a quota, there are simply no positive upshots to this program. Indeed, "to maintain the price of petroleum products at high levels" means lessening "the normal forces of competition by discouraging new entrants in the petroleum products market in Hawaii."

Your Committee concurs with the intent and purposes of **H. C. R. No. 22** and recommends its adoption.

Signed by all members of the Committee.

**SCRep. 400** Housing and Consumer Protection on H.C.R. No. 23

The purpose of this Concurrent Resolution is to request the President and Congress to revise or repeal the foreign oil import quota program. Established more than a decade ago with the rationale that it would enhance and safeguard national security, the import quota program is now viewed as somewhat of an anachronism. The effect of artificially high prices for petroleum products is criticized as a nationwide injustice, and the Hawaiian economy, more than that of other states, has borne the burden of these high costs.

Your Committee concurs with the intent and purpose of H.C.R. No. 23 and recommends its adoption.

Signed by all members of the Committee.

**SCRep. 401** Legislative Management Informing the House that **House Resolution Nos. 317 to 322, House Concurrent Resolution No. 82, Standing Committee Report Nos. 387 to 400 and Standing Committee Report Nos. 402 to 426**, have been printed and distributed.

Signed by all members of the Committee.

**SCRep. 402** Higher Education on H.C.R. No. 46

The purpose of this concurrent resolution is to request the University of Hawaii, with the assistance of the State Commission Manpower and Full Employment, to develop a comprehensive plan for a University-wide career planning and job placement system. Because the University has grown into a state-wide system with dispersed campuses, there is need for better articulation and coordination among the various job placement components scattered throughout the University. Our students should have centralized access to job information. Furthermore, as our University system grows, our students need the availability of professional placement and career staff service to provide for a lifetime work record, if they are to secure the full benefits from their college education. The University should also be able to follow up on graduates as to their vocational progress by a collection and dissemination system of historical information. Your Committee believes that a comprehensive career

planning and job placement system would contribute greatly toward increasing job opportunities for our young people.

Your Committee on Higher Education concurs with the intent and purpose of H. C. R. No. 46 and recommends that it be referred to your Committee on Finance.

Signed by all members of the Committee.

**SCRep. 403** Higher Education on H.B. No. 331

The purpose of this bill is to appropriate \$10,000 from the general revenues to the University of Hawaii to determine the various prospective uses for the present Honolulu Stadium site as soon as it becomes available.

Proposed legislation and public concern for the establishment of an adequate stadium facility makes probable discontinuance of the present use of the Honolulu Stadium. Testimony before this Committee has indicated that the University of Hawaii is the majority stockholder of the corporation holding title to that site and there is presently a 28.6% minority stockholder interest which should be acquired in order that this important asset be held by a corporation wholly owned by the University. The proposed study contemplated by this bill should include plans for utilization of the present use of the stadium, as well as plans for acquiring the minority interest in the corporation. With regard to future uses of the site, your Committee is concerned about the critical shortage of space at the Manoa Campus; however, the ultimate determination of the future use of the site should be made by the University of Hawaii as well as interested community groups.

Your Committee feels the need to make the following amendment to Section 1. of the bill. This amendment would be as follows:

“SECTION 1. There is appropriated out of the general revenues of the State of Hawaii the sum of \$10,000, or so much thereof as is necessary, to determine and make recommendations regarding the prospective use of the present Honolulu Stadium site at such time as it becomes available. In the development of the guidelines, the planner shall involve community groups, students, faculty and interested governmental agencies to as-

sure the planned uses shall be compatible and compliment the present uses of the University and adjacent communities.”

Your Committee on Higher Education is in accord with the intent and purpose of **H. B. No. 331** as amended herein and recommends its passage on second reading in the form attached hereto as **H. B. No. 331, H. D. 1**, and that it be referred to your Committee on Finance.

Signed by all members of the Committee.

**SCRep. 404 Higher Education on H.B. No. 996**

The purpose of this bill is to provide for the second and third year of the Surf Parameters study so that the usage of shorelines and construction of shoreline projects can be planned and executed with informed knowledge relating to ocean wave phenomena, especially in relation to shoals and land masses. More knowledge about wave effects is needed so that maximum use of our shorelines can be achieved. As our population grows, there will be increasing demands for shoreline uses by different interest groups. There is need to see how we can accommodate as much of the various water recreational uses of our people. Testimonies indicated that some of our shoreline projects have been planned without adequate regard to the effects on natural surf conditions, thereby altering existing recreational usage of adjacent waters. Furthermore, a number of shoreline construction projects have suffered damages because of the lack of precise knowledge about wave conditions. The bill appropriates \$100,000 out of the general revenues of the State of Hawaii to continue the study of surf parameters by the University of Hawaii, Department of Ocean Engineering.

Your Committee finds that an appropriation of \$50,000 was made by the Fifth State Legislature in 1970 to begin a three-year study. An interim report covering the first four months of work reflects extensive research underway with preliminary data pertaining to coastal zone programs and natural phenomena.

Your Committee on Higher Education is in accord with the intent and purpose of **H. B. No. 996** and recommends its passage on Second Reading and its referral to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 405 Higher Education on H.B. No. 1297**

The purpose of this bill is to provide additional personnel and funds to the Kapiolani Community College for the training of nurses' aides to become licensed practical nurses.

One of the pervasive problems in the field of health manpower is the lack of career development opportunities among many of the semi-skilled categories of health personnel. Your Committee is in agreement with the belief that opportunities should be made available within an educational setting for the career advancement of persons who through experience have demonstrated their interest in patient care and their ability to perform in a safe and acceptable manner when providing direct patient care. There are many nurses' aides and other para-medical assistants in the community who desire to progress further in their health career but who cannot afford to leave their jobs to pursue further education as their work commitments plus family obligations are too heavy for a formal full-term educational program. Your Committee believes that the success of the pilot project to upgrade selected employed nurses' aides at Kapiolani Community College warrants the continuation and strengthening of the program.

Your Committee upon consideration of this bill has amended it by including the dollar amount to cover the cost of two additional registered nurse instructors and a half-time secretary for the fiscal biennium 1971-1973.

Your Committee on Higher Education is in accord with the intent and purpose of **H. B. No. 1297**, as amended herein, and recommends its passage on Second Reading in the form attached hereto as **H. B. No. 1297, H. D. 1**, and its referral to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 406 Higher Education on H.B. No. 1317**

The purpose of this bill is to advance by two years the request for planning money, a sum of \$150,000, for the construction of a science and engineering classroom building for the Honolulu Community College. The

classroom building is presently included as a future item in the Six-Year Capital Improvements Program of the University of Hawaii with the request for planning money scheduled for 1974-1975. Construction and equipment appropriations for the classroom building are scheduled for the period 1975-1977. Under this schedule the science classroom building will be available for both academic and vocational use in the fall of 1978.

However, your Committee finds that an earlier completion of this science and engineering classroom is urgently needed because of planned increases in transfer student enrollment and the nature of the total program at Honolulu Community College. According to the controlled growth policy of the University of Hawaii, an increase in liberal arts students is expected at the Honolulu Community College from the present ratio of 15 percent of the total enrollment to 40 percent over the next five years. In numbers, growth will be from 350 students to 1,400 students. The vocational-technical enrollment is expected to grow from 1,600 to approximately 2,100 during the same time period.

Presently, your Committee finds that two laboratory-lecture rooms designed basically for physics classes house the entire science program at the College. These makeshift classrooms operate at more than ninety percent capacity now and will have to sustain an increased enrollment in science instruction until the proposed science classroom building is completed in 1976. Science courses are considered basic education not only for students majoring in science fields but for all students. Therefore, in order for the Honolulu Community College to prepare these many students in their science study endeavors, adequate facilities must be made available for them. Your Committee strongly recommends that this two year advancement of planning money be granted for the construction of a science and engineering classroom building at the Honolulu Community College.

Your Committee on Higher Education is in accord with the intent and purpose of **H. B. No. 1317** and recommends its passage on Second Reading and its referral to the Committee on Finance.

Signed by all members of the Committee.

#### SCRep. 407 Lands on H.R. No. 163

The purpose of this resolution is to request Hawaii's congressional delegation to seek an end to the bombing of Kaula Island.

Your Committee is concerned over the needless destruction and injury of wildlife on that island. Your Committee is aware of the fact that Kaula Island is also a focal point for marine life and that continued bombing will have an effect on the marine life of the immediately proximate water area.

Your Committee on Lands concurs with the intent and purpose of **H. R. No. 163, H. D. 1**, and recommends its adoption.

Signed by all members of the Committee.

#### SCRep. 408 Lands on H.R. No. 166

The purpose of this resolution is to request the Department of Land and Natural Resources to hold a public meeting in Kona, Hawaii, to initiate the rule-making procedures for the regulation of fishing in Honokohau Harbor.

Your Committee recognizes the fact that Honokohau Harbor has long served as a favorite site for recreation for people of the Island of Hawaii; however, it is now apparent that continued use of the harbor for fishing purposes may necessitate the promulgation of certain rules by which various methods of fishing may be conducted. Chapter 91 of the Hawaii Revised Statutes provides for procedures for adoption of such rules and the Department of Land and Natural Resources is authorized to initiate the rule making procedure under that chapter.

Your Committee on Lands concurs with the intent and purpose of **H. R. No. 166, H. D. 1**, and recommends its adoption.

Signed by all members of the Committee.

#### SCRep. 409 Lands on H.R. No. 243

The purpose of this resolution is to request the Department of Land and Natural Resources to establish rules and regulations regarding the taking of various forms of marine life as well as conservation zones for the state's sealife.

Your Committee is aware of the need to protect various diminishing species of sea

life. Unfortunately, the Kauhono crab, Kona crab, crawfish, ula and opihi are so scarce as to have become delicacies. Your Committee is concerned with the need to protect against indiscriminate fishing by imposing a ban on fishing and spear fishing activities in various areas during certain times of the year in order that our marine life be replenished.

Your Committee on Lands concurs with the intent and purpose of **H. R. No. 243** and recommends its adoption.

Signed by all members of the Committee.

**SCRep. 410 Lands on H.C.R. No. 63**

The purpose of this concurrent resolution is to request the Department of Land and Natural Resources to establish rules and regulations regarding the taking of various forms of marine life as well as conservation zones for the state's sealife.

Your Committee is aware of the need to protect various diminishing species of sea life. Unfortunately, the Kauhono crab, Kona crab, crawfish, ula and opihi are so scarce as to have become delicacies. Your Committee is concerned with the need to protect against indiscriminate fishing by imposing a ban on fishing and spear fishing activities in various areas during certain times of the year in order that our marine life be replenished.

Your Committee on Lands concurs with the intent and purpose of **H. C. R. No. 63** and recommends its adoption.

Signed by all members of the Committee.

**SCRep. 411 Higher Education in H.B. No. 28**

The purpose of this bill is to amend the Hawaii Revised Statutes by adding a new chapter dealing with the regulation of degree granting institutions. The chapter would establish a license requirement with regard to such institutions for the purpose of preventing the development of educational institutions which engage in the outright sale of degrees without any pretense of requiring academic achievement.

Your Committee is concerned with the possible development of the type of institution described above. Your Committee believes that a degree should be awarded only in the instance of legitimate academic

achievement and that the educational standards of this community would be severely altered in the event the type of institution with which this bill deals should take root in the State of Hawaii. In this regard, this bill provides for the issuance of licenses to degree granting institutions by the Director of the Department of Regulatory Agencies. The bill would also establish an advisory committee consisting of the President of the University of Hawaii and the presidents of all licensed degree granting institutions in the state. This committee would advise the director in matters pertaining to licensing.

Your Committee is of the opinion that a violator of the provisions of this bill should be subject to a fine of \$500 and/or a term of imprisonment of six (6) months. Your Committee hopes that the existence of such a penalty will serve as fair warning to those who would otherwise seek to corrupt our educational community.

Your Committee has amended Section 10 of this bill to adjust the licensing fees covered under subsection 10(a) and 10(c) in order to equate these fees with the costs incurred by the Director of the Department of Regulatory Agencies in administering a licensing program.

Your Committee on Higher Education is in accord with the intent and purpose of **H. B. No. 28** as amended herein and recommends its passage on second reading in the form attached hereto as **H. B. No. 28, H. D. 1**, and that it be placed on the calendar for third reading.

Signed by all members of the Committee.

**SCRep. 412 Transportation on H.B. No. 886**

The purpose of this bill is to appropriate out of the general revenues of the State of Hawaii the sum of \$65,000 or so much thereof as may be necessary, to resurface existing Kamehameha Highway from Mililani Memorial entrance to the entrance of Mililani Town. It was brought to your Committee's attention that a stretch of the roadway near Kipapa Gulch is full of dangerous ripples and otherwise in disrepair. Since this section is subject to heavy traffic, these conditions should be immediately corrected.

Your Committee is in accord with the intent and purpose of **H. B. No. 886** and



recommends its referral to your Committee on Finance.

Signed by all members of the Committee.

**SCRep. 413** Transportation on **H.B. No. 1170**

The purpose of this bill is to appropriate out of the general revenues of the State of Hawaii the sum of \$600,000 for the improvements to Kamehameha Highway from Kahaluu Stream to Waihee School Road. The work to be performed includes widening the lanes, installing drainage facilities, reconstructing shoulders, flattening horizontal curves and increasing super elevations on curves. Presently, the paved portion is only twenty feet wide and since its construction in the 1920s no further improvements have been made to accommodate today's traffic. When the Kahekili project is completed, this unsafe stretch will be subject to heavier traffic making it necessary to initiate the proposed project immediately.

Your Committee is in accord with the intent and purpose of **H. B. No. 1170** and recommends its referral to your Committee on Finance.

Signed by all members of the Committee.

**SCRep. 414** Transportation on **H.B. No. 1197**

The purpose of this bill is to appropriate out of the general fund of the State of Hawaii the sum of \$2,500,000 for highway maintenance. According to the Department of Transportation many vitally required special maintenance projects will be curtailed in the next biennium because of insufficient revenues in the State Highway Fund. The proposed appropriation will permit the reinstatement of many of the deferred special maintenance projects.

Your Committee is in accord with the intent and purpose of **H. B. No. 1197** and recommends its referral to your Committee on Finance.

Signed by all members of the Committee.

**SCRep. 415** Lands on **H.B. No. 625**

The purpose of this bill is to eliminate duplication in the functions of two executive departments.

Present law provides that the Department of Land and Natural Resources shall issue permits authorizing the use of certain vessels for commercial fishing. Your Committee has noted that present law requires that certain fishing vessels, including those used for commercial fishing, be registered with the Department of Transportation. This bill would eliminate the requirement of registration of fishing vessels with the Department of Land and Natural Resources but would also require payment of a registration fee to the Department of Transportation. Your Committee is of the opinion that the burden of double registration serves no valid purpose and that consolidation of these provisions of present law is advisable.

Your Committee on Lands is in accord with the intent and purpose of **H. B. No. 625** and recommends its passage on second reading and its referral to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 416** Lands on **H.B. No. 83**

The purpose of this resolution is to request the Department of Land and Natural Resources to determine the feasibility of acquiring military areas which are non-essential to military requirements, with particular emphasis on the acquisition of the West Loch of Pearl Harbor for a public park.

Your Committee is concerned with the need to provide recreational areas for the residents of the Wahiawa and Ewa communities. The West Loch would afford a proper site for boating, fishing, and swimming. Your Committee understands the necessity to provide adequate facilities for the U. S. Navy; however, in the instance that this area serves no useful purpose in the operation of Pearl Harbor, it would seem reasonable to investigate the possibility of surrendering the area to the state to be used as a recreational facility.

Your Committee on Lands concurs with the intent and purpose of **H. R. No. 83** and recommends its referral to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 417** Higher Education on **H.R. No. 232**

The purpose of this resolution is to request the University of Hawaii to conduct a study to determine the feasibility of establishing a training program for physician's assistants. A 1969 study of the National Academy of Pediatrics showed that the use of well-trained physician assistants working under the direction of physicians increased by one third the number of patients a doctor cared for. Also, physicians were able to spend more time on acutely ill patients.

Although Hawaii, on an overall basis has a favorable ratio of physician to patients, there is maldistribution which results in a higher patient ratio in rural areas. Your Committee heard testimony that the future needs of physician manpower will increase in rural areas because patients are now demanding services closer to home. Yet, the number of physicians may decrease as many neighbor island physicians are nearing retirement age. The medical community is favorable to the idea of using physician assistants to increase the delivery of health services to the population of this State.

Your Committee believes that this is an alternative that should be seriously considered to resolve this problem. We agree with the Hawaii Medical Association that the University should work very closely with physician groups in conducting this study because of the close working relationship between physician and the physician assistants. Your Committee believes that this study will establish a proper base for the training of physician assistants, to provide for the involvement of the medical community, and clarify certification and licensure changes.

Your Committee on Higher Education concurs with the purpose of this resolution and recommends that it be referred to your Committee on Finance.

Signed by all members of the Committee.

**SCRep. 418 (Majority) Labor on H.R. No. 151**

The purpose of this resolution is to request the President of the United States to rescind his recent order which suspended the operation of the Davis-Bacon Act.

The Davis-Bacon Act requires the payment of at least the prevailing wages for the locality to workers on federal construction projects. This assures that sub-standard

wages will not be paid for work on federal construction projects.

President Nixon, however, recently suspended the operation of the Davis-Bacon Act. This will undoubtedly have an adverse effect on Hawaii's economy as a substantial number of construction workers in Hawaii are employed on federal construction projects. The order to suspend the operation of the act also discriminates against construction workers.

Your Committee concurs with the purpose of **H. R. No. 151** and recommends its referral to your Committee on Judiciary.

Signed by all members of the Committee. Representatives Aduja and Ajifu did not concur.

**SCRep. 419 Labor on H.C.R. No. 38**

The purpose of this resolution is to request the department of labor and industrial relations and the department of personnel services to render assistance in finding employment for servicemen being discharged from the armed forces.

Your Committee on Labor concurs with the purpose of **H. C. R. No. 38** and recommends its referral to your Committee on Public Employment for further consideration.

Signed by all members of the Committee.

**SCRep. 420 Lands on H.B. No. 997**

The purpose of this bill is to fix the boundaries of Anuenue Park and to provide for citizen participation in the planning process involved in the establishment of that park.

Your Committee is concerned with the grave lack of recreational facilities for western Honolulu. An examination of this area by your Committee reveals that the area/population ratio between parks and population is low and that there is an immediate need to develop park facilities in this area, lest the residents of this area be deprived of an opportunity for adequate open space and recreational facilities. Act 142, Session Laws of Hawaii 1970 (**H. B. 629**) has already made provision for a state park at Anuenue Island. The establishment of a park at Anuenue Island would serve to ease the increasing need in this regard.

Such a facility would afford residents opportunities for swimming, surfing, fishing, camping, boating, water skiing and other activities related to water sports. Your Committee is of the opinion that the 250 acres provided for in the bill would be more than adequate to meet the present needs and it should be noted that the 250 acres is the maximum amount provided for in Act 142. In this regard, your committee finds itself in a very real dilemma: while it wishes to provide the full amount permitted under Act 142, your Committee is equally cognizant of the need to provide for an extensive sewage treatment facility, which must of necessity be located within the area designated for park use. Your Committee has been informed that such a facility is necessary in order that the various wastes be reduced to non-pollutant. For that reason, your Committee suggests the bill be amended to reduce the size of the total acreage of the park to 200 acres with the understanding that when the sewage facility is planned and developed, such planning and development will be subject to a full effort to blend the facility with the park and to provide for as much open space with the facility site as is possible in order that the aggregate 250 acres afford as much "park" use as possible. Your Committee feels that the same good reason for assuring open space mandates the establishment of the sewage facility: both projects stem from this Legislature's concern for the quality of life of our residents as well as the quality of our environment.

In delineating the park area, your Committee has proposed an amendment to this bill to include seaplane runway 14-32 to be designated as a marine stadium for aquatic sports. This aquatic stadium is the subject of **H. B. No. 980**, which is presently before this body. Your Committee feels that such a facility would be an invaluable addition to the park complex,

Your Committee wishes to condition its approval of the substance of this bill upon the implicit assurance that the scheme of development will allow the permittees presently using various sections of the land to be developed to continue to reside on that land until the final stages of completion of the park project.

Finally, your Committee, recognizes the utility of subjecting that area of land between Lagoon Drive and Keehi Lagoon and the area of land adjoining the Honolulu International Airport to light industrial use. Your

Committee has considered the possibility of the development of this entire area within the context of integration of park use with the adjoining lands. In making its determination, your Committee is especially concerned that these various uses be properly coordinated.

Upon due consideration, your Committee has made the following amendments to the bill:

Section 2, line 12, of the bill is amended to change the area of the park from 250 acres to 200 acres.

Section 2 was also amended to include seaplane runway 14-32 within the park area to be designated as a marine stadium for aquatic sports. Such amendment reads as follows:

"SECTION 2. Acreage established. The total acreage of Anuenue State Park is established at not less than 200 acres. This park shall be situated on Anuenue from the Coast Guard facility eastward along the remaining harbor and entire ocean frontier to the Sand Island Access Road including the old Navy Observation Tower and surrounding bunker complex. The park area shall also include the general area of seaplane runway 14-32 diamond head of the Bascule Bridge at Kapalama Basin, which shall be designated as a marine stadium for aquatic sports."

Section 3 of the bill is deleted.

Section 6, line 19, of the bill is amended by deleting the phrase "either temporary or permanent" and the punctuation of the sentence from which the phrase is deleted is amended to reflect that deletion.

Section 6 of the bill is amended by adding the word "new" to line 17.

Section 7 of the bill is deleted.

Section 8 of the bill is deleted.

Your Committee on Lands is in accord with the intent and purpose of **H. B. No. 997**, as amended herein, and recommends its passage on second reading in the form attached hereto as **H. B. No. 997, H. D. 1**, and its referral to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 421 Lands on H.B. No. 389

The purpose of this act is to correct an

error in Section 171-43.1 of the Hawaii Revised Statutes and to broaden the scope of said section.

Section 171-43.1 of the Hawaii Revised Statutes provides that the board may lease, by direct negotiation without recourse to public auction, public lands to be used for charitable purposes to an eleemosynary institution which has been certified to be such by the institutions as: "corporations, companies, associations or trusts conducted solely for charitable, religious, or educational purposes within the state, including fraternal beneficiary societies;". The proposed amendment would eliminate the prior tax qualification requirement and permit leasing of lands to any organization falling within the broad definition of Section 235-9(a) (2).

Your Committee on Lands is in accord with the intent and purpose of **H. B. No. 389**, as amended herein, and recommends its passage on second reading and further recommends that it be placed on the calendar for third reading in the form attached hereto as **H. B. No. 389, H. D. 1**.

Signed by all members of the Committee.

**SCRep. 422 Lands on H.B. No. 404**

The purpose of this bill is to amend Chapter 6 of the Hawaii Revised Statutes to broaden the purpose of the Hawaii Foundation and the Humanities to include "salvage research" within the scope of activities of that foundation, and to establish a center for salvage research in areas designated by the Department of Land and Natural Resources as endangered by the lease, sale or use of lands under the department's jurisdiction. To this end, the bill would make an appropriation of \$200,000.

Your Committee is aware of the need to preserve all aspects of Hawaii's cultural and historical heritage. Your Committee is cognizant of the fact that development of lands in that state, whether private or public, results in unintended destruction of various aspects of this heritage. Your Committee agrees with the thrust of this bill: it is necessary to establish a responsible agency which would anticipate the destruction resulting from future development and, prior to that development, secure and preserve the heritage for the benefit of the state's residents.

Your Committee on Lands is in accord with the intent and purpose of **H. B. No. 404** and recommends its passage on second reading and its referral to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 423 Lands on H.B. No. 62**

The purpose of this bill is to create an aqua-culture loan program as part of the Hawaiian agricultural industry, thereby strengthening the position of that industry as a food supplier and enhancing the economic development of the state.

Your Committee is aware of the difficulty in securing conventional financing with respect to aqua-culture projects. Understandably, conventional lending institutions are hesitant to make loans for what they regard to be innovative, yet uncertain ventures. Your Committee, however, believes firmly that this island state is in a position to realize the benefits of an aqua-culture program. In that regard, your Committee experiences no uncertainty with respect to the ability of our residents to develop such a program.

Your Committee, upon consideration of **H. B. No. 62, H. D. 1**, recommends the following amendments:

1. Section 2 of **H. D. 1** of the bill relating to the administrator of the aqua-culture loan program (as the director of the department of planning and economic development) be amended to provide, as in the original bill, that the administrator be the chairman of the board of agriculture.

2. Section 2 of the bill relating to the powers and duties of the director of the department of planning and economic development be amended to, as provided in the original bill, authorize the chairman of the board of agriculture to act in this regard.

3. Section 3 of the bill relating to the expenditure of sums be amended to provide, as in the original bill, that such expenditure be made by the department of agriculture.

Your Committee is in accord with the intent and purpose of **H. B. No. 62, H. D. 1**, as amended herein, and recommends its referral to the Committee on Finance in the form attached hereto as **H. B. No. 62, H.D. 2**.

Signed by all members of the Committee.

**SCRep. 424 Finance on H.B. No. 47**

The purpose of this bill is to provide a method, in a criminal proceeding, to secure the attendance of witnesses who are located outside of the state in which the proceeding is to be held.

Under present law, it is difficult, if not impossible at times, to secure the attendance of witnesses in a criminal proceeding if they have left the State. The "Uniform Act to Secure Attendance of Witnesses from Without a State in Criminal Proceedings" was designed to help alleviate such a problem. It has been enacted in forty-six of the fifty states. Thereunder, a witness is compelled to attend and testify at the criminal proceeding in the state where the proceeding is held if such attendance will not cause undue hardship to the witness, if the witness is material and necessary in the proceeding, and if the witness has been paid his transportation fare plus expenses. Reciprocity among states is provided for, which would be of great benefit to Hawaii. Because of the high percentage of transients in this State due to the tourist economy, presently Hawaii is especially plagued by the problem of witnesses leaving the State before their testimony can be obtained in criminal proceedings.

Your Committee on Judiciary, upon consideration of this bill, recommended amendment of the amount to be paid to witnesses. Instead of \$20 per day, as provided in the Uniform Act, Hawaii's version, if this bill is enacted in its amended form, would provide that witnesses be paid at the rate of \$30 per day. This rate, according to your Committee on Judiciary, "reflects the recent increase in cost of living as well as the inconvenience suffered by witnesses under this bill."

We are not so sure that returning to our beautiful State, for whatever reason, can, in the usual case, be considered to constitute suffering of an inconvenience (unless, perhaps, if one chooses to believe what one reads in the so-called Nader brochure on Hawaii). However, we have no quarrel with the point raised regarding the cost of living.

Your Committee on Finance is in accord with the intent and purpose of **H. B. No. 47, H. D. 1**, and recommends that it pass third reading.

Signed by all members of the Committee.

**SCRep. 425 Finance on H.B. No. 21**

The purpose of this bill, as referred to your Committee, is to establish a new class of loans under chapter 155, the Farm Loan Act, for "certified new farmers" and making a \$500,000 appropriation therefor. As amended herein, the proposed new classification is deleted and the sum of \$1,500,000 is appropriated for "farm operating loans" presently authorized.

This measure was originally intended to make farm loans available to persons recently acquiring a college degree in agriculture or completing an approved program of instruction in agriculture, because, according to your Committee on Agriculture which initially considered the bill, "the farming industry may be losing potentially qualified farmers who have the knowledge but lack the experience necessary to qualify them for credit," referring to the security required for loans pursuant to section 155-11, as amended.

Your Committee on Finance is not in disagreement with this finding. However, for the present, and not otherwise to detract from the needs of such agricultural aspirants, we sense a far more urgent need to appropriate whatever funds may be available or necessary for the continued conduct and improvement of certain existing farm operations.

Your Committee is moved by the prospective discontinuance of operations at Kohala Sugar Company. (See also **H. C. R. No. 60**, adopted by both Houses). The announced closing has been attributed, essentially, to projections for the future which "clearly indicate the futility of continuing . . . efforts to turn the activity into one that is even reasonably profitable." Your Committee is informed and believes, and is therefore gravely concerned, that other sugar processing operations, chiefly because of obsolete facilities and equipment, are even now on the brink of similar economic disaster.

Sugar has historically been a prime industry of the State. It remains, whatever changes our economy may have experienced elsewhere, the principal source of livelihood for residents of the county of Hawaii, second-largest in State population. Presently, for example, the independent cane growers at Pepeekeo Sugar Company and Mauna Kea



Sugar Company on the Hilo-Hamakua coast, already suffering the effects of an industry in advanced stages of deterioration, are at a crossroads: modernize or quit. There are 412 such independent growers concerned who cultivate over 8,000 of the approximately 26,000 acres of sugar cane lands involved. Of the approximately 127,000 tons of sugar produced annually, the growers' cash value for their crop comes to about \$6 million.

It is, therefore, the intention of your Committee that the moneys appropriated by this bill shall be, through the State farm loan program, placed at the disposal of these independent growers who qualify under the statute, as class "C" farm operating loans described in section 155-9, either as insured loans, participating loans, or direct loans, pursuant to sections 155-5, -6, or -8, respectively, each as amended. The appropriate alternative we recognize as a proper function of the department of agriculture.

Availability of these revenues could mean the difference between survival and failure of a not insignificant part of the State's economy. If the former, it will also give the growers greater participation in the raising of sugar cane; it will mean the modernization of factories, with attendant reductions in air and water pollution; and most significantly, it will mean more efficient and profitable processing operations.

Your Committee on Finance is in accord with the intent and purpose of **H. B. No. 21, H. D. 1**, as amended herein, and recommends that it pass third reading in the form attached hereto as **H. B. No. 21, H. D. 2**.

Signed by all members of the Committee.

**SCRep. 426 Finance on H.B. No. 1222**

The purpose of this bill is to clarify prior legislative Acts relating to housing, by deleting therefrom references to "moderate or middle income" in order to effectuate their purposes.

Amended hereby are Act 194, Session Laws of Hawaii 1961; Act 278, Session Laws of Hawaii 1967; Act 239, Session Laws of Hawaii 1969; and Act 105, Session Laws of Hawaii 1970. Each of these statutes refers to and includes, at various places throughout, housing for persons of "low", "moderate" and "middle" income. The constitutionality of continued bond issuance, revenue appro-

priation and land condemnation therefor has been questioned by the State's bond counsel in New York and the State attorney general.

The question raised is: Can the State expend public funds for housing for persons of all such income levels as a valid "public purpose" pursuant to the provisions of Section 2, Article VI, of the State Constitution, since Section 4, Article VIII reads:

"The State shall have power to provide for, or assist in, slum clearance and the development of rehabilitation of substandard areas, including housing for persons of low income." (Emphasis added).

This question is not peculiar to Hawaii. There has been a recent series of test cases in at least three other states. Although these decisions upheld the constitutionality of similar legislation, your Committee believes it advisable to forego submission of this matter to the process of judicial determination when enactment of this bill, as amended, achieves the desired result. In turn, as necessary, the definition of persons of "low income" could be adjusted to include the target groups intended to be covered by the Acts affected.

Also, throughout sections of these Acts references to receipts of various loans and other special funds which are specified for use to "pay" principal and/or interest on bonds issued thereunder, have been amended to provide that such moneys shall be used to "reimburse the general fund for the payment from the latter fund" of the principal and/or interest on said bonds.

The bill was introduced in short form. It has been amended by your Committee in accordance with the recommendations of bond counsel. As amended, it is endorsed by the attorney general and the director of finance.

Your Committee on Finance is in accord with the intent and purpose of **H. B. No. 1222**, as amended herein, and recommends that it pass second reading in the form attached hereto as **H. B. No. 1222, H. D. 1**, and be placed on the calendar for third reading.

Signed by all members of the Committee.

**SCRep. 427 Legislative Management Informing the House that House Resolution Nos. 324 and 325, Standing Committee Re-**

port Nos. 428 to 456, have been printed and distributed.

Signed by all members of the Committee.

**SCRep. 428 Public Institutions on H.B. No. 452**

The purpose of this bill is to appropriate \$25,000 to continue the emergency food program for the elderly on the island of Kauai as a demonstration project.

This program, which was originally funded by the Office of Economic Opportunity and conducted by the Kauai County Committee on Aging, is designed to provide a hot noon meal to the indigent elderly on the island of Kauai as a demonstration project. Before a workable program can be established, it is necessary to obtain more data relating to the cost, delivery system, number of eligible indigent elderly, facilities requirements, transportation issues, manpower requirements, and other pertinent information. A cost benefit analysis is also needed to determine what alternative method or combination of methods are most feasible and beneficial for a Statewide meals program.

The Department of Social Services and Housing in conjunction with the Commission on Aging shall formulate a workable model based on the analysis and experience of current demonstration meals projects and report its findings to the next legislature.

Your Committee on Public Institutions is in accord with the intent and purpose of H. B. No. 452 and recommends its passage on second reading and its referral to your Committee on Finance.

Signed by all members of the Committee except Representative Iha.

**SCRep. 429 Economic Development on H.B. No. 60**

The purpose of this bill is to authorize the State of Hawaii's entry into a compact with states in the western region of the United States which is called the Western Inter-State Nuclear Compact. The Western Inter-State Nuclear Compact will provide scientific and technological resources, facilities, skills, guidance, and assistance to the members and also promote nuclear energy as a source of power and technology in the western states.

The Compact has been in effect since March 1969. Presently, Alaska, Arizona, California, Colorado, Idaho, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming have passed legislation joining the Compact.

Your Committee is in favor of Hawaii's entry into the Compact but with one reservation: that Hawaii will be given time to fully appraise the program, direction, and activities of the Compact.

Accordingly, your Committee recommends the following amendments to H. B. No. 60:

1. Amend the title and first sentence of Section 1 to read: "Section 1. **Authorization to adopt compact; text of compact.** The Governor is authorized to enter into a compact with the Board of the Western Inter-State Nuclear Board as follows whenever he deems it appropriate:"

2. Amend Section 6 to read: "Section 6. This Act shall take effect as soon as the compact is adopted by at least four of the other states eligible to become parties to the compact and when deemed appropriate by the Governor of Hawaii."

Your Committee has also corrected various typographical errors in this bill.

Your Committee is in accord with the intent and purpose of H. B. No. 60, as amended herein, and recommends its passage on second reading in the form attached hereto as H. B. No. 60, H. D. 1 and its referral to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 430 Transportation on H.B. No. 870**

The purpose of this bill is to make an appropriation for the construction of a new all-weather marina for 380 boats on the ewa side of Kaneilio Point, Waianae. According to the Director of the Department of Transportation, this is an urgently needed joint federal-state project. The construction will be done in two stages and there is immediate need for funding of the planning phase of the project.

Your Committee is in accord with the in-

tent and purpose of **H. B. No. 870** and recommends its referral to your Committee on Finance.

Signed by all members of the Committee.

**SCRep. 431** Transportation on **H.B. No. 955**

The purpose of this bill is to appropriate out of the general revenues of the State of Hawaii the sum of \$35,000, or so much thereof as may be necessary, for the planning and construction of a small boat harbor ramp at Kihei, Maui. There is an increasing demand for small boat facilities. Among the many small boat enthusiasts the majority maintain their crafts at home and must utilize ramps as requested herein.

Your Committee is in accord with the intent and purpose of **H. B. No. 955** and recommends its referral to your Committee on Finance.

Signed by all members of the Committee.

**SCRep. 432** Transportation on **H.B. No. 1006**

The purpose of this bill is to appropriate the sum of \$852,000 for land acquisition and plans for the Likelike-Kahekili Highway Interchange. The present day traffic volumes at the intersection warrant some temporary corrective measures. Since traffic is expected to increase by more than 100% in the next twenty years construction of an interchange is necessary to avoid serious congestion problems expected at this junction.

Your Committee is in accord with the intent and purpose of **H. B. No. 1006** and recommends its referral to your Committee on Finance.

Signed by all members of the Committee except Representative Fong, Jr.

**SCRep. 433** (Majority) Transportation on **H.B. No. 1081**

The purpose of this bill is to permit the Hawaiian Homes Commission to dedicate to the counties roads through or over Hawaiian Homes land.

There are presently on Oahu approximately 6.3 miles of roadways on Hawaiian Homes property. Most of the improvements

are substandard without sidewalks, drainage or other improvements which are desirable in residential subdivisions. At the present time the City provides minimum services such as collecting of refuse to the tenants. The bill would amend Section 246-1, Hawaii Revised Statutes, and give the Hawaiian Homes Commission the option to dedicate roadways that conform to city standards. This will place the commission in the same position as any other subdivider.

Your Committee favors the statute as it will upgrade the road standards in new subdivisions. It will also assure the continued and proper maintenance of these roadways.

Your Committee is in accord with the intent and purpose of **H. B. No. 1081** and recommends its referral to your Committee on Hawaiian Homes.

Signed by all members of the Committee. Representative Carroll did not concur.

**SCRep. 434** Select Committee of Oahu Representatives on **H.B. No. 774**

The purpose of this bill is to appropriate funds to finance the projects stated in the bill. The bill contains a detailed statement of various projects on the Island of Oahu relating to the Department of Agriculture, Department of Land and Natural Resources, Department of Transportation, Department of Planning and Economic Development, the University of Hawaii, Department of Education, Department of Hawaiian Home Lands, Department of Health, Department of Social Services, Department of Defense, Department of Accounting and General Services, the Governor and the Judiciary.

Your Select Committee of Oahu Representatives is in accord with the intent and purpose of **H. B. No. 774** and recommends that it pass second reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 435** Higher Education on **H. B. No. 1235**

The purpose of this bill is to exempt non-resident certificated employees of the Department of Education from the nonresident tuition differential at the University of Hawaii. Under the present law, University employees, military personnel stationed in

Hawaii and their dependents are accorded such exemption.

Your Committee feels that this bill would be in keeping with the policy of the Department of Education to encourage the professional improvement of their teachers.

Your Committee on Higher Education is in accord with the intent and purpose of **H. B. No. 1235** and recommends its passage on Second Reading and its referral to your Committee on Finance.

Signed by all members of the Committee.

**SCRep. 436 Education on H.R. No. 82**

The purpose of this Resolution is to request both the University of Hawaii and the Department of Education to examine the feasibility of utilizing United States Navy Auxiliary Personnel Living crafts or any other type of military craft which might provide proper facilities for a resident technical trade school for high school drop-outs.

Your Committee concurs with the intent and purpose of **H.R. No. 82** and recommends its referral to the Committee on Higher Education.

Signed by all members of the Committee.

**SCRep. 437 Education on H.B. No. 281**

The purpose of this bill is to establish a statewide school security patrol which shall be charged with the prevention and impedence of on-campus vandalism, hi-jacking, drug sales and use, and other similar activities inimical to academic and scholastic pursuits in the public schools.

Your Committee is in accord with the intent and purpose of **H. B. No. 281** and recommends its passage on second reading and its referral to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 438 Education on H.B. No. 503**

The purpose of this bill is to provide more funds to expand the Vocational-Technical education program of the Department of Education to serve more students.

Your Committee is in accord with the intent and purpose of **H.B. No. 503** and

recommends its passage on Second Reading and its referral to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 439 Education on H.B. No. 729**

The purpose of this bill is to fund the Model Cities physical education program in the elementary schools. These classes were conceived by the Kalihi-Palama residents together with representatives of that area's Model Cities and the Department of Education. Funding for these classes in Kalihi-Palama will end in December, 1971. This bill will provide funds till June, 1972, at which time an evaluation of this project will begin.

Your Committee on Education is in accord with the intent and purpose of **H. B. No. 729** and recommends its passage on second reading and its referral to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 440 Education on H.B. No. 854**

The purpose of this bill is to provide funds to share the cost of operating the education centers with the Model Cities Program for a period extending from January, 1972 through August 31, 1972.

Your Committee is in accord with the intent and purpose of **H.B. No. 854** and recommends its passage on Second Reading and its referral to the Committee on Finance.

Signed by all members of the Committee except Representative Aki.

**SCRep. 441 Education on H.B. No. 855**

The purpose of this bill is to provide funding for the continuation of the English language and cultural orientation center program operated by the Department of Education and the Model Cities Program.

Your Committee is in accord with the intent and purpose of **H.B. No. 855** and recommends its passage on Second Reading and its referral to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 442 Education on H.B. No. 857**

The purpose of this bill is to make an appropriation for the expenses of the Pacific and Asian Affairs Council.

Your Committee is in accord with the intent and purpose of **H.B. No. 857** and recommends its passage on Second Reading and its referral to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 443 Education on H.B. No. 1547**

The purpose of this bill is to establish a program of employment for the elderly in the public elementary schools and to provide for a pilot project using the services of the elderly as teacher aids at Lanakila Elementary School, Oahu.

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

1. In section 1, line 15, the words, [supplement their income] be deleted and in line 18, the words [program of employment] be deleted and the words **voluntary program** be substituted in its place.

2. Section 2 be amended to read: "**Voluntary Teacher aide program for the elderly; established.** There is established a voluntary program for the elderly to serve as teacher aides in the public schools of the department of education which shall be responsible for the coordination, guidance, and evaluation of the program. The department shall work in cooperation with the state commission on aging and the Hawaii State Senior Center."

3. The first sentence of section 3 be amended to read: "**Voluntary Teacher Aide program pilot project.** The voluntary teacher aide program pilot project shall be implemented at Lanakila Elementary School, Oahu."

4. Section 4 be amended to read: "There is appropriated out of the general revenues of the State of Hawaii the sum of \$2,500, or so much thereof as may be necessary, to be expended by the state commission on aging for the purpose of funding the pilot project at Lanakila Elementary School, Oahu."

The purpose of the amendments is to provide senior citizens the opportunity to participate in volunteer projects in a school setting. The activities will include monitoring

of the lunch line, monitoring of the first aid room, teaching crafts, telling stories, and supervising the playground. Other activities will be jointly planned by the Hawaii Senior Center and the individual schools.

For the pilot project at Lanakila Elementary School, funds will be provided for free lunches to the volunteers. The Center is expected to have a corps of about 100 senior citizens volunteered for this demonstration project from which 25 will be picked daily to work at Lanakila Elementary School. The funds will provide 25 lunches a day for the school year.

Your Committee on Education is in accord with the intent and purpose of **H. B. 1547**, as amended herein, and recommends its passage on Second Reading in the form attached hereto as **H. B. No. 1547, H. D. 1** and its referral to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 444 Public Employment on H.B. No. 612**

The purpose of this bill is to broaden the duties of deputies to the Director of Transportation and permit assignments of such duties along functional lines.

Presently there are two deputies who are assigned by the Director who are in charge of operations and financial management. These assignments have not been specifically recognized in the statute but, according to the justification sheet, they have been tacitly approved of by the Legislature in that the Legislature has approved operating budgets authorizing three civil service exempt deputy positions.

Your Committee is in accord with the intent and purpose of **H. B. No. 612** and recommends that it pass second reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 445 Public Employment on H.B. No. 671**

The purpose of this bill is to provide that if a member of the retirement system retires when he is less than fifty-five years old, no reduction will result in his retirement allowance if he has thirty-two years of creditable service as a policeman or a fireman.



With thirty-two years of service as a policeman or a fireman, at the retirement benefit of 2.5 percent, the member will have obtained the 80 percent limitation. However, if the member is below age fifty-five, under present law, his benefit would be reduced. Your Committee feels that once an individual has contributed thirty-two years of his life, he should be permitted to retire without loss of benefit even though he has not yet attained the age of fifty-five.

Your Committee is in accord with the intent and purpose of **H. B. No. 671** and recommends its referral to the Joint Select Committee of Kauai, Maui, Oahu and Hawaii Representatives.

Signed by all members of the Committee.

**SCRep. 446 (Majority) Public Employment on H.B. No. 843**

The purpose of this bill is to allow the fire chief, with the approval of the Mayor, to reduce the maximum number of hours of work of firefighting members. Under this proposal, overtime work will occur after eight hours of work per day or more than forty hours of work per week for firefighters scheduled on such work shifts. Under the existing law, overtime work will occur if they work more than 504 hours in an eight-week cycle, average 63 hours a week. Consequently, overtime work would occur more frequently under this bill because of reduction of hours of work by which an employee would qualify for overtime credit.

Your Committee is in accord with the intent and purpose of **H. B. No. 843** and recommends its referral to the Joint Select Committee of Kauai, Maui, Oahu and Hawaii Representatives.

Signed by all members of the Committee. Representative Devereux did not concur.

**SCRep. 447 (Majority) Public Employment on H.B. No. 894**

The purpose of this bill is to establish a \$300 burial benefit to be used for the funeral expenses of any retirant when he dies. Assets of the retirement system would be used to support the burial fund.

Testimony on the bill indicated that many retirees are now having a difficult time managing under the retirement allowance

they receive from the employees retirement system. Therefore, it is almost impossible for some of them to save money to be used for funeral expenses when they die.

Your Committee is in accord with the intent and purpose of **H. B. No. 894** and recommends its referral to the Joint Select Committee of Kauai, Maui, Oahu and Hawaii Representatives.

Signed by all members of the Committee. Representative Devereux did not concur.

**SCRep. 448 (Majority) Public Employment on H.B. No. 895**

The purpose of this bill is to reduce the mandatory age of retirement from seventy to sixty-five. Under the present law the retirement age of the employees retirement system is fifty-five. This age was set to encourage workers to retire at an earlier age. However, the law still permits workers to work until they are seventy. Your Committee is of the opinion that this bill would recognize the uniform mandatory retirement age of sixty-five, which would have the effect of encouraging younger workers to enter government service.

Your Committee is in accord with the intent and purpose of **H. B. No. 895** and recommends its referral to the Joint Select Committee of Kauai, Maui, Oahu and Hawaii Representatives.

Signed by all members of the Committee. Representative Devereux did not concur.

**SCRep. 449 Public Employment on H.B. No. 896**

The purpose of this bill is to change the amount of funeral leave from two days to three days.

Under the present law two days leave of stay is granted on such days designated by the employee upon death of any member of his immediate family. Your Committee feels that the increased number of days would more adequately recognize the amount of time actually used in preparing for and participating in a funeral involving a member of a worker's immediate family.

Your Committee is in accord with the intent and purpose of **H. B. No. 896** and recommends its referral to the Joint Select

Committee of Kauai, Maui, Oahu and Hawaii Representatives.

Signed by all members of the Committee.

**SCRep. 450 Public Employment on H.B. No. 897**

The purpose of this bill, as stated, provides for partial compensation return for years of loyal service by authorizing a partial cash payment in return for accumulated and unused sick leave for public officers and employees of long standing on their retirement or death.

Under this bill, when an employee retires or dies after twenty years or more of service, an amount equal to the value of one half of the accumulated and unused sick leave would be paid in cash to him or his beneficiary.

Your Committee on Public Employment is in accord with the intent and purpose of **H. B. No. 897** and recommends its referral to your Joint Select Committee of Kauai, Maui, Oahu and Hawaii Representatives.

Signed by all members of the Committee.

**SCRep. 451 Public Employment on H.B. No. 975**

The purpose of this bill is to extend the overtime premium compensation of time and one half to all employees hired on an exempt contractual basis. Your Committee feels that the intent of this bill is to provide overtime for only certain exempt personnel, besides students, such as persons employed by contract for special or unique services and persons hired on a temporary nature not to exceed ninety days. However, your Committee believes that in its present form the bill is too broad and that it allows overtime for any and all employees or other persons being compensated by the state or its political subdivision, thereby including school teachers, university professors and exempt law clerks of the Attorney General. Therefore, your Committee has amended **H. B. No. 975** to specify the exempt personnel who would be provided overtime.

Your Committee on Public Employment is in accord with the intent and purpose of **H. B. No. 975**, as amended herein, and recommends its referral to the Joint Select Committee of Kauai, Maui, Oahu and Hawaii

Representatives in the form attached hereto as **H. B. No. 975, H. D. 1.**

Signed by all members of the Committee except Representative Iha.

**SCRep. 452 Public Employment on H.B. No. 1167**

The purpose of this bill is to provide that employees promoted or reallocated or temporarily assigned upward, be compensated at the corresponding step of the higher grade.

Presently, employees who receive regular or temporary promotions or reallocations are compensated at the lowest step in the higher grade exceeding their existing rate. This means that employees who are promoted or reallocated to classes with more than one salary range differential normally do not enjoy more than a 5% pay increase unless they are at the minimum step of the salary range.

Your Committee is of the opinion that this bill would allow employees to more fully realize their promotion or reallocation by allowing them to be compensated at the corresponding step of the higher grade.

Your Committee on Public Employment is in accord with the intent and purpose of **H. B. No. 1167** and recommends its referral to the Joint Select Committee of Kauai, Maui, Oahu and Hawaii Representatives.

Signed by all members of the Committee.

**SCRep. 453 Public Employment on H.B. No. 1177**

The purpose of this bill is to reduce the period on which the average final compensation is computed from five years to three years for all members of the system and to extend the benefits of the system by including vacation pay in the computation of the average final compensation.

Under existing law, the average final compensation is the higher of the members average earnings during his five highest years of earnings inclusive of lump sum payments in salary in lieu of vacation or the average of his three highest years of earnings exclusive of any payment in lieu of vacation.

**H. B. No. 1177** proposes to delete the "high five with vacation" or "high three without vacation" formula and to substitute

in its place the use of the average of the highest three years of earnings with vacation in determining the members average final compensation.

Your Committee on Public Employment is in accord with the intent and purpose of **H. B. No. 1177** and recommends its referral to the Joint Select Committee of Kauai, Maui, Oahu and Hawaii Representatives.

Signed by all members of the Committee.

**SCRep. 454** Transportation on **H.C.R. No. 4**

The purpose of this concurrent resolution is to request the Department of Transportation to conduct a study of freeway entrances and exits and report its findings to the legislature twenty days prior to the convening of the Regular Session of 1972. The department recognizes the problems mentioned in the concurrent resolution and has completed a limited study of the subject. It also has, under study, several ramp control measures which should help improve freeway operations. The department agrees that a comprehensive study would be productive provided funds are made available for such study.

Your Committee concurs with the purpose of **H.C.R. No. 4** and recommends adoption.

Signed by all members of the Committee.

**SCRep. 455** Select Committee of Oahu Representatives on **H.B. No. 339**

The purpose of this bill is to provide that all nine members of the stadium board be appointed by the Governor. The bill further amends Section 109-1, Hawaii Revised Statutes, by changing the term in office for each of the members of the stadium board.

Under the present law the board would consist of nine members with the Governor, President of the Senate, and the Speaker of the House of Representatives each appointing three members. Testimony of the Attorney General on **H. B. No. 339** indicates that the appointment of board members by presiding officers of the Legislature may be legally questionable. In the light of a Utah case, the Attorney General feels that to preserve the traditional separation of powers contemplated by the Hawaii Constitution, it

would be highly recommended that this election of the board members be left to the executive branch of government.

Because of the responsibilities and the nature of the duties of the stadium board, your Committee feels that the stadium board should be referred to as the stadium authority. Your Committee has amended **H. B. No. 339** by setting out Chapter 109 in its entirety changing the word "board" to "authority" wherever it appeared. Accordingly, the title of the bill has been amended without changing its substance or scope.

Your Committee is in accord with the intent and purpose of **H. B. No. 339**, as amended herein, and recommends that it pass second reading and be placed on the calendar for third reading in the form attached hereto as **H. B. No. 339, H. D. 1**.

Signed by all members of the Committee.

**SCRep. 456** Judiciary on **H.B. No. 1268**

The purpose of this bill is to prevent theft of bicycles and to further the protection and safety of bicyclists.

The present law, while providing for a bicycle tax, is of little assistance in combatting the problem of bicycle theft in this State. This bill would help to prevent bicycles theft and to deface, alter or destroy identification marks on bicycles, by requiring dealers to keep records of bicycle sales, and by requiring proof of ownership for the registration of bicycles. This bill would also further the protection and safety of bicyclists by allowing bicycle taxes to be allocated for the design and construction of bikeways.

Your Committee upon consideration of **H. B. No. 1268** recommends that it be amended in the form attached hereto as **H. B. No. 1268, H. D. 1**, as follows:

1. Page 1, line 16 is amended by increasing the maximum fine to \$1000, instead of \$500.

2. Page 2, line 7, is amended by increasing the annual tax to \$2, instead of \$1.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 1268**, as amended herein, and recommends its passage on Second Reading in the form attached hereto as **H. B. No. 1268, H. D. 1** and its referral to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 457 Judiciary on H.B. No. 74**

The purpose of this bill is to provide for a uniform disposition of unclaimed property in this State.

Your Committee upon reconsideration of **H. B. No. 74**, recommends that it be amended by adding a subsection (b) to section -12, to read as follows:

“(b) This section is not applicable to sums payable on traveler’s checks or money orders presumed abandoned under section -2.”

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 74**, as amended herein, and recommends its passage on Third Reading in the form attached hereto as **H. B. No. 74, H. D. 1**.

Signed by all members of the Committee.

**SCRep. 458 Finance on H.B. No. 793**

The purpose of this bill is to establish a quota of state college scholarships on a five percent basis of enrollment rather than on a fixed number basis, and to eliminate fixed quotas for each of the counties.

The scholarships which are the subject hereof provide for waiver of tuition and registration fee amounting to \$103.00 per semester. The present law fixes the quota at 400 for the university and 200 for the community college system. The establishment of a quota on a percentage basis will have an immediate effect of increasing the number of scholarships from 600 to about 800 and facilitate recipients of community college scholarships to continue their education toward a baccalaureate degree. The elimination of fixed quotas for each county will permit more flexibility and enable the program to be administered more equitably so that the more deserving students can be given the opportunities for higher education.

Upon consideration hereof, some concern was expressed respecting requirements of eligibility for scholarships. Your Committee believes it should be clearly understood, therefore, that the amendments proposed by this bill are in no way intended to alter the

provisions to qualify, including the residency requirement of five consecutive years, contained in section 304-15.

Upon recommendation of the university, your Committee has effected the following amendments to the bill:

1. In section 1, amending section 304-17, by substituting the phrase “during September of the previous academic year” in place of “for the previous September”, referring to the time when five percent of the undergraduate enrollment is to be measured.

2. Also in section 1, by further amending section 304-17, by adding to the provision relating to scholarship renewal the phrase “including recipients who transfer to another college or campus.”

3. In section 2, by deleting the provision that section 304-18 is repealed, and, instead, amending said section to read:

“Sec. 304-18 **Reallocation of scholarships.** The maximum number of scholarships among the several [counties] colleges or campuses as specified in section [304-17(a)] **304-17** may be changed by reallocating scholarships from a [county] college or campus in which there are fewer qualified applicants than the number of available scholarships to a [county] college or campus in which there are more qualified applicants than the number of available scholarships.”

Finally, we should like to make clearly understood that in making our recommendation hereupon, it is our understanding that the five percent holders of scholarships refers to five percent at each individual college or campus, including the community colleges. So stating,

Your Committee on Finance is in accord with the intent and purpose of **H. B. No. 793**, as amended herein, and recommends that it pass third reading in the form attached hereto as **H. B. No. 793, H. D. 1**.

Signed by all members of the Committee.

**SCRep. 459 Finance on H.B. No. 492**

The purpose of this bill is to appropriate moneys out of the general revenues of the

State to compensate various persons pursuant to chapter 351, Hawaii Revised Statutes, the Criminal Injuries Compensation Act.

In amending sections 1 and 3 of the bill, by adding the names of the persons to be compensated and the amounts thereof, your Committee carefully reviewed the Third Annual Report of the Criminal Injuries Compensation Commission, which covers the period January 1, 1970, through December 15, 1970. The Commission received 135 applications during the period, compared with 84 in 1969. Counting 42 carried over from the previous year, a total of 147 applications were disposed of in 1970. Of these, 21 were denied, 5 were voluntarily withdrawn by the applicants, and 121 resulted in awards. This compares with 46 awards in 1969, and 3 in 1968.

Compensating the full measure of the 1970 awards will require a legislative appropriation amounting to \$262,157.14. This represents an increase of \$150,211.91 over 1969, or a percentage increase of 134%. As for the future, the commission contemplates a continued caseload increase.

Your Committee is gravely concerned by this constantly growing number claims and the criminal conduct from which they arise. In that light, we considered the current requests for relief upon re-examination of the statute and its legislative history.

Chapter 351 is an enactment of **S. B. No. 16** as Act 226, Session Laws of Hawaii 1967. The House Committee on Judiciary, reporting thereupon in **Standing Committee Report No. 900**, stated, in part:

“This bill proposes compensation awards, **not as benevolent grant of funds** to victims because of mercy or sympathy, but because of recognition of the fact that the government has a duty to protect its people from the consequences of criminal acts.” **House Journal**, 1967, p. 829. (Emphasis added.).

Section 1 of Act 226 states, in part: “The purpose of this chapter is to **aid** victims of criminal acts . . . .” (Emphasis added).

The statute itself, throughout, is couched in language essentially discretionary as regards disposition of applications which the commission is otherwise required to hear and consider. For example, whereas under sec-

tion 351-14, once application is made, the applicant “shall be entitled to appear . . . and . . . shall have the right to produce evidence”; yet under section 351-31(a), the commission “**may, in its discretion**, upon an application, order the payment of compensation . . . .”; and under section 351-31(c), the commission, “**in determining whether** to make an order . . . **may consider any circumstances** it it determines to be relevant.” (Emphasis added).

By comparison, your Committee notes that the compensatory provisions of chapter 386, the Workmen’s Compensation Law, are essentially mandatory. For example, section 386-121 provides that employers “**shall secure** compensation”, while section 386-3 requires that for a covered injury the employer “**shall pay** compensation to the employee.” (Emphasis added).

The suggested comparison may be unsatisfactory or even unwarranted to the point at which your Committee is driving, but we are firm in our resolve to express it by whatever means. The point, simply stated, is this: We find it to be increasingly difficult to favorably recommend upon appropriations pursuant to a statute which, by its matter-of-fact administration, places a premium upon criminal conduct.

Especially is this true when, in the face of other more compelling programs, future appropriations, including operating expenses, if the caseload continues to increase at its recent rate, may foreseeably exceed \$1 million for each fiscal biennium.

Your Committee desires to make clear that we have no complaint with the competency of the present commission, and, in fact, it should be commended for its proficiency. Our concern is with the statute itself and with the degree to which the commission exercises its discretion thereunder in determining whether to make an order of compensation in a given case, and with what circumstances it considers to be relevant other than those expressly enumerated in the statute, if any.

Hawaii is one of only five states to have enacted such a law. However progressive this legislation may purport to be, your Committee does not believe it was intended to cover any and all victims of violent crimes or their dependents without very real regard first for their actual financial needs, and measured very particularly by the extent to which such



persons' economic or financial condition may have been diminished proportionate to the pecuniary loss or expenses incurred as a result of the injury.

Your Committee appreciates that the commission has not heretofore had the benefit of meaningful expression of legislative intent respecting administration of the statute, and we are not unmindful that its rule-making powers are somewhat restricted thereunder. However, having expressed our concern, the commission is hereby respectfully requested to include with the next annual report on its activities as required by section 351-70, a detailed description of its attempted compliance herewith; and because we recognize that our suggested standard is something short of specific, we also request particular amendatory proposals which, if enacted, may put to rest our concern for the progressively increasing costs of this program.

Your Committee has no quarrel with the compensation provided for under part IV of the Act covering the case of a "private citizen" who "incurs injury or property damage in preventing the commission of a crime . . . , in apprehending a person who has committed a crime . . . , or in materially assisting a peace officer who is engaged in the prevention or attempted prevention of such a crime or apprehension or attempted apprehension of such a person . . . ." In reviewing the commission's Third Annual Report, we note, however, with disappointment, that of the 147 cases considered, only 6 awards were made under the "good samaritan" provisions.

As heretofore stated, your Committee has amended the bill by adding the names of the persons to be compensated and the amounts thereof; and, notwithstanding our very grave reservations over some of the claims, appropriations are recommended sufficient to compensate all of the cases for which there was an order for payment. To do otherwise would serve no better purpose than to attempt to second guess the commission.

The sums under section 1 represent unconditional lump sum awards, payable upon warrants issued by the comptroller, directly. Under section 2, the appropriation is to the department of social services; payments are principally periodic, while others are conditional or includes attorney's fee.

Your Committee on Finance is in accord with the intent and purpose of **H. B. No. 492**, as amended herein, and recommends that it pass second reading in the form attached hereto as **H. B. No. 492, H. D. 1**, and be placed on the calendar for third reading.

Signed by all members of the Committee.

#### SCRep. 460 Judiciary on H.C.R. No. 24

The purpose of this House Concurrent Resolution is to request the appointment of a joint interim committee to receive, consider, and make recommendations to the statutory provision program of the Committee on Coordination of Rules and Statutes.

Your Committee recommends that this joint interim committee consist of ten members, five members to be appointed by the Speaker of the House and five members to be appointed by the President of the Senate.

Your Committee on Judiciary concurs with the intent and purpose of **H.C. R. No. 24**, as amended herein, and recommends its adoption in the form attached hereto as **H. C. R. No. 24, H. D. 1**.

Signed by all members of the Committee.

#### SCRep. 461 Finance on H.C.R. No. 50

The purpose of this concurrent resolution is to request the legislative auditor to conduct a study of alternative methods of financing higher education and to submit a report to the 1973 Regular Session of the Legislature.

Your Committee, having concluded extensive hearings upon the budgetary requirements of the university of Hawaii and having submitted our recommendations thereupon, is disturbed by the trend of sharply increasing costs of higher education. One reason therefore, suggested by your Committee on Higher Education in its report hereupon, is that "the cost will rise mainly because an increasing proportion of our high school graduates are enrolling in our institutions of higher learning."

Whatever the reason, Hawaii is deeply committed to the importance of education, and if we are to maintain the quality of higher education, resources must grow in commensuration with enrollment increases. Therefore, it becomes necessary to look into better financing alternatives and a re-evaluation of

the relative shares of cost borne by students, government, and private philanthropy.

In its testimony before your Committee on Higher Education, the university of Hawaii stated that such a study is timely and that the legislative auditor is well qualified to conduct the study. By **S. B. No. 5, S. D. 1, H. D. 1**, the sum of \$875,000 was appropriated to the office of the legislative auditor for the ensuing fiscal year for, among other matters, such interim legislative studies or contractual services for such studies. We understand that he is anxious to undertake it.

Your Committee on Finance concurs with the intent and purpose of **H. C. R. No. 50** and recommends its adoption.

Signed by all members of the Committee.

**SCRep. 462 Public Employment on H.B. No. 969**

The purpose of this bill is to expedite the employment processes for non-residents by permitting the State or county personnel director, with the chief executive's approval, to certify the employment of a qualified non-resident or non-citizen if no qualified resident or citizen applied after appropriate notice.

While the normal civil service recruitment period is 15 days, the present law requires a 45-day period of recruitment before a qualified non-resident or non-citizen may be hired. Also required is publication of two advertisements, not more often than one a week. Your Committee finds that this present 45-day waiting period results in loss of valuable time in filling positions, loss of interest by candidates, and places government at a severe disadvantage in competing for well qualified personnel.

Your Committee feels that treating non-resident appointees in the same manner as other employees, as prescribed in the main body of public employment laws of the civil service rules and regulations, will assist greatly in retaining them on the job, thereby reducing costs and recruitment, placement and orientation, and enhancing continuous efficient execution to programs.

Your Committee on Public Employment is in accord with the intent and purpose of **H. B. No. 969** and recommends its referral to the Joint Select Committee of Kauai, Maui, Oahu and Hawaii Representatives.

Signed by all members of the Committee except Representative Kunimura.

**SCRep. 463 Public Employment on H.B. No. 974**

The purpose of this bill is to provide that where the director of personnel services determines that the services of an employee are essential to public services, the employee could receive a loan for plane fare and the movement of household goods which may be repaid by payroll deductions.

There is presently no provision for monetary assistance or loans to employees for plane fare or household moving expenses.

Your Committee finds that the federal government has provisions for the reimbursement of travel and household moving expenses to persons who are appointed to positions where there is a manpower shortage. This bill provides for loans and not actual reimbursement but is an improvement over the present practice and is essential for full services to the public.

Your Committee on Public Employment is in accord with the intent and purpose of **H. B. No. 974** and recommends its referral to the Joint Select Committee of Kauai, Maui, Oahu and Hawaii Representatives.

Signed by all members of the Committee except Representative Kunimura.

**SCRep. 464 Public Employment on H.B. No. 976**

The purpose of this bill is to permit a regular employee to be appointed to a civil service or a non-civil service position within the same or another governmental subdivision of the state for a period of up to a year and with a possible extension of another year without loss to any rights to his former position.

Under the present law, a regular employee would lose tenure and certain other rights and benefits if he accepts an exempt appointment.

Your Committee finds that various governmental agencies from time to time sponsor temporary projects which are supported by separate funds with specific objectives for twelve months or less. However, because employment in these projects are temporary and usually exempt from civil service, regular

employees and civil service are reluctant to accept these positions. This bill affords an opportunity for government to utilize the talents of certain employees.

Your Committee on Public Employment is in accord with the intent and purpose of **H. B. No. 976** and recommends its referral to the Joint Select Committee of Kauai, Maui, Oahu and Hawaii Representatives.

Signed by all members of the Committee except Representative Kunimura.

**SCRep. 465 Public Employment on H.B. No. 1103**

The purpose of this bill is to provide for a recruitment differential for shortage category classes in order that the government's ability to recruit and retain employees for such shortage classes may be improved.

Under the present law, recruitment is initiated at the first step of the appropriate pay range. If a labor shortage is indicated for the class, recruitment is then generally conducted at the range of rates from "B" to step "G" to determine the level at which qualified applicants can be recruited. However, it is not felt that the present provisions allow for the retention of competent employees. The incentive for retention of employees in shortage category classes are not adequate as the level of shortage has generally been found to be a step "G", thereby causing those employees to have to wait three years before qualifying for and receiving the first longevity step increase. Finally, the determination, qualification and declaration of a shortage category class is made on an individual class basis; therefore, if all of the classes in a series are not declared to be in a shortage category simultaneously, an inverted salary relationship could result wherein a subordinate is paid more than his superior.

Your Committee is of the opinion that by providing that a recruitment differential computed in increments of 5%, up to a maximum differential of 30%, would result in a uniformed, equitable differential throughout the range. Thereby, seniority relationships among employees can be retained and employees in shortage category classes would earn annual incremental increases in the same manner as all other employees.

Your Committee on Public Employment is in accord with the intent and purpose of **H. B. No. 1103** and recommends its referral to the Joint Select Committee of Kauai, Maui, Oahu and Hawaii Representatives.

Signed by all members of the Committee except Representative Kunimura.

**SCRep. 466 Public Employment on H.B. No. 1104**

The purpose of this bill is to amend Section 77-11, Hawaii Revised Statutes by repealing the second paragraph in its entirety. This paragraph now requires that hazard pay differentials be granted subject to certification by the respective fiscal officer as to availability of funds.

Your Committee feels that since none of the other kinds of premium payments, which include, overtime pay, shift pay and standby pay, require specific certification by the fiscal officer as to the availability of funds, it appears unnecessary that this requirement be imposed for hazard differentials granted by the personnel directors.

Your Committee on Public Employment is in accord with the intent and purpose of **H. B. No. 1104** and recommends its referral to the Joint Select Committee of Kauai, Maui, Oahu and Hawaii Representatives.

Signed by all members of the Committee.

**SCRep. 467 Public Employment on H.B. No. 1164**

The purpose of this bill is to make it unlawful for any employee of the State or its political subdivisions to become or remain employed by any other employer who is engaged in a lockout or whose employees are on strike and to provide penalties for violators.

Under the present law, the employee may engage in outside employment after working hours, but is prohibited and restricted from any outside employment which is inconsistent or incompatible with the employee's duties.

Your Committee feels that while public employees should be free to choose their outside employment, where that employer is engaged in a lockout or strike, the employment of a state employee may be considered as an interference with the labor dispute by the

state. Even though such conclusion may be doubtful, there is the possibility and it should be avoided.

Your Committee on Public Employment is in accord with the intent and purpose of **H. B. No. 1164** and recommends its referral to the Joint Select Committee of Kauai, Maui, Oahu and Hawaii Representatives.

Signed by all members of the Committee except Representative Kunimura.

**SCRep. 468 Public Employment on H.B. No. 1176**

The purpose of this bill is to provide that employees in the service of the State, including teachers, educational officers, or cafeteria managers, be paid for unused sick leave in excess of fifty days when the employee leaves governmental service.

More specifically, the bill would allow an employee in governmental service who dies or retires to receive cash equal to one-half of his accumulated unused sick leave in excess of fifty days, computed on the basis of the compensation rate of the employee when he leaves governmental service. In addition, teachers, educational officers, or cafeteria managers, could receive these benefits upon resignation. Your Committee feels that this bill would alleviate the problem of the employee who feels that he is being penalized because of his good health and attendance record.

Your Committee on Public Employment, is in accord with the intent and purpose of **H. B. No. 1176** and recommends its referral to the Joint Select Committee of Kauai, Maui, Oahu, and Hawaii Representatives.

Signed by all members of the Committee except Representative Kunimura.

**SCRep. 469 Public Employment on H.B. No. 1179**

The purpose of this bill is to provide that regular employees who may be on sick leave or disability leave be entitled to take the promotional examinations relating to promotions in civil service.

Your Committee is of the opinion that there is no reason to exclude regular employees who may be on sick leave or disability leave from taking the promotional

examinations. However, your Committee feels that the bill in its present form may not provide for sufficient notice to such employees of future examinations. Consequently, your Committee has amended **H. B. No. 1179** to provide that ample advanced notice would be given by the Director to a regular employee or a regular employee who is on sick leave or disability leave of any promotional examinations to be given.

Your Committee is in accord with the intent and purpose of **H. B. No. 1179**, as amended herein, and recommends its referral to the Joint Select Committee of Kauai, Maui, Oahu and Hawaii Representatives in the form attached hereto as **H. B. No. 1179, H. D. 1.**

Signed by all members of the Committee except Representative Kunimura.

**SCRep. 470 Public Employment on H.B. No. 1182**

The purpose of this bill is to provide a benefit for ordinary disability retirement consisting of a one and three quarter per cent of average final compensation multiplied by the years of service; provided, however, that the benefits shall not in any case, be less than thirty per cent.

Under existing law, the ordinary disability retirement benefit consists of twenty-five per cent of average final compensation for service of ten to fifteen years plus one per cent for each full year of service over fifteen. Thus a person with twenty years of service will receive only thirty per cent of average final compensation as compared to forty per cent if such a person were able to retire on service of less than twenty-five years of service below age fifty-five. Under this bill, a person with twenty years of service would receive a benefit of thirty-five per cent of average final compensation as against the thirty per cent under the present statute.

Your Committee on Public Employment is in accord with the intent and purpose of **H. B. No. 1182** and recommends its referral to the Joint Select Committee of Kauai, Maui, Oahu and Hawaii Representatives.

Signed by all members of the Committee except Representative Kunimura.

**SCRep. 471 Public Employment on H.B. No. 1266**

The purpose of this bill is to permit a retired legislator who, while a retired member, served as a legislator for at least three years after July 1, 1951, to have his retirement allowance recomputed in accordance with existing formula; provided, however, that he reimburses to the system the retirement allowance received by him during the period of legislative service for which he is not credited, and provided also that he purchases such services before December 31, 1971.

Your Committee on Public Employment is in accord with the intent and purpose of **H. B. No. 1266** and recommends its referral to the Joint Select Committee of Kauai, Maui, Oahu and Hawaii Representatives.

Signed by all members of the Committee except Representative Kunimura.

**SCRep. 472 Public Employment on H.B. No. 1275**

The purpose of this bill is to treat professional improvement leave similarly as military leave. This will eliminate the requirement for the member to make the necessary contributions, by providing that the employer government shall make the necessary contributions, both to the member's annuity savings account and to the pension accumulation fund.

Under the present law, professional improvement leave is recognized as membership service, provided the member makes the required contributions to this system during the period of the leave of absence for purchases of service. This bill would eliminate the requirement for the member to make the necessary contributions.

Your Committee on Public Employment is in accord with the intent and purpose of **H. B. No. 1275** and recommends its referral to the Joint Select Committee of Kauai, Maui, Oahu and Hawaii Representatives.

Signed by all members of the Committee except Representative Kunimura.

**SCRep. 473 Public Employment on H.B. No. 1507**

The purpose of this bill is to permit members of the retirement system to purchase service with a federal defense agency during the period of 1941 through 1947; and to add two

new types of service which may be purchased.

The present law requires that the member must have returned to his regular job after service with a federal defense agency to be eligible for the service credit. This bill provides only that he must have returned to "government service" after the wartime service. The two new types of service which may be purchased includes services rendered at Leahi Hospital and service in the military service not credited under any other provision of the retirement statutes. Presently, only two types of military service are recognized, service by a member of the system who was inducted into the military and service by an employee for the territory or county governments who, because of the nature of his employment, was excluded from membership in the system at the time he was in the military.

Your Committee, while agreeing with the purpose of the bill, has amended **H. B. No. 1507** by changing the phrase in line 17 of page 2 from "government service" to "State government service". This amendment was felt necessary in order to assure that the government service to which he returned was government service with the State and not with the federal government.

Your Committee on Public Employment is in accord with the intent and purpose of **H. B. No. 1507**, as amended herein, and recommends its referral to the Joint Select Committee of Kauai, Maui, Oahu and Hawaii Representatives in the form attached hereto as **H. B. No. 1507, H. D. 1**.

Signed by all members of the Committee except Representative Kunimura.

**SCRep. 474 (Majority) Public Employment on H.B. no. 1016**

The purpose of this bill is to repeal Chapter 85, Part I, Hawaii Revised Statutes, which deals with the submittal of personal history statements and the activities of the prospective employees as they relate to subversive activities. The bill would also authorize the destruction of all personal history statements now on file.

The personal history statement was originally intended to determine whether prospective employees have been or were at the time of consideration of employment involved in



subversive or other activities which would cast doubt upon their loyalty to the government of the United States or the State of Hawaii. Your Committee finds the State's personal history statement was revised to exclude all such offending questions and the statement presently does not serve the original purpose. Consequently, there is no need for the personal history statements.

Your Committee on Public Employment is in accord with the intent and purpose of **H. B. No. 1016** and recommends its passage on second reading and its referral to the Committee on Judiciary.

Signed by all members of the Committee except Representative Kunimura. Representative Devereux did not concur.

**SCRep. 475** Public Employment on **H. B. No. 1249**

The purpose of this bill is to amend Section 80-7, Hawaii Revised Statutes, by providing a maximum meal allowance for meals which the employee would usually consume at home but because of overtime work is unable to do so. Presently, the law limits the reimbursement to a "reasonable cost". Your Committee feels that this is not a sufficient limitation on the amount of reimbursement. Your Committee has amended the bill to reduce the maximum reimbursement from \$3.00 down to \$2.50. It is felt that an adequate meal could be purchased for that amount of money.

Your Committee is in accord with the intent and purpose of **H. B. No. 1249**, as amended herein, and recommends that it pass second reading and be referred to the Committee on Finance in the form attached hereto as **H. B. No. 1249, H. D. 1**.

Signed by all members of the Committee except Representatives Kunimura and Wong.

**SCRep. 476** Labor on **H. B. No. 1089**

The purpose of this bill is to amend the Temporary Disability Insurance Law to (1) provide a method for computing the benefit amount of a disabled individual who, at the time he became disabled, was performing some form of less than full-time work and receiving unemployment compensation benefits and (2) limit the duration of benefits payable to the disabled unemployed so they

will not receive benefits for longer periods than other claimants under the law.

Section 392-65, Hawaii Revised Statutes, presently provides for the payment of temporary disability benefits from the special fund to individuals who become disabled while unemployed and who subsequently become ineligible for unemployment compensation benefits. These individuals are referred to as disabled unemployed in the law. Under Section 392-66, a person in the foregoing category is paid weekly benefits in the same amount he would have been entitled to under the unemployment compensation law. A person who was performing no work would thus receive an amount equal to his weekly unemployment benefit amount. A person who was performing less than full-time work and receiving partial unemployment benefits, however, would receive a weekly disability benefit equal to his partial benefit amount. This may be considerably lower than the amount received by an individual who was performing no work. The injustice is the result of an apparent oversight.

**H. B. No. 1089** proposes to correct this apparent oversight by providing that "a disabled unemployed person who is performing some form of short-time work . . . at the time the disability arises, . . . shall receive benefits he would have been entitled to had he not been performing such short-time work". In effect he would be entitled to receive temporary disability insurance benefits in an amount equal to the full amount he would have been entitled to had he not been performing any work.

Section 392-66 also provides that benefits payable thereunder "shall not be payable for a period longer than the remainder of the period of unemployment for which benefits would have been payable" under the unemployment compensation law. The effect of this provision presently is to limit payments to 26 weeks, the same benefit duration as is provided for claimants who become disabled while employed. Recent federal legislation on unemployment insurance, P. L. 91-373, will require extended benefit provisions in our unemployment compensation law, provisions which call for 13 additional weeks of compensation under certain conditions, and a bill providing such extended benefits, **S. B. No. 312**, has already been considered by the Senate. The passage of the foregoing bill will result in an anomalous situation where the disabled unemployed may be entitled to 39

weeks of benefits and persons who become disabled while employed would only be entitled to 26 weeks of temporary disability benefits.

This bill proposes to limit the duration of benefit payments to the disabled unemployed to 26 weeks to equalize the duration of benefits payable to both categories of disabled persons.

Your Committee agrees that the foregoing amendments to §392-66 are necessary (1) to correct the oversight which at present unjustly discriminates in the amount of benefits paid the disabled unemployed who are performing some form of short-time work and (2) to provide a uniform benefit duration for all categories of claimants under the temporary disability insurance law.

Your Committee upon consideration of the bill has amended the bill by substituting the term "less than full-time work" in place of "short-time work" wherever it is used in the bill. "Less than full-time" is a more commonly accepted description of the work involved than "short-time".

Your Committee on Labor is in accord with the purpose and intent of **H. B. No. 1089**, as amended herein, and recommends its passage on second reading in the form attached hereto as **H. B. No. 1089, H. D. 1**, and that it be referred to your Committee on Finance for further consideration.

Signed by all members of the Committee.

**SCRep. 477 Lands on H.B. No. 1533**

The purpose of this bill is to provide for a study of the quality of coastal waters suggested in "Quality of Coastal Waters - A Proposed Project" prepared by the Water Resources Research Center, University of Hawaii, February, 1971.

Your Committee fully supports the purpose of this bill as the quality of the environment is a matter of critical concern to your Committee. Your Committee believes that, in order to assure clean water for future generations, it is necessary to act now to develop protective measures which will meet the demands of our expanding society.

Your Committee on Lands is in accord with the intent and purpose of **H. B. No. 1533** and recommends its passage on second

reading and its referral to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 478 Hawaiian Homes on H.B. No. 37**

The purpose of this bill is to appropriate \$6,016,000 for the statewide development of house lots from Department of Hawaiian Homes Lands.

Your Committee, cognizant of the demand for family residences resulting from the increase in our state's population, is especially concerned with the impact of this housing crisis on those persons who would qualify under the Hawaiian Homes Commission Act. Your Committee feels that, during the past fifty years, the Hawaiians have not received their fair share of our society's bounty. Caught in the middle of this housing crisis, the need to make adequate provision for those who qualify under the Act is mandatory. Your Committee has been informed that, at present, some 2,800 people are on the waiting list for Hawaiian Homestead Lots. This figure speaks for itself. It indicates the justification for appropriation of what would seem, at first glance, to be a relatively large sum; however, when this sum is compared with other expenditures of state moneys, it appears modest, and it should be noted, in this regard, that the amount appropriated by this bill would only fulfill 25% of the present need as indicated by the waiting list.

Your Committee wishes to affirm its continuing commitment to affording the benefits contemplated under the Hawaiian Homes Commission Act. Irrefragably, such a commitment requires that the house lot program be expanded to meet the increased need and demand for family residences.

Your Committee has amended the form and language of **H. B. No. 37** to reflect an accounting for the amount appropriated. Reference is made to **H. B. No. 37, H. D. 1**, attached hereto for the specific changes.

Your Committee on Hawaiian Homes is in accord with the intent and purpose of **H. B. No. 37**, as amended herein, and recommends its passage on second reading and that it be referred to the Committee on Finance, in the form attached hereto as **H. B. No. 37, H. D. 1**.

Signed by all members of the Committee except Representative Hansen.

**SCRep. 479 (Majority) Hawaiian Homes on H.B. No. 1413**

The purpose of this bill is to amend Section 213(c) of the Hawaiian Homes Commission Act of 1920, as amended, to expand the scope of educational projects for the improvement of children of lessees. Present law provides that the funds available to the Department of Education for such projects shall be used primarily at the preschool and elementary grade level. This bill would provide for use of funds at the intermediate grade level and as amended by your Committee, **H. B. No. 1413, H. D. 1**, would further provide for expenditure of these funds at the secondary and undergraduate levels.

Your Committee is aware of the value of an education. The type of program contemplated in Section 213 is not without precedent: similar Federal programs have been eminently successful. Your Committee believes that expansion of the scope of such projects for the benefit of children of lessees makes good sense, as education is a continuing thing and any aid, whether by way of instruction or by way of financial assistance to the student in pursuing his career, is of great value. Your Committee concludes that education is of somewhat intangible value, nonetheless, which our responsibility mandates that this benefit be conferred along with other more tangible benefits afforded the lessees under this Act.

Your Committee has amended **H. B. No. 1413**, line 7-8, page 2, as follows:

“lessees, the funds to be used primarily at the preschool, [and] elementary, intermediate, high school and college [grade] levels.”

Your Committee on Hawaiian Homes is in accord with the intent and purpose of **H. B. No. 1413**, as amended herein, recommends its passage on second reading, in the form attached hereto as **H. B. No. 1413, H. D. 1**, and that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Hansen. Representative Kimura did not concur.

**SCRep. 480 Hawaiian Homes on H.B. No. 1165**

The purpose of this bill is to appropriate the sum of \$500,000 for the Hawaiian Farm Loan Fund. The Hawaiian Farm Loan Fund was established by Act 238, Session Laws of Hawaii, 1965, as a revolving fund from which the department may make loans to qualified homestead farmers for purchasing livestock and farm equipment. Your Committee is cognizant of the value of this loan fund to the homestead farmer, as the statute permits a \$25,000 loan at an interest rate of 2-1/2% per year. Additional contributions to the Hawaiian Farm Loan Fund is not without precedent: an aggregate amount of \$400,000 of additional capital has been paid into the fund since its inception.

Your Committee affirms its commitment to make available sufficient funds to insure that the department has adequate moneys available for the Farm Loan Program. Your Committee is informed that there is now significant interest among the homesteaders to form agricultural cooperatives on the various islands, this system of cooperative farming enabling the homesteaders to compete effectively within the community. Such a system places heavy demands on the Farm Loan Fund and your Committee favors the contribution of additional moneys to assist the farmers in their endeavors.

Your Committee on Hawaiian Homes is in accord with the intent and purpose of **H. B. No. 1165** and recommends its passage on second reading and that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Hansen.

**SCRep. 481 Judiciary on S.B. No. 474**

The purpose of the bill is to clarify the terms “owner” and “power of attorney” under section 467-2, Hawaii Revised Statutes, so that a person who is not a bona fide “owner” or who does not hold the proper “power of attorney” may be prohibited from transacting in real estate without a license.

The Department of Regulatory Agencies testified before your Committee that business firms and corporations are making it a practice to employ persons to sell real estate owned by said firms or corporations claiming exemption as owner. Also, such firms and

corporations are giving power of attorney to their employees to sell real estate owned by such firms claiming exemption under **power of attorney**. The Real Estate Commission feels that these firms and corporations are circumventing the law and their activity is contrary to the intent and purpose of the real estate licensing law.

Your Committee on Judiciary is in accord with the intent and purpose of **S. B. No. 474, S. D. 2** and recommends its passage on Second Reading and placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 482 Judiciary on H.B. No. 559**

The purpose of this Act is to empower the bank examiner to examine certain affiliates of the financial institutions he must examine under present law.

Your Committee feels that knowledge of the activities of the designated affiliates is indispensable for a clear understanding of the activities of the financial institutions themselves, and notes that this bill is patterned after Federal Deposit Insurance Corporation and Federal Home Loan Bank Board power to examine the affairs of affiliates.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 559** and recommends its passage on Second Reading and placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 483 Judiciary on H.B. No. 56**

The purpose of this bill is to allow certain persons who might refuse to testify on the grounds of possible self-incrimination to be granted immunity and thereafter not be excused from testifying. This bill, as amended:

1. would require the assertion of the privilege against self-incrimination, thereby preventing an unwitting automatic grant of immunity;

2. would allow the issuance of the direction to testify or produce evidence prior to the assertion of the privilege against self-incrimination, but making the effect of such direction contingent upon the assertion of such privilege; this would avoid the interruption of

proceedings to secure a direction to testify or produce evidence after the privilege has been asserted in cases where it may be fairly anticipated that the privilege will be asserted.

Your Committee upon reconsideration of this bill recommends that it be amended in the form attached hereto as **H. B. No. 56, H. D. 2**, in order to protect a witness by granting him both transactional and use immunity except in a prosecution for an offense arising out of a failure to comply with the direction to testify or produce evidence, or for perjury committed while testifying under the grant of immunity.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 56, H.D. 1**, as amended herein, and recommends its passage on Third Reading in the form attached hereto as **H. B. No. 56, H. D. 2**.

Signed by all members of the Committee.

**SCRep. 484 Legislative Management** Informing the House that **House Resolution Nos. 326 to 335, House Concurrent Resolution Nos. 83 to 87, Standing Committee Report Nos. 457 to 483 and Standing Committee Report Nos. 485 to 505**, have been printed and distributed.

Signed by all members of the Committee.

**SCRep. 485 Federal-State-County Relations on H.B. No. 455**

The purpose of this bill is to provide for the implementation of an ethnic studies program in the office of the Governor which would record and protect the various ethnic customs and contributions which are an integral part of the life of the State of Hawaii.

It is generally recognized that within the State of Hawaii reside a multitude of ethnic backgrounds including Hawaiian, Caucasian, Chinese, Japanese, Filipinos, Portuguese, Puerto Ricans, Koreans, Afro-Americans, and Samoans. The interaction between these ethnic backgrounds, socially, economically, through work and leisure has produced the people of Hawaii. With increased inter-action the experiences and cultural contributions of each of the groups in Hawaii is not always understood by succeeding generations. Oftimes the exotic past is so startlingly different from the Hawaii of today that youngsters tend to regard this history as something foreign. However,

it is the response of the ethnic groups that has made Hawaii what it is today. Each group responded to pressures in ways appropriate to their history and culture, amending, adding, and developing as circumstances dictated. It is the history of these responses that must be preserved for future generations in order that the people will be able to understand their backgrounds.

Testimony on the bill indicated that as time passes it is less and less likely that good studies of Hawaii's ethnic groups can be made. There is presently not enough about these ethnic groups on paper in their own words, and as members of the first generation to come to Hawaii die, the story gets harder and harder to put together in a useful and moving way. Consequently, the first priority is to present the experiences of the ethnic groups in Hawaii on a level and in a manner which will be meaningful to young people. The first priority is a systematic and wide ranging oral history program. There should also be a systematic inventory taken of documentary resources relating to ethnic groups and the planning and construction of an appropriate facility to house the above mentioned studies of Hawaii's ethnic groups.

Act 236, Session Laws of Hawaii, 1969 created a non-profit corporation, the Hawaii Foundation for History and the Humanities, which would be the depository of all resources which are made available or offered of historical collections and donations made by groups and persons as gifts to the State to help insure the Hawaiian heritage. Your Committee feels that this non-profit corporation should be given the responsibility to carry out an ethnic studies program. Consequently, Section 2 of **H. B. No. 455** has been amended to provide that this non-profit corporation would be responsible for the program.

Your Committee has further amended **H. B. No. 455** by adding a new section 53 to the bill which would amend Section 6-16.2, Hawaii Revised Statutes, to allow the Hawaii Foundation for History and the Humanities to hire a full time director and a full time secretary to carry out the duties assigned to them by the Board of Trustees. Chapter 6, Hawaii Revised Statutes, is further amended by adding a new Section 16-16.6 entitled "Employees." This new section would provide that the secretary and the director would

be salaried employees and would receive a salary as determined by the Board of Trustees.

Your Committee feels that a director and secretary are needed because of the increased requirements placed on the Hawaii Foundation for History and the Humanities to operate and maintain the new facilities to house the studies and artifacts resulting from the ethnic studies program.

Your Committee has further amended the bill by adding a new section which would provide for the appropriation out of the general revenues of the State of Hawaii the sum of \$25,000 for the planning and construction of facilities which would act as a centralized repository. This facility would be used to house the written records and reports which were collected from the oral history program as well as providing a facility for the performing arts which are performed by the various ethnic groups.

The present Section 4, New Section 6, of **H. B. No. 455** would be amended to provide that the sums appropriated would be expended by the Hawaii Foundation for History and the Humanities instead of the Governor.

Your Committee realizes that this ethnic studies program is only just a beginning. Community organizations among the ethnic groups ought to be encouraged to look into the collection of their own historical sources. They should be encouraged to raise money for the research and writing of their history, perhaps through the endowment of scholarships and fellowships at the University so that research and publication programs can go on continually.

Your Committee is in accord with the intent and purpose of **H. B. No. 455**, as amended herein, and recommends that it pass Second Reading and be referred to the Committee on Finance in the form attached hereto as **H. B. No. 455, H. D. 1**.

Signed by all members of the Committee except Representatives Kato and Poepoe.

**SCRep. 486** Public Health, Youth and General Welfare on **H.B. No. 582**

The purpose of this bill is to change the existing voluntary certification law of psychologists to a mandatory licensing law. The



present statute prohibits a person from representing himself to be a certified psychologist when he has not been certified, but it does not prohibit a person from offering psychodiagnostic or psychotherapeutic services so long as he does not represent himself to be a certified psychologist.

As originally worded, the bill raised some disagreement among members of the professional community because of the definition of "psychologist" found in Section 465-1(5) of the bill. It was felt that this definition was so broad that it overlapped with the purposes, principles, practices, techniques, and activities of practically every formalized profession such as nurses, social workers, vocational counselors, personnel managers and other professions intending to assist or be of comfort to other human beings.

Since that time, the Board of Certification of Practicing Psychologists, the Hawaii Medical Association, the Hawaii Psychological Association and the Hawaii Psychiatric Society have come upon a workable definition which is contained in the amended bill. Essentially, the new definition consists of limiting the practice of psychology to those principles and procedures named in the definition, combined with exempting persons who perform any of such activities only as incidental to their occupational purpose, and specifically excepting licensed physicians.

Incorporating the changes suggested by these organizations, your Committee feels the bill is now a strong and enforceable licensing act that requires a person to be licensed before representing himself as a psychologist or offering psychological services to the public, thereby providing protection for the people in the state from unqualified practitioners.

Your Committee on Public Health, Youth and General Welfare is in accord with the intent and purpose of **H. B. No. 582**, as amended herein, and recommends its passage on second reading in the form attached hereto as **H. B. No. 582, H. D. 1**, and its referral to the Committee on Judiciary.

Signed by all members of the Committee.

**SCRep. 487 Judiciary on H.R. No. 197**

The purpose of this resolution is to request the department of the Attorney General to conduct a study on deferring prosecution of

persons charged with misdemeanors and felonies.

Your Committee on Judiciary is in accord with the intent and purpose of **H. R. No. 197** and recommends its referral to your Committee on Finance.

Signed by all members of the Committee.

**SCRep. 488 Judiciary on H.B. No. 468**

The purpose of this bill is to allow the exemption from the general excise tax of gross proceeds from services and goods provided to certain elderly persons.

At present, the law does not allow gross proceeds from services and goods provided to persons over the age of sixty-five by nursing homes, infirmaries, or apartments operated for religious purposes to be exempt from the general excise tax. These nursing homes, infirmaries, and apartments often pass the cost of the tax on to the elderly consumers, thereby saddling them with an increased payment burden. Your Committee is of the opinion that this burden should not be borne by the elderly, since they have reached a stage in life where they are least able to provide for themselves. This bill would, therefore, exempt certain gross proceeds relating to goods and services provided to the elderly from the general excise tax. Moreover, this bill would impose a penalty on persons or other entities which attempt to charge a general excise tax or fee on proceeds which are exempt from taxation by this bill.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 468** and recommends its passage on Second Reading and its referral to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 489 Judiciary on H.B. No. 1294**

The purpose of this bill is to provide for State licensing of electricians and plumbers.

At present, there is no State statute regulating the licensing of electricians and plumbers. Instead, each county has an electrical and plumbing ordinance which stipulates minimum work performance standards. This bill would standardize examinations and lic-

ensing requirements and would settle the question of whether the State has preempted the licensing field in these areas.

Your Committee upon consideration of **H. B. No. 1294** recommends that it be amended as follows:

1. Section 1 of **H. B. No. 1294**: delete subsection (b) and re-alphabetize sub-section (c) to read "b".

2. Page 7 following Section 9: add a new section to read as follows:

"Section -10. Inspections. Nothing in this chapter shall deprive the several counties of the right to perform electrical or plumbing inspections, as regulated by their respective ordinances."

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 1294**, as amended herein, and recommends its passage on Second Reading in the form attached hereto as **H. B. No. 1294, H. D. 1** and its referral to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 490 Lands on H.R. No. 316**

The purpose of this resolution is to request the Department of Planning and Economic Development to determine the economic impact resulting from the conversion of land from agricultural use to urban use.

Your Committee is cognizant of the growing economic pressures which may ultimately result in increased reclassification of agricultural land on Oahu. An awareness of the economic impact resulting from the conversion of agricultural to urban use may suggest the feasibility of alternatives which will aid in the preservation of the land now subject to agricultural use. One possibility is the use of marginal land. If marginal lands can be used, then the economic productivity of the agricultural lands can be retained and residences can, by extending the credit for the more costly development of marginal lands, be developed on marginal lands not presently used for any productive purpose.

Your Committee on Lands concurs with the intent and purpose of **H. R. No. 316** and recommends its referral to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 491 Lands on H.B. No. 1230**

The purpose of this bill is to provide by appropriation for a state-wide historical site survey to properly define historical sites and to protect them from encroachment by land development. Your Committee is cognizant of the threat to Hawaii's heritage and culture and agrees with the purpose of this bill. Your Committee is aware of the need to insure, through identification and preservation practices, the various historical sites within the state. Should we fail to take such steps at this time, it is not clear whether we may later be able to preserve our culture at the time when the need to develop becomes critical.

Your Committee has amended **H. B. No. 1230** to provide that the appropriation should be expended by the Department of Land and Natural Resources. In making this amendment, your Committee has deleted Section 3.

Your Committee on Lands is in accord with the intent and purpose of **H. B. No. 1230** as amended herein, and recommends its passage on Second Reading in the form attached hereto as **H. B. No. 1230, H. D. 1**, and its referral to the Committee on Finance.

Signed by all members of the Committee except Representative Aduja.

**SCRep. 492 Transportation on H.B. No. 343**

The purpose of the bill is to appropriate the sum of \$150,000 to the Department of Planning and Economic Development to study, plan, and design a Trans-Pacific Distribution Center in the state to reduce costs and to expedite the processing of freight shipments in the Pacific Basin through the interchange of freight cargoes between domestic and overseas carriers and to provide adequate facilities for the sorting, consolidation, and redistribution of freight.

During the 1970 Pacific Air Cargo Conference held in Honolulu, it was generally agreed that air cargo development at Honolulu International Airport has great potential and should be carefully planned and coordinated with transshipment activities proposed for Honolulu Harbor. It appears that new cargo handling and consolidating concepts are emerging on an international

basis. Similar to containerization, intermodal transfer between air carriers and between sea and air carriers is being planned. The emphasis is to reduce cargo handling time and costs. The study will provide an analysis of the needs, potentials, risks, costs and expected returns to the state of a Trans-Pacific Distribution Center.

Section 2 of the bill establishes a Trans-Pacific Distribution Center Program and empowers the Director of the Department among other duties to provide for research and planning to design and determine optimum transshipment facilities at Anuenue and the Honolulu International Airport for the processing of sea and air freight. Since the title and declared purpose of the bill is to conduct a study into the establishment of a Trans-Pacific Distribution Center, your Committee recommends that Section 2 of the bill be entirely deleted.

Your Committee is in accord with the intent and purpose of **H. B. No. 343**, as amended herein, and recommends its referral to your Committee on Economic Development in the form attached hereto as **H. B. No. 343, H. D. 1**.

Signed by all members of the Committee.

**SCRep. 493 Lands on H.B. No. 1218**

The purpose of this bill is to amend Chapter 188 of the Hawaii Revised Statutes by adding a new section pertaining to the protection of the green sea turtle.

While your Committee is concerned with the preservation of the green sea turtle (*Chelonia mydas mydas*), it is your Committee's feeling that restrictive legislation concerning this species is not warranted at this time. Your Committee has considered this matter in detail and feels the need for further information regarding the circumstances of the green sea turtle in Hawaiian waters.

Your Committee, therefore, has amended **H. B. No. 1218** to provide for a study of the population of the green sea turtle in Hawaiian waters. It is your Committee's opinion that the value of such a species for food purposes should be evaluated in light of the State's turtle population.

Your Committee is in accord with the intent and purpose of **H. B. No. 1218** as amended herein and recommends its passage

on Second Reading as **H. B. No. 1218, H. D. 1** and its referral to your Committee on Judiciary.

Signed by all members of the Committee except Representative Aduja.

**SCRep. 494 Lands on H.B. No. 469**

The purpose of this bill is to amend Section 191 of the Hawaii Revised Statutes to authorize the Department of Land and Natural Resources to make and amend rules and regulations pursuant to Chapter 91 of the Hawaii Revised Statutes with regard to the propagation of wild birds. The rules and regulations would pertain to the conditions for obtaining a written permit in this regard.

Your Committee believes that the propagation of wild birds is an important aspect of our environment. Without the power to restrict harmful practices in this regard, the Department of Land and Natural Resources would be prevented from exercising its proper responsibility.

Your Committee on Lands is in accord with the intent and purpose of **H. B. No. 469** and recommends its passage on second reading and that it be placed on the calendar for third reading.

Signed by all members of the Committee except Representative Aduja.

**SCRep. 495 Lands on S.B. No. 845**

The purpose of this bill is to amend the present law providing for modification or elimination of lease restrictions by the Board of Land and Natural Resources to qualify a leasehold interest in public land for mortgage lending or guaranteed purposes with the Federal Land Bank of Berkeley, Federal Intermediate Credit Bank of Berkeley, Berkeley Bank for Coöperatives, the Firm Credit Bank of Berkeley, and any other mortgage lending agency qualified to do business in Hawaii.

Your Committee has been advised that the Federal Land Bank of Berkeley operating in Hawaii has, during the past six years, made some \$17,000,000 of loans to Hawaii farmers secured by mortgages on the fee interests of the borrowers. In the instance of a person having a leasehold interest in public land, the Federal Land Bank has indicated that it will not make loans because the bank regards the lessee's interest as inadequate security. This

bill would amend Section 171-36 of the Hawaii Revised Statutes to provide that the board may, at any time during the term of a lease, modify or eliminate any of the restrictions on a lease in order to qualify it for a mortgage lending or guarantee purposes with the specific banks above mentioned. Your Committee hopes that the amendment of the statute will result in broadening the borrowing base of farmers who lease state land.

Your Committee on Lands is in accord with the intent and purpose of **S. B. No. 845, S. D. 1**, and recommends that it pass second reading and be placed on the calendar for third reading.

Signed by all members of the Committee.

**SCRep. 496** Judiciary on **S.B. No. 475**

The purpose of this Bill is to establish minimum educational requirements as a requisite for real estate broker and salesman licenses.

The Real Estate Commission testified that the real estate examinations are an inadequate safeguard to protect the public from incompetent real estate salesmen and brokers, and that, in addition to passing examinations, salesmen should be required to have completed some type of course on real estate principles requiring at least 30 hours of time in class, or its equivalent as may be established by the commission, and that brokers should be required to have completed a similar type of course requiring at least 40 hours of time in class, or its equivalent as may be established by the Commission.

Your Committee on Judiciary is in accord with the intent and purpose of **S. B. No. 475** and recommends its passage on Second Reading and placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 497** (Majority) Judiciary on **H.B. No. 668**

The purpose of this bill is to allow title to new land created by volcanic eruptions, which adds to existing land, bounding the ocean, to vest in the owners of the existing land which abuts such new land.

The present law makes no provision as to who is legally entitled to own such land created by volcanic eruption. Since numerous volcanic eruptions which continue to occur in this State create new land whenever the flow of erupted volcanic materials reaches and extends into the ocean, your Committee is of the opinion that the question of ownership of such new land should be settled. This bill would vest title to such land in the abutting land owners.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 668** and recommends its passage on Second Reading and placed on the calendar for Third Reading.

Signed by all members of the Committee. Representative Aduja did not concur.

**SCRep. 498** Judiciary on **H.B. No. 1374**

The purpose of this bill is to allow the destruction of county bonds, interest coupons, and warrants under certain conditions to aid the record keeping process of the respective counties.

The present law allows for such destruction by the treasurer of each county (or in the case of the City and County of Honolulu, the director of finance), with the approval of the board of supervisors (or in the case of the City and County of Honolulu, the City Council) and the county attorney (or in the case of the City and County of Honolulu, the corporation counsel). The rewording of the present law by this bill would simplify the statutory language without effecting a substantive change.

Your Committee upon consideration of **H. B. No. 1374** recommends that it be amended in the form attached hereto as **H. B. No. 1374, H. D. 1**, primarily to conform to the Ramseyer method of bill drafting. Also, the word "burning" has been substituted for the word "cremation" on page 1, line 7 as a style change.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 1374**, as amended herein, and recommends its passage on Second Reading in the form attached hereto as **H. B. No. 1374 H. D. 1** and placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 499** Judiciary on **H.B. No. 379**

The purpose of this bill is to protect the public in the use and installation of glazing materials.

At present, there is no state statute providing for the protection of the consumer in the use and installation of safety glazing materials, although local ordinances may provide some protection in this field. This bill would create statutory protection by providing a new part to Hawaii's health laws which would prohibit the use of unsafe glazing materials in hazardous locations. Your Committee on Judiciary concurs generally with the findings of the Committee on Public Health, Youth, and General Welfare as reflected in **STAND. COM. REP. NO. 180**, and makes a further finding, hereafter noted.

Your Committee upon consideration of **H. B. No. 379** recommends the following amendment:

On page 4: Section 321- Local Ordinances. This chapter shall supercede any local, municipal or county ordinances or parts thereof relating to the subject matter hereof, except where the Director of the Department of Health approves such ordinances or parts thereof as meeting the intent of this chapter.

Your Committee is of the opinion that this amendment is necessary because there may be ordinances which, in the opinion of the Director of the Department of Health, may provide the public with more protection than the provisions of **H. B. No. 379**, and therefore should remain in effect.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 379**, as amended herein, and recommends its passage on Third Reading in the form attached hereto as **H. B. No. 379, H. D. 1**.

Signed by all members of the Committee.

**SCRep. 500** Judiciary on **H.B. No. 581**

The purpose of this bill is to change the present requirement of one year practical experience in Hawaii to one year practical experience in any state of the United States.

Under the present law, students attending approved colleges of pharmacy in other

states do not receive credit from the Hawaii Board of Pharmacy for any practical experience they may have obtained through employment in other states. This bill would clarify the present law by insertion of a clause allowing one year supervised practical experience in any state in the United States to count towards qualifying for a license in this State.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 581** and recommends its passage on Third Reading.

Signed by all members of the Committee.

**SCRep. 501** Federal-State-County on **H.R. No. 235**

The purpose of this Resolution is to request that the Commander-in-Chief of the Pacific Forces, the Commander of Kaneohe Marine Corps Air Station, the City and County of Honolulu, and State of Hawaii cooperate in the examination and analysis of the public safety and security of the North Beach with regard to the possibility of opening of North Beach and adjacent waters to the public.

It is generally recognized that the increasing population on Oahu and the limited number of available beach areas on the Island has resulted in an increasingly overcongested use of the beach areas. In light of this knowledge, various groups have from time to time attempted to open up more beach area to the general public. One group, Save our Surf, has attempted in the past to convince the Base Commander of Kaneohe Marine Corps Air Station to open up the two mile stretch of beach lying along the North Shore of Mokuauia peninsula, which is allegedly under the jurisdiction of the Marine Corps Air Station, to the public's use. As a result of the Commander's concern over public safety, an arrangement was worked out between the military authorities and the surf parameters project of Cook Laboratory, University of Hawaii, to study the waves, wind, and currents at North Beach and to make recommendations. The testimony further pointed out that the unpublished preliminary research report tends to show that North Beach is physically no different from Oahu's other public beaches, such as Sunset, Wai-mea, and Makaha. Because of the results of this report, and the overcongestion on many of the public beaches, your Committee feels



that a full examination and analysis of the public safety and security of the North Beach should be carried on by the military and the City and County of Honolulu and the State of Hawaii.

Your Committee concurs with the purpose of **H. R. No. 235** and recommends its adoption.

Signed by all members of the Committee except Representatives Kato and Poepoe.

**SCRep. 502 Lands on S.C.R. No. 47**

The purpose of this concurrent resolution is to request the Hawaii Foundation for History and the Humanities to determine the present location of artifacts important to Hawaii's past with regard to such artifacts as are presently located outside of the state and to establish ways and means to secure the return of those artifacts by the 200th anniversary of Captain Cook's discovery of the Hawaiian Islands, which will be celebrated in 1978.

Your Committee is of the opinion that the Hawaii Foundation for History and the Humanities and the Bishop Museum, which are named in this concurrent resolution, are sufficiently knowledgeable as to subject matter of the concurrent resolution in order to be able to provide this body with the information requested.

It is the feeling of your Committee that any relic of Hawaii's past should be returned to its place of origin, for it is axiomatic that no man can claim ownership to something that is owned by all.

Your Committee on Lands concurs with the intent and purpose of **S. C. R. No. 47** and recommends its adoption.

Signed by all members of the Committee.

**SCRep. 503 Lands on H.R. No. 117**

The purpose of this resolution is to request the Department of Land and Natural Resources to make available suitable lands on the Island of Oahu for the raising of hogs. Your Committee is aware of the plight of hog raisers who are faced with the increasing demands of an urban society. Extensive residential development has resulted in a severe limitation on the area of land available for raising hogs. Your Committee has determined that the local hog industry is necessary

for the economic well-being of the state and therefore provision must be made to afford those involved in this industry with the land necessary for hog production.

Your Committee on Lands concurs with the intent and purpose of **H. R. No. 117** and recommends its adoption.

Signed by all members of the Committee except Representative Aduja.

**SCRep. 504 Lands on H.R. No. 196**

The purpose of this Resolution is to request the people of the State of Hawaii not to molest, kill, or capture the green sea turtle (*Chelonia mydas mydas*) or to take, collect, or otherwise molest the eggs of this creature.

Your Committee is in complete agreement with the purpose of **H. R. No. 196**. The need for voluntary restriction on the taking of this creature is apparent. While your Committee does not wish to limit the use of the turtle for home consumption, it is apparent that some restriction must be placed on the wholesale taking of these animals.

Your Committee has amended **H. R. No. 196** to request the Department of Land and Natural Resources to take action in this regard by promulgating the necessary rules and regulations to limit the selling and taking of the green sea turtle.

Your Committee has further amended the Resolution to delete the requirement of newspaper, radio, and television communications with respect to the Resolution.

Your Committee on Lands concurs with the intent and purpose of **H. R. No. 196**, as amended herein, and recommends its adoption in the form attached hereto as **H. R. No. 196, H. D. 1**.

Signed by all members of the Committee except Representative Aduja.

**SCRep. 505 Judiciary on H.B. No. 560**

The purpose of this bill is to allow the bank examiner, for good cause shown, to grant a reasonable extension of time for the filing of semiannual reports by certain financial institutions.

The law presently requires that semiannual reports be filed as of June 30 and

December 31. The penalty is \$10 for each day the report is delayed beyond the time allowed by statute.

Testimony by the Department of Regulatory Agencies indicates that there are instances when such semiannual reports are not filed on time due to circumstances beyond the control of the financial institutions. Examples of such circumstances are:

1. Changeover of personnel at critical periods.
2. Illness of individual responsible for preparation of report.
3. Missing records due to vandalism.

Your Committee, upon consideration of **H. B. No. 560**, recommends that it be amended as follows:

1. The proposed clause to be added to the present section reading, "provided, that the bank examiner may, for good cause shown, grant a reasonable extension of time for making and filing such report", should be changed to read: "; provided, that the bank examiner may, for good cause shown, grant an extension of not more than forty-five days for making and filing such report."

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 560**, as amended herein, and recommends its passage on Second Reading in the form attached hereto as **H. B. No. 560, H. D. 1** and placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 506 Public Employment on S.B. No. 47**

The purpose of this bill is to exempt senior citizens from the age limitation of seventy years as the maximum age for a person who remains employed by the State or any county.

Your Committee considered **H. B. No. 538**, companion bill to the one under consideration and testimony indicated that the majority of the foster grandparents are over seventy years of age, with the oldest being eighty. Participation in the program has provided these seniors with meaningful daily activities, feelings of self-worth, association with others, a sense of being needed, and a

means to supplement their low fixed income. They have shown that their age has not interfered with full participation in the program.

As in **H. B. No. 538** the original bill provided exemptions to persons over 70 years engaged in foster grandparent program. The Senate upon consideration extended the exemption to programs or projects wherein the employment of senior citizens are appropriate. Your Committee agrees with the amendment made by the Senate.

Your Committee is in accord with the intent and purpose of **S. B. No. 47, S. D. 1** and recommends that it pass second reading and be referred to your Committee on Judiciary.

Signed by all members of the Committee.

**SCRep. 507 Public Employment on S.B. No. 48**

The purpose of this bill is to exempt foster grandparent positions and positions for temporary employment of senior citizens in special projects from the State civil service laws.

The Foster Grandparent Program provides half time employment to capable elderly persons whose annual income falls below the poverty guidelines developed by the Office of Economic Opportunity. Each year, for five years, these positions were given temporary exemptions from the Department of Personnel Services. Now that the program is no longer a demonstrational project, your Committee feels that it is most desirable to make specific provisions for the exemption of the foster grandparents in the State Foster Grandparents Program.

The participants of this program are people who are no longer in the regular competitive work force. They are parents and grandparents who have been retired from competitive work, and who seek a role in our society and a means to supplement their low fixed income. If these participants were to be under civil service, it would not be advantageous to the program's purposes and objectives.

Your Committee considered **H. B. No. 537**, companion bill to the one under consideration, which provided an exemption to the elderly employed only in the foster grandparent program. The Senate upon consideration

of the matter enlarged the exemption to include employment of the elderly in other special projects.

Your Committee agrees with the Senate amendment, however, recommends that the bill be amended so the bill will conform to Rule 24 (2) of this body.

Your Committee is in accord with the intent and purpose of **S. B. No. 48, S. D. 1**, as amended herein, and recommends that it pass second reading in the form attached hereto as **S. B. No. 48, S. D. 1, H. D. 1**, and that it be referred to your Committee on Finance.

Signed by all members of the Committee.

**SCRep. 508 Public Employment on S.B. No. 712**

The purpose of the bill is to place present exempt employees of the cable television division under the protection of Chapter 76 and 77 of the Hawaii Revised Statutes without subjecting said employees to the recruitment and examination divisions of those chapters.

This bill would insure the continuity of the work of the experienced personnel of the division without subjecting the cable television division program to possible interruption resulting from recruitment and minimum qualification problems were the Director subject to procedures and requirements of said chapters.

Your Committee has amended **S. B. No. 712** in order to comply with **House Rule 24(2)**. More specifically, Section 44OG-12, Hawaii Revised Statutes, has been printed in its entirety with the amended material being indicated by being underscored.

Your Committee is in accord with the intent and purpose of **S. B. No. 712**, as amended herein, and recommends that it pass second reading in the form attached hereto as **S. B. No. 712, H. D. 1**, and that it be referred to the Committee on Judiciary.

Signed by all members of the Committee.

**SCRep. 509 Public Employment on H.B. No. 972**

The purpose of the bill is to provide for vacation, sick leave, and retirement credits while the employee is off work and receiving

temporary total disability Workmen's Compensation benefits.

Under the present law employees receiving Workmen's Compensation benefits, in whatever form, continue to earn vacation, sick leave, and retirement credits. An employee receiving permanent partial disability benefits can earn these credits for almost an indefinite period even though he is no longer working because of the disability.

Your Committee feels that the present law should be clarified. **H. B. No. 972** attempts clarification by identifying the type of Workmen's Compensation disability benefit an employee must be receiving while off the job because of industrial injury before he is allowed to earn vacation, sick leave, or retirement credits. More specifically, the bill provides that such benefits are those which are temporary total disability Workmen's Compensation benefits.

Your Committee is in accord with the intent and purpose of **H. B. No. 972** and recommends its referral to the Joint Select Committee of Kauai, Maui, Oahu, and Hawaii representatives.

Signed by all members of the Committee except Representative Kunimura.

**SCRep. 510 Public Employment on H.B. No. 1184**

The purpose of this bill is to provide a sick leave allowance which would be paid to the employee or to the employee's named beneficiary, surviving spouse, or employee's estate, whichever was appropriate, upon the termination of his employment. The rate at which the compensation would be paid would depend on whether the employment was terminated by the employee's death or not.

Your Committee is in accord with the intent and purpose of **H. B. No. 1184** and recommends its referral to the Joint Select Committee of Kauai, Maui, Oahu, and Hawaii representatives.

Signed by all members of the Committee.

**SCRep. 511 Public Employment on H.B. No. 1298**

The purpose of this bill is to provide that the Director of Personnel Services for the State government and the directors of Per-

sonnel Services for each of the political subdivisions of the State may adopt rules and regulations with respect to Chapter 79, Hawaii Revised Statutes, entitled "Leaves of Absence".

Under the present law the rules and regulations are to be promulgated by the Governor with respect to State officers and employees, and by the Mayor of the City and County and the Chairmen of the Board of Supervisors for each county with respect to City and County employees. This bill in effect provides for the additional promulgation of rules by the respective directors of personnel services.

Your Committee is in accord with the intent and purpose of **H. B. No. 1298** and recommends that it pass second reading and be referred to the Joint Select Committee of Kauai, Maui, Oahu, and Hawaii representatives.

Signed by all members of the Committee except Representative Wong.

**SCRep. 512 (Majority) Lands on H.B. No. 65**

The purpose of this bill is to effect amendment of various sections of Chapter 205 of the Hawaii Revised Statutes, which pertains to the State Land Use Commission and the regulation of land use in the State.

The bill would amend chapter 205 to increase the commission from its present seven members to eleven members. The bill would provide that one member of the commission shall be appointed from each of the counties of the State, and for the appointment of three members on an at-large basis. The bill would further extend membership on the commission to the executive heads of the planning departments of the counties of the State and would prohibit a member of the commission from involvement in the development or sale of real estate for profit, except with respect to the member's personal residence. **H. B. No. 65** would alter the notice provisions contained in section 205-4 with respect to the amendment of district boundaries. In this regard, your Committee anticipates the requirement of notice by certified mail will involve some practical problems of administration and, within this context, failure to notify a person located within the area described caused by inadvertent error should not work to invalidate the proceedings. Nei-

ther should failure to determine exact proximity with regard to the fifty nearest landowners flaw the subsequent proceedings. Finally, the bill would amend chapter 205 by adding a new section to that chapter which pertains to the substance of the notice of public hearing published by the commission.

Your Committee has received extensive testimony on this bill and agrees with the conclusion of Shelly M. Mark, Director of the Department of Planning and Economic Development, that **H. B. No. 65** is "an extremely comprehensive and obviously well thought out bill". The need for careful regulation of the use of the land of the State is self-evident and your Committee is of the opinion that greater involvement of responsible public officials through the expansion of the State Land Use Commission is desirable. Similarly, your Committee is of the opinion that the notice provisions contained in the bill will result in greater public involvement in decisions affecting land use. Your Committee feels that there is a need for public awareness and participation in this process. As land is one of our most important natural resources, so public involvement in the planning and the utilization of this resource is an important aspect participatory democracy.

Your Committee has amended **H. B. No. 65** in several respects:

1. Because of your Committee's feeling that is desirable to expand the commission, your Committee has amended Section 2 of the bill to provide that Section 205-1 shall be amended to increase membership on the board to fifteen members, including the executive heads of the county planning departments. Reference is made to the attached copy of **H. B. No. 65, H. D. 1** for this specific language of the amendment.

2. Your Committee has further amended Section 2 by amending the paragraph pertaining to the prohibition against the involvement of commission members in the development or sale of real estate for profit. Your Committee has deleted the phrase "directly or indirectly" appearing on line 1 of page 3 of the bill. Your Committee feels that this phrase is merely surplus language, this amendment to **H. B. No. 65, H. H. 1** being of a nonsubstantive nature.

3. Your Committee has amended Section 3 of the bill pertaining to Section 205-4 of the Hawaii Revised Statutes to strike the phrase

“and in an available public building closest to the property for which a change in the district boundary is being sought and,” this phrase beginning on line 25 of page 4 of the bill. Your Committee is of the opinion that such a requirement places a burden upon the commission without conferring any substantive benefit.

4. The Committee has also amended paragraph 4 of section 3 of the bill, that amendment reading:

“The commission shall notify the persons and agencies that may have an interest in the subject matter of the time and place of the hearing[.], and the commission shall also give notice as hereinafter specified by certified mail under section 1-28 or by registered mail addressed to the last known address of the owners of property situate within 400 feet of the boundaries of the tract of land which is, in whole or in part, being petitioned for change. In the event there are less than fifty owners within the area of the stated distance from the boundaries, then the commission shall determine the fifty owners whose property is situate most proximate to the tract or the portion of the tract of land which is being petitioned for change and shall give notice to these fifty owners as provided in this section.”

Your Committee has made this amendment because of its belief that the one mile radius requirement imposes too great a burden on the commission. Your Committee feels that the minimum “fifty owner requirement” is adequate to insure proper notice to those who would be affected or otherwise interested in the proposed district boundary change.

5. Your Committee has amended section 4 of the bill by deleting that section. It is your Committee’s belief that a provision authorizing the county planning commissions to issue a special permit for certain urban uses within the conservation districts is unwise and that the ultimate control of conservation districts should remain with the department of land and natural resources.

6. Your Committee has amended section 5 by deleting that section for the same reason it has deleted section 4 of the bill.

7. Your Committee has amended section 7 of the bill to effect nonsubstantive change of

language and the renumbering of that section to “SECTION 5.” to reflect prior deletions. Such amendment would read:

SECTION 5. Chapter 205, Hawaii Revised Statutes is amended by adding a new section thereto to be appropriately designated and to read as follows:

“Sec. 205- Changes in land use; variance from advertisement; voidable. Whenever a change in land use designation or classification is granted under this chapter and in connection therewith there is a variance, intentional or unintentional, between the subject matter as advertised in the notice of public hearing and as acted upon by the land use commission, the action of the land use commission is voidable. Any person may bring suit in the circuit court of the county in which the property is located to void the action of the commission.”

8. Your Committee has further amended section 7 of the bill by deleting paragraph 2, 3 and 4. It is your Committee’s opinion that the substance of this section is covered by the proposed code of ethics presently pending before the legislature.

9. Your Committee has deleted section 8 of the bill pertaining to section 183-41 of the Hawaii Revised Statutes for the same reason it deleted sections 4 and 5 of the bill.

10. Your Committee has changed the numbers of the various sections to reflect the deletions effected in H. B. No. 65, H. D. 1.

Your Committee on Lands is in accord with the intent and purpose of H. B. No. 65, as amended herein, and recommends its passage on second reading and its referral to the Committee on Judiciary in the form attached hereto as H. B. No. 65, H. D. 1.

Signed by all members of the Committee Representatives Unemori, Ajifu, Medeiros, Saiki, and Yamada did not concur.

#### SCRep. 513 Judiciary on H.B. No. 280

The purpose of this bill is to make an appropriation for the establishment of a reserve police academy training program and to extend benefits to reserve police officers.

At present reserve police officers receive a minimum amount of benefits, inasmuch as the concept of the program was that of a



“volunteer” force. Nevertheless, it has been indicated that attracting persons to the reserve police officer force has become increasingly difficult, especially where reserve police officers may have to pay for much of the costs incurred as such officers. Accordingly, costs of uniforms, gas allowances, insurance, and compensation should be paid for by the police commission.

Your Committee upon consideration of **H. B. No. 280** recommends that it be amended in the form attached hereto as **H. B. No. 280, H. D. 1**, which would delete an appropriation for the establishment of a reserve police academy.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 280**, as amended herein, and recommends its passage on Second Reading in the form attached hereto as **H. B. No. 280, H. D. 1** and its referral to the Committee on Finance.

Signed by all members of the Committee.

**SCRep 514 Judiciary on S.B. No. 543**

The purpose of this bill is to provide for the filing of corporate exhibits 120 days following the end of the corporation's calendar or fiscal year.

The present law provides that corporate exhibits must be filed with the director of regulatory agencies within 90 days following the close of the corporation's calendar or fiscal year. Since much of the information required on these exhibits is derived from information on Internal Revenue Service tax returns, which must be filed 105 days after the close of the year, corporations often ask for extensions so that their exhibits may be filed after the tax return information is prepared. By providing that the exhibits must be filed within 120 days after the corporation's calendar or fiscal year, a great number of requests for extension will be eliminated, thus considerably reducing the workload of the Business Registration Division.

Your Committee on Judiciary is in accord with the intent and purpose of **S. B. No. 453** and recommends its passage on Second Reading and placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 515** Legislative Management Informing the House that **House Resolution Nos. 336 to 342, Standing Committee Report Nos. 506 to 514** and **Standing Committee Report Nos. 516 to 529**, have been printed and distributed.

Signed by all members of the Committee.

**SCRep. 516** Hawaiian Homes on **S.B. No. 943**

The purpose of this bill is to amend Section 213(b) of the Hawaiian Homes Commission Act to permit the Department of Hawaiian Home Lands to guarantee loans made by commercial lending institutions to Hawaiian homesteaders.

Your Committee is cognizant of the difficulty encountered by the lessee in securing loans. The lessee would not have a mortgageable interest to offer as security for the loans sought. By authorizing the Department of Hawaiian Home Lands to guarantee loans made by commercial lending institutions, the legislature will have worked a remedy in this matter. Guarantee of repayment should serve to assure any commercial lending institution that, in an unlikely instance of default, the amount defaulted will be paid on behalf of the lessee.

Your Committee on Hawaiian Homes is in accord with the intent and purpose of **S. B. No. 943** and recommends its passage on second reading and that it be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 517** Hawaiian Homes on **H.B. No. 819**

The purpose of this bill is to amend Section 213(b) of the Hawaiian Homes Commission Act with regard to increasing the aggregate amount of the Additional Receipts fund from \$2,500,000 to \$5,000,000.

Your Committee favors the purpose of **H. B. No. 819**. Section 213(b) authorizes the moneys in the Additional Receipts fund to be spent several productive ways. It is your Committee's belief that the needs of the programs which are dependent upon Additional Receipts for funding justifies such an increase.

Your Committee on Hawaiian Homes is in accord with the intent and purpose of **H. B. No. 819** and recommends its passage on second reading and that it be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 518 Hawaiian Homes on H.B. No. 1044**

The purpose of this bill is to amend prior acts appropriating money to the Department of Hawaiian Home Lands to expand the class of persons to whom loans could be made and to extend the purpose of the loans to include commercial activities as well as traditional dwelling and agricultural activities.

Act 238, Session Laws of Hawaii, 1965, and Act 103, Session Laws of Hawaii, 1967, appropriated an aggregate amount of \$250,000 for the Hawaiian farm loan fund for loans to lessees. Your Committee favors amendment of this past legislation to achieve the above-stated purpose. Your Committee is of the opinion that no distinction could be made between those otherwise eligible under the Act and those who are presently lessees. As long as a person was qualified under Title II of the Act, then he should be eligible to receive the benefits of the loan program. Your Committee is also of the opinion that extension of loan activity into the commercial field is necessary in light of our industrialized society. Restriction of loan funds for farm purposes is a vestige of Hawaii's once agrarian economy.

Your Committee on Hawaiian Homes is in accord with the intent and purpose of **H. B. No. 1044** and recommends its passage on second reading and that it be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 519 Hawaiian Homes on H.B. No. 1053**

The purpose of this bill is to appropriate the sum of \$2,416,000 for the incremental plans and construction of roads and curbs, the installation of utilities and the surveying and staking out of one hundred residential lots of the Waianae Subdivision, Hawaiian Homes Lands, Waianae, Oahu, Hawaii.

Your Committee, cognizant of the demands for housing, realizes the need to provide additional residential lots in the Hawaiian Homes Program. This bill would serve the need where it is greatest: the Island of Oahu has been subject to rapid urbanization and its residents, particularly those persons who would qualify under the Act, have been unable to obtain adequate housing. Your Committee affirms its intent to see that this demand is met and that adequate housing is afforded to those who would qualify under the Act.

Your Committee on Hawaiian Homes is in accord with the intent and purpose of **H. B. No. 1053** and recommends its passage on second reading and that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Iha.

**SCRep. 520 Hawaiian Homes on H.B. No. 1422**

The purpose of this bill is to appropriate for the biennium 1972-73 the sum of \$4,860,000 to be spent for the Hawaiian Home Lands Minor C.I.P. Program, Land Development Program and the New Construction Loan Program.

The substantial portion of this appropriation would be expended for purposes of improving raw lands for the construction of residential use and to provide a loan fund for home construction loans for the various subdivisions. Your Committee finds no difficulty in justifying these expenditures for this purpose.

Your Committee on Hawaiian Homes is in accord with the intent and purpose of **H. B. No. 1422** and recommends its passage on second reading and its referral to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 521 Judiciary on H.B. No. 1127**

The purpose of this bill, as amended, is to allow only licensed attorneys to act as Family Court referees and to make the salary level of the referee the same as that of a full-time district judge.

The present law allows a person who may not be a licensed attorney to hold the position

of Family Court referee. Due to the legal issues which invariably arise in Family Court proceedings, your Committee is of the opinion that the position of Family Court Referee should be held by a licensed attorney.

The present law also provides that the compensation of a referee is determined by the provisions of chapter 77. Inasmuch as the duties of a Family Court referee often require legal expertise or level similar with district judges, your Committee is of the opinion that the salaries of the referees should be the same as the salaries of such judges.

Your Committee upon consideration of **H. B. No. 1127** recommends that it be amended as follows:

1. line 6 1/2: the word "magistrate" is changed to "judge" to conform to the provisions of Act 188/70, changing the post of district magistrate to that of district judge;

2. SECTION 3: The effective date is changed from "upon its approval" to "on January 1, 1972", to conform to the effective date of Act 188/70;

3. The bill has been re-typed, to conform to the Ramseyer method of bill drafting.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 1127**, as amended herein, and recommends its passage on Second Reading in the form attached hereto as **H. B. No. 1127, H. D. 1** and its referral to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 522 Judiciary on H.B. No. 551**

The purpose of this bill is to amend the Hawaii Employment Security Law so that it will conform to new federal standards for state unemployment compensation laws set forth in P.L. 91-373, popularly known as the "Employment Security Amendments of 1970".

Your Committee concurs with the findings and conclusions of the Committee on Labor, as set forth in **STAND. COM. REP. NO. 269**.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 551** and recommends its referral to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 523 Housing and Consumer Protection on H.C.R. No. 29**

The purpose of this Concurrent Resolution is to allow the auto repair industry to regulate itself rather than have government become the agent of regulation. Toward this end the "Automotive United Technicians of Oahu" has, in fact, been organized and is actively engaged in enforcing standards and their own code of ethics. Inasmuch as their plans for self regulation already exist and appear to be significant and carefully thought out, your Committee encourages the "Automotive United Technicians of Oahu" to continue their implementation of a self regulatory program for their industry.

This encouragement is subject to one proviso, that the "Automotive United Technicians of Oahu" turn in to the Legislature written reports on October 1, 1971 and 20 days prior to the 1972 Legislative Session. These reports shall mention: 1) the number of members in AUTO as of April 1, 1971, October 1, 1971 and January 1, 1972; 2) description and evaluation of the auto repair training programs undertaken in conjunction with the Community Colleges or other educational or training facilities; 3) detailed description of actions taken by the association for the sake of improving customer-businessman relationship by members of the industry (examples of positive actions are meetings, seminars, printed guidelines or brochures emphasizing ethical business practices); 4) reports of all cooperative and coordinated activities with the Office of Consumer Protection on complaints investigated by the Office of Consumer Protection; and 5) any other positive actions taken by the auto repair industry that will help eliminate consumer complaints.

Subject to the written reports requested above, the legislature will then be able to ascertain the benefits derived from self regulation as opposed to governmental regulation and can then determine a meaningful direction for the State to follow.

Your Committee makes one amendment by adding "at this time" after the word "unnecessary" in the sixth Whereas. This is done to preclude any impression that government regulation is not necessary at any time.

Your Committee on Housing and Consumer Protection is in accord with the intent and purpose of **H. C. R. No. 29**, as amended herein, and recommends its referral to the Committee on Judiciary in the form attached hereto as **H. C. R. No. 29, H. D. 1**.

Signed by all members of the Committee.

**SCRep. 524 Hawaiian Homes on H.B. No. 1081**

The purpose of this bill is to permit the Hawaiian Homes Commission to dedicate to the counties roads through or over Hawaiian Home Lands. The bill would amend Section 220 of the Hawaiian Homes Commission Act of 1920, as amended, to authorize the Department of Hawaiian Home Lands to dedicate the roads pursuant to Section 264-1 of the Hawaii Revised Statutes.

Your Committee is informed that there is presently 6.3 miles of roadways on Hawaiian Homes' property. Dedication of these roadways to the respective counties will result in higher standards of maintenance as well as compliance, by the department, with the standards of the various counties prior to dedication.

Your Committee on Hawaiian Homes is in accord with the intent and purpose of **H. B. No. 1081** and recommends its passage on second reading and that it be placed on the calendar for third reading.

Signed by all members of the Committee.

**SCRep. 525 Housing and Consumer Protection on S.B. No. 55**

The purpose of this bill is amend the first paragraph in Section 476-5 of the Hawaii Revised Statutes to provide a buyer three business days, excluding Saturdays, Sundays, and holidays, in which to cancel a retail installment contract entered into as a result of a house-to-house sale.

Act 131 in the Session Laws of Hawaii 1969 makes it a requirement that a retail installment contract contain a clause stating the buyer's right of cancellation, and although originally intended, the length of time allowed for the cancellation was not extended to three days. The present provision allows for two days grace. Your Committee feels

that this omission was an inadvertent oversight and that present law should be amended to allow for this original intention.

Your Committee on Housing and Consumer Protection is in accord with the purpose and intent of **S. B. No. 55** and recommends its passage on Second Reading and that it be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 526 Transportation on H.B. No. 467**

The purpose of this bill is to add a new section to Hawaii Revised Statutes to regulate loads on vehicles. Debris and load control is recognized as an important facet of highway safety and is being included in the standards promulgated by the National Highway Traffic Safety Administration. Such debris and load hazard are unsightly, costly to clean up and dangerous. One traffic fatality can be attributed to this cause last year. Presently, each county has some provisions covering the same matter. The public utility commission also has similar provision with respect to vehicles within its jurisdiction.

Your Committee is in accord with the intent and purpose of **H. B. No. 467** and recommends its referral to your Committee on Judiciary.

Signed by all members of the Committee.

**SCRep. 527 Transportation on H.B. No. 692**

The purpose of this bill is to appropriate out of the general revenues of the State the sum of \$40,000 for plans and construction of a comfort station and other improvements at Heeia-Kea boat harbor. The existing comfort station is sub-standard and inadequate for the increasing number of boaters using the harbor and a larger facility is needed.

Your Committee is in accord with the intent and purpose of **H. B. No. 692** and recommends its referral to your Committee on Finance.

Signed by all members of the Committee.

**SCRep. 528** Transportation on **H.B. No. 694**

The purpose of this bill is to appropriate \$806,000 out of the general revenues of the State for plans, acquisition, and construction of Castle Junction Interchange at Kailua, Oahu. The amount supplements prior appropriation of \$220,000. The total of 1,026,000 is approximately one third of the total estimated cost of the project.

Your Committee is in accord with the intent and purpose of **H. B. No. 694** and recommends its referral to your Committee on Finance.

Signed by all members of the Committee.

**SCRep. 529** Transportation on **H.B. No. 883**

The purpose of this bill is to appropriate the sum of \$50,000 for the widening of Kamehameha Highway from Heeia Street to Laenani Street on Oahu. The sum appropriated is to be expended by the City and County of Honolulu.

Your Committee is in accord with the intent and purpose of **H. B. No. 883** and recommends its referral to your Committee on Finance.

Signed by all members of the Committee.

**SCRep. 530** Transportation on **H.B. No. 929**

The purpose of this bill is to appropriate out of the general revenues of the State the sum of \$600,000 for improving Kamehameha Highway from Waihee Road to Waihole Valley Road. The project includes design, right of way acquisition and construction phases which will take approximately 3 years to complete and cost about \$1,000,000. The work to be performed includes widening of lanes, installing of drainage facilities, reconstructing shoulders, flattening horizontal curves and increasing super elevation on curves.

Your Committee is in accord with the intent and purpose of **H. B. No. 929** and recommends its referral to your Committee on Finance.

Signed by all members of the Committee except Representative Fong.

**SCRep. 531** Transportation on **H.B. No. 1393**

The purpose of this bill is to appropriate the sum of \$750,000 for the improvement of Kamehameha Highway between Likelike and Pali Highway. The amount supplements prior appropriation and is sufficient to complete the reconstruction of Kamehameha Highway in this area.

Your Committee is in accord with the intent and purpose of **H. B. No. 1393** and recommends its referral to your Committee on Finance.

Signed by all members of the Committee.

**SCRep. 532** Higher Education on **H.B. No. 1024**

The purpose of this bill is to appropriate \$85,300 including 6.50 positions to the University of Hawaii, College of Tropical Agriculture to provide research and extension services for the benefit of the anthurium, orchid and floral products industries in Hawaii. The ornamental horticulture industry in Hawaii, according to the State's Agricultural Development Plan, is one of the industries with the highest potential for growth. The exotic nature of Hawaii's floral products has created a demand on the mainland market. Furthermore, the advent of jet transportation makes it possible to place these products on the mainland market in a matter of hours.

Although the potential for growth is great, Hawaii's producers are in need of research and technical assistance in developing highly productive, high quality cultivars, developing production technology, including media, nutrition, spacing, insect and pest control, labor-saving devices, etc. Your Committee believes that this sector of diversified horticulture will have tremendous potentials for economic growth and will broaden our economic base.

Your Committee on Higher Education is in accord with the intent and purpose of **H. B. No. 1024** and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.



**SCRep. 533 Higher Education on H.B. No. 1025**

The purpose of this bill is to appropriate \$98,250 including 6.5 positions to the University of Hawaii, College of Tropical Agriculture to provide research and extension services that will expand the development of food processing industries based on tropical fruits such as guava, passion fruit, and citrus. The Agricultural Development Plan for the State of Hawaii points out the potential for an expanded guava industry. Guava satisfies many of the criteria needed for development as an export product. It can be exported in several forms such as puree, nectar base and juice, and jams and jellies. Guava can be grown on relatively marginal land with a wide range of climatic adaptability. Passion fruit and citrus also hold promise. The Hawaii Manufacturers Association lists food processing as one of the ten most wanted industries in Hawaii.

Although the potential for the growth of food processing industries is great, Hawaii's producers are in need of research and technical assistance in developing improved varieties of fruits, mechanical harvesting methods, and better pest control measures. Processing techniques need to be improved. And, adequate marketing systems need to be developed.

Your Committee believes that research and extension services for assisting the food processing industries should be extended to other tropical fruits such as passion fruit and citrus as these fruits also offer much promise to increase the exportable value of Hawaii's agricultural products. For this reason, your Committee recommends that Section 1 be amended by changing the last period to a comma and adding the following:

“and (c) passion fruit and citrus also show promise as exportable products.”

Likewise, your Committee recommends that Section 2 be amended by inserting a comma after the word guava and adding “passion fruit, and citrus”.

Your Committee believes that food processing industries within the State using tropical fruits have a high potential for growth, and this will further broaden the economic base of our State.

Your Committee on Higher Education is in accord with the intent and purpose of **H. B. No. 1025** as amended herein, and recommends its passage on second reading in the form attached hereto as **H. B. No. 1025, H. D. 1** and its referral to your Committee on Finance for further consideration.

Signed by all members of the Committee.

**SCRep. 534 Higher Education on H.B. No. 1084**

The purpose of this bill is to authorize the Western Interstate Commission for Higher Education to make arrangements for placements of students in states that are not parties to the interstate compact which established the commission. WICHE functions under an interstate compact participated in by all thirteen Western States including Hawaii. One of the commission's functions is to enable students of one state to be placed into higher educational programs in other states. Presently these reciprocal placements are limited to colleges and universities within the Western region. The authorization to permit WICHE to explore the possibilities for placing students into other than the Western States will provide greater options for students, especially for those preferring to go into specialized fields where such programs within the region are either lacking or overcrowded.

Your Committee on Higher Education is in accord with the intent and purpose of **H. B. No. 1084** and recommends that it pass second reading and that it be placed on the calendar for third reading.

Signed by all members of the Committee.

**SCRep. 535 Economic Development on H.B. No. 243**

The purpose of this bill is to assist individuals or businesses in the upgrading of existing fishing vessels through the purchase of new equipment, the overhauling and repairing of existing vessels, and other major maintenance expenses which may arise during the lifetime of a vessel.

Your Committee is in accord with the intent and purpose of **H. B. No. 243, H. D. 1**, and recommends its referral to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 536 Economic Development on H.B. No. 549**

The purpose of this bill is to encourage the conservation, development and utilization of Hawaii's coastal zone for maximum public benefit through the medium of state and local authorities with the assistance and cooperation of the federal government.

Your Committee is in accord with the intent and purpose of **H. B. No. 549** and recommends its referral to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 537 Economic Development on H.B. No. 981**

The purpose of this bill is to make an appropriation to promote products manufactured or processed in Hawaii primarily for export to the mainland and elsewhere.

The market for products manufactured or processed in Hawaii is potentially large. Black coral jewelry is now sold by Tiffany's in New York. Okolehao is distributed in California. The Mitsukoshi Department Store in Tokyo, Japan, bought \$25,000 worth of Hawaii products for promotion in Japan last September. Lava products are purchased by consumers in Los Angeles, Chicago and New York. The growth of this market is constrained primarily by the availability of funds for market promotion. This bill appropriating \$60,000, with matching funds from the Made in Hawaii Association, Inc., would be a step in the right direction and ensure the continued growth of the market for Hawaii products.

Your Committee is in accord with the intent and purpose of **H. B. No. 981** and recommends its passage on second reading and its referral to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 538 Economic Development on H.B. No. 1286**

The purpose of this bill is to amend certain provisions of Section 208, Hawaii Revised Statutes, known as the Depressed Areas Act, to make it a more effective tool in rendering aid to pocket areas of unemployment and

areas where a major employer is on the verge of terminating operations which may result in an abnormal number of jobless workers.

This bill would make the following amendments to the economic development program for depressed areas:

1. Allow for the designation of a judicial district to be designated as a depressed area.

2. Reduce the period of time in which unemployment exceeds seven per cent or more from twelve consecutive months to a period of six consecutive months.

3. Allow the director to expend moneys from the depressed area funds for such purposes as studies, surveys and feasibility analyses to determine the eligibility of districts to be designated as depressed areas. Also, to draft general economic development and redevelopment plans for the State, counties and district, to assist in the attraction of new business enterprise, expand existing business enterprise, prevent the termination or curtailment of operations by existing employers, or find new employment for those districts designated as depressed areas.

4. Delete the prohibition of depressed area funds for use as working capital to operate any business in a depressed area, and to limit the period of time to five years in which the maximum amount of \$500,000 can be expended in any redevelopment area.

As presently worded, this bill provides that the director may expend such amounts as are necessary from the depressed area fund for studies, surveys and feasibility analyses to determine the eligibility of districts to be designated as depressed areas. Your Committee has tightened the provision by requiring the director to submit to the legislature all studies, surveys and feasibility analyses authorized by him indicating their costs prior to the convening of each legislative session.

Your Committee is in accord with the intent and purpose of **H. B. No. 1286**, as amended herein, and recommends its passage on second reading in the form attached hereto as **H. B. No. 1286, H. D. 1**, and its referral to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 539** Economics Development on **H.B. No. 1394**

The purpose of this bill is to effect a practical research in the area of crop diversification and to explore new areas of crop development, thereby strengthening the agricultural base of the industry as well as creating further marketing areas for Hawaiian agriculture.

This bill would establish a state farming demonstration program to be administered by the department of economic development. Your Committee finds that the administration of the program could be more effectively carried out by the department of agriculture and has amended this bill to so provide.

Your Committee is in accord with the intent and purpose of **H. B. No. 1394**, as amended herein, and recommends its passage on second reading in the form attached hereto as **H. B. No. 1394, H. D. 1** and its referral to the Committee on Agriculture.

Signed by all members of the Committee.

**SCRep. 540** Public Employment on **H.B. No. 1428**

The purpose of this bill is to abolish the requirement of the State's loyalty oath for all public employees except department heads and elected officials.

The present loyalty oath requirement is ineffectual. It in no way enforces loyalty to the State. Further the requirement that a person sign the loyalty oath as a condition of being employed by the State presumes that the person is tinged with disloyalty unless and until he signs the oath stating his innocence.

Your Committee is in accord with the intent and purpose of **H. B. No. 1428** and recommends its passage on second reading and its referral to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Iha and Unemori.

**SCRep. 541** (Majority) Public Employment on **H.B. No. 1628**

The purpose of this bill is to amend Section

80-4(d), Hawaii Revised Statutes, relating to hours of work and compensation of fire-fighters in the following manner:

1. By redesignating the specific days listed as holidays so it will be identical to the holidays provided for other employees under Section 8-1, Hawaii Revised Statutes.

2. By providing that all firemen, whether on or off duty on holidays, shall be granted 12 hours of compensatory time off.

3. By providing that the hourly rate for overtime shall be calculated pursuant to the salary schedule under Section 77-13(e) which provides for the determination of the hourly rate for a 40 hour week.

When the state holidays were changed by Act 156 in 1969, the holiday list under Section 80-4 was inadvertently left unamended. Columbus Day and Admission Day are not included in the firemen's list. Presently, firemen are paid double time on holidays. If a holiday falls when they are not on duty, these firemen do not enjoy comparable benefits of the holiday. Other public employees are allowed an additional day off whenever a state holiday falls on a Sunday or whenever such holiday falls on a Saturday and also observed as a national holiday. The general employees are also paid overtime after 40 hours of work in a week. The proposed amendments will place the firemen in the same position as other public employees.

Your Committee is in accord with the intent and purpose of **H. B. No. 1628**, and recommends its passage on second reading and its referral to your Joint Select Committee of Kauai, Maui, Oahu and Hawaii Representatives.

Signed by all members of the Committee except Representative Iha. Representative Devereux did not concur.

**SCRep. 542** (Federal-State-County) on **H.B. No. 831**

The purpose of this bill is to amend the 1965 law that provides for an office of federal programs coordinator by increasing the authorized salary of the coordinator from \$18,150 to \$25,000 annually and by providing for financing office space, and equipment therefor, in Washington, D. C.

Several states, including California, New York, Ohio, Pennsylvania, Texas, and Virginia, have established such offices in the national capital. The nature of these offices varies somewhat from state to state. In California, for instance, the office is created exclusively to serve the legislative branch of the state government.

Your Committee has carefully considered the various functions and responsibilities that the Hawaii office of federal programs coordinator might perform and has concluded that the office might best serve the needs of the State if it is made an office of the state legislature. In this way the Hawaii office of federal programs coordinator could:

1. Supply information requested by the various members and committees of the Hawaii State Legislature;
2. Keep the Hawaii State Legislature advised of the progress of actual legislation before Congress which affects the State; and
3. Act as a personal liaison between the various federal agencies and the Hawaii State Legislature.

Accordingly, the bill is recommended to be amended as follows:

1. Provide in Section 1 for appointment and removal or suspension by the legislature, rather than by the governor.
2. Add a new Section 2 to repeal the section of the Hawaii Revised Statutes which relates to the governor's operating budget for appropriations for the office of federal programs coordinator.

Your Committee on Federal, State and County Relations is in accord with the intent and purpose of **H.B. No. 831**, as amended herein, and recommends its passage on Second Reading in the form attached hereto as **H. B. No. 831, H.D. 1** and its referral to the Committee on Finance.

Signed by all members of the Committee except Representatives Fong and Medeiros.

**SCRep. 543** Select Committee of Oahu Representatives on **H.B. No. 113**

The purpose of this bill is to appropriate out of the general revenues of the State of Hawaii the sum of \$1,200,000 for the con-

struction of a building at the Honolulu Community College to provide shops, classrooms, and workshops for construction related programs.

Your Committee is in accord with the intent and purpose of **H. B. No. 113** and recommends its passage on second reading and its referral to your Committee on Finance.

Signed by all members of the Committee.

**SCRep. 544** Finance on **H.B. No. 612**

The purpose of this bill is to broaden the duties of deputies to the director of transportation and permit assignment of such duties along functional lines, by amending section 76-16(17), Hawaii Revised Statutes.

Although section 76-16(17) provides civil service exemptions for one first deputy or first assistant and three additional deputies in charge of the highways, harbors, and airports divisions within the department of transportation, the department is presently functioning with two deputies assigned by the director to be in charge of "operations" and "financial management". These assignments, although not officially recognized in the statute, have been tacitly approved by the legislature in that it has approved operating budgets authorizing three civil service exempt deputy positions (the third being in charge of "planning", which is presently unfilled).

The director of transportation contends, and your Committee agrees, that the present language of the statute unnecessarily restricts the assignment of deputies along program lines. Instead, their assignments should be functional, particularly in areas of technical specialty, in accordance with current needs of the department.

No additional funding is required to implement this change.

Your Committee on Finance is in accord with the intent and purpose of **H. B. No. 612** and recommends that it pass third reading.

Signed by all members of the Committee.

**SCRep. 545** Finance on **H.B. No. 1492**

The purpose of this bill is to appropriate the sum (as amended) of \$80,000 to provide free rubella blood tests for approximately

10,000 women who marry each year and approximately 16,000 who become pregnant each year in Hawaii, plus other teenage girls and adult women in the state whose physicians wish to determine if they are immune to rubella.

Your Committee on Public Health, Youth and General Welfare, to which this bill was initially referred, stated in **Stand. Com. Rep. No. 378**, that:

“Contracted during the first few months of pregnancy, rubella is a known cause of severe birth defects in the unborn baby. In Hawaii, an unusually high percentage of women in the child-bearing age are susceptible to rubella and should be immunized through the use of the new rubella vaccine after the performance of a blood test (the HI or hemagglutination-inhibition test) to determine susceptibility to the disease.

It is important that women in the high risk category be known so that they may acquire a rubella-like illness before pregnancy, thus lowering the risk of bearing a defective child.”

Upon being informed that the estimated cost of providing this preventive service per year in Hawaii is approximately \$40,000, your Committee on Public Health, Youth and General Welfare recommended the following amendment: the sum of \$75,000 be increased to \$80,000 because the original amount will not be sufficient to cover cost. We have also been so informed and we concur with the recommended amendment. However, we recommend a further amendment, which has been effected, to specify that the sum appropriated hereby is for expenditure during the fiscal biennium 1971-73.

Your Committee on Finance is in accord with the intent and purpose of **H. B. No. 1492, H. D. 1**, as amended herein, and recommends that it pass third reading in the form attached hereto as **H. B. No. 1492, H. D. 2**.

Signed by all members of the Committee.

**SCRep. 546 Labor on H.B. No. 395**

The purpose of this bill is to make numerous amendments, both substantive and procedural, to the Temporary Disability Insurance Law, Chapter 392 of Hawaii Revised Statutes.

This bill contains the comprehensive recommendations of the department of labor and industrial relations for amendments to said law based on a year's experience in its administration. The specific proposals are described below:

1. Subsection 1(a) of the bill proposes a slight modification in the method of computing weekly benefits. Under Section 392-22, if a claimant's average weekly wage is less than \$25, he is entitled to receive a weekly benefit equal to said weekly wage but no more than \$14. Where the average weekly wage is \$25 or more, the weekly benefit amount is 55% of said average “rounded off to the nearest \$1,” subject to the maximum prescribed in the law. The unemployment compensation law, on the other hand, computes a weekly benefit amount to the **next higher** dollar. This difference in computational method results in unemployment compensation claimants often receiving \$1 more than temporary disability claimants at the same average weekly wage. The bill proposes to round off the computation of temporary disability benefits to the next higher dollar to achieve parity in benefit levels. Subsection 1(a) also proposes to amend the minimum average weekly wage below which the benefit amount equals the wage from the present \$25 to \$26. This is necessary to avoid situations where the same amount would be payable to some employees in both the below \$25 per week category and the above \$25 category.

2. Subsection 1(b) of the bill proposes two amendments to the section on waiting periods. Section 392-24 now imposes a waiting period of seven consecutive days for each period of disability before benefits are paid. The benefits become payable without a seven-day waiting period only when there are consecutive periods of disability not separated by an interval of more than two weeks and due to the same or related cause. In the foregoing situation, the consecutive periods of disability are deemed a single period of disability and no waiting period is imposed for the disability periods following the first. The bill proposes two amendments to the section: (1) to make benefits payable without a waiting period to a disabled claimant who is hospitalized from his first day of disability and (2) to make seven **aggregate** days the waiting period in cases where an employee is disabled from the same or related cause during a period of two consecutive weeks.



3. Subsection 1(c) of the bill proposes to require the submission of proof of disability by the certifying person, either a doctor, dentist, or authorized practitioner of a faith healing group, within seven days of the examination and finding of disability. Section 392-26 presently contains no time limitations on the filing of such documents and this has occasionally resulted in undue delays in the payment of benefits.

4. Subsection 1(d) proposes to amend the section covering ineligibility for benefits by making partial benefits payable to an employee who recovers from a disability and returns to work but suffers a relapse after working a few hours. Section 392-27 now makes a claimant ineligible for benefits for any day during which he has performed work for remuneration or profit. The proposal would make partial benefits payable in situations where the gross wages for the day do not equal or exceed the prorated benefit the claimant would have received had he not worked.

5. Subsection 1(e) proposes a minor amendment to Section 392-41 relating to methods to secure payment of benefits. Said section of the law mandates the establishment of an "assigned risk spreading plan" for "poor risk" employers who are ordinarily unable to secure insurance coverage. The proposed amendment would require an insurance carrier who declines to insure a "poor risk" employer to notify him of the availability of the "assigned risk spreading plan."

6. Subsection 1(f) proposes to amend Section 392-42 covering notice of insurance. Said section now requires an employer who chooses to satisfy his obligation for the payment of benefits through insurance coverage to forthwith file a notice to that effect with the director. The proposal is to require the employer or his insurer to file said notice and to authorize the director to levy a \$10 penalty if it is not filed within 30 days of the purchase of insurance in order to encourage compliance.

7. Subsection 1(g) proposes two amendments to section 392-43 relating to withholding of contributions from employees. Said section presently requires the refunding or crediting of excess contributions withheld from employees.

Where the employee from whom excess contributions have been withheld is no longer employed or cannot be located, the refunding or crediting becomes difficult. To rectify this situation, the bill proposes to require the deposit of the excess in the Special Disability Fund from which the refund would be made if and when the employee is located. If the employee remains unlocated for two years, the monies would be forfeited to the special fund.

There is also no provision specifically covering the disposition of contributions withheld by employers who neglect to provide benefit protection for their employees. The bill proposes to require the deposit of such contributions in the Special Disability Fund where employees have received benefits from the fund and the refund of contributions where employees have received no benefits from the fund.

8. Subsection 1(h) proposes to amend Section 392-44 of the law to require the first payment of benefits within 10 days after filing of the required proof of disability. Said section now requires such payment to be made within 14 days from the date of disability. The bill also proposes the assessment of a 10% penalty for late payment of benefits.

9. Subsection 1(i) proposes two amendments to the subrogation section of the law, Section 392-45. Said section presently provides for the subrogation of rights to an employer, an association of employers, an insurer, or the special fund if temporary disability benefits are paid and **total disability benefits** are subsequently awarded under the workmen's compensation law for the same periods of disability. This bill would amend said section to make subrogation rights apply to "**benefits for any disability**" under the workmen's compensation law. It further proposes new language which would require a proportionate division of recovered sums on the basis of the amount of disability benefits paid in the event more than one employer or insurer have subrogation rights for the same periods of disability. It also proposes to make it unnecessary for any difference between the disability benefits paid and the amount recovered through the exercise of subrogation rights to be made up.

10. Subsection 1(j) proposes a minor amendment to the section covering penalties and injunctions for failure to give security for payment of benefits. Section 397-47 presently

permits the director to bring actions for the collections of penalties, in the name of the state, against employers who fail to make provision for the payment of benefits to their employees. He is also authorized to seek injunctions prohibiting non-complying employers from doing business if the non-compliance continues for thirty days or more. The proposal is to permit the director to bring these actions in his own name to facilitate enforcement.

11. Subsection 1(k) proposes to amend Section 392-65 to authorize the director to institute administrative and legal actions for the recovery of benefits paid from the Special Disability Fund to disabled employees of non-complying or insolvent employers. Said section now provides for the payment of such benefits but does not contain provisions specifically authorizing recovery of amounts so paid.

12. Subsections 1(l), 1(m), and 1(n) propose amendments to Sections 392-72, 392-75, and 392-3 to effect substantial changes in the procedures on appeals from benefit determinations and for judicial review. Present procedure requires the filing of an appeal by a claimant who is denied benefits or who disputes the benefit amount within 10 days from the date of the denial or the disputed payment. The appeal is initially heard by a referee. An adverse decision of the referee may be appealed by any party to the circuit court which conducts a review on the record. The circuit court decision is further appealable to the supreme court.

The proposed procedure would provide an initial investigation and review by the department of all denials. If the department determines the denial is without proper legal basis, the case would be remanded to the employer or insurer for reconsideration. Where the claimant disputes the benefit amount or the denial of benefits, he would file an appeal. The department could conduct an investigation and review of the appeal before scheduling it for hearing. If the investigation and review does not result in a resolution of the issues, the case would be scheduled for hearing before a referee. An adverse referee's decision would be subject to review by the labor and industrial relations appeals board on the appeal of any party. The board's decision would be appealable to the supreme court.

The bill further proposes to enlarge the time for filing of appeals from the present 10-day period after denials or disputed payments to 30 days from the date of denial or disputed payment.

13. Subsection 1(o) proposes the repeal of Section 392-25 on eligibility requirements. The effect of the repeal would be the removal of present requirements for a claimant to have been employed for 20 hours or more during each of 14 weeks and have earned at least \$400 during his base period in order to be eligible for benefits. Any person in "current employment" would thus be eligible for benefits.

14. Subsection 1(p) proposes a new section to extend benefit coverage to a group of state and county employees who are presently excluded from coverage as a result of an attorney general's opinion. This group is composed of state and county employees who are not covered under the merit system and merit system employees who have not earned 15 days of sick leave.

15. Subsection 1(q) proposes a new section to grant the director discretion to levy penalties against employers for failure to pay the assessments made against all employers for the establishment of the Special Disability Fund. The penalties would be at least \$10 but no more than 10% of the assessment.

16. Subsection 1(r) proposes a new section to require a non-complying or insolvent employer to file employment and wage information on a disabled employee within 7 days of a request for such information from the department. This information is necessary to determine benefit entitlement and benefit amounts. There is no present provision requiring such filing. The imposition of a penalty of not more than \$10 for each delinquent report is also proposed.

17. Subsection 1(s) proposes a new section to prohibit an insurer from inserting a clause in an insurance contract which would serve to deny benefits to a disabled employee if his employer voluntarily makes wage replacement payments to him. The bill would also prohibit such a practice even if it is not included in the insurance contract.

18. Subsection 1(t) proposes the enactment of a general penalty provision covering violations of any part of the law or any order, rule, or regulation issued thereunder for which no

penalties are specifically prescribed. It proposes the imposition of a fine of \$25 for each violation. It further proposes to authorize prosecutions for the foregoing violations and the imposition of additional penalties of fines between \$50 and \$500 or 60 days imprisonment, or both, upon conviction.

Said subsection further proposes to limit attorneys' fees to 10% of the total benefits received in any proceeding before the referee or department. The fee would also be subject to approval by the referee or department. Violations of the foregoing would be punishable by fines between \$50 and \$500 or imprisonment for not more than six months, or both.

Your Committee upon consideration of the bill has deleted two major proposals for substantive changes in the law, the proposed repeal of Section 392-25 covering benefit eligibility requirements and the proposed amendments to the waiting-period section, Section 392-24, eliminating the waiting period for a claimant who is hospitalized from the first day of disability and the change from seven consecutive days to seven aggregate days in cases where a claimant suffers disability due to the same or related cause during a period of two consecutive weeks. It is of the opinion that present eligibility requirements of 20 or more hours of employment in each of 14 weeks and \$400 in earned wages during the base period should be retained. It is also of the opinion that present waiting period provisions should be retained. Your Committee has therefore deleted Subsections 1(o) and 1(b) of the original bill from **H. B. No. 395, H. D. 1.**

Your Committee has also modified a proposed amendment to Section 392-43. It has amended the proposal relating to the deposit in the Special Disability Fund or the refund to employees of contributions withheld by employers who neglect to effect insurance coverage or other means to meet benefit obligations. Instead of refunding contributions to employees if they have not been paid benefits, your Committee would require the deposit of such contributions in the fund. This appears more equitable since subsequent benefits based on earnings in the periods involved may have to be paid from the special fund.

The director of labor and industrial relations has informed your Committee of an unjust situation where employees ineligible for benefits are presently having contributions withheld. Your Committee has therefore fur-

ther amended Section 392-43 to authorize withholding only after employees have met the eligibility requirements in Section 392-25.

Your Committee has slightly modified the terminology of Section 392-26. It has substituted the words "any group which depends for healing upon prayer or other spiritual means" for the term "faith-healing group."

Your Committee on Labor is in accord with the purpose and intent of **H.B. No. 395**, as amended herein, and recommends its passage on second reading in the form attached hereto as **H.B. No. 395, H.D. 1**, and that it be referred to your Committee on Judiciary for further consideration.

Signed by all members of the Committee except Representatives Kawakami and Aduja.

#### **SCRep. 547 Finance on H.B. No. 619**

The purpose of this bill is to establish a more equitable means of earmarking for the general fund fuel taxes collected by the State on fuel used in or for small boats.

Section 248-8, Hawaii Revised Statutes, requires all taxes collected with respect to liquid fuel sold for use in small boats to be deposited into the general fund which supports the State boating program. In effect, therefore, although not as a separate statute Hawaii has a marine fuel tax law since the State recognizes that taxes collected on liquid fuel used in boats are creditable to the State boating program. The concept is equitable and fair since those who benefit are required to pay and do so in proportion to their fuel usage. National boating organizations and persons concerned with boating programs in Hawaii support this concept. They recognize that available public boating facilities are inadequate to satisfy the present, much less the future, demand imposed by the ever-growing number of persons who use boats for recreation, commercial fishing and other activities and express no opposition to paying the fuel taxes since the revenue is creditable to the boating program.

Hawaii's boaters do feel, however, that the existing system fails to provide an effective means of determining the total amount of marine fuel consumption and as a result a considerable portion of the tax they pay on fuel consumed in watercraft is presently being deposited in the State and county highway funds, instead of the general fund.

Under the present system, only the liquid fuel taxes collected from fuels sold in marine fueling stations are credited to the boating program and deposited into the general fund. There are only six marine fueling stations in the State. Accordingly, a large portion of the fuel purchased for use in small craft is obtained at motor vehicle fueling stations. Accurate reporting of these sales would be difficult and expensive. Service station operators, with the possible exception of those instances when they actually pump fuel into fixed tanks in a vessel, cannot determine the ultimate use of fuel sold.

What is the total amount of fuel taxes collected from boaters on liquid fuels used in small craft? This is a question that cannot be answered categorically, nor with total precision. However, many studies have been made by states, universities, and the marine industry resulting in marine fuel consumption estimates that may be considered wholly reliable within certain well-defined ranges.

The method or formula by which these estimates are derived is not complex. It simply involves discovery of the annual average consumption per vessel motor in a state, multiplying this amount by the number of motors in use, resulting in a total annual marine fuel consumption gallonage for all vessel motors in use in the state. This figure is then used to determine the dollar amount of marine fuel tax paid by boatmen.

This bill would authorize the director of transportation to use a method such as the one described above to determine the total taxes collected from the sale of liquid fuel for use in small boats. This is a simple, inexpensive solution and provides the required flexibility. It does not result in new or additional taxes on boatmen since they have been paying State fuel taxes on their fuel for years. It simply provides for a reallocation of the tax to boating purposes rather than for non-boating purposes as is presently the case.

If this bill is adopted, the present practice of depositing only fuel taxes collected from the sale of fuel at marine fueling stations will be discontinued. Instead, deposits will be based on the total amount collected as determined in accordance with the provisions of this bill.

It should be noted that both revenues from the State and county highway funds will be reduced to the extent the additional revenues are credited to the general fund for the State

boating program. This is in accord with the intent of Section 248-8, which requires all taxes collected from fuel sold for use in small boats to be deposited in the general fund.

It should also be noted that revenues for the State and county highway funds will be received from boaters since fuel taxes collected on fuel used in their motor vehicles to drive to and from boat harbors and launching ramps will continue to be deposited in these highway funds.

A consultant hired by the Department made a survey to determine the average annual fuel consumption by small craft in Hawaii. The report made by the consultant, Lublin, McGaughy and Associates, in March 1963, concluded that one-half of one per cent of the total fuel tax except fuel used in airplanes is conservatively creditable to the boating program. A 1970 estimate made by the Outboard Boating Club of America in various states concluded that the following per cent of marine to total fuel tax revenues are conservative: Alaska 5%, California 1%, Oregon 2%, Washington 1.7%, Wyoming 0.6%, Michigan 3.2%, Kentucky 0.9%, Nevada 1.1%, and Florida 2.2%. The average for all 50 states is 1.4%.

In view of the above estimates one-half of one per cent is considered to be a conservative but reasonable starting point for Hawaii. If this percentage is used, approximately \$111,000 would have been the marine fuel tax amount to be deposited into the general fund for the calendar year 1970. \$34,511 is the amount determined using the current system.

Your Committee on Finance is in accord with the intent and purpose of H. B. No. 619 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 548 Finance on S.B. No. 950**

The purpose of this bill is to amend subsection 235-56.5(b), Hawaii Revised Statutes, to clarify the conditions under which a person renting a dwelling may claim the renter's tax credit. Also included as an amendment is the exclusion of individuals who may be eligible to be claimed as a dependent for federal or state income tax purposes.

Your Committee finds that at present it is not clear upon reading the statute as to whether a person renting a dwelling from a housing project that is exempt from the real property tax is eligible to receive the renter's tax credit. However, the legislative intent as expressed in the Standing Committee Report accompanying **H. B. No. 1267-70**, which became Act 180, Session Laws of Hawaii 1970, was to permit low-income renters to recover some of the real property taxes passed on to them by landlords. This amendment will clarify this area.

The amendment proposed in this bill will also limit the credits to students who are not claimed, or are not eligible to be claimed, as a dependent for federal or state income tax purposes. This limitation is contained in all the other tax credit provisions and conforms the renter's credit to the other tax credit provisions.

Your Committee on Finance is in accord with the intent and purpose of **S. B. No. 950** and recommends that it pass second reading and be placed on the calendar for third reading.

Signed by all members of the Committee.

**SCRep. 549 Finance on H.B. No. 620**

The purpose of this bill is to clearly define the obligations of the department of transportation pertaining to adjusting, fixing and enforcing rates and fees assessable and chargeable by it in respect to use of boating facilities and services.

Section 266-17, Hawaii Revised Statutes, provides that rates charged at small boat harbors shall be based "on the expenses of operation and maintenance and the cost to the State of the improvements used." This clearly authorizes the department to charge rates which will amortize capital improvements. It is questionable, however, if this section intended for the harbor users to pay for improvements such as breakwaters, entrance channels and aids to navigation designed to provide for general protection and safety of all craft—visitors, transients and others. Such improvements could properly be classed as a State responsibility. This is particularly true in view of the fact that the federal government accepts responsibility jointly with the State in authorized projects for constructing, expanding, improving and maintaining general navigation channels,

protective structures, and aids to navigation and considers these costs to be nonself-liquidating. Therefore, in partnership with the federal government the State can provide such capital improvements. The bill classes such improvements as a State responsibility.

On the other hand, the users—the boating public, who benefit the most—should reimburse the State for the costs of providing facilities for their use, comfort and convenience such as berthing areas, related facilities, local access channels thereto, together with costs related to the development of all other on-shore structures and facilities necessary to insure a complete and adequate project. The federal government considers these costs to be self-liquidating. The department of transportation also believes that these costs should be liquidated by the users and this bill will permit this agency to establish a fee schedule to accomplish this objective.

Section 266-17 currently provides for charging the expenses of operation and maintenance. This provision is continued in this bill. The bill also clearly indicates that the costs of amortizing capital improvements may be included in user fees. It is not clear if this is intended in the current statute.

Passage of this bill is recommended to remove ambiguities in the language of the current statute, more clearly delineate the responsibilities and obligations of the State and users with respect to payment of the costs of providing boating facilities and services and to provide for a uniform federal and state concept concerning this matter.

After consideration of this bill it is also recommended that the phrase "shall be reasonable" be deleted from subsection (2) of the statute, referring to the rates thereunder established. According to the department of transportation, each user has a different interpretation as to the meaning of this phrase and it causes considerable discussion each time that fee increases are proposed.

In closing, your Committee notes that this bill addresses itself well to the concern of last session's Legislature expressed in **Conf. Com. Rep. No. 20**, wherein it is said

"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 . . . ."

Your Committee on Finance is in accord with the intent and purpose of **H. B. No. 620**, as amended herein, and recommends that it pass second reading in the form attached hereto as **H. B. No. 620, H. D. 1**, and be placed on the calendar for third reading.

Signed by all members of the Committee.

**SCRep. 550 Finance on H.B. No. 628**

The purposes of this bill, as introduced, were under Section 1, to reduce the level of alcohol in the blood of a motor vehicle operator before he can be presumed to have been driving while under the influence of intoxicating liquor, and, under Section 2, to appropriate funds to inform the public on the problem of intoxicated drivers.

Section 1 of this bill, amending Section 291-5, Hawaii Revised Statutes, relating to the presumptive level of alcohol in the blood was the identical subject matter provided in **H. B. No. 53**, which was referred to your Committee on Judiciary. This bill was initially referred to your Committee on Transportation. The former bill has passed third reading and been transmitted to the Senate. Therefore, and inasmuch as that subject had been so disposed of, Section 1 hereof was deleted by your Committee on Transportation, Section 2 was renumbered, and the title was amended to reflect the remaining portion only.

Section 1 of this bill, as so amended, appropriates the sum of \$20,000, to be expended by the state highway safety coordinator for public education and information programs concerning the problem of the drinking driver.

Your Committee is informed by the highway safety coordinator that sixty-nine of Hawaii's traffic fatalities (46 percent) last year occurred in traffic crashes where alcohol use was a factor. It is estimated that, since 1966,

Hawaii has lost over 300 of its citizens to drinking drivers. The economic loss and social impact of these statistics are hard to adequately express.

Although there are countless other justifications for accomplishing the purposes hereof, suffice it to say that we believe the funds hereby appropriated will be well expended.

Your Committee on Finance is in accord with the intent and purpose of **H. B. No. 628, H. D. 1**, and recommends that it pass second reading and be placed on the calendar for third reading.

Signed by all members of the Committee.

**SCRep. 551 Finance on H.B. No. 1503**

The purpose of this bill is to require the department of taxation to prepare and make available for public inspection monthly and annual reports relating to the collection of fuel taxes from distributors.

The reports are required to include, but not be limited to, the following, among others: (1) listing by distributor, (2) tax paid sales, (3) gallonage refined in the State, (4) imports, (5) refinery increase or decrease, (6) exports, (7) tax exempt sales, and (8) taxable motor fuel consumed by counties.

The director of taxation has said that such reports are easily enough to prepare, and at little, if any added expense to the State. However, he also stated:

"We submit that tax information of individuals and organizations should be open to the public only in those situations where decisions of the tax department specifically affect the tax liability of such individuals or organizations. This is to permit the public itself to see that the Department of Taxation does not administer tax laws in favor of a favored few."

On the other hand, the director did concede that this rule may well not apply where the legislature determines that confidentiality should be sacrificed in the face of overwhelming public concern. Thus, although the decisions of the department may not "specifically affect the tax liability of [the] individuals or organizations concerned" so as to require disclosure on that theory, your Committee hereby finds and declares that the activities of the taxpayers concerned is of sufficiently

grave public concern to justify a breach of confidence.

Your Special Committee to Investigate the Price of Oil and its Derivatives in Hawaii, which was established pursuant to **H. R. No. 123, H. D. 1**, Regular Session of 1969, has stated in **Special Com. Rep. No. 10**, at page 9:

“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.”

Since then, we are informed that at least four other states have enacted or are considering similar legislation.

Your Committee on Finance is in accord with the intent and purpose of **H. B. No. 1503** and recommends that it pass second reading and be placed on the calendar for third reading.

Signed by all members of the Committee.

**SCRep. 552 Finance on H.B. No. 1587**

The purpose of this bill, as amended herein, is to (1) recognize the purchase of life occupancy retirement apartment as a type of real property transaction, and (2) place such life occupancy retirement apartments within the definition of the word “home” with reference to exemptions from real property taxes.

In order to achieve the purpose, the bill proposes an addition to section 246-4, relating to assessment of property, and a new subsection under section 246-27, defining “home” for exemption purposes.

Your Committee held a hearing on **H. B. No. 522**, which is essentially similar in its purpose, although dealing limitedly with apartments of corporations “operating exclusively for religious purposes . . . as a retirement residence”, and is addressed to the

same inequities under the present law, i.e., as such retirement property is not a condominium or cooperative apartment whereby the living unit is held under lease for 5 or more years for residential purposes, the property tax home exemption does not apply.

Although the exemption proposed hereby is broader than the “religious purposes” provision of **H. B. No. 522**, and realizing full well that there are retired persons presently residing in rented homes or apartments who will not enjoy similar exemption, your Committee is satisfied that the primary objective of this bill is to reduce the cost of housing and other facilities made available in the State for the benefit of persons of retirement age who live on limited and fixed incomes and, because this exemption is available to other elderly owners of “homes”, we believe this bill to be a step in the right direction.

Your Committee recommends removal from the bill of all references to general excise tax law and exemptions therefrom. Thus, we deleted Sections 2 and 3 of the bill and for the purpose of consistency renumbered Sections 4, 5, 6 and 7 thereof to Sections 2, 3, 4 and 5 respectively. As such, Section 1 relating to the purpose of the bill was amended to reflect the deletions, and Section 2 was amended in strict compliance with House Rule 24(2). Also to reflect the deletions, the title of the bill was amended to read: “A BILL FOR AN ACT RELATING TO EXEMPTIONS FROM REAL PROPERTY TAXES FOR PERSONS OF RETIREMENT AGE.”

Your Committee on Finance is in accord with the intent and purpose of **H. B. No. 1587**, as amended herein, and recommends that it pass second reading in the form attached hereto as **H. B. No. 1587, H. D. 1**, and be placed on the calendar for third reading.

Signed by all members of the Committee.

**SCRep. 553 Finance on H.B. No. 21**

The purpose of this bill, as amended herein, is to appropriate the sum of \$1,500,000 to the Farm Loan Program as farm operating loans to qualified farmers.

As referred to your Committee, the purpose of this bill was to establish a new class of loans under the program for “certified new farmers” and making an appropriation therefor. As such, this measure was intended to

make farm loans available to persons recently acquiring a college degree in agriculture or completing an approved program of instruction in agriculture, because, according to your Committee on Agriculture which initially considered the bill, "the farming industry may be losing potentially qualified farmers who have the knowledge but lack the experience necessary to qualify them for credit," referring to the security required for loans pursuant to section 155-11, as amended.

Your Committee on Finance is not in disagreement with this finding. However, for the present, and not otherwise to detract from the needs of such agricultural aspirants, we sense a far more urgent need to appropriate whatever funds may be available or necessary for the continued conduct and improvement of certain existing farm operations.

Your Committee is moved by the prospective discontinuance of operations at Kohala Sugar Company. (See also **H. C. R. No. 60**, adopted by both Houses). The announced closing has been attributed, essentially, to projections for the future which "clearly indicate the futility of continuing . . . efforts to turn the activity into one that is even reasonably profitable." Your Committee is informed and believes, and is therefore gravely concerned, that other sugar processing operations, chiefly because of obsolete facilities and equipment, are even now on the brink of similar economic disaster.

Sugar has historically been a prime industry of the State. It remains, whatever changes our economy may have experienced elsewhere, the principal source of livelihood for residents of the county of Hawaii, second-largest in State population. Presently, for example, the independent cane growers at Pepekeo Sugar Company and Mauna Kea Sugar Company on the Hilo-Hamakua coast, already suffering the effects of an industry in advanced stages of deterioration, are at a crossroads: modernize or quit. There are 412 such independent growers concerned who cultivate over 8,000 of the approximately 26,000 acres of sugar cane lands involved. Of the approximately 127,000 tons of sugar produced annually, the growers' cash value for their crop comes to about \$6 million.

C. Brewer and Company, Ltd., the corporate parent of these sugar companies, has, as an alternative to save the industry, presented a proposal to the independent growers to

form a processing cooperative. The basic plan is that the current acreage ratio be maintained, with the plantations and the growers each continuing to cultivate sugar on their own lands. The processing function, however, which begins from the time cane is delivered into the trucks, and thus includes hauling and milling operations, will be performed by a cooperative composed of the plantations and the growers.

The cooperative will be capitalized by contributions from both sides. The plantations will turn over the factories at Pepekeo and Papaikou, the hauling equipment and the roads, which have a value of approximately \$10.5 million. The growers will put up a minimum initial investment of nearly \$2 million, of which about one-quarter will be credited for contributions previously made for road construction. In any event, the cash outlay by growers cannot represent less than \$255 per acre, with additionally grower investment required later. So organized, the processing cooperative will seek to borrow from the Bank for Cooperatives between \$15 to 18 million for the modernization of the two factories, the purchase of additional hauling equipment, etc.

It is, therefore, the intention of your Committee that the moneys appropriated by this bill shall be, through the State farm loan program, placed at the disposal of these independent growers who qualify under the statute, as class "C" farm operating loans described in section 155-9, either as insured loans, participating loans, or direct loans, pursuant to sections 155-5, -6, or -8, respectively, each as amended. The appropriate alternative we recognize as a proper function of the department of agriculture.

Availability of these revenues could mean the difference between survival and failure of a not insignificant part of the State's economy. If the former, it will also give the growers greater participation in the raising of sugar cane; it will mean the modernization of factories, with attendant reductions in air and water pollution; and most significantly, it will mean more efficient and profitable processing operations.

Your Committee on Finance is in accord with the intent and purpose of **H. B. No. 21**, **H. D. 2**, as amended herein, and recommends that it pass third reading in the form attached hereto as **H. B. No. 21**, **H. D. 3**.

Signed by all members of the Committee.

**SCRep. 554 Finance on H.B. No. 344**

The purpose of this bill is to provide funds to engage in cooperative economic development projects with American Samoa, Guam and the Trust Territory of the Pacific Islands where such efforts are of mutual benefit to Hawaii and the Pacific Territories.

The sum requested and hereby recommended is \$100,000.

The national trend is for states to cooperate on a regional basis in economic development efforts. Hawaii's natural alliance in these endeavors is with the Pacific Territories.

In February of 1970, in Honolulu, the Governors of Hawaii, Guam, American Samoa, and the High Commissioner of the Trust Territory signed an agreement forming a Pacific Islands Development Commission which would cooperatively undertake development efforts of mutual benefit to the participants. Prospective projects include efforts in fisheries development, tourism promotion, visitor facilities development and control, and oceanographic activities and research.

The Commission unanimously agreed to support this measure, and each of the participants agreed to seek matching funds on the basis of one-third each to match Hawaii's share of \$100,000.

Your Committee agrees that more benefit can be derived to each of the participants in cooperative effort where there is mutual need and opportunity than if each undertook such effort alone. There is also, we are informed, a greater opportunity to obtain federal matching fund assistance.

Your Committee on Finance is in accord with the intent and purpose of **H. B. No. 344** and recommends that it pass third reading.

Signed by all members of the Committee.

**SCRep. 555 Finance on H.B. No. 625**

The purpose of this bill is to eliminate duplication of the functions of two executive departments respecting the registration of commercial fishing vessels.

Under existing law, all vessels must be registered with the department of transportation as required by the Hawaii State Boating Law, chapter 267, Hawaii Revised Statutes, which was enacted to regulate all vessels so as to promote the full use and enjoyment of the waters of the State consistent with federal laws. Owners of commercial fishing vessels, however, have the additional burden of registering and securing permits to engage in commercial fishing with the department of land and natural resources.

The bill accomplishes the purpose herein stated by requiring owners of commercial fishing vessels to register and pay their fees for such registration only with the department of transportation. This procedure is endorsed by both departments; and this bill is commended by your Committees on Transportation and Lands, to which it was heretofore referred.

Your Committee on Finance is in accord with the intent and purpose of **H. B. No. 625** and recommends that it pass third reading.

Signed by all members of the Committee.

**SCRep. 556 Finance on H.B. No. 750**

The purpose of this bill is to grant civil service status, without examination, to all employees of the foreign trade zone currently permanently employed thereat, retroactive to the date of original exempt appointment, by adding a new section to chapter 212, Hawaii Revised Statutes.

When the Foreign Trade Zone Act was first passed in 1963, money was appropriated for temporary services to be obtained, but expressly exempted from the state civil service status and compensation laws, because of the essentially experimental nature of that program. Thereafter, in 1966, six positions were legislatively authorized. Today, there are ten authorized positions. All of the positions have now been properly classified by the department of personnel services and all appointments since January 1, 1971 have been made in accordance with civil service rules and regulations.

Since its inception, the foreign trade zone has proven eminently successful.

The testimony on this bill indicated that the present employees have been with the program during its period of initial develop-

ment and subsequent growth. These employees have acquired full working knowledge of the program. Accordingly, they should be rewarded with some measure of security in employment.

Your Committee on Finance is in accord with the intent and purpose of **H. B. No. 750** and recommends that it pass third reading.

Signed by all members of the Committee.

**SCRep. 557 Finance on H.B. No. 967**

The purpose of this bill is to make an appropriation of \$26,500 for the aerial spotting of skipjack tuna schools in Hawaiian waters, primarily in aid of a determination of the feasibility of purse-seining fishing in Hawaii.

Your Committee is aware of the economic significance of skipjack tuna fishing and wishes to encourage and facilitate the development of unique methods which will result in greater productivity for our fishing industry.

Although the primary purpose of the proposed aerial spotting study will be to gather information basic to the establishment of a purse seine fishery, our existing pole and line fishery will be able to derive immediate benefits from the program by being directed to aku schools that can be seen from the air but which may not be detected by vessels on the ocean surface.

Your Committee on Finance is in accord with the intent and purpose of **H. B. No. 967** and recommends that it pass third reading.

Signed by all members of the Committee.

**SCRep. 558 Finance on H.B. No. 1231**

The purpose of this bill is to explicitly include the diagnosis, care, treatment and rehabilitation of mentally ill persons within the meaning of "medical care", for the purpose of receiving grants-in-aid or outright grants as permissible under Title XIX of the Social Security Act and federal rules and regulations relating thereto by amending section 346-1, Hawaii Revised Statutes, relating to public assistance for medical care.

Programmatically the term "medical care" has been interpreted by the department of social services and housing to include psychiatric care, and it has been providing psy-

chiatric diagnostic evaluations under medicaid for the past two years.

Your Committee is informed that department of health, education and welfare program regulations governing state plans for medicaid provide that medical care and related services cannot be denied eligible persons on the basis of diagnostic classification. Recognizing this provision, the department of social services and housing has requested funds in the 1971-73 budget for payments to cover psychiatric treatment, both at the in-patient and out-patient levels. Such funding has been recommended.

The amendment proposed hereby, therefore, simply includes psychiatric care in the statutory definition of "medical care", and no additional funding is hereby required.

Your Committee on Finance is in accord with the intent and purpose of **H. B. No. 1231** and recommends that it pass third reading.

Signed by all members of the Committee.

**SCRep. 559 Finance on H.B. No. 1533**

The purpose of this bill is to provide for a study of the quality of coastal waters suggested in "Quality of Coastal Waters - A Proposed Project" prepared by the Water Resources Research Center, University of Hawaii, February, 1971, and making an appropriation therefor.

Your Committee on Lands, to which this bill was initially referred, has recommended the proposed study, stating in **Stand. Com. Rep. No. 477**:

"Your Committee fully supports the purpose of this bill as the quality of the environment is a matter of critical concern to your Committee. Your Committee believes that, in order to assure clean water for future generations, it is necessary to act now to develop protective measures which will meet the demands of our expanding society."

Your Committee on Finance considered essentially the same testimony as your Committee on Lands, and we are similarly satisfied. We are informed, however, that the sums stated in the bill as funding required therefor are inaccurate.



In a prepared testimony before your Committee, Richard S. Takasaki, executive vice-president of the University of Hawaii, stated:

“This appropriation bill would supplement through cost sharing the budget request made to NOAA (National Oceanic and Atmospheric Administration) as part of the Sea Grant application of the University of Hawaii, so as to bring the total support of the program to the originally planned budget level for full implementation of the proposed study. The appropriation called for is \$187,945 for the biennium 1971-73, of which \$92,089 is for f.y. 1972 and \$95,856 is for f.y. 1973. It should be mentioned that the State Department of Health has pledged cost-sharing equivalent to \$10,420,00.”

The bill has been amended accordingly to reflect the sums required, and the effective date was amended to July 1, 1971.

Your Committee on Finance is in accord with the intent and purpose of **H. B. No. 1533**, as amended herein, and recommends that it pass third reading in the form attached hereto as **H. B. No. 1533, H. D. 1**.

Signed by all members of the Committee.

**SCRep. 560 Finance on H.B. No. 1581**

The purpose of this bill is to establish a shark control revolving fund to be administered by the department of land and natural resources, and making an appropriation of \$50,000 therefor.

Your Committee on Lands, to which this bill was initially referred, indicated that such a sum as initial funding for a program aimed at reducing the population of in-shore species of sharks might be a wise investment, finding that:

“there has been an increase in the shark population in the Hawaiian Islands since this population now receives negligible fishing pressure and since our waters supply the shark population with a continuing food source. With water sports activities gaining in popularity and the large number of this state’s residents engaging in surfing and diving, the probability of shark attack and the resulting tragedy makes necessary the implementation of measures designed to control the shark population and minimize this possibility.”

Establishment of the fund also authorizes the department to dispose of the sharks which are caught (or parts thereof) by entering into agreement to sell or contract to sell, without public bid or auction, to any person on a continuing basis not to exceed one year. The bill stipulates that all moneys received from the sale of sharks shall be deposited into the shark control revolving fund.

Thus, according to the chairman of the board of land and natural resources all possible market outlets for locally caught sharks will be explored vigorously, and if feasible the development of a commercial shark fishery by the private sector encouraged. Nonetheless, your Committee is not unaware that the actual sum realizable through the sale of sharks will most probably be far less than the actual cost of carrying out a continuous and systematic shark control program. However, because the program tends toward self-sufficiency, and because we agree that it is otherwise meritorious, as aforesaid, we hereby recommend its initial funding.

Your Committee on Finance is in accord with the intent and purpose of **H. B. No. 1581**, and recommends that it pass third reading.

Signed by all members of the Committee.

**SCRep. 561 Finance on S.B. No. 61**

The purpose of this bill, as amended, is to set the maximum rate of interest allowable on farm loans at one percent above the prime rate charged by banks doing business in the State of Hawaii, or in cases of money borrowed from the department of agriculture, the interest shall not exceed the rate set by the board of agriculture, as provided under chapter 155, Hawaii Revised Statutes.

At present, there is a ceiling of six percent on the interest rate charged by the State on farm loans. In the event the prime rate rises, an imbalance between the State’s six percent and the rate private lenders are able to charge would place heavy stress on State funds as witnessed in March 1969 when the prime rate moved to an unprecedented high of 8.5 percent.

Since 1966, when “tight-money” prevailed, private lenders’ participation tailed-off considerably. The number of participation loans showed a significant increase when participating lenders’ interest rates were raised,

but that number dropped again when the prime rate reached its record high and private lenders were asking the 9.5 to 12 percent on loans.

The Farm Credit Banks' ceiling of six percent on interest rates was lifted by Congress in late 1968 to overcome spiraling costs in the bond market where their loan funds are obtained. The limit of six percent established under the Hawaii statute in 1968 to stay in line with these farm credit banks is no longer valid.

Your Committee is informed by the acting chairman of the department of agriculture that one of the goals of the Hawaii farm loan program is to assist the Federal Intermediate Credit Bank and the Berkeley Bank for Cooperatives to establish operations in Hawaii. The interest rates of these banks are to a large extent controlled by the prime rate. The interest rates of the farm loan program should be consonant, therefore, with that of these and other lending institutions, which would result in it being more competitive in the money market.

The Senate amended this bill to provide for setting the minimum interest rate on farm loans at not more than one percent above the lowest prime interest rate "charged by banks doing business in the State". To this, the department of agriculture is not opposed.

Your Committee on Finance is in accord with the intent and purpose of **S. B. No. 61, S. D. 1**, and recommends that it pass second reading and be placed on the calendar for third reading.

Signed by all members of the Committee.

**SCRep. 562 Finance on S.B. No. 92**

The purpose of this bill is to enable the department of social services and housing to make immediate welfare money payments to eligible persons in those cases in which more immediate payment is required than presently possible under the established procedure for dispensing state funds, as provided in section 40-51, Hawaii Revised Statutes.

Many financial assistance requests of welfare clients are of an emergency nature, as such clients are completely without resources at the time of application to tide them over until they receive the welfare payment. Current procedure requires at least eight to ten

days for dispensing of state funds. Your Committee finds that this is too long a period to meet emergent needs of eligible persons.

Currently, to fill this gap, purchase orders (which are not of direct assistance) are substituted for immediate money payment, which precludes federal participation, resulting in loss of federal funds to the state. Such purchase order payments are considered restrictive payments, as they do not provide for the individual's freedom to manage his own affairs, to decide what use of his payment will best serve his interests, and to make his purchases through the normal channels of exchange.

Approximately 50% of the welfare applicants are deemed eligible for immediate assistance, primarily for food and shelter costs. The department has estimated that federal funds in excess of \$50,000 yearly will accrue to the state if an imprest fund to meet immediate economic needs of eligible persons is established.

The method of welfare payment as proposed in this bill is not uncommon as a majority of states have such a system referred to variously as "instant payment" or "emergency assistance."

Your Committee concurs with the department in that this expedient method of payment enhances the dignity of eligible welfare recipients, while meeting their immediate need, and at the same time gaining federal matching funds. No additional state funds for money payments are required.

Your Committee on Finance is in accord with the intent and purpose of **S. B. No. 92** and recommends that it pass second reading and be placed on the calendar for third reading.

Signed by all members of the Committee.

**SCRep. 563 Finance on S.B. No. 126**

The purpose of this bill is to amend the Hawaii workmen's compensation law to increase the maximum allowance for funeral and burial expenses in industrial death cases.

The workmen's compensation law presently requires the employer of a worker who is killed in an industrial accident to pay funeral and burial expenses up to a maximum of \$1,000. The law also provides for such

payments to be made directly to morticians chosen by families of deceased workers.

This bill proposes to raise the total employer liability for funeral and burial expenses to \$2,000 by allowing a maximum of \$1,000 to be paid for funeral expenses and a maximum of \$1,000 to be paid for burial expenses. The payments would be made directly to the mortician and to the cemetery.

The present maximum allowance was established in 1961 and is inadequate to meet current funeral and burial costs. Your Committee agrees that an adjustment of the maximum allowance should be made to closely reflect the actual funeral and burial costs which must be incurred by the families of deceased workers.

Your Committee on Labor, to which was referred companion **H. B. No. 483**, reported in **Stand. Com. Rep. No. 219** that it was "of the opinion that average funeral and burial costs are closer to \$1,500 than to \$2,000." That bill was amended accordingly before referral to us, and, being in accord therewith, we so amended this bill. However, upon the suggestion of the director of labor who is charged with the administration hereof, "funeral and burial" expenses were not lumped together. Rather, the bill was amended only by reducing the sum payable to the cemetery to \$500, leaving each payable separately and directly, as proposed by the bill, as introduced.

Your Committee on Finance is in accord with the intent and purpose of **S. B. No. 126**, as amended herein, and recommends that it pass second reading in the form attached hereto as **S. B. No. 126, H. D. 1**, and be placed on the calendar for third reading.

Signed by all members of the Committee.

**SCRep. 564** Finance on **S.B. No. 129**

The purpose of this bill is to amend the workmen's compensation law by increasing the maximum monthly amount payable for the services of an attendant for an injured employee who constantly requires such services from the present \$150 to \$300 per month.

When the director of labor and industrial relations determines that an injured employee constantly requires the services of attendant, he is authorized to award up to \$150

per month for such services. The present maximum was enacted in 1955. The payment of this benefit is a responsibility of the employer and is classified as a medical and rehabilitation expense.

Your Committee on Labor, in **Stand. Com. Rep. No. 207** on companion **H. B. No. 480**, found that:

"The \$150 is clearly insufficient to enable a seriously injured and disabled employee to secure the services of an attendant in the present labor market where wage rates are considerably higher than they were in 1955. Your Committee agrees that an increase to \$300 in the maximum amount payable for attendant services is presently required."

Your Committee on Finance also agrees.

Your Committee on Finance is in accord with the intent and purpose of **S. B. No. 129** and recommends that it pass second reading and be placed on the calendar for third reading.

Signed by all members of the Committee.

**SCRep. 565** Finance on **S.B. No. 892**

The purpose of this bill is to appropriate the sum of \$60,000 to the department of labor and industrial relations for four additional staff positions in the department's research and statistics office to conduct manpower area skill surveys periodically for each of the islands on a sustained basis.

This will permit the department to carry out a comprehensive and continuing analysis and interpretation of the State's future manpower requirements as highlighted by area skill surveys and prepare an annual analysis of statewide occupational data by industry and by island. The project is anticipated to be carried out in three phases:

Phase 1. Development of a table indicating the occupational distribution of workers within each major industry group.

Phase 2. Development of anticipated occupational needs by applying occupation-industry relationships to existing projections of employment by industry for islands in the State.

Phase 3. Refinement and extension of the occupational detail as information from other sources can be applied. Eventually there would be preparation of industry data by small areas including employment size of companies, wage levels for major industries, etc.

The department has the responsibility for the development, preparation and dissemination of information of employment, unemployment, and general labor market conditions in the state. However, the department has not been able to perform the above needed services because the demands made on the department's research and statistics office in program research and in providing assistance and manpower information to federal and local governments as well as community planning and action groups have been too great.

This bill is a companion measure to **H. B. No. 1031**. The Senate amended the bill "to make it clear that the appropriation is for the 1971-1973 biennium and includes implementation funds." The effective date of the Act was also amended to July 1, 1971.

Your Committee has made and recommends the following further amendment: Because of the nature of the services it is geared to perform, that the State commission on manpower and full employment also be included in performing the area skill surveys hereby contemplated.

Your Committee on Finance is in accord with the intent and purpose of **S. B. No. 892, S. D. 1**, as amended herein, and recommends that it pass second reading in the form attached hereto as **S. B. No. 892, S. D. 1, H. D. 1**, and be placed on the calendar for third reading.

Signed by all members of the Committee.

**SCRep. 566 Finance on S.B. No. 944**

The purpose of this bill, as amended, is to appropriate the sum of \$81,000, or so much thereof as may be necessary, from the employment security administration fund in accordance with the provision of section 383-123, Hawaii Revised Statutes. The sum appropriated is to be used for the purpose of renovating the Keelikolani Building Annex which was originally built with "Reed Act" funds in 1959.

Section 903 of the Social Security Act permits the use of "Reed Act" funds credited to the account of the employment security trust fund for the renovation of and purchase of equipment for employment security program buildings. These funds may be used for such purposes only upon appropriation of the Legislature.

Your Committee on Finance is in accord with the intent and purpose of **S. B. No. 944, S. D. 1**, and recommends that it pass second reading and be placed on the calendar for third reading.

Signed by all members of the Committee.

**SCRep. 567 Joint Select Committee of Hawaii Representatives on H.R. No. 328**

The purpose of this House Resolution is to request the Governor of the State of Hawaii to appoint an action task force to study and recommend a plan of action to save the sugar industry on the Hilo coast and to stimulate growth and prosperity within the sugar industry thereby insuring a stabilization of the industry.

The independent cane growers at Pepeekeo Sugar Company and Mauna Kea Sugar Company are suffering from the effects of the declining sugar industry and assistance is necessary to prevent the loss of their economic base. Thus, the parent company of these sugar companies, C. Brewer and Company, Ltd., has presented a proposal to these independent sugar growers to form a processing cooperative as an alternative to save the sugar industry on the Hilo coast.

Although the proposal of a cooperative may contribute some assistance to the sugar growers on the Hilo coast, these independent sugar growers feel that there are two areas in which they are in dire need of assistance.

The first area of concern is determining whether or not the raising of sugar cane would be economically feasible under this proposal for the independent cane growers. The second area of concern is raising the necessary funds for the capitalization of this cooperative.

There may be other alternatives to provide assistance to these independent cane growers which would not involve such a heavy financial burden at the outset. These alternatives should be explored in joint cooperation with

those involved, such as the sugar growers, the directors of the sugar company and technical experts of the State.

Your Committee realizes that these independent sugar growers are not equipped with the necessary means to determine the best course of action to resolve their problems. They need the assistance of experts in determining the best solution to their problems. Therefore, your Committee recommends the appointment by the Governor of the State of Hawaii of an action task force to study the possibilities of a solution.

Your Committee, upon consideration of **H. R. No. 328**, recommends it be amended by deleting the words "and to stimulate growth" from line one of Page 2 due to mechanical duplication of the phrase.

Your Select Committee of Hawaii Representatives is in accord with the intent and purpose of **H. R. No. 328**, as amended herein, and recommends its adoption in the form attached hereto as **H. R. No. 328, H. D. 1**.

Signed by all members of the Committee.

**SCRep. 568 Housing and Consumer Protection on H.B. No. 1067**

The purpose of this bill is to amend Section 576-26 of the Hawaii Revised Statutes by making more stringent rules regarding the reselling of merchandise defaulted by a buyer in a retail installment sale.

Under existing statutes, resale of such merchandise is bound by the following provisions: 1) that the sale is held within reasonable time after the retaking, with or without demand by buyer for performance of the sale; 2) with or without notice to the buyer; 3) with or without having the property at the place of sale; 4) upon such terms and in such manner as the seller may determine, subject, however, to the requirements and conditions of Section 476-26.

This bill would add two additional requirements as well as delete certain portions of the above provisions. The seller and buyer in the resale situation would be bound henceforth by the following provisions:

1) That the sale be held within a reasonable time after theretaking—deleting "with or without demand for performance;"

2) With—deleting "or without"—notice to the buyer;

3) After the publication once in a newspaper of general circulation in the State;

4) Having the property at the place of sale—deleting "with or without;"

5) With the use of recognized bidding procedures—deleting "upon such terms and in such manner as the seller may determine."

Your Committee is in accord with the intent and purpose of **H. B. No. 1067** and recommends its passage on Second Reading and its placement on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 569 Judiciary on S.B. No. 47**

The purpose of this bill, as amended, is to exempt senior citizens from the age limitation of seventy years as the maximum age for a person to be employed by the State or a county.

The present law allows the state or county to employ persons over the age of seventy only if nobody else is available for the position and only for a maximum term of six months. This bill would allow such persons to be employed by the State or county as foster grandparents or to be temporarily employed in positions where they are the most suitable or desirable persons or in programs specifically designed to utilize them.

Your Committee on Judiciary is in accord with the intent and purpose of **S. B. No. 47, S. D. 1** and recommends its passage on Third Reading.

Signed by all members of the Committee.

**SCRep. 570 Judiciary on S.B. No. 712**

The purpose of this bill, as amended, is to place present exempt employees of the cable television division under the protection of chapters 76 and 77, Hawaii Revised Statutes, without subjecting such employees to the recruitment and examination provisions of those chapters.

By exempting such employees from the recruitment and examination requirements, this amended bill would minimize interrup-



tion of the work of the cable television division's experienced personnel.

Your Committee on Judiciary is in accord with the intent and purpose of **S. B. No. 712, H. D. 1** and recommends its passage on Third Reading.

Signed by all members of the Committee.

**SCRep. 571 Judiciary on H.B. No. 57**

The purpose of this bill is to provide protection to persons whose claims are left unpaid as a result of the insolvency of an insurance company.

At present, the only protection afforded persons whose claims may be left unpaid as a result of an insurance company insolvency is the screening by the insurance commissioner of insurance companies, desiring to transact business in Hawaii. If an insurance company were to become insolvent, claimants under the present law may be left unsatisfied. This bill would provide a means of protecting such claimants in the event of the insolvency of an insurance company.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 57** and recommends its passage on Third Reading.

Signed by all members of the Committee.

**SCRep. 572 (Majority) Judiciary on H.B. No. 262**

The purpose of this bill is to provide the Office of Consumer Protection with a method of settling, on a non-judicial basis, suspected violation of consumer protection laws.

At present, there is no legal basis for the making of "assurances of voluntary compliance" settlements by the Office of Consumer Protection, although such settlements are now being entered into by said Office. By providing a statutory basis for such settlement, the Office of Consumer Protection would have a flexible tool at its disposal as an aid in the protection of consumers. Moreover, the bill would allow the Office of Consumer Protection to make restitution to allegedly injured consumers and to require the alleged violator to pay the costs of investigation as a condition of the settlement. Finally, this bill would aid enforcement of such settlements by providing that a violation of

the settlement would be prima facie evidence of unlawful conduct.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 262** and recommends its passage on Third Reading.

Signed by all members of the Committee Representative Carroll did not concur.

**SCRep. 573 Judiciary on H.B. No. 498**

The purpose of this bill, as amended, is to recognize the rights of the blind and other handicapped persons by amending existing sections relating to the blind, in some instances, and adding new provisions, in other instances.

Your Committee concurs in general, with the findings and conclusions reached by the Committee on Public Institutions as set forth in **STAND. COM. REP. NO. 93**. However, your Committee recommends that **H. B. No. 498, H. D. 1** be further amended by deleting the word "contributory" in line 2 of page 4 thereof. As presently worded, the term "contributory" implies the existence of negligence. Since injuries often arise where there has been no negligence, it would be better to omit such a word.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 498, H. D. 1**, as amended herein, and recommends its passage on Third Reading in the form attached hereto as **H. B. 498, H. D. 2**.

Signed by all members of the Committee.

**SCRep. 574 Judiciary on H.B. No. 804**

The purpose of the bill is to provide for statutory recognition of the Holy Days of the Baha'i Faith.

The present law recognizes certain days having special significance to organized groups, but does not recognize any day which is significant to members of the Baha'i Faith. This bill would provide such recognition.

Your Committee upon consideration of **H. B. No. 804** recommends that it be amended in the form attached hereto as **H. B. No. 804, H. D. 1**, to provide that March 21 shall be known as Baha'i New Year's Day. Technical change in title of the bill was made to reflect the narrowed scope of the bill.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 804**, as amended herein, and recommends its passage on Second Reading in the form attached hereto as **H. B. No. 804, H. D. 1**, and placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 575 Judiciary on H.B. No. 1558**

The purpose of this bill is to provide a means of securing the attendance of material witnesses at a criminal action by court order.

At present, the law does not provide a means of securing the attendance of material witnesses in a pending criminal action. As a result, according to the City and County of Honolulu's Prosecutor, many criminal prosecutions fail due to the refusal of a material witness to attend the proceedings and testify therein. This bill would provide a means of securing the attendance of such witnesses at these proceedings. Moreover, this procedure is available to both the prosecution and the defense.

While the concept of using "bail" as a means of securing the attendance of persons in court proceedings is not novel, this concept may result in constitutional difficulties where a material witness may be unable to post bail, due to his financial condition. Therefore, it is the intent of your Committee that the judge exercise discretion in determining the amount of bail required to be posted, should he decide to issue a material witness order.

Your Committee upon consideration of **H. B. No. 1558** recommends that it be amended in the form attached hereto as **H. B. No. 1558, H. D. 1**. Such amendment allows a witness held in the custody of the chief of police as a result of a material witness order to be paid twenty dollars per day for each day of confinement in such custody.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 1558**, as amended herein, and recommends its passage on Second Reading in the form attached hereto as **H. B. No. 1558 H. D. 1** and placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 576 (Majority) Judiciary on S.B. No. 74**

The purpose of this Act is to empower fish and game wardens to arrest and physically transport violators of fish and game laws and regulations to a police station for booking in addition to the issuance of citations. The present law provides that such officers shall have the power to issue citations; however, your Committee has determined that there are various instances which justify authorization to arrest a violator of the fish and game laws. This determination is based upon the fact that a violator may be offensively armed, may be in the possession of explosives, or may be casually attired, depriving the officer of an opportunity to ascertain the violator's identity. Your Committee is of the opinion that each of these instances warrants physical restraint and makes both desirable and essential the empowering of fish and game wardens to arrest and physically transport violators to a police station for booking in addition to their present power to issue citations. Such a result would be achieved by this Act by amending Section 187-9 of the Hawaii Revised Statutes by deletion and addition of language sufficient to accomplish the Act's purpose.

Your Committee on Judiciary is in accord with the intent and purpose of **S. B. No. 74** and recommends its passage on Second Reading and placed on the calendar for Third Reading.

Signed by all members of the Committee  
Representative Lee did not concur.

**SCRep. 577 Judiciary on S.B. No. 76**

The purpose of this bill is to correct an error made in the construction of the Hawaii Revised Statutes by amending section 187-16, Hawaii Revised Statutes.

At present, section 187-16, Hawaii Revised Statutes, only pertains to the "General Provisions Relating to Fish and Game" and chapter 134 "Firearms and Ammunition", having inadvertently omitted reference to all of the other provisions relating to fish and game.

This bill corrects the omission by making section 187-16, Hawaii Revised Statutes, applicable to all of the chapters in subtitle 5 entitled "Fish and Game".

Your Committee upon consideration of **S. B. No. 76, S. D. 1**, recommends that it be amended by deleting the words "subtitle or chapter" on lines 9 and 10 of page 1 and substituting the word "chapters" in lieu thereof.

Your Committee on Judiciary is in accord with the intent and purpose of **S. B. No. 76, S. D. 1**, as amended herein, and recommends its passage on Second Reading in the form attached hereto as **S. B. No. 76, S. D. 1, H. D. 1** and placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 578** (Majority) Judiciary on **S.B. No. 104**

The purpose of this bill is to provide an additional means of terminating parental rights in respect to any minor as to any legal parent.

Under the present law, if a natural mother desires to have her child adopted but the legal, although not natural, father refuses to consent, the child cannot be legally adopted. This bill would allow the child to become legally available for adoption, despite non-consent by a legal, but not natural, father.

Your Committee on Judiciary is in accord with the intent and purpose of **S. B. No. 104**, and recommends its passage on Second Reading and placed on the calendar for Third Reading.

Signed by all members of the Committee  
Representative Carroll did not concur.

**SCRep. 579** Judiciary on **S.B. No. 508**

The purpose of this bill, as amended, is to provide for the disposition of a derelict vehicle without giving notice to the registered owner or without advertising for public sale.

The present law generally requires that notice be afforded the registered owner, and that there be a public auction of abandoned vehicles. The concept of a "derelict vehicle", as provided by this bill, is new, and therefore there are no provisions in the present law regarding the disposition of derelict vehicles. Your Committee finds that many derelict vehicles exist in Hawaii and should be dis-

posed of. This bill, as amended, would provide an efficient means for the disposal of such vehicles.

Your Committee upon consideration of **S. B. No. 508, S. D. 1**, recommends that it be amended in the form attached hereto as **S. B. No. 508, S. D. 1, H. D. 1**, by deleting the proviso in lines 4-8 of page 2.

Your Committee on Judiciary is in accord with the intent and purpose of **S. B. No. 508, S. D. 1**, as amended herein and recommends its passage on Second Reading in the form attached hereto as **S. B. 508, S. D. 1, H. D. 1** and placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 580** Judiciary on **S.B. No. 830**

The purpose of this bill is to prevent the arbitrary withholding of certificates of registration for professional corporations.

The present law affords no protection to applicants for professional corporation certificates of registration. This bill would prevent the State Board regulating professional corporation from withholding a certificate arbitrarily or without a showing of cause. In this manner, applicants who have been denied registration may have an opportunity to review the reasons for such denial.

Your Committee on Judiciary is in accord with the intent and purpose of **S. B. No. 830** and recommends its passage on Second Reading and placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 581** Judiciary on **H.B. No. 44**

The purpose of this bill is to provide support to local law officials in their fight against crime and violence by improving their capacity to trace stolen firearms or firearms used in penal offenses or other acts of violence. The bill is not intended to place any undue or unnecessary restrictions or burdens on law-abiding citizens with respect to the acquisition, possession or use of firearms appropriate to the purpose of hunting, trap-shooting, target shooting, personal protection or other lawful activity, nor to provide for the imposition of any procedures or requirements other than those deemed rea-

sonably necessary to implement and effectuate the purpose of this bill.

As originally drafted, this bill contained comprehensive provisions relating to the issuance of licenses as a prerequisite for the ownership or possession of any firearm. Upon reflection, your Committee felt that such requirements were unduly burdensome in comparison to a comprehensive plan for registration of all firearms in the state in conjunction with our present gun control statutes which require registration and permits to purchase, transfer or carry any revolver or pistol, and which are responsible for our reputation as a strict gun control state. In amending the definition of "pistol" or "revolver" to include any firearm of any shape whatsoever with a barrel length of eighteen inches, rather than twelve inches, your Committee has extended these controls.

The urgent necessity for adding registration provisions for long guns as well as hand guns is sadly evident from recent history and mounting statistics. Of the 6,500 firearms murders in the United States each year, 30 percent, or over 2,000 are committed with rifles and shotguns. Ninety-five percent of all law enforcement officers killed in the line of duty are victims of firearms - and one out of every four of these is killed by a rifle or shotgun. In the Detroit riot of 1967, and again in the civil disorders of April 1968, the weapon of the sniper was the rifle. President Kennedy, Martin Luther King, Jr., Medgar Evers, and the 16 dead and 31 wounded victims of a deranged man firing from the tower of the University of Texas were all shot by rifles or shotguns.

The Honolulu Police Department has provided testimony to the effect that registration provisions for rifles and shotguns will prove to be a valuable asset during the investigation of crimes in establishing ownership and responsibility.

Under present law, every person arriving in the state who brings with him firearms and ammunition of any description is required to register the same with the police 48 hours after arrival. The amended bill eliminates ammunition from this requirement because of the difficulty of identification (lack of serial numbers, etc.) but adds a requirement which includes firearms caused to be brought into the state by anyone already here.

The main provisions of the amended bill require, in practical effect, registration of all firearms in the state within one year from the time the bill becomes law. Registration requirements are the same as federal registration requirements, and the penalty for non-compliance has been increased from a fine of \$250 to a fine of \$250 or 7 days in jail, or both.

Your Committee feels that the amended bill eliminates various loopholes in the present law by providing for controls over imported firearms and dangerous weapons, and believes that the addition of a discretionary jail penalty will provide added stimulus for compliance with the registration requirements and a means of control over professional interstate criminals.

Your Committee is in accord with the intent and purpose of **H. B. No. 44**, as amended herein, and recommends its passage on Second Reading in the form attached hereto as **H. B. No. 44, H. D. 1**, and placed on the calendar for Third Reading.

Signed by all members of the Committee.

#### SCRep. 582 Judiciary on H.B. No. 797

The purpose of this bill is to provide that any mechanics' and materialmen's lien may be discharged by the posting of a bond for twice the amount of the sum for which the claim for the lien is filed.

Under present law such a lien can only be discharged by the posting of cash for twice the amount in question, and then only if the lien covers an entire subdivision or 10 or more lots.

Although your Committee is in accord with the purpose of this bill, which corrects an obvious inequity in the law and codifies existing judicial practice, it does not feel that the posting of a bond for discharge should be an exclusive method for discharging a lien, and has therefore amended this bill to allow discharge by the posting of either cash or a bond.

Your Committee is in accord with the intent and purpose of **H. B. No. 797**, as amended herein, and recommends its passage on Second Reading in the form attached hereto as **H. B. No. 797, H. D. 1**, and placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 583 Judiciary on H.B. No. 923**

The Purpose of this bill is to allow a resident taxpayer or a taxpayer having its principal place of business within the State to bring suit against the State or a county to enjoin and restrain certain acts of these entities.

While there is no present statutory law in this area, Hawaii case law appears to require the interest or property of the taxpayer to be affected by illegal acts or threatened acts by the State or County before a taxpayer can bring suit for injunctive relief against such entities. This bill would allow the taxpayer to bring action in certain instances, whether or not his personal interest or his property is involved.

At present, there is no statute allowing a taxpayer to bring suit for injunctive relief in the areas specified in **H. B. No. 923**. This bill would allow a taxpayer to bring such suit for injunctive relief in several instances.

Your Committee, upon consideration of **H. B. No. 923** recommends that it be amended by requiring that the taxpayer allege potential damage to himself, his property, or his interests before allowing him standing to sue. While fully recognizing the effect of taxpayer suits which have the beneficial effect of preventing the State or county from acting improperly with respect to public funds, public property, or alleged violations of law, there is a possibility that allowing taxpayer suits in all instances may result in the filing of spurious suits by disgruntled taxpayers. Accordingly, your Committee is of the opinion that there should be a minimum standard set before a taxpayer may properly be said to have standing to sue. The requirement of alleging some personal damage or potential personal damage not necessarily distinct from harm to other members of the public, is in the opinion of your Committee, a reasonable requirement.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 923**, as amended herein, and recommends its passage on Second Reading in the form attached hereto as **H. B. No. 923, H.D. 1** and placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 584 Judiciary on H.B. No. 1059**

The purpose of this bill is to allow consuls or official representatives of foreign governments to obtain special license plates.

The present law does not provide special license plates, distinguishable from ordinary plates, for consuls or other official representatives of foreign governments. It is the opinion of your Committee that such special plates should be allowed.

Your Committee upon consideration of **H. B. No. 1059** recommends that it be amended in the form attached hereto as **H. B. No. 1059, H. D. 1** to waive the United States' citizenship requirement because all career consular officers and some honorary consul are not citizens of the United States.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 1059**, as amended herein, and recommends its passage on Second Reading in the form attached hereto as **H. B. No. 1059, H. D. 1** and placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 585 Judiciary on H.B. No. 1129**

The purpose of this bill is to provide public health, safety and welfare by ensuring that persons licensed as contractors in the State possess adequate knowledge of local conditions and laws.

Under present law there is no requirement that a contractor be a resident of the State for any period whatsoever as a prerequisite for obtaining a contractor's license.

Your Committee feels that a residency requirement of one year as a prerequisite for obtaining a contractor's license is fair and reasonable, and will serve to protect the public from "fly-by-night" contractors, as well as ensuring that licensed contractors possess the competency relied upon by the public.

Your Committee is in accord with the intent and purpose on **H. B. No. 1129** and recommends its passage on Second Reading and placed on the calendar for Third Reading.

Signed by all members of the Committee.



**SCRep. 586** Judiciary on **H.B. No. 1131**

The purpose of this bill is to allow, with respect to homeowners insurance policies, premiums of fire and casualty insurance to be combined.

The present law requires that premiums for the perils of fire and lightning to be separately stated in insurance policies. With respect to homeowners policies, testimony by the Board of Underwriters of Hawaii indicated that homeowners insurance is rated on a combined experience basis of, among other factors, fire, liability, and theft. This bill would reflect such a method of rating by allowing a combined statement of fire and casualty insurance premiums with respect to homeowners insurance policies.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 1131** and recommends its passage on Second Reading and placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 587** Judiciary on **H.B. No. 1152**

The purpose of this bill is to clarify existing law as to when a subcontractor is entitled to payment including interest for goods and services.

The present section of the law dealing with payments to subcontractors entitles the subcontractors to receive interest at the rate of one percent per month on sums due him by the contractor, commencing on the sixteenth day following the contractor receipt of the subcontractor's statement. However, if there is a bona fide dispute between the contractor and subcontractor, such a section doesn't apply. This bill would clarify the present law by explicitly stating that if there is no bona fide dispute, the subcontractor is entitled to payment in accordance with the provisions of this section.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 1152** and recommends its passage on Second Reading and placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 588** Judiciary on **H.B. No. 1355**

The purpose of this bill is to provide statutory interest fees for pawnbrokers where loans are made for certain amounts for specified periods of time.

The present law provides for interest rate charges allowed to pawnbrokers where loans are made for any period of time. This bill would allow somewhat higher charges to be made by pawnbrokers if loans are made for 30 days or less where the loan is for under \$15, and 90 days or less where the loan is for \$15 to \$149.99. The reason for the higher charge is that the cost of processing such short-term loans and the high risk factor of these loans may necessitate it.

Your Committee upon consideration of **H. B. No. 1355** recommends that it be amended in the form attached hereto as **H. B. No. 1355, H. D. 1**, by inserting the word "exact" between the words "nor" and "any" in line 7 of page 1. This word is in the present law but was apparently omitted in **H. B. No. 1355** as a result of a mechanical error.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 1355**, as amended herein, and recommends its passage on Second Reading in the form attached hereto as **H. B. No. 1355, H. D. 1**, and placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 589** Judiciary on **H.B. No. 1569**

The purpose of this bill is to provide that recrimination shall not be a defense in divorce or separation proceedings, and to repeal certain sections of existing law inconsistent therewith.

Under present general law the defense of recrimination in essence is that when a plaintiff alleges adultery, the defendant is allowed to counterplead adultery to prevent the divorce or separation. Your Committee feels that this defense serves no useful public purpose, in that if successfully alleged the defense results in great bitterness of feeling between the two still married and/or non-separated parties.

This bill has been amended to correct a typographical error and to allow Section 580-50 of the Hawaii Revised Statutes to re-

main law on the rationale that it is consistent with this bill.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 1569**, as amended herein, and recommends its passage on Second Reading in the form attached hereto as **H. B. No. 1569, H. D. 1**, and placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 590 Judiciary on H.B. No. 1577**

The purpose of this bill is to allow the granting of a final decree of divorce without the necessity of initially obtaining an interlocutory decree in cases where the parties have a child under the age of eighteen. As amended, this bill would also require that a social study be conducted in divorce actions where the parties have a child under the age of fourteen.

Under present law, if parties to a divorce have a child under the age of eighteen, they cannot be granted a final decree of divorce until six months have transpired from the grant of an interlocutory decree. It has been found that this six month period has not been effective as a period during which the parties may resolve their differences and reunite. According to testimony by the Family Court, in the relatively few cases where the parties have reunited (less than five per cent), they would probably have done so even if a final decree of divorce had been granted originally. The requirement of having to obtain both a interlocutory decree and a final decree has merely served to congest the Family Court. Moreover, the requirement has resulted in severe emotional difficulties for the parties during this period, when they are, effectively, if not legally, semi-married and semi-single. In view of this, your Committee is of the opinion that the requirement of obtaining an interlocutory decree be abolished.

In repealing this requirement, your Committee is, nevertheless, aware of society's desire to have the family unit remain intact, where practicable, for the well-being of the minor. Accordingly, your Committee recommends that **H. B. No. 1577** be amended by adding a section which would amend section 571-45, to require that a social study be made prior to the granting of a final divorce, where the parties have a minor child less than fourteen years of age. The amendment would be

in the form attached hereto as **H. B. No. 1577, H. D. 1**.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 1577**, as amended herein, and recommends its passage on Second Reading in the form attached hereto as **H. B. No. 1577, H. D. 1** and placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 591 Judiciary on H.B. No. 539**

The purpose of this bill is to allow the provisions of chapter 127 Hawaii Revised Statutes, to apply to major disasters caused by man.

The present law provides for disaster relief procedures and funding only if a major disaster is a result of natural causes. This bill would allow such provisions for relief to be applicable to major disasters caused by man. Your Committee is of the opinion that the applicability of these provisions should not be dependent upon the cause of the disaster, inasmuch as the provisions are designed to alleviate the effect of the disaster. Therefore, disaster relief provisions should be made available in disaster situations, regardless of whether the disaster was a result of nature or man.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 539** and recommends its passage on Third Reading.

Signed by all members of the Committee.

**SCRep. 592 Finance on H.B. No. 548**

The purpose of this bill is to authorize an increase in the amount of the loan or loans to any applicant under the Hawaii Capital Loan Program.

Under the present law, loans by the department of planning and economic development to small business concerns are limited to an amount not to exceed \$50,000. There is a need to increase the loan limit to meet the demands of the small business concern. Because of keen competition, many small businesses find themselves unable to compete unless adequate long-term financing is avail-

able. To achieve the goal of the program, it is necessary to make more direct loans with a larger dollar maximum.

No additional funds are required to effectuate the purpose of this bill.

Your Committee has amended the bill to conform the form thereof to Rule 24(2) of the House Rules. Non-substantive typographical change in citation of the section number of the Hawaii Revised Statutes was also effected.

Your Committee on Finance is in accord with the intent and purpose of **H. B. No. 548**, as amended herein, and recommends that it pass third reading in the form attached hereto as **H. B. No. 548, H. D. 1**.

Signed by all members of the Committee.

**SCRep. 593 Judiciary on H.B. No. 572**

The purpose of this bill is to enable the Hawaii Board of Chiropractic Examiners to accept a certificate issued by the National Board of Chiropractic Examiners in lieu of giving its own examination.

Your Committee concurs with the findings and conclusions of the Committee on Public Health, Youth and General Welfare as expressed in **STAND. COM. REP. NO. 182**.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 572** and recommends its passage on Third Reading.

Signed by all members of the Committee.

**SCRep. 594 Judiciary on H.B. No. 582**

The purpose of this bill is to change the existing voluntary certification law of psychologists to a mandatory licensing law. The present statute prohibits a person from representing himself to be a certified psychologist when he has not been certified, but it does not prohibit a person from offering psychodiagnostic or psychotherapeutic services so long as he does not represent himself to be a certified psychologist.

As originally worded, the bill raised some disagreement among members of the professional community because of the definition of "psychologist" found in Section 465-1(5) of the bill. It was felt that this definition was so

broad that it overlapped with the purposes, principles, practices, techniques, and activities of practically every formalized profession such as nurses, social workers, vocational counselors, personnel managers and other professions intending to assist or be of comfort to other human beings.

Since that time, the Board of Certification of Practicing Psychologists, the Hawaii Medical Association, the Hawaii Psychological Association and the Hawaii Psychiatric Society have come upon a workable definition which is contained in the amended bill. Essentially, the new definition consists of limiting the practice of psychology to those principles and procedures named in the definition, combined with exempting persons who perform any of such activities only as incidental to their occupational purpose, and specifically excepting licensed physicians.

The protection afforded by the strengthened bill will benefit the people of the State by limiting the practice of psychology to those licensed as required herein.

Your Committee is in accord with the intent and purpose of **H. B. No. 582, H. D. 1** and recommends its passage on Third Reading.

Signed by all members of the Committee.

**SCRep. 595 (Majority) Judiciary on H.B. No. 992**

The purpose of this bill is to provide for the coverage on public construction activities, of pollution control costs on a cost account basis.

At present, there is no law providing for coverage of pollution control costs on public construction activities. This bill would allow an awarding agency to determine the necessity for pollution control activities over and above the ordinary specifications on a public construction project and to cover the expenses therefor on a force account basis. It is felt that the force account method of control, instead of ordinary bidding procedures is preferable, in view of the limited experience of the construction industry in this area of activity.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 992** and recommends its passage on Third Reading.

Signed by all members of the Committee  
Representative Carroll did not concur.

**SCRep. 596** Judiciary on **H.B. No. 1327**

The purpose of this bill is to prevent producers or producer-distributors of milk in the State or in any milk-shed from having a quota exceeding twenty percent of the total quota in the State or in any milk-shed.

The present law restricting milk quotas affects Oahu only. This bill would allow the twenty percent quota restriction to have a State-wide effect, and thus be of assistance in preventing monopolistic control of milk quotas in any milk-shed in the State. However, since the counties of Maui, Kauai, and Hawaii have relatively few producers, some of whom presently produce more than twenty percent of the milk volume in any milk-shed, it is necessary that such producers be allowed to retain their existing quota production rather than suffer a cutback.

Your Committee upon consideration of **H. B. No. 1327**, recommends that it be amended in the form attached hereto as **H. B. No. 1327, H. D. 1**, by underlining the word "total" and the letter "s" in the word "quota" on line 6 of page 1, in order to conform to the Ramseyer method. Other nonsubstantive changes were made for purposes of clarity.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 1327**, as amended herein, and recommends its passage on Third Reading in the form attached hereto as **H. B. No. 1327, H. D. 1**.

Signed by all members of the Committee.

**SCRep. 597** Judiciary on **H.B. No. 1388**

The purpose of this bill is to exempt motor vehicles engaged in the transportation of messages, documents and blueprints as additional exemptions from the motor carrier law. The exemption would be similar to that granted to services involving the carriage of mail, periodicals, and newspapers. The handling of these items is generally accomplished with the use of passenger type motor vehicles as contrasted to the use of trucks used in the transportation of property. Similar to mail, periodicals and newspapers, the added items are also "perishable" in nature because their usefulness is associated with time element.

Your Committee concurs with the findings and conclusions of your Committee on Transportation as expressed in **Standing Committee Report No. 261**.

Your Committee is in accord with the intent and purpose of **H. B. No. 1388, H. D. 1** and recommends its passage on Third Reading.

Signed by all members of the Committee.

**SCRep. 598** Judiciary on **H.B. No. 1390**

The purpose of this bill is to permit a person already owning or leasing land suitable for residential use to purchase or lease public lands suitable for such use if he submits a signed statement indicating that he will sell the previously held land within three years after the acceptance of his bid on the public property.

The present law prohibits persons owning or leasing land suitable for residential use from purchasing or leasing public land suitable for such use. This bill would allow such persons to participate in the public lands program. Your Committee is of the opinion that such persons should not be required to sell their lands prior to participation in the program, provided that if a person is a successful bidder, he should then be required to divest himself of his present holdings. Your Committee also concurs with the recommendation of the Committee on Lands for amendment of this bill.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 1390, H. D. 1** and recommends its passage on Third Reading.

Signed by all members of the Committee.

**SCRep. 599** Joint Select Committees of Kauai, Maui, Oahu & Hawaii Representatives on **H.R. No. 129**

The purpose of this resolution is to designate a day on which the Spouse of each House Member may become acquainted with the rigorous demands made upon legislators in the process of coping with the imbricate problems which confront them in the performance of their duties in the public interest.

In the interest of clarification, your Com-

mittee has amended the Resolution to provide that the Speaker of the House may be the designator of Spouse Day.

Your Joint Select Committee of Kauai, Maui, Oahu and Hawaii Representatives is in accord with the intent and purpose of **H. R. No. 129**, as amended herein, and recommends its referral in the form attached hereto as **H. R. No. 129, H. D. 1**, to your Committee on Judiciary.

Signed by all members of the Committee.

**SCRep. 600 Judiciary on S.B. No. 99**

The purpose of this bill as amended is to establish a correctional diagnostic center staffed by psychiatrists, social and correctional workers, technicians, and other personnel as may be necessary.

This bill will formally establish a correctional diagnostic center to aid in the rehabilitation of prisoners. Your Committee is of the opinion that such a center should be formally established.

Your Committee on Judiciary is in accord with the intent and purpose of **S. B. No. 99, S. D. 1** and recommends its passage on Second Reading and its referral to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 601 Transportation on H.B. No. 1036**

The purpose of this bill as stated in section 1 is to appropriate the necessary funds to conduct a detailed study of the relocation of national guard, Federal Aviation Administration, and civil defense facilities, including an analysis of the present and proposed programs, needs, problems and alternative solutions, so that the Fort Ruger area could be developed as a park for the people of the State.

The area is principally used for national guard and civil defense activities which are housed in very old to relatively new buildings. Much of the area within the crater, however, is undeveloped and can be used for additional national guard or civil defense facilities or for recreational or some other alternative uses. There is considerable public interest in the future use of this area, and your Committee believes that this valuable

area will remain undeveloped indefinitely unless the many opinions as to the best use for the area is resolved.

Section 2 of the bill provides that the office of the governor shall expend the sum appropriated. Your Committee, upon consideration of the matter, recommends that the Department of Land and Natural Resources which has the responsibility for the management of our public lands should be the agency responsible for the study. Section 2 of the bill was amended to conform to our recommendation.

Your Committee is in accord with the intent and purpose of **H. B. No. 1036**, as amended herein, and recommends its passage on second reading in the form attached hereto as **H. B. No. 1036, H. D. 1**, and that it be referred to your Committee on Finance.

Signed by all members of the Committee.

**SCRep. 602 Labor on H.B. No. 174**

The purpose of this bill is to amend the Temporary Disability Insurance Law by deleting provisions from Section 392-41 which permit employers to secure temporary disability benefits to the employees through sick leave plans instituted voluntarily or through negotiations with representatives of their employees.

Section 392-41 presently prescribes the following methods by which an employer may secure the payment of temporary disability benefits for his employees:

1. By insuring the payment of benefits with an insurance company.
2. By depositing sufficient securities or a bond with the director of labor and industrial relations to secure the payment of benefits.
3. By furnishing satisfactory proof to the director of his solvency and financial ability to pay benefits.
4. By a voluntary or negotiated sick leave plan which was in existence on the effective date of the law.
5. By a new voluntary or negotiated sick leave plan or agreement that provides "benefits as favorable" as those provided by the law. "Benefits as favorable" as those in the law are benefits under a plan or agreement



whose component parts add in total to cash benefits or wages which are determined by the director to be at least as favorable as the benefits provided by law. Actuarial tables for the comparison of sick plan benefits against the benefits provided by the law are established by the insurance commissioner.

The provision on existing sick-leave plans or agreements has caused many employees to receive sick pay benefits far inferior to those provided by the law. The provision on new plans or agreements will undoubtedly result in a great disparity between benefits under plans or agreements and those provided by the law. Comparison on an actuarial basis can result in plans with benefit periods as short as three weeks being deemed "as favorable" as the law in benefits. This lack of benefit uniformity is clearly an undesirable feature of the law. The proposed deletion of provisions which permit an employer to meet his obligations through voluntary or negotiated sick leave plans would definitely result in benefit parity for all employees subject to coverage under the law.

At a public hearing on the bill, the director of labor and industrial relations, while supporting the intent of the bill to achieve uniformity in benefits, cautioned your Committee that the enactment of the bill as introduced would have undesirable consequences, including the downgrading of benefits for some employees. He recommended the adoption of minimum acceptable standards for sick leave plans instead of the deletion of the provisions. The "minimum acceptable equivalent benefits" he suggested were 8 weeks of benefits at full pay without a waiting period and 13 weeks of benefits with a four-day waiting period. Your Committee agrees that the adoption of minimum acceptable standards as suggested by the director would have the desired results of eliminating plans with sub-standard benefits and of achieving greater uniformity in benefits. It would also foster the retention of plans with more favorable benefits. Your Committee has therefore amended the bill to provide that all plans must have a benefit duration period of at least 13 weeks during a benefit year unless the plan provides full wage continuation of at least 8 weeks. Present plans would be subject to this requirement upon extension or modification.

Your Committee on Labor is in accord with the purpose and intent of **H. B. No. 174**, as amended herein, and recommends its pas-

sage on second reading in the form attached hereto as **H. B. No. 174, H. D. 1**, and that it be referred to your Committee on Judiciary for further consideration.

Signed by all members of the Committee except Representative Iha.

**SCRep. 603** Housing and Consumer Protection on **H.B. No. 1046**

The purpose of this bill is to establish regulations relating to the cancellation and renewal of automobile insurance policies. Chapter 431, Hawaii Revised Statutes, would be amended by repealing Section 431-448.1 and adding a new section to be appropriately designated.

Under existing statutes, which relate to renewal only, an automobile insurance policy can be terminated only after notification of the intent to terminate thirty days prior to the date of termination. Under Section 431-448.1, it should be reiterated, there is no provision which deals with cancellation of policies.

**H. B. No. 1046** would allow cancellation of a policy which has been in effect for more than sixty days only on the grounds of non-payment of premiums or the suspension or revocation of the insured's license. In the event that such grounds do exist, cancellation would be further subject to the regulation that a written notice of cancellation must be mailed to the insured at least twenty days prior to the effective date of cancellation, or in the case where the reason for cancellation is non-payment, that a grace period of ten days for notification is allowed by the insurer. All written notices, furthermore, shall contain a statement of the reason or reasons for cancellation.

As for regulation of renewal, the bill's proposal is substantially the same as existing legislation in that the insurer must allow at least thirty days before sending notification of non-renewal. Such notification shall also state the reason or reasons for such failure to renew. For purposes of clarity, the bill provides that renewal shall not apply in the following two instances: 1) if the insurer has manifested in any way its willingness to renew; 2) if the insured fails to pay the premiums either as required by the insurer for renewal, or under the expiring policy.

Your Committee recommends the following two amendments: (1) Section 2 (d) be amended by substituting twenty days for the ten days which the bill presently allows. (2) Section 3 be amended to read as follows: "This Act shall take effect forty-five days after its approval."

Your Committee is in accord with the intent and purpose of **H. B. No. 1046** as amended herein, and recommends its passage on Second Reading and its referral to the Committee on Judiciary in the form attached hereto as **H. B. No. 1046, H. D. 1.**

Signed by all members of the Committee.

**SCRep. 604** Housing and Consumer Protection on **H.B. No. 1061**

The purpose of this bill is to amend Sections 431-572, 431-574, 431-575, 431-577, 431-578, 431-579 and 431-580 of the Hawaii Revised Statutes so as to raise the allowable ceilings on the amount of group life insurance that may be provided to employee groups, labor union groups, trustee groups, public employee association groups, mutual benefit society groups, professional association groups, occupation, industry, or trade association groups. Among other things this would enable employers to improve fringe benefits to their employees and help provide higher benefits to a surviving spouse if an employee dies prior to retirement. This latter concern is of most importance, since group life plans are easier to change than established pension plans, investment programs or vesting provisions. It should be noted that ceilings on three types of groups are not changed by this bill. These include agent groups (Section 431-576) under which there are no ceilings under present law, debtor groups (Section 431-573) and credit union groups (Section 431-581).

Your Committee is in accord with the purpose and intent of **H. B. No. 1061** and recommends its passage on Second Reading and its referral to the Committee on Judiciary.

Signed by all members of the Committee.

**SCRep. 605** (Majority) Housing and Consumer Protection on **H.B. No. 1526**

The purpose of this bill is to organize a

program designed for counseling low-income families so that they may qualify for homeownership.

It is generally accepted that the so-called housing crisis refers simply to a shortage of available units. While this is indisputably crucial, the complications involved in homeownership often disqualify many of those who with proper guidance could have become homeowners. In this light, Robert Kamalu, Jr. of the Model City Housing Development Corporation testified that "While admittedly the lack of a sufficient inventory of housing units has been a serious handicap in obtaining housing, our experience has been that the mere increase of units alone would not solve this housing problem if people cannot qualify for them." The point is that often people can qualify; counselors would show them how.

Your Committee is aware of the immense administrative difficulties which come with the implementation of such a program. It feels, nonetheless, that a proper beginning could be made by assigning the Hawaii Housing Authority with responsibility to generate a pilot program. This responsibility should be interpreted broadly, and insofar as funding is concerned, \$30,000 or so much thereof as may be necessary, should be appropriated. Your Committee hopefully anticipates a program of wide scope that could perhaps be of benefit to not only low-income families, but also to families of higher income brackets. Based on this consideration, your Committee recommends that the title of the bill be amended to read as follows: "A BILL FOR AN ACT RELATING TO HOMEOWNERSHIP COUNSELING FOR LOW AND MODERATE INCOME FAMILIES." This, in fact, can be interpreted to be part of the original intent of the bill inasmuch as in the body of the bill, reference is made to "low and moderate income families."

Your Committee is in accord with the intent and purpose of **H. B. No. 1526**, as amended herein, and recommends its passage on Second Reading and its referral to the Committee on Finance in the form attached hereto as **H. B. No. 1526, H. D. 1.**

Signed by all members of the Committee Representative Fong Jr. did not concur.

**SCRep. 606** Public Utilities on **H.R. No. 194**

The purpose of this resolution, as amended, is to request the Legislative Auditor to study the problem of the delay in the removal and relocation of utility poles and overhead lines in street-widening projects.

It has been increasingly common to find utility poles left within the confines of a completed street, road, or highway even though the street-widening project has been completed. It cannot be denied that the presence of these utility poles presents a substantial hazard to travel on the public streets.

It is also well known that any delay in the removal and relocation of these utility poles causes inconvenience to the public and prevents the public's whole utilization of the completed highway, road or street.

While the issue of public safety and convenience is of utmost importance, the possible increase in overall cost of these projects should not be disregarded. The overall completion date of these projects is often extended because of the non-removal and relocation of the utility poles and this in turn increases the cost of the construction which eventually is passed down to the taxpayer.

Your Committee on Public Utilities is of the opinion that upon considering the effect on public safety, public convenience, and possible increase to construction costs, a complete study should be made of the problem so that the legislature can take appropriate steps in the future.

As originally worded, this resolution requests a hearing by the Public Utilities Committee. Your Committee has amended the title and the body of this resolution to provide that the Legislative Auditor be requested to make an indepth study of the problem and report back to the legislature with appropriate solutions to these problems.

Your Committee on Public Utilities concurs with the purpose of **H. R. No. 194**, as amended herein, and recommends its adoption in the form attached hereto as **H. R. No. 194, H. D. 1.**

Signed by all members of the Committee.

**SCRep. 607** Judiciary on **H.B. No. 1545**

The purpose of this bill is to require any person in possession of a motorcycle, except a motorcycle in storage, to have attached to

the motorcycle in a conspicuous place a valid license plate or decal issued pursuant to chapter 249.

The present law does not require such a license if the motorcycle is to be transported over a public display or used on private property. Consequently, stolen motorcycles may be transported over public highways or used on private property with impunity because licenses attached by the owner have been removed. This bill, by requiring all motorcycles to have valid license plates or decals attached to them, except those in storage, may aid the tracing and recovery of stolen motorcycles.

Your Committee upon consideration of **H. B. No. 1545**, recommends that it be amended in the form attached hereto as **H. B. No. 1545, H. D. 1**, which would make possession of an unlicensed motorcycle prima facie evidence that it has not been properly registered.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 1545**, as amended herein, and recommends its passage on Second Reading in the form attached hereto as **H. B. No. 1545, H. D. 1**, and placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 608** Joint Select Committee of Kauai, Maui, Oahu and Hawaii Representatives on **H.B. No. 50**

The purpose of this bill is to add a new section to provide continuity to police investigations from one jurisdictional region to another.

Your Committee has received favorable testimony from Major Harold Falk of the Honolulu Police Department on this bill. Further, it reflects the content of a resolution adopted by the 17th Annual Hawaii State Law Enforcement Officials Conference which recognized the problem of local law enforcement and endorsed the provisions of this bill. That resolution is dated 18 September, 1970 and is signed by Ernest J. Fergerstrom, Chief of Police of Hawaii County.

This new section will continue to protect local control and assure cooperation through the provisions of notification to a county chief of police when investigations are to be pursued within his jurisdiction. The provi-

sion for crossing county lines is contingent upon the fact the investigation must commence in the home county of the investigator. It also assures protection of local jurisdictions from encroachment by outside investigators.

Your Joint Select Committee of Kauai, Maui, Oahu and Hawaii Representatives is in accord with the intent and purpose of **H. B. No. 50** and recommends that it pass second reading and be referred to your Committee on Judiciary.

Signed by all members of the Committee.

**SCRep. 609** Joint Select Committee of Kauai, Maui, Oahu and Hawaii Representatives on **H.B. No. 124**

The purpose of this bill is to provide elected officers, employee representatives or shop stewards of duly recognized employee organizations a reasonable amount of time off during working hours to carry out the duties of their offices without loss of pay or benefits.

In the collective bargaining process, Act 171, Session Laws of Hawaii 1970, provides various grievance procedures in order to resolve disputes and disagreements between employer and employees. The State should do its utmost to avoid costly strikes by employees, and your Committee believes that whenever employee representatives can materially assist in the resolution of any disputes or disagreements, they should be permitted reasonable amount of time off during working hours without loss of pay or benefits.

Upon further consideration of the matter, your Committee believes that in addition to such representatives, if an employee can contribute to the fact finding, arbitration, mediation, and other proceedings in the collective bargaining process, thereby resolving disputes before a strike becomes necessary, such participation during working hours should be encouraged. Accordingly, your Committee has amended the bill to permit at least one employee for each five hundred employees from a bargaining unit to participate in the collective bargaining process, provided such participation will not interfere with the operations of government.

Your Committee is in accord with the intent and purpose of **H. B. No. 124, H. D. 1**, as amended herein, and recommends its passage on second reading in the form attached

hereto as **H. B. No. 124, H. D. 2** and that it be referred to your Committee on Finance.

Signed by all members of the Committee.

**SCRep. 610** Joint Select Committee of Kauai, Maui, Oahu and Hawaii Representatives on **H.B. No. 125**

The purpose of this bill is to provide that damages to government property caused by a public officer or employee in the course of his employment would not result in the employee's liability except in cases of negligent or wilful and wanton misconduct.

Under existing law, a public officer or employee may be held liable for reimbursing the government in whole or in part for any damages incurred to government property if he had been negligent. The original bill provided that the employee will not be responsible for all situations except when the damage is caused by his wilful misconduct. Your Committee concurs with the Committee on Public Employment that the negligence standard should not be removed as provided in the original bill.

Your Committee is in accord with the intent and purpose of **H. B. No. 125, H. D. 1** and recommends its passage on second reading and its referral to your Committee on Finance.

Signed by all members of the Committee.

**SCRep. 611** Joint Select Committee of Kauai, Maui, Oahu and Hawaii Representatives on **H.B. No. 130**

The purpose of this bill is to provide that employees who were in the military service of the United States during the period of 1941-1949 would be able to purchase service credit toward membership in the state pension and retirement system.

Your Committee finds that there are several employees who were inducted into the service near the end of 1945 but were not discharged until late 1948. These employees were limited in their purchase of military service credit to 1945. This bill would permit those who were inducted late in World War II and returned to employment after 1945, full credit for their military service.

While your Committee is in agreement with the increase of the period from 1941-

1949, it feels that there should be a maximum number of years which can be credited. Therefore, your Committee has amended the bill so that the maximum military service credit which could be received would be four years. The bill has also been amended by printing the entire section in compliance with House Rule 24(2).

Your Committee is in accord with the intent and purpose of **H. B. No. 130, H. D. 1**, and recommends its passage on second reading and its referral to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 612** Joint Select Committee of Kauai, Maui, Oahu and Hawaii Representatives on **H.B. No. 140**

The purpose of this bill is to permit an employee to purchase prior service by contributing at the rate of one and one-half times his normal contributions to the retirement system as an alternative to the present method of two times his normal contributions.

Your Committee finds that purchases under the present law, which permits an employee to purchase previous service credit by either making a lump sum payment or by making a contribution of twice the normal contribution, are very costly to members desiring to purchase prior service credit, especially those in the lower ranges of the white collar and blue collar salary schedules. This bill simply provides for a third option which would create less of an economic hardship.

The bill as drafted incorrectly amends Section 88-59 of the Hawaii Revised Statutes as it read prior to 1969 when it was amended by Act 110, Session Laws of Hawaii 1969. Your Committee, therefore, amended **H. B. No. 140** by substituting the existing language of Section 88-59.

Your Committee is in accord with the intent and purpose of **H. B. No. 140**, as amended herein, and recommends its passage on second reading in the form attached hereto as **H. B. No. 140, H. D. 1** and that it be referred to your Committee on Finance.

Signed by all members of the Committee.

**SCRep. 613** Joint Select Committee of Kauai, Maui, Oahu and Hawaii Representatives on **H.B. No. 237**

The purpose of this bill is to amend the service-connected total and occupational disability retirement statutes, which now cover firemen, to include sewer workers.

Under existing statutes, any fireman who has been disabled as the result of the cumulative effect of the inhalation of smoke, poison gasses, chemical fumes, and other toxic vapors on the heart, lungs, and respiratory system, shall be construed as having been injured in the line of duty. Your Committee is of the opinion that sewer workers are also exposed to poison gases, chemical fumes, and other toxic vapors and they should, therefore, receive the same consideration with regard to the retirement laws relating to service-connected and occupational disability.

Your Committee is in accord with the intent and purpose of **H. B. No. 237** and recommends its passage on second reading and its referral to your Committee on Finance.

Signed by all members of the Committee except Representative O'Connor.

**SCRep. 614** Joint Select Committee of Kauai, Maui, Oahu and Hawaii Representatives on **H.B. No. 368**

The purpose of this bill is to transfer the administration and the implementation of motor vehicle safety regulation of private, common and contract carriers as provided for in this section to the respective counties.

The Hawaii Motor Carrier Act provides for the impartial regulation of commercial motor vehicles in the public interest, but the duplication and conflicting regulations do not accelerate traffic safety improvements. The Public Utilities Commission is generally considered an economic regulatory agency, and as such should not be charged with the responsibility of enforcing motor vehicle safety regulation. Therefore, this bill deletes all references to the Commission's power to regulate motor vehicle safety. The safety function is also presently administered by the respective counties and will remain within their jurisdictions under the new Hawaii Highway Safety Act.



Your Joint Select Committee of Kauai, Maui, Oahu and Hawaii Representatives is in accord with the intent and purpose of **H. B. No. 368** and recommends that it pass second reading and be referred to your Committee on Public Utilities.

Signed by all members of the Committee except Representative Wasai.

**SCRep. 615** Joint Select Committee of Kauai, Maui, Oahu and Hawaii Representatives on **H.B. No. 608**

The purpose of this bill is to clarify certain provisions of the real property tax law relating to agricultural land dedication.

This bill would clarify any question or claim of subversion under this statute by spelling out the provisions of transferability and binding effect of the covenants of dedication upon subsequent owners. Under this bill, dedicated land may be conveyed or transferred from the owner who petitioned for dedication to any subsequent owner; however, the covenants of the tax assessment and dedicated use and any other applicable provisions under the land dedication section shall be a lien on the land and binding upon the subsequent owner.

This bill would also replace the present calendar year assessment with an assessment over a period of twelve consecutive months, thus clarifying and improving the administration of this statute.

While the land is made subject to the dedication upon any conveyance of the land, the buyer may not be aware that the land is so encumbered. Notice to buyer is desirable to protect him from an unscrupulous seller, and such notice can be achieved if the matter of dedication is filed of record. Accordingly, your Committee has amended the bill to provide for the recordation of a document declaring dedication and any document cancelling such dedication. The amendment is numbered Section 1, and the other sections of the bill have been renumbered accordingly.

Your Committee is in accord with the intent and purpose of **H. B. No. 608**, as amended herein, and recommends its passage on second reading in the form attached hereto as **H. B. No. 608, H. D. 1** and its referral to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 616** Joint Select Committee of Kauai, Maui, Oahu and Hawaii Representatives on **H.B. No. 610**

The purpose of this bill is to replace the differential tax rates provided by Act 142, Session Laws of Hawaii 1963, known as the "Pittsburgh Tax Law", with a single tax rate. This bill would amend Section 248, Hawaii Revised Statutes to eliminate the differential tax rates and amend Section 246-10(d) by eliminating the unimproved residential class.

The intent of the "Pittsburgh Tax Law" was to encourage the development of vacant and underdeveloped land throughout the State. However, intensive construction activity in recent years indicate that it is no longer necessary to have this law to encourage development.

Your Committee is in accord with the intent and purpose of **H. B. No. 610** and recommends its passage on second reading and its referral to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 617** Joint Select Committee of Kauai, Maui, Oahu and Hawaii Representatives on **H.B. No. 1074**

The purpose of this bill is to simplify the procedure for admission or withdrawal of a limited partner when a license is held by a limited partnership; and, to strengthen the law prohibiting the admission of a partner or associate without approval of the liquor commission.

This bill adds a new paragraph providing that where a license is held by a limited partnership the admission or withdrawal of a limited partner shall not be deemed a transfer of the license held by the partnership, thereby eliminating necessity of a public hearing and publishing notice of the hearing prior to the admission of a limited partner. However, the licensee must notify the liquor commission in writing within 30 days of the change in the partnership. If the commission finds a limited partner to be an unfit or improper person to hold a license in his own right, the commission may revoke the license or suspend the license until the unfit person is removed.

Your Committee received written testimonies on this bill and its proposals have been

concurring to by the several counties' liquor commissions at their annual meeting.

Your Joint Select Committee of Kauai, Maui, Oahu and Hawaii Representatives is in accord with the intent and purpose of **H. B. No. 1074** and recommends that it pass second reading and be referred to your Committee on Judiciary.

Signed by all members of the Committee.

**SCRep. 618** Joint Select Committee of Kauai, Maui, Oahu and Hawaii Representatives on **H.B. No. 1076**

The purpose of this bill is to more clearly define the area within which the liquor commission must take note of the location of a church, chapel or school when considering an application for license in that area.

This bill concerns the requirement that an inspector's written report on an application to the commission for a liquor license include a statement of the "locality of any church, chapel or school in the neighborhood, if any" The amendment deletes the words "in the neighborhood" which is difficult to define, and substitutes a definite radius of 500 feet as the area within which the commission must be notified. This radius corresponds with the area within which owners and lessees of real estate have the right of protest against a license application.

Your Joint Select Committee of Kauai, Maui, Oahu and Hawaii Representatives is in accord with the intent and purpose of **H. B. No. 1076** and recommends that it pass second reading and be referred to your Committee on Judiciary.

Signed by all members of the Committee.

**SCRep. 619** Joint Select Committee of Kauai, Maui, Oahu and Hawaii Representatives on **H.B. No. 1077**

The purpose of this bill is to make it unlawful to change in any manner, such as by the addition of water or other substance, the original contents of a liquor container.

Your Committee has received written testimonies on this bill and its proposals have been concurred to by the several counties' liquor commissions at their annual meeting.

The amendments contained in this bill relate to the proper prosecution of persons who "water down" liquor or put low-price liquor into a container carrying the label of a higher priced liquor for the purpose of deceiving the public.

Your Joint Select Committee of Kauai, Maui, Oahu and Hawaii Representatives is in accord with the intent and purpose of **H. B. No. 1077** and recommends that it pass second reading and be referred to your Committee on Judiciary.

Signed by all members of the Committee.

**SCRep. 620** Joint Select Committee of Kauai, Maui, Oahu and Hawaii Representatives on **H.B. No. 1079**

The purpose of this bill is to prevent liquor manufacturers and wholesale liquor dealers from obtaining direct or indirect control of retail licenses through assistance of any kind.

Existing law precludes liquor manufacturers and wholesale liquor dealers from becoming financially interested in or connected with a holder of a general dispenser liquor license. This bill will preclude liquor manufacturers and wholesale dealers from becoming financially interested in or connected with a holder of a retail dealers liquor license.

Your Committee received favorable testimony from Mr. William H. Lucas, Executive Secretary of the Honolulu Liquor Commission, and written testimony from the Department of Liquor Control, County of Maui. Also from Mr. James S. Burns, general counsel for the Hawaii Wholesale Liquor Distributors Association. Mr. Lucas spoke for the several counties' liquor commissions all of whom concurred to the proposals of this bill at their annual meeting.

It is the sense of your Committee that the existing law which prohibits any connection by liquor manufacturers and liquor wholesalers with liquor dispensers for On-Premises consumption should be extended to retail liquor dealers for Off-Premises consumption. This amendment does not prevent a manufacturer or wholesaler from also holding a retail license in his own name, but only against his interest in the business of another licensee.

Your Joint Select Committee of Kauai, Maui, Oahu and Hawaii Representatives is in

accord with the intent and purpose of **H. B. No. 1079** and recommends that it pass second reading and be referred to your Committee on Judiciary.

Signed by all members of the Committee.

**SCRep. 621** Joint Select Committee of Kauai, Maui, Oahu and Hawaii Representatives on **H.B. No. 1082**

The purpose of this bill is to delete the requirement of food service under a cabaret license. Accordingly, liquor commissions will be allowed to prescribe closing hours for cabarets by rules and regulations.

Your Committee received favorable testimony from Mr. William H. Lucas, Executive Secretary of the Honolulu Liquor Commission, and written testimony from the Department of Liquor Control, County of Maui. Mr. Lucas spoke for the several counties' liquor commissions all of whom concurred to the proposals of this bill at their annual meeting.

The requirement that food be served in cabarets has not served a justifiable purpose and the service of food will or will not be provided by a licensee in response to customers' demands. Opening and closing hours for all other licensees are established by commission rule and this bill provides consistency to the general power given to the liquor commissions to fix hours for the transaction of business by licensees.

Your Joint Select Committee of Kauai, Maui, Oahu and Hawaii Representatives is in accord with the intent and purpose of **H. B. No. 1082** and recommends that it pass second reading and be referred to your Committee on Judiciary.

Signed by all members of the Committee.

**SCRep. 622** Joint Select Committee of Kauai, Maui, Oahu and Hawaii Representatives on **H.B. No. 1083**

The purpose of this bill is to correct errors or inconsistencies which have been overlooked in the past or to clarify existing law. These amendments are not substantive changes.

This bill contains technical amendments as follows:

Section 281-2, Paragraph 8 relating to articles which are not subject to laws governing intoxicating liquor. This paragraph authorizes persons who manufacture excepted articles to "purchase and possess liquor for that purpose". The word "liquor" where used in the first sentence would be changed to "alcohol" to conform with the wording of the second sentence which are separately defined in section 281-1, HRS. Present wording does not make it clear whether the manufacturer of the excepted articles may purchase all types of liquor from wholesales. This amendment would limit the manufacturer of excepted articles to the purchase of alcohol in the manner prescribed by law. Section 281-4 is based on section 159-4, Revised Laws of Hawaii 1955, as amended. However, the proviso contained in the last sentence of subsection (c) was changed to the extent that the proviso is inconsistent with other provisions and the title of section 281-4. Since the section relates to unlicensed premises, this amendment will reinstate appropriate language.

Section 281-32, HRS, relating to temporary liquor licenses is amended as follows.

(a) It deletes paragraph (8) which provides for summary suspension or revocation of a temporary license. This would subject a temporary license to the same procedures provided for the suspension or revocation of a permanent license.

(b) It amends paragraph (5) to clarify the right of the liquor commission to renew a temporary license. This paragraph now limits the term of a temporary license to an initial sixty days plus "an additional sixty days" at the discretion of the commission. For clarification the wording is changed to "not more than one additional sixty day period . . ."

(c) It deletes from paragraph (6) the statement that a temporary license "is a conditional license" since there is no statutory provision for a "conditional license".

In Section 281-39, the requirement that an applicant for a solicitor's or representative's permit state his nationality is deleted. Section 281-53, relating to applications for license: The law now requires that license applications filed by corporations or associations be signed "by the proper officers thereof". The use of the word "officers" implies that two or more persons should sign. The amendment

reads "by the proper officer or officers thereof" to allow a single officer to sign if properly authorized. Section 281-58, HRS, is amended by deleting the reference to protests against the renewal of a license. The existing reference to protests against the renewal of a license is inconsistent with other sections of chapter 281 which requires that except for good cause the renewal of a license shall be granted upon the filing of an application. Section 281-59, HRS, relating to hearings on an application for license: The law now provides that the liquor commission may consider an objection by a liquor inspector to the granting of a license "even though the inspector may have previously approved the application". There is no provision in the law for an inspector to either approve or disapprove of an application for license. Therefore, this amendment deletes the words "even though the inspector may have previously approved the application" which now appear in parentheses in the third sentence of section 281-59, HRS. Section 281-97, adds to the first paragraph authority for the liquor commission to grant permission to a licensee who does not renew his license to sell his stock of liquor without a license within sixty days after expiration of the license or within such additional time as the commission may allow. This authority is now granted the commission in cases where a license is revoked or cancelled.

Your Joint Select Committee of Kauai, Maui, Oahu and Hawaii Representatives is in accord with the intent and purpose of **H. B. No. 1083** and recommends that it pass second reading and be referred to your Committee on Judiciary.

Signed by all members of the Committee.

**SCRep. 623** Joint Select Committee of Kauai, Maui, Oahu and Hawaii Representatives on **H.B. No. 1242**

The purpose of this bill is prohibit an unlicensed agent of an out-of-state principal of local liquor wholesalers from offering or giving premiums or free goods of any nature as an inducement in liquor sales; and to make it unlawful for a licensee to solicit or accept premiums or free goods as a condition of his buying liquor from a manufacturer or wholesaler.

Your Committee received favorable testimony from Mr. William H. Lucas, Executive Secretary of the Honolulu Liquor Commission, and written testimony from the

Department of Liquor Control, County of Maui. Also from Mr. James S. Burns, general counsel for the Hawaii Wholesale Liquor Distributors Association. Mr. Lucas spoke for the several counties' liquor commission all of whom concurred to the proposals of this bill at their annual meeting.

Existing law precludes any liquor licensee whether manufacturer, wholesaler or retailer from giving any premium or free goods of liquor or other merchandise to any one in connection with the sale of intoxicating liquor. However, this prohibition does not apply to non-liquor licensees nor does it impose any restrictions on the licensee who solicits or accepts a premium or free goods.

It is the sense of your Committee that the prohibition which presently applies to liquor licensees who give premiums or free goods in connection with the sale of liquor should be extended to apply to resident agents of manufacturers who presently operate without such restriction and to retailers who solicit or accept such premiums or free goods.

Your Joint Select Committee of Kauai, Maui, Oahu and Hawaii Representatives is in accord with the intent and purpose of **H. B. No. 1242** and recommends that it pass second reading and be referred to your Committee on Judiciary.

Signed by all members of the Committee.

**SCRep. 624** Joint Select Committee of Kauai, Maui, Oahu and Hawaii Representatives on **H.B. No. 1362**

The purpose of this bill is to conform the requirement for the displaying of the motor vehicle certificate of registration on out-of-state vehicles with the requirement for Hawaii-licensed vehicles.

This amendment will affect only those vehicles displaying out-of-state license plates. It changes the requirement of displaying a motor vehicle certificate of registration on the windshield. The certificate of registration would be placed in the driver's compartment, conforming with the requirement for Hawaii-licensed vehicles, and a decal placed at the rear bumper to afford visible evidence of registration.

This amendment will speed up registration of out-of-state motor vehicles. In written testimony received by your Committee it is

stated that increased costs are not anticipated. Freeing the windshield of any obstruction to drivers' vision is essential for safety.

Your Joint Select Committee of Kauai, Maui, Oahu and Hawaii Representatives is in accord with the intent and purpose of **H. B. No. 1362** and recommends that it pass second reading and be referred to your Committee on Judiciary.

Signed by all members of the Committee.

**SCRep. 625** Joint Select Committee of Kauai, Maui, Oahu and Hawaii Representatives on **H.B. No. 1482**

The purpose of this bill is to add a new section to Chapter 46 of the Hawaii Revised Statutes entitled "Provisions Common to All Counties". This new section provides that any county may purchase, maintain, and operate a public bus transportation system for use in that county.

Your Joint Select Committee of Kauai, Maui, Oahu and Hawaii Representatives in accord with the intent and purpose of **H. B. No. 1482** and recommends that it pass second reading and be referred to your Committee on Judiciary.

Signed by all members of the Committee.

**SCRep. 626** Joint Select Committee of Kauai, Maui, Oahu and Hawaii Representatives on **H.B. No. 1511**

The purpose of this bill is to permit a member of the retirement system who is on leave without pay, particularly for health reasons, to file application for ordinary disability retirement.

Under present law, an application for ordinary disability can be filed only by a member who is in service or by the head of the department. A worker who is ill may be trying to avoid the possibility of applying for disability retirement and may use up all his sick leave before it becomes clear that he is totally disabled and must take disability retirement. Your Committee finds that under the present law, such a worker is not eligible to apply for ordinary disability retirement. Consequently, only if his department puts him back on the payroll for a short period of time can he be considered in service and eligible to apply for ordinary disability retirement. This bill

would correct the inequity of requiring a person to return to work, even for a short period of time, after medical treatment demonstrates that he will not be able to work again.

Your Committee is in accord with the intent and purpose of **H. B. No. 1511** and recommends its passage on second reading and its referral to your Committee on Finance.

Signed by all members of the Committee.

**SCRep. 627** Joint Select Committee of Kauai, Maui, Oahu and Hawaii Representatives on **H.B. No. 1512**

The purpose of this bill is to enable a member to purchase as membership service any period of absence prior to July 1, 1967, during which he was receiving workmen's compensation benefits.

Act 124, Session Laws of Hawaii 1967, which became effective July 1, 1967, provides that an employee who is on sick leave and receive workmen's compensation benefits shall continue to earn retirement credits as though he were not absent. Because of the effective date of the Act, any absence prior to July 1, 1967 due to illness or compensable injury is not credited as membership service under existing law. This bill will correct the error.

Your Committee is in accord with the intent and purpose of **H. B. No. 1512** and recommends its passage on second reading and its referral to your Committee on Finance.

Signed by all members of the Committee.

**SCRep. 628** Joint Select Committee of Kauai, Maui, Oahu and Hawaii Representatives on **H.B. No. 1620**

The purpose of this bill is to provide a uniform statutory procedure by means of which each county may amend its general plan and enact zoning ordinances which conform to and implement such general plan.

In the absence of any specific statutory or other authority for amendment, neither the State nor the several counties, with respect to their general plan provisions, have established clear, concise procedures for the amendment of their respective general plans. Accordingly, it is in the public interest to



establish a statewide, uniform legal procedure for the amendment of the general plan of each county as provided for in the long version of this bill as **H. D. No. 1**.

Your Joint Select Committee of Kauai, Maui, Oahu and Hawaii Representatives is in accord with the intent and purpose of **H. B. No. 1620** in the form attached hereto as **H. B. No. 1620, H.D. 1** and recommends that it pass second reading and be referred to your Committee on Judiciary.

Signed by all members of the Committee.

**SCRep. 629** Joint Select Committee of Kauai, Maui, Oahu and Hawaii Representatives on **H.B. No. 1507**

The purpose of this bill, as amended, is to permit members of the retirement system to purchase credit for prior service between the years 1941 and 1947 with federal defense agencies and for service rendered prior to becoming a member as a fulltime employee at Leahi Hospital.

As presently worded, this bill would also allow a member to purchase any service in the military service and obtain a maximum four year credit. Your Committee believes that the provision for purchase of membership service should be intended for those employees who were employed by the State or county prior to induction and should not be broadened to include any service in the military service. Accordingly, this provision for purchase of credit for any service in the military has been deleted.

Your Committee is in accord with the intent and purpose of **H. B. No. 1507, H. D. 1**, as amended herein, and recommends its passage on second reading and in the form attached hereto as **H. B. No. 1507, H. D. 2** and that it thereafter be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 630** Public Health, Youth and General Welfare on **H.B. No. 892**

The purpose of this bill is to amend Section 577-14 of the Hawaii Revised Statutes to provide a statutory right for certain natural fathers of an illegitimate child to obtain its custody and control against all but the fit

mother unless the Family Court determines such custody is not in the best interest of the child.

Your Committee on Public Health, Youth and General Welfare is in accord with the intent and purpose of **H. B. No. 892** and recommends its passage on second reading and its referral to the Committee on Judiciary.

Signed by all members of the Committee except Representative Iha.

**SCRep. 631** Agriculture on **H.B. No. 1329**

The purpose of this bill is to amend chapter 145, Hawaii Revised Statutes, relating to the dealers licensing law in such manner as to substantially improve the enforcement of this law.

The bill as originally introduced proposed several amendments to the existing dealers licensing law for the purpose of enforcing the existing statute which is being seriously hampered by lack of specific investigatory powers by the department of agriculture.

Your Committee after careful consideration of this bill has amended it by adding a new section 145— to chapter 145 entitled rules and regulations.

This amendment will allow the department of agriculture greater flexibility in implementing the dealer licensing program through the promulgation of rules and regulations rather than having to require continuous legislative action to amend the statute.

The dynamic nature of marketing and distribution of agricultural products necessitates frequent changes in regulatory programs.

This amendment will also provide the department with sufficient latitude to meet the changing requirements of the marketplace, thereby insuring timely regulations to minimize unfair trade practices and violations and to maximize the efficient marketing of agricultural products.

Your Committee is in accord with the intent and purpose of **H. B. No. 1329**, as amended herein, and recommends its passage

on Second Reading in the form attached hereto as **H. B. No. 1329, H. D. 1** and its referral to the Committee on Judiciary.

Signed by all members of the Committee.

**SCRep. 632 Education on H.B. No. 128**

The purpose of this Bill is to amend Chapter 297, HRS, by adding a new section granting emergency leave for school personnel, with pay, not to exceed three days, if the principal determines that a personal emergency exists.

Your Committee on Education is in accord with the intent and purpose of **H. B. No. 128** and recommends its passage on Second Reading and its referral to the Committee on Finance.

Signed by all members of the Committee except Representatives R. Garcia, Iha, Kato, Kihano, Lunasco, Aki, Hansen, Leopold and Saiki.

**SCRep. 633 Higher Education on H.B. No. 937**

The purpose of this bill is to fund the development of a law school at the University of Hawaii which would provide educational opportunities in law here in Hawaii. In addition, it would bring social, educational, economic, and governmental betterment to the State of Hawaii, as well as to the Nation and the Pacific-Asian area.

**Need for Law School**

The needs of a law school are many, stretching from "an educational opportunity for all" to a deeper and broader understanding and appreciation for law in a democratic society.

The demand for legal training can be justified by the booming increase in law activity because of changing social attitudes and economic conditions. Shifts in judicial decisions have greatly increased the need for more legal services because individuals charged with an offense punishable by imprisonment are now given the right to counsel. With changing technology, greater complexity in economic development in areas of taxes, civil matters, trusts and estates, the need for more legal services is projected to heighten. A Committee of Congress concluded that a total of 1,400 lawyers funded by the Office of

Economic Opportunity had not come close to satisfying the need for the poor for legal services in 1969. The U.S. Senate Committee in 1969 also projected that in 1970 and 1971 that 1,500 lawyers could be used to close this gap.

According to the Meller Report, in terms of absolute numbers, Hawaii ranks 45th among the states in relation to numbers of lawyers to population, followed by Delaware, Nevada, Vermont and Alaska in that order. A survey compiled by the U.S. Census Bureau in 1966 shows one lawyer to 1,083 persons for Hawaii—the fourth lowest ratio in the nation.

It is becoming alarmingly difficult for Hawaii's students to obtain admission into mainland law schools. State schools like those in California are closing admittance to a minimum of out-of-state students thus allowing maximum capacity for their residents. Private schools, on the other hand, are limiting the expansion of facilities due to a lack of finance and/or a choice of educational philosophy resulting in the rejection of competent applicants. Travel, tuition, and living expenses being exorbitantly high have, do, and will discourage many of Hawaii's students from obtaining a legal education.

In the completed questionnaires received by the Legislative Reference Bureau from 57 publicly supported law schools, 17 acknowledged applying screening procedures which resulted in out-of-state students not enjoying the same opportunity for acceptance as residents. Most schools imposed percentage limitations, the maximum non-resident component permitted ranging from 60% to 10% from the total student body.

Statistics from the Office of the Chief Justice of the State Supreme Court dramatically show that the number of local applicants registered for the Local Bar Examination is small in comparison to total applicant figures.

Dr. Norman Meller in the Legislative Reference Bureau Study cautions that:

"Indeed, if a law school is not planned for Hawaii, in the not too distant future, the State faces a prospect of only a small proportion of Island students capable of matriculating at law school being competently prepared for the professional practice of the law."

## Statistics on Applications for Hawaii Bar Examination

Dates	%	Total locals	No. of applicants	No. from high school locals	No. from Public	No. from Private	UH
April '71		11	56	6	3	3	3
Sept. '70		43	65	28	10	8	10
April '70		20	64	13	9	3	4
Oct. '69		55	38	21	10	11	12
April '69		42	21	9	5	4	5

**Law School Recommendation**

At the present time the State of Hawaii has no arrangements for an institution of legal training. At present and in the past, financially endowed students have acquired their law degrees on the mainland. The Chief Justice of the Supreme Court, the University of Hawaii Administration, the Hawaii Bar Association, the Young Lawyers Association and the Governor have announced favorably to a legal educational program for the State of Hawaii.

Your Committee recommends that a law school starting with the 1st year be open for students in September, 1973, or as soon thereafter as practical.

The dean or director of the law school would be appointed by the President of the University of Hawaii and approved by the Board of Regents to start with the specific and final plans in the summer of 1971.

Your Committee, therefore, recommends that Section 1 of the bill be amended to read as follows:

“SECTION 1. There shall be a school of law at the University of Hawaii, to be under the direction of a dean or director who shall be appointed by the President with the approval of the Board of Regents. Subject to the availability of funds, faculty, and facilities, the school shall offer such courses of study as may be deemed appropriate and confer such degrees as may be authorized by the Board of Regents.”

The operating cost of a law program once in full operation is estimated to cost about a million dollars annually. This will accommodate about 250 students. During the first year 1971-72, the operating cost is estimated at about \$133,500. This will provide for the hiring of the administrative staff to begin implementing the program. The following year,

1972-73, the operating cost is estimated at about \$425,000. This will provide for some faculty and beginning a library collection.

Your Committee, therefore, recommends that Section 2 of the bill be amended by deleting the figure of \$425,064 and substituting the figure \$558,500, deleting the figure of \$40,810 and substituting the figure \$133,500, and deleting the figure \$384,254 and substituting the figure \$425,000.

Implementing the program of law beginning with the first year will enable students desirous of enrolling in a law school to begin in the fall of 1973. There will be no need for scholarship grants for them to attend mainland schools for the first two years. Therefore, your Committee recommends that Section 3 of the bill be deleted in its entirety. And, that Section 4 be designated as Section 3.

Although the initial expenditures for the 1st year program will be higher than that of the 3rd year interim plan, the law student will have the following advantages: (1) the opportunity for legal training can be obtained from the 1st year to the 3rd, at home; (2) anxiety and frustration on being accepted to a mainland law school will be extinguished; (3) costs for traveling and living away from home will be nil; (4) an academic atmosphere and spirit in a deeper and more involved understanding of the law, its purpose, its processes and its consequences will be elevated; (5) no need for a scholarship-loan assistance program.

Your Committee believes in keeping an open and objective mind by realizing that this program like most programs could and does have possible kinks in its smooth operational functions and they are listed below:

1. The success of the plan greatly depends on the quality of administrative leadership.

2. More money for a law school must be rendered initially for large student body, law library, larger faculty, etc.

3. A competent law librarian be found.

4. The possibility of recruiting high caliber faculty.

5. The output of Hawaii law graduates would be longer in coming than the 3rd year interim plan.

Your Committee recommends that the student body enrollment be kept small, not more than 250 students. Careful thought should also be given to examining the percentage of out-of-state applicants, admitting 40-50% with some provision to Asian and Pacific Basin students who will return to their homelands to practice the legal profession. This provision will keep Hawaii from becoming isolated in experiences and perspective and at the same time resolve the saturation dilemma. Keeping the enrollment at a minimum will also facilitate to a more flexible clinical-problem solution type of educational workshop.

Emphasis in curriculum should not only include specific Hawaii problems, but general law background with a specialty in international law. The development of the satellite communications system will eventually necessitate the study of international law in all its complexity.

A Law School at the University of Hawaii will also provide a more rounded opportunity for the study of major economic, political, and social problems by members of the faculty as well as students in that education and research would work in an interdisciplinary manner with other related fields of social work, health care, government, business, police work and education. Having individuals involved with a legal training program on campuses will be stimulating in the total process of understanding and assisting in the solution of our major community problems.

Your Committee on Higher Education is in accord with the intent and purpose of **H. B. No. 937** as amended in the form attached hereto as **H. B. No. 937, H. D. 1** and recommends that it pass second reading and its referral to the Committee on Finance for further consideration.

Signed by all members of the Committee.

**SCRep. 634 Housing and Consumer Protection on H.B. No. 1527**

The purpose of this bill is to develop and implement a state-sponsored youth hostel, which would serve a three-fold function. First, in the climate of an acute housing shortage, the fastest rising population group which are the young adults is often caught in need of temporary lodging. Hostels would provide basic shelter for the interim while the young person searches for suitable permanent housing. In other words, the concept of hostels would encompass more than the so-called transient population. Secondly, hostels would seem to be a positive contribution to solving the problems of abuse and nuisance created by young adults sleeping in public parks—forced to do so simply because lodging is otherwise too expensive. Thirdly, the availability of good, low-cost lodging would encourage young adults, both local and visiting, to travel to the neighbor islands.

Currently, aside from the hostel run by the YWCA of Oahu, there are no hostels, private or public in the State. And within the year, this one extant hostel will be closed down, thereby creating a larger group of persons needing the inexpensive, short-term housing that only a hostel can provide. Your Committee feels, therefore, that not only would development of a chain of hostels on Oahu as well as on the neighbor islands be nice to have, but that they are urgently necessary.

Your Committee is in accord with the intent and purpose of **H. B. No. 1527** and recommends its passage on Second Reading and its referral to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 635 Economic Development on H.B. No. 343**

The purpose of the bill is to appropriate the sum of \$150,000 to the Department of Planning and Economic Development to study, plan, and design a Trans-Pacific Distribution Center in the state to reduce costs and to expedite the processing of freight shipments in the Pacific Basin through the interchange of freight cargoes between domestic and overseas carriers and to provide adequate facilities for the sorting, consolidation, and redistribution of freight.

During the 1970 Pacific Air Cargo Conference held in Honolulu, it was generally agreed that air cargo development at Honolulu International Airport has great potential and should be carefully planned and coordinated with transshipment activities proposed for Honolulu Harbor. It appears that new cargo handling and consolidating concepts are emerging on an international basis. Similar to containerization, intermodal transfer between air carriers and between sea and air carriers is being planned. The emphasis is to reduce cargo handling time and costs. The study will provide an analysis of the needs, potentials, risks, costs and expected returns to the state of a Trans-Pacific Distribution Center.

Your Committee is in accord with the intent and purpose of **H. B. No. 343, H. D. 1**, and its passage on Second Reading and its referral to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 636** Transportation on **H.B. No. 532**

The purpose of this bill is to prohibit littering on public or private property or waters except in designated receptacles and dumps or if on private property with the owner's permission. Whenever the littering originates from a motor vehicle, boat or airplane, the operator is prima facie held responsible for the act. Section 6 provides that upon conviction a person shall be fined not less than \$10 nor more than \$500, or imprisoned not less than one day nor more than 30 days or required to spend not less than one day nor more than thirty days picking up litter. A significant feature is a section requiring the Department of Transportation and responsible county traffic agencies to post signs alerting the public of the law.

The Department of Transportation expended \$173,810 for litter control in 1970 which was a 65% increase over the amounts expended in 1969 for this irksome problem. The sentencing provisions may have a practical as well as a philosophical value. Most of the expenditure for litter removal work is for manual labor and the sentencing feature may substantially reduce the expenditure for litter control by the State.

Your Committee, however, finds that spillage is inevitable in connection with certain activities essential to Hawaii's economy.

Therefore, exemption from the prohibition against spillage should be provided where adequate pick-up can be accomplished. Your Committee has amended the bill accordingly.

Your Committee is in accord with the intent and purpose of **H. B. No. 532** as amended herein and recommends its passage on second reading, in the form attached hereto as **H. B. 532, H. D. 1**, and its referral to your Committee on Judiciary.

Signed by all members of the Committee.

**SCRep. 637** Judiciary on **H.B. No. 1522**

The purpose of this bill is to prohibit licensed mortgage brokers from dealing in transactions in which the mortgage broker has a direct or indirect interest, and to limit the type of mortgage loans which may be negotiated or sold by a mortgage broker to an individual.

The present law does not restrict mortgage brokers from acting as such in transactions in which the mortgage broker has a direct or indirect interest. There is also no present requirement that mortgage loans negotiated or sold to individuals be repayable in equal monthly payments during the term of the loans. This bill would require that such loans be repayable in equal monthly payments during its term. Moreover, this bill would prohibit mortgage brokers from acting as such if they have a direct or indirect interest, other than fees, commissions, and charges allowable under section 454-7 in the transaction.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 1522** and recommends its passage on Second Reading and placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 638** Finance on **H.B. No. 1119**

The purpose of this bill is to appropriate the sum of \$1,000,000 out of the general revenues of the State to be expended by the department of land and natural resources for loans under the Hawaii fisheries new vessel construction loan program.

The loan program was authorized by Act 193, Session laws of Hawaii 1965 as amended by Act 28, Session Laws of Hawaii 1968. Its purpose is to assist in the development of



commercial fishing in the State by providing financial assistance for the construction of new fishing vessels. Loans of up to 80 percent of the construction cost of new vessels are authorized at a simple interest rate of 5-1/2 percent per annum for terms up to 20 years.

A total of \$900,000 has been appropriated for the loan program by Act 193 in 1965, Act 8 in 1966 and Act 175 in 1970. To date, one fishing vessel, a 79-foot steel-hulled longlining vessel named **Kilauea**, has been constructed with a loan of \$150,000 from this program. A loan of \$176,000 has been authorized for the construction of an 89-foot longliner which will have essentially the same capabilities. Thus, \$326,000 of the loan fund has been either loaned or authorized for loan. Also, an application for a loan of \$160,000 is presently being processed. Should this loan be granted, the sum of \$414,000 will remain unencumbered and be available for further loans.

It is hoped that funds will be available to construct at least four more similar vessels for the present. Assuming an average loan contribution of \$180,000, the sum of \$720,000 would be required therefor. An appropriation of \$306,000 is accordingly recommended to supplement the currently available fund balance. The bill has been so amended.

Your Committee on Finance is in accord with the intent and purpose of **H. B. No. 1119**, as amended herein, and recommends that it pass third reading in the form attached hereto as **H. B. No. 1119, H. D. 1**.

Signed by all members of the Committee.

**SCRep. 639** Joint Select Committee of Kauai, Maui, Oahu and Hawaii Representatives on **H.B. No. 622**

The purpose of this bill is to clarify the conditions under which gross weight formulae for loads on axles for motor vehicles are to apply, and, to require adequate safety measures when permitting movement of exceptional loads on our highways.

This bill makes the correction to Act 168, Session Laws of Hawaii 1970 which inadvertently overlooked the fact that the formula applied to loads where the distance "L" was between the first and last axles. Hawaii bridge and roadway designs are based on "L" being the distance between any group of two

or more axles rather than between the first and last axles only.

Your Committee concurs with the findings and amendments of your Committee on Transportation as stated in **Standing Committee Report No. 149** relating to **H. B. No. 622, H. D. 1**, and notes that Act 168, Session Laws of Hawaii 1970 is inadvertently referred to as Chapter.

Your Joint Select Committee of Kauai, Maui, Oahu and Hawaii Representatives is in accord with the intent and purpose of **H. B. No. 622, H. D. 1**, and recommends its passage on third reading.

Signed by all members of the Committee.

**SCRep. 640** Joint Select Committee of Kauai, Maui, Oahu and Hawaii Representatives on **H.B. No. 623**

The purpose of this bill is to place certain safety requirements upon, and to regulate the movement of certain equipment and motor vehicles on public highways. The equipment and motor vehicles are those travelling on the highways with overhanging or projecting structures.

Your Committee concurs with the findings and amendments of your Committee on Transportation as stated in **Standing Committee Report No. 148** relating to **H. B. No. 623, H. D. 1**.

It is further noted by your Committee that Section 291-36 which contains Exceptions, has also been amended, and that the Department of Transportation, the Hawaii Trucking Association, and the Public Utilities Commission have all endorsed this bill in its amended form.

Your Joint Select Committee of Kauai, Maui, Oahu and Hawaii Representatives is in accord with the intent and purpose of **H. B. No. 623, H. D. 1**, and recommends its passage on third reading.

Signed by all members of the Committee.

**SCRep. 641** Labor on **H.B. No. 1568**

The purpose of this bill is to amend Chapter 433 of Hawaii Revised Statutes, relating to mutual and fraternal benefit societies, to exempt labor union welfare and pension plans regulated by P. L. 85-836, the federal

Welfare and Pension Plans Disclosure Act, from the application of the registration provisions and other sections of said chapter.

Chapter 433 provides for the registration and regulation of mutual and fraternal benefit societies. A broad reading of its "definition" section may possibly require welfare and pension plans subject to regulation under the federal Welfare and Pension Plans Disclosure Act to also be subject to registration and regulation under Chapter 433. The federal law contains comprehensive reporting and disclosure requirements for such plans as well as stringent bonding requirements for personnel handling funds and criminal sanctions for improper conduct in the administration of funds.

This bill proposes to specifically exempt labor union welfare and pension plans subject to regulation by the Welfare and Pension Plans Disclosure Act from registration under Chapter 433 upon the filing of copies with the insurance commissioner of copies of the documents filed under the federal law. It further proposes to exempt said plans from other requirements of Chapter 433 such as those relating to bonding and the investment of funds.

The administrators of labor union pension and welfare plans may be compelled to operate under onerous burdens of double reporting and regulation unless the proposed exemptions are enacted. The federal law now contains disclosure and regulating requirements as stringent as those provided under Hawaii law for protection of union members and other beneficiaries of plans. Your Committee agrees that double reporting and regulation would not serve a useful purpose and would cast undue burdens on labor unions and the state.

Your Committee on Labor is in accord with the purpose and intent of **H. B. No. 1568** and recommends its passage on second reading and that it be referred to your Committee on Judiciary for further consideration.

Signed by all members of the Committee except Representatives Iha, Kishinami and Ajifu.

**SCRep. 642 Labor on H.B. No. 1034**

The purpose of this bill is to amend the unemployment compensation law to exclude service performed by a real estate salesman

from the definition of "employment" in said law if such service is compensated solely through commissions.

Real estate salesmen are presently covered by the unemployment compensation law and their employers are required to make contributions to the unemployment compensation trust fund. As a practical matter, it is virtually impossible for real estate salesmen who are compensated through commissions to qualify for unemployment benefits even when they make no sales and receive no compensation. The definition of "unemployment" in the law requires that an individual "perform no services" and "receive no wages" in order to be "unemployed". Salesmen in the real estate industry who are compensated solely through commissions seldom if ever meet the first requirement of not engaging in any selling activity during a week.

Your Committee agrees that it would be equitable to exclude real estate salesmen being compensated through commissions from coverage under the Hawaii Employment Security Law. Where it is virtually impossible for a group of individuals to collect benefits thereunder, it would be unfair to compel their employers to make contributions on their behalf to the benefit trust fund.

Your Committee on Labor is in accord with the purpose and intent of **H. B. No. 1034** and recommends its passage on second reading and that it be referred to your Committee on Judiciary for further consideration.

Signed by all members of the Committee except Representatives Iha, Kishinami and Ajifu.

**SCRep. 643 (Majority) Public Employment on H.B. No. 1595**

The purpose of this bill is to amend Chapter 88 of the Hawaii Revised Statutes to add a new section which provides for pension or retirement credit for membership on a State board or commission. Your Committee is of the opinion that the provisions of Section 88-59 of the Hawaii Revised Statutes which provides for acquisition of pension or retirement credit for previous service as an employee, ought to be extended to those who serve as members of State boards or commissions. Section 88-59 provides for such a credit in the instance the person makes contribution for his share equivalent to the membership service credit allowed. Having paid for the

acquisition of the membership service credit, as provided for in this bill, the member of a board or commission should be entitled to those benefits irrespective of the illusive distinction between an employee and a member of a board or commission.

Your Committee, upon consideration of the matter, is of the opinion that credit should be allowed such member only for actual number of work days spent on such boards and commission instead of the total term of appointment. Your Committee accordingly amended **H. B. No. 1595**.

Your Committee is in accord with the intent and purpose of **H. B. No. 1595**, as amended herein and recommends its passage on second reading in the form attached hereto as **H. B. No. 1595, H. D. 1**, and that it be referred to your Joint Committee of Kauai, Maui, Oahu, and Hawaii Representatives.

Signed by all members of the Committee except Representatives Iha and Yim. Representative Devereux did not concur.

**SCRep. 644 Judiciary on H.B. No. 1288**

The purpose of this bill is to correct certain problems which have been encountered in the administration of the Criminal Injuries Compensation Act.

Your Committee finds that there is a need to clarify the term "private citizen" because under existing law "private citizen" is defined to mean "any natural person other than a peace officer of the State", and there is no present statutory or case law defining "peace officer."

Further, the current statute does not clearly permit an order or decision of the Commission to be reopened for revocation, confirmation or other modification. Such power is deemed essential to the effective administration of the law. Frequently injured persons incur medical expense subsequent to the date of the Commission's order or decision and the proposed modification contained in Section 351-17(a) would clearly permit the Commission or the aggrieved party to ask for reconsideration in light of developments subsequent to the date of decision or order.

A new item has been added to Section 351-31(a) to permit payment to parents of adult

deceased victims or to adult sons or daughters of deceased victims reimbursement for medical, hospital, funeral and burial expenses incurred as a result of the victim's injury or death. The Commission has received many applications from such parents or children and has been forced to deny reimbursement because of the fact that those persons were neither responsible for the maintenance of nor dependent upon the victim at the time of the injury or death.

Your Committee does not believe that the legislature intended that result; rather it believes that payment in those cases would be in furtherance of the best purposes of the statute.

Another change grants discretionary authority to the Commission to make direct payments to providers of hospital, medical, funeral or burial services. It has been found in the past that some providers have not been paid for their services.

Another problem is the collateral source doctrine embodied in Section 3r1-63(a) which has required the Commission on numerous occasions to award payment to a victim or a dependent who has received benefits for the same injury from sources such as Social Security, a private medical coverage such as HMSA or Kaiser, Workmen's Compensation, Veterans Administration benefits and others. The effect of this has been to permit some persons to receive what is tantamount to a double recovery from tax dollars.

Your Committee is in accord with a proposed amendment which would preclude double recovery from tax dollars and in substance would place the victim or dependent, as nearly as possible and within the statutory maximum of \$10,000, into a position where he suffered no net economic loss because of the injury or death. In addition, the victim would still continue to receive an award for any pain or suffering to which he might be entitled. Also the proceeds of any life insurance policies on a deceased victim would not reduce the amount of recovery under the statute.

A new section establishing a revolving fund of \$100,000 to make emergency payments to victims and dependents who are in immediate need of funds to meet hospital, medical, funeral or burial expenses arising out of the injury or death has also been added. Currently, the victims and depend-

ents do not receive payment unless and until a legislative bill is enacted specifically approving the awards. In many instances, this means a time lag of at least 8 months and in many instances as many as 18 or 20 months between injury and compensation. In some instances this causes serious financial hardship to the victims and dependents. In many of those instances that hardship must be alleviated by the Welfare Division of the Department of Social Services. Since the payment of emergency funds would be discretionary and a revolving fund of \$100,000 is not deemed to be fiscally exorbitant, Your Committee believes the enactment of this section would enhance the best purposes of the statute.

Your Committee is in accord with the intent and purpose of **H. B. No. 1288** and recommends its passage on Second Reading and its referral to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 645** Housing and Consumer Protection on **H.B. No. 73**

The purpose of this bill is to effect an up-to-date law governing the relationship between landlord and tenant. The bill, in the form of a proposed draft of a landlord-tenant code, is designed to fill a statutory vacuum created by anachronistic laws on the one hand, and the lack of precedent setting decisional rules of law on the other.

Chapter 666 of the Hawaii Revised Statutes constitutes the basis of Hawaii's tenancy law. Existing statutes, however, apply to all forms of tenancy including residential, commercial or agricultural. Moreover, as regards landlord-tenant relationships, the law deals almost entirely with legislative authorization of special summary proceedings to give landlords a prompt, inexpensive remedy to remove tenants, indicative of the heretofore traditional inequity between landlord and tenant. On November 26, 1969, the Hawaii Supreme Court handed down the landmark decision, **Lemle v. Breeden** which set the precedent for a more equitable relationship between residential landlord and tenant. The **Lemle** decision has, in fact, made it possible to write the code itself, for the code is implicitly grounded in the concept freed by the 1969 decision: that landlord-tenant relationships, once based upon the law of conveyance, are in an urban society contractual in nature.

Mrs. Patricia Putman, author of the proposed code, emphasizes in her accompanying report the necessity of revising our existing statutes. Declaring that landlord-tenant common law in Hawaii has remained unchanged since "its feudal origins," she goes on to outline some of the difficulties arising from not having an up-to-date law:

" . . . the statutory law provisions are largely nineteenth century in origin. Long-term commercial and agricultural lease problems dominate the case law. Because of the amounts involved in short-term residential rental, disputes are generally too small to justify appeals from district court judgments and because of legal restraints on appeals from such judgments, appellate case law in the residential rental area is sparse. Most issues relating to residential rentals lack any useful precedent setting decisional rules of law. One of the beneficial aspects of a residential landlord-tenant code would be to occupy the current statutory vacuum with some specific detailed guidelines on issues that are seldom litigated on appeal."<sup>1</sup>

In the climate of a severe housing shortage where it is essentially a "seller's market," the need for correction of the traditional inequity becomes more strikingly evident. Your Committee concurs with the notion that it would be overly time-consuming to rely upon the establishment of a reformed landlord-tenant law in a case-by-case manner by the judiciary. Therefore, it is the feeling of your Committee that the code should be enacted with only minor modifications, as drafted. It is in response to the urgent need for a code that your Committee recommends that amendments to specific provisions of the code—and your Committee affirms the fact that provisions needing amendments do exist—be worked on during the interim between sessions and that these amendments be incorporated in the code during the regular session of the Sixth Legislature, 1972.

Although time allowed for consideration of the code has been admittedly too short, your Committee feels that testimony supporting the code warrants the action we recommend. The near unanimous support of the bill strongly commends the code as being an excellent job of research and development.

<sup>1</sup> Putman, **The Law of Landlord and Tenant in Hawaii; A Proposed Residential Landlord-Tenant Code**, 1971, p. 3.

Your Committee has made one amendment, that the effective date be advanced to July 1, 1972, to accommodate our recommendation for enactment this session.

Your Committee on Housing and Consumer Protection is in accord with the intent and purpose of **H. B. No. 73**, as amended herein, and recommends its passage on Second Reading and its referral to the Committee on Judiciary in the form attached hereto as **H. B. No. 73, H. D. 1**.

Signed by all members of the Committee except Representatives Uechi, Carroll, Fong and Medeiros.

**SCRep. 646** Federal-State-County on **H.B. No. 68**

The declared purpose of this bill as stated in Section 1 is to require any business engaged in towing vehicles to provide adequate notification to the police department in order to facilitate location of the vehicle by the owner.

According to the representative of the Honolulu Police Department motor vehicles are often reported stolen when in fact they have been towed away from private property. The passage of this bill will lessen the burden of the department and make it possible for the owners to recover their automobiles sooner.

Your Committee is in accord with the intent and purpose of **H. B. No. 68** and recommends its passage on second reading and its referral to your Committee on Judiciary.

Signed by all members of the Committee except Representatives Inaba and Kunimura.

**SCRep. 647** Joint Select Committee of Kauai, Maui, Oahu and Hawaii Representatives on **H.B. No. 1373**

The purpose of this bill is to provide that county bands may accept donations or engage in fund-raising activities in order to finance their authorized goodwill tours.

Your Committee received testimony from Dr. Kenneth Kawashima, Bandmaster for the band of the City and County of Honolulu. This testimony brought to light that in 1967, the band received an offer to make a 22-day playing tour of Japan. Expenses would be underwritten by several Japanese commer-

cial organizations. However, when it was realized that the sponsoring amusement park would have to charge an admission fee of .50¢ per person in order to recover expenses and make the endeavour feasible, the Corporation Counsel of the City and County of Honolulu ruled that without express legislative authority the trip could not be authorized. The band was, therefore, not permitted to concertise in Japan. Corporation Counsel further stated that if Honolulu had a commercial amusement park, the band would not be permitted to play in such a park.

The 42-piece Royal Hawaiian Band is one of only two municipally subsidised full-time bands in the country, and it is our last living link to the Monarchy as it was founded by King Kamehameha III in 1887.

Your Committee has, therefore, amended this bill to provide that admission fees may be charged where the band is performing. Reference to "board of supervisors" has been changed to "county council".

Your Joint Select Committee of Kauai, Maui, Oahu and Hawaii Representatives is in accord with the intent and purpose of **H. B. No. 1373** in the form attached hereto as **H.B. No. 1373, H.D. 1** and recommends that it pass second reading and be placed on the calendar for third reading.

Signed by all members of the Committee.

**SCRep. 648** Judiciary on **H.B. No. 251**

The purpose of this bill, as amended herein, is to regulate and require complete disclosure of campaign contributions and expenditures.

The present law provides for the disclosure of persons paying for political literature and advertisements, the filing of an itemized expense statement of the candidate after an election, prohibits corporations from making contributions, and prohibits the making of anonymous contributions of \$500 or more.

This bill would cause a commission on political finance to be created, whose duties would be to record, audit, publicize and preserve all matters pertaining to campaign receipts and expenditures of candidates, receive and investigate complaints relating to coercion for political contributions, and to formulate rules and regulations relating to the limitation of campaign expenditures. More-



over, this bill would set maximum limits on campaign expenditures for various political offices.

Your Committee finds that the present law regulating candidates' expenses does not provide the electoral process with adequate protection from potential abuses in this area.

Your Committee upon consideration of **H. B. No. 251** recommends that it be amended in the form attached hereto as **H. B. No. 251, H. D. 1**. The bill, as amended, would provide the following:

(1) **Section 11-191.1:** is a new section, which requires every candidate to appoint a campaign treasurer and designate a campaign depository. It would also allow the appointment of deputy treasurers and depositories, and the removal of such treasurer and deputy treasurers. Filing of information pertaining to the above with the chief election officer would be required.

(2) **Section 11-191.2:** is a new section requiring the registration of political committees and organizations with the chief election officer.

(3) **Section 11-191.3** is a new section requiring the deposit of all contributions in the campaign depository and requiring a record to be kept of each person or group contributing the funds and the amount of the contribution.

(4) **Section 11-193** is amended by expanding the current requirement of filing an expense statement within twenty days following the election to include the requirement of filing with the chief election officer a detailed preliminary report ten days prior to an election, and a detailed final report within thirty days following a general election. These reports, so specified in the provisions, must contain statements and lists of total contributions, amounts contributed by contributors, amounts expended, the sources of said expenditures, the purpose of said expenditures, and the balance or deficit at the time of the report. If a deficit is incurred by the candidate, reporting requirements regarding further contributions is required. If a surplus results, special reporting and distribution requirements must be followed. Finally, the reports shall be open to the public for inspection.

(5) **Section 11-193.1** is a new section requiring the campaign depositories to file with the chief election officer copies of all authorizations for expenditures.

(6) **Section 11-195** is amended to reduce the allowable amounts of anonymous contributions to amounts less than \$50.

(7) **Section 11-196** is a new section prohibiting campaign contributions in excess of \$50 to candidates except through their duly appointed treasurer or campaign treasurer.

(8) **Section 11-197** is a new section which details the restrictions on the use of campaign funds.

(9) **Section 11-198** is a new section regulating testimonial events.

(10) **Section 11-199** is a new section detailing the duties of the chief election officer.

(11) **Section 11-200** is a new section which provides penalties for violation of the subchapter.

(12) **Section 11-201** is a new section expressing the intent that these provisions supplement, rather than replace, much of existing law.

(13) The provisions creating a commission on political finance and outlining its duties and powers are deleted. Your Committee is of the opinion that the chief election officer can properly regulate the foregoing matters.

(14) The provision setting maximum limits on campaign spending is deleted. This deletion is not intended to imply that your Committee does not desire any limits on campaign spending to be set. On the contrary, your Committee feels that the necessity of setting limits or somehow equalizing campaign spending or public exposure through use of the media is so important an area that further investigation is necessary before meaningful solutions can result.

Your Committee is of the opinion that the foregoing amendments would be of substantial assistance in curbing actual or potential abuse of the electoral process in the area of campaign contributions and expenditures.

Your Committee concurs with the intent and purpose of **H. B. No. 251**, as amended herein, and recommends its passage on Sec-

ond Reading in the form attached hereto as **H. B. No. 251, H. D. 1**, and its referral to your Committee on Finance.

Signed by all members of the Committee.

SCRep. 649 Judiciary on **H.B. No. 69**

The purposes of the bill are: (1) to provide more specific guidelines than those now existing for the protection of the environment; and (2) to promote the right of the people of the State of Hawaii to a quality environment.

#### GENERALLY

Your Committee carefully reviewed **H. B. No. 69, H. D. 1**. In this review, it considered the testimony of witnesses given at hearings held on the bill and examined existing State statutes, department of health rules and regulations, model legislation, and federal statutes on pollution. Upon such review, your Committee finds that **H. B. No. 69, H. D. 1**, contains very specific standards relating to air and water quality which are better left to the department of health to promulgate by rules or regulations. Your Committee is aware that these specific standards were incorporated into **H. D. 1**, because over the years, the State department of health has proven to be slow in formulating and enforcing rules and regulations to prevent, control and abate pollution. Your Committee, too, is extremely concerned about this slowness of the department of health and strongly recommends that the department move with dispatch in the prevention, control and abatement of pollution. Your Committee, however, does not believe that very specific, detailed standards should be established by law. Statutory standards are far more difficult to amend as exigencies arise making such amendments desirable or necessary. By the same token, however, your Committee believes that much more extensive guidelines for the development of such standards than exist in current statutes should be provided by law.

Your Committee further finds that the existing statutes on air and water pollution and excessive noise are inconsistent in some material respects, when inconsistency does not appear to be warranted, and require updating by the incorporation of new provisions designed to promote the quality of the environment.

Pursuant to these findings, your Committee has amended **H. B. No. 69, H. D. 1**. An explanation of the amendments follow. The explanation follows the order in which various aspects of pollution and environmental protection are presented in the attached amended form of **H. B. No. 69, H. D. 1**.

#### AIR POLLUTION

The bill in the amended form incorporates the pertinent provisions of part V of chapter 322, Hawaii Revised Statutes, and **H. B. No. 69, H. D. 1**, and repeals the existing part V. The changes made to the existing statute and to **H. B. No. 69, H. D. 1**, are as follows.

1. The amended form of the bill takes into account the fact that ambient quality standards may well differ from one geographic region of the State to another. It thus provides that for the purpose of establishing such standards, the department of health may divide the Hawaii air pollution control region into air basins.

2. The specific air quality standards included in **H. B. No. 69, H. D. 1**, are deleted. However, the amended form of the bill provides that the department of health shall by rule or regulation prescribe such standards. In prescribing such standards, the department is required to classify air pollutants by kinds or types. The standards established by the department may differ from one class or subclass of pollutants to another class or subclass and from one air basin to another air basin. The ambient air quality standards established for the State as a whole or for any air basin are not to be any less stringent than the more prohibitive of federally imposed standards or the ambient air quality level existing at the time of the initial development of the standards.

Although the amended form of the bill deletes the specific air quality standards contained in **H. D. 1**, your Committee recognizes that these standards are generally those developed by the University of Hawaii task force on air pollution. Your Committee encourages the department of health to give attention to the standards developed by this task force and included in **H. D. 1** when establishing air quality standards by rules or regulations, pursuant to the guidelines set forth in the amended form of **H. B. No. 69, H. D. 1**.

3. Where the numerical air quality standards are exceeded due to a combination of artificial and natural pollutants and an emergency requiring immediate action to protect human health and safety arises therefrom, the amended form of the bill provides for lowering of artificial pollutant emissions. The specific manner in which such emissions may be lowered is contained in section 6 of the amended form of the bill.

4. The amended form of the bill provides for the establishment of emission standards by the department of health. This provision is not included in **H. B. No. 69, H. D. 1**, or in currently existing statutes. Your Committee finds that ambient air quality standards alone will not permit the apprehension and successful prosecution of those allegedly contributing to air pollution. A citizen is entitled to know when he is contributing to pollution, and the emission standard will provide him with this knowledge. The emission standards are to be established for the different classes and subclasses of air pollutant sources. The standards may be applicable to the State as a whole or to designated parts or air basins in the State.

The emission standards must be such as to preserve the ambient air quality standard established for the State or air basin to which they are applicable, but in no event are they to be any less stringent than the level of emission existing at the time of the initial development of the standards.

5. The amended form of the bill further provides that the department shall by rule or regulation require reporting by persons operating or responsible for operating air pollutant sources. **H. D. 1** contains no such provision, and such provision is currently in the statutes relating to water pollution, but not in the statutes relating to air pollution or excessive noise. Your Committee finds that this provision is highly desirable for all forms of pollution. Such provision will assist the department of health in monitoring air and water quality and noise levels. It is thus included here for air and in a later part of the amended form for excessive noise, as well as for water.

What sources should be included in this reporting requirement are left to the department of health to designate. For air pollution, the report should include such information as the location, size and height of pollutant outlets, the processes employed, fuels used

and the nature and time periods or duration of emissions.

6. Both the ambient air quality standards and the emission standards may be updated from time to time, but no updating is to result in less stringent standards.

7. The amended form of the bill provides for the establishment by rule or regulation of such emission control requirements as may be necessary to prevent, control, or abate air pollution. Such requirements may vary from air basin to air basin in order to take account of varying local conditions. Your Committee finds that the State department of health has done very little to prescribe and regulate emission control devices.

Automobiles constitute the chief source of air pollution, and despite the fact that the existing statute authorizes the department to require the installation and use of air pollution control equipment for motor vehicles, only minimal rules and regulations to that effect have been formulated by the department of health. Your Committee is informed that although federal statutes have preempted state regulations on emission control devices for **new** automobiles, such preemption does not extend to **used** automobiles. Your Committee finds that it is imperative that the department of health give immediate attention to prescribing pollution control devices on used automobiles in the State.

8. Part V, as it currently exists, authorizes the department of health to establish an air pollution control section to be administered by a full-time salaried section chief. The amended form of **H. B. No. 69, H. D. 1**, deletes this provision. Your Committee is informed that there is currently no such section in the department of health, and that air pollution duties are carried out by the air sanitation branch of the department. Your Committee believes that how the department is organized internally to carry out its functions of preventing, controlling, and abating air pollution is an administrative matter to be resolved by the department. Your Committee, however, is of the further belief that the department should be so organized that air and water pollution and excessive noise control functions might be administered in a coordinated fashion.

9. With respect to the provision in the existing statute providing for entrance and in-

spection by the department of any building (except private residences) for the purposes of investigating an actual or suspected source of air pollution and ascertaining compliance or non-compliance with the rules and regulations of the department, the amended form of **H. B. No. 69, H. D. 1**, amends this provision by adding the words, "upon probable cause." In light of recent U. S. Supreme Court decisions barring warrantless, non-emergency inspection of residential and commercial premises by health and fire inspectors without the owner's consent, your Committee recommends that the department either secure a warrant or the owner's consent in any routine or non-emergency inspection of premises.

10. The penalty provisions contained in **H. B. No. 69, H. D. 1**, is reduced in the amended form of the bill from \$25,000 per offense to \$2,000 per offense. Your Committee believes that since each day of violation is a separate offense, the penalty of \$2,000 is sufficient to discourage violation of air pollution regulations.

In this connection, your Committee notes that existing statutes are inconsistent in the penalty provisions for air and water pollutions and excessive noise. Neither the statute on water pollution nor the statute on air pollution provides for imprisonment, but the statute on excessive noise calls for imprisonment as well as a fine. Your Committee does not believe that imprisonment is called for at the present time. The provision for a fine contained in the amended form of the bill is sufficiently great to act as a deterrent. In addition, your Committee finds that while both the statutes on water pollution and excessive noise call for "wilful" violation, the statute on air pollution does not. Your Committee believes that no person should be prosecuted for innocent violations, and thus in the amended form of the bill, the term, "wilfully violates" is inserted in the penalty provisions for air and water pollution and for excessive noise.

11. The enforcement provisions in part V of the current statute have been relegated to a new part VIII in the amended form of **H. B. No. 69, H. D. 1**.

#### EXCESSIVE NOISE

The bill in the amended form incorporates the pertinent provisions of part VI of chapter 322, Hawaii Revised Statutes, and repeals the

existing part VI. The currently existing part VI has been expanded in the amended form of the bill to be consistent with the provisions for air and water pollution. In addition, your Committee considered the original form of **H. B. No. 69**, which included provisions relating to excessive noise, and **H. B. No. 95, H. D. 1**, a bill now in your Committee relating to excessive noise. The changes made in the amended form of **H. B. No. 69, H. D. 1**, to existing statute and the differences between the amended form and **H. B. No. 95, H. D. 1**, are as follows:

1. **H. B. No. 95, H. D. 1**, contains a specific noise level standard for commercial and private aircrafts utilizing the airports owned or regulated by the State. Your Committee finds that aircrafts constitute but one source of excessive noise and to single them out for the application of a standard is unfair and incomplete. The amended form of **H. B. No. 69, H. D. 1**, provides guidelines for the establishment of noise level standards and noise emission standards comparable to those for air pollution. Under the amended form, the department of health is authorized to divide the State into areas, required to establish classes of noises by kinds and types and classes of noise sources, and required to establish noise level standards and noise emission standards for each class of noises and for each class of noise sources. Neither the noise level standards nor the noise emission standards are to be any less stringent than the level of noise and level of emission existing at the time of the initial development of the standards, and neither kinds of standards are to be updated in a fashion which results in the standards becoming less stringent.

Your Committee strongly recommends that the State department of health begin at once to establish noise level and noise emission standards. Your Committee finds that the standard set forth in **H. B. No. 95, H. D. 1**, for commercial and private aircrafts has considerable merit, and strongly urges the department to take that standard into account in its efforts to establish noise level and emission standards.

2. The powers of the department currently contained in part VI have been expanded to specify more clearly what the department might do in discharging its duty to prevent, control and abate excessive noise. The powers, as amended, are comparable to those

powers granted the department for preventing, controlling and abating air pollution.

3. The enforcement provisions of the present part VI are incorporated in part VIII of the amended form of **H. B. No. 69, H. D. 1**.

#### WATER POLLUTION

Your Committee has included in the amended form of **H. B. No. 69, H. D. 1**, those pertinent portions of sections 321-16 and 321-16.1, Hawaii Revised Statutes, relating to water pollution, and deletes those sections from the statute book. Under the amended form, what was formerly merely a **section** in the Hawaii Revised Statutes is made a **part**, comparable to air pollution and excessive noise. In addition, the amended form incorporates portions of **H. B. No. 69, H. D. 1**, relating to water pollution. The changes made to **H. B. No. 69, H. D. 1**, and to currently existing statutes are as follows.

1. The amended form of the bill retains the classification of water uses and the basic water quality standards contained in **H. B. No. 69, H. D. 1**. It deletes, however, those portions of **H. B. No. 69, H. D. 1**, which spell out what State waters belong to each water use class and which prescribe the specific water quality standards for the various classes. As stated above, your Committee believes that such detailed, specific matters and standards are better left to establishment by rules or regulations. Thus, in lieu of the deleted portions, the amended form provides that the department of health shall by rule or regulation designate the State waters to be included in each water use class, and that the department shall establish the specific water quality standards. In addition, the amended form provides that the department of health is to establish by rules or regulations effluent discharge standards.

In establishing specific water quality and discharge standards, the department is to classify the effluents and effluent sources by kinds or types. No water quality standard and no discharge standard is to be any less stringent than the quality level and discharge level existing at the time of the initial development of the standards, and no standard may be updated in a fashion which results in less stringent standards.

Your Committee is aware that the specific water quality standards incorporated in **H.**

**B. No. 69, H. D. 1**, are those standards currently in force as Rule 37A of the State department of health. Your Committee believes that these existing standards are highly desirable and recommends that the department refrain from amending any of them without cause or without serious thought and consideration.

Your Committee wishes to note that the provisions of the amended form of **H. B. No. 69, H. D. 1**, are not intended to abrogate or invalidate any standards now in force, so long as they are not inconsistent with the provisions of the amended form of the bill. The intent is that these standards shall remain valid until changed in accordance with the provisions of the amended form of the bill.

2. The amended form of **H. B. No. 69, H. D. 1**, retains the requirement for periodic reporting by operators of drainage, sewage, or water supply systems now contained in section 321-16.

3. The restriction presently in section 321-16 against establishing, extending or altering any system of drainage, sewage, or water supply, without a permit from the department of health, has been incorporated in section 7 of the amended form of **H. B. No. 69, H. D. 1**, which adds a new part IX to chapter 322.

#### PERMITS AND VARIANCES

The amended form of **H. B. No. 69, H. D. 1**, creates a new part IX to chapter 322. The new part IX contains general provisions relating to permits and variances which apply equally to air pollution, water pollution, and excessive noise. It pulls together and expands various variance sections now in the Hawaii Revised Statutes. The principal differences in the variance provisions of **H. B. No. 69, H. D. 1**, and the amended form of the bill are as follows.

1. The amended form includes a provision requiring that a permit be secured from the department of health before any person may install, alter, or use any machine, equipment, or device which causes or contributes to air or water pollution or to excessive noise, or which is intended primarily to prevent or control the emission or discharge of air or water pollutants or excessive noise. This requirement is not in **H. B. No. 69, H. D. 1**, and presently such a provision is included



only in the statute relating to water pollution. Such a provision is recommended for inclusion in any air pollution statute by the Committee of State Officials on Suggested State Legislation of the Council of State Governments, in its model "State Air Pollution Act." As contained in the amended form of **H. B. No. 69, H. D. 1**, the provision is made applicable to water and air pollution and to excessive noise. The purpose of requiring permits for the installation, alteration, or use of the named devices is to insure that the desired or established air and water quality and noise level standards are not compromised. An opportunity for a hearing is provided in case of a rejection or revocation of any permit.

2. The variance provision in the amended form of **H. B. No. 69, H. D. 1**, follows closely the model legislation described above. This variance provision is intended to permit, under certain conditions, conduct which would otherwise constitute a violation of the statutes, or rules or regulations adopted pursuant to the statutes, on air and water pollution and excessive noise.

The variance provision of the amended form differs from the variance provision of **H. D. 1**, in the following respects. **First**, the amended form provides for three classes of variances: (a) where variance is granted on the ground that there is no practicable means known or available for the adequate prevention, control or abatement of the pollution or excessive noise involved; (b) where variance is granted on the ground that compliance with the particular requirement or requirements from which variance is sought will necessitate the taking of measures which, because of their extent or cost, must be spread over a considerable period of time; and (c) where variance is granted on the ground that it is justified to relieve or prevent hardship of a kind other than that provided for in (a) and (b). For the first two classes of permits, the period of the permit is not to exceed five years; for the last class, the period of the permit is not to exceed one year.

**Second**, whereas **H. D. 1** provides for no renewal of variances, the amended form provides for renewal. The renewal, however, is to be granted only if (a) the conditions specified in the immediately preceding permit have been complied with and (b) the renewal provides for emission or discharge no greater

than that attained pursuant to the terms of the immediately preceding permit at its expiration.

Your Committee believes that the variance provision in the amended form of the bill is fair and reasonable. The amended form provides for judicial review upon the request of any person adversely affected by the granting of a variance or renewal.

By including the variance provision in the amended form, your Committee does not intend to invalidate an otherwise validly granted, existing variance. On the contrary, your Committee intends that all existing, validly granted variances shall continue in effect, to the extent that they are not in conflict with the provisions contained in the amended form of the bill.

#### STANDING TO SUE

The provisions relating to environmental damage and standing to sue contained in **H. B. No. 69, H. D. 1**, are incorporated in the amended form of the bill. The amended form, however, differs in some respects from **H. D. 1**. The amended form, generally, follows the Michigan Environmental Protection Act of 1970. The specific differences between the amended form and **H. D. 1**, are as follows.

1. The amended form authorizes the court to remit the parties to administrative, licensing, or other proceedings if they are required or available to determine the legality of the defendant's conduct. The court may retain jurisdiction over the action, however, pending completion of such administrative, licensing or other proceeding, and the court may, upon completion of such administrative, licensing, or other proceedings, proceed to judicially review the case.

2. The amended form provides that the court may apply the doctrines of collateral estoppel and res judicata to prevent multiplicity of suits; and the court may dismiss any action if it is brought frivolously.

3. **H. D. 1** provides that the burden of proving by the preponderance of the evidence shall be on the defendant on all aspects of the case. The amended form, following the language of the Michigan statute, makes lack of a feasible, prudent, non-prohibitive alternative an affirmative defense, and except as to this affirmative defense, provides that the usual rules of burden of proof and weight of

the evidence shall apply. Since lack of a feasible, prudent, non-prohibitive alternative to the defendant's conduct would be a defense, it is fair that the defendant carry the burden of proving such lack. On the other hand, since compliance with any statute or regulation does not in itself constitute a defense, it appears fair that the usual rules of evidence should apply to other evidentiary matters.

4. The amended form contains a provision, not in **H. D. 1**, which permits the court in granting relief to determine the validity, applicability and reasonableness of any standard for pollution or for anti-pollution device or procedure, fixed by statute or regulation, and, where it finds such standards as do exist are deficient, to direct the adoption of a standard approved and specified by the court.

5. The amended form of the bill deletes all references to the recovery of damages contained in **H. D. 1**. It provides, however, that action under this part of the bill is not intended to preclude any person from maintaining a separate suit for the recovery of damages for injuries actually suffered and damages to property actually sustained by him because of the defendant's conduct. Your Committee does not believe that it is necessary, for the purpose of deterring any person from conducting himself in such a way as to damage the environment, to include recovery of damages in an action which is essentially equitable. Inclusion of such damage provision poses numerous problems. For example, who is entitled to receive the damages awarded for injury to the environment generally? Why should only those plaintiffs who are parties to the suit be entitled to receive damages awarded for injury to the environment generally? How is recovery to be apportioned among the plaintiffs in cases where plaintiffs are numerous, particularly where unknown persons are joined as parties plaintiff?

Such thorny questions have caused your Committee to leave damage questions to separate civil suits by those who can prove personal injury to himself or damage to his property.

#### **BILL TITLE**

The amended form of the bill further makes technical amendments to the title of the bill without changing its substance or

scope. The title as amended is, in your Committee's judgment, reflective of the contents of the amended form of the bill.

#### **OTHER CONCERNS**

Your Committee is mindful of the fact that government is a major contributor to pollution. It appears to your Committee that government should provide the leadership in enhancing the quality of the environment. To this end, your Committee recommends that all agencies of the State and the counties immediately review their present statutory authority, administrative regulations and current policies and procedures to determine whether there are any deficiencies or inconsistencies therein which would prohibit or tend to prohibit the accomplishment of the ends being sought by the bill and develop a program of action to assure conformance by government with the provisions, intent and purpose of the bill. Your Committee further recommends that the office of environmental quality provide that leadership necessary to accomplish this task and report to the legislature at the 1972 session of the progress and accomplishments made in this regard.

In this connection, your Committee wishes to remind the State department of health that at the 1970 session, the legislature enacted Act 144 calling for the preparation by the department of a waste management plan to be submitted to the waste advisory commission established by the act for its review prior to July 1, 1971. Your Committee recommends that the department, if it has not yet done so, begin at once to comply with the requirements of the act.

#### **CONCLUSION**

Your Committee concludes that the amended form of **H. B. No. 69, H. D. 1**, provides a consistent, fair, and reasonable means of preventing, controlling and abating air and water pollution and excessive noise, and affords the citizens of the State means by which the environment might be protected.

Your Committee on Judiciary is in accord with the intent and purposes of **H. B. No. 69, H. D. 1**, as amended herein, and recommends its passage on third reading in the form attached hereto as **H. B. No. 69, H. D. 2**:

Signed by all members of the Committee except Representative O'Connor.

**SCRep. 650 Judiciary on H.B. No. 133**

The purpose of this bill is to protect State employees from being required to operate motor vehicles which are unsafe.

At present, there is no adequate remedy other than a refusal to obey directions, for a State employee if he feels that a motor vehicle which he has been directed to operate is unsafe. This bill would allow the employee to mutually agree with his superior upon the appointment of a third party qualified to evaluate the safety of a motor vehicle which the employee feels is unsafe. The decision of the third party would be binding.

Your Committee upon consideration of **H. B. No. 133** recommends that it be amended by deleting the word "feels" in line 16 of page 1 and inserting the word "demonstrates" in lieu thereof. Your Committee is of the opinion that this amendment is necessary; otherwise, an employee may require the inspection of all vehicles which he is directed to operate, even though he may have no rational grounds for his subjective belief. By requiring the employee to "demonstrate" that a motor vehicle is unsafe, frivolous and groundless complaints by employees would be avoided. The word "demonstrate" is intended by your Committee to mean a showing of some physical problem with the vehicle which a third party could take into account as a factor in determining whether the vehicle is defective.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 133**, as amended herein, and recommends its passage on Third Reading in the form attached hereto as **H. B. No. 133, H. D. 1**.

Signed by all members of the Committee.

**SCRep. 651 Judiciary on H.B. No. 371**

The purpose of this bill is to exempt rules, regulations, and orders under the Civil Defense and Emergency Act from the requirements of the Administrative Procedure Act.

The present status of the law is unclear as to whether the rules, regulations and orders under the Civil Defense and Emergency Act are exempt from the requirements of the Administrative Procedure Act. This bill would clarify the law by specifically providing such an exemption.

Under chapter 128, Hawaii Revised Statutes, the Governor has broad powers to cope with a war emergency. As such, he must have available the plans, policies, procedures and orders that are required to meet a war emergency with haste. The plans and procedures are flexible enough to cope with any readiness condition that exists. The flexibility of these plans and procedures makes it difficult for the department to subject them to the Administrative Procedure Act. In addition, the plans, policies and procedures are subject to frequent change and therefore it would be administratively overburdensome to process under the Administrative Procedure Act.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 371** and recommends its passage on Third Reading.

Signed by all members of the Committee.

**SCRep. 652 Judiciary on H.B. No. 489**

The purpose of this bill is to amend the unemployment compensation law to clarify the authority of appeals referees in reopened unemployment appeal cases.

Your Committee concurs with the findings and conclusions of your Committee on Labor as expressed in **Standing Committing Report No. 223**.

Your Committee is in accord with the intent and purpose of **H. B. No. 489, H. D. 1**, and recommends its passage on Third Reading.

Signed by all members of the Committee.

**SCRep. 653 Judiciary on H.B. No. 490**

The purpose of this bill is to provide for immediate payment of unemployment insurance benefits based upon an initial determination of eligibility for such payments, even though an appeal has been filed by an employer, until such time as the determination is reversed by the unemployment insurance referee.

Under the present law, if an initial determination of eligibility for unemployment insurance benefits is made, an employer need not make prompt payments of such benefits if he appeals the decision. This may work a hardship on the claimant, since the average length of time for the referee's decision is

approximately eight weeks. This bill would require the payment of such benefits to the claimant to commence upon the initial determination of eligibility for such benefits.

Your Committee is in accord with the intent and purpose of **H. B. No. 490** and recommends its passage on Third Reading.

Signed by all members of the Committee.

**SCRep. 654** Judiciary on **H.B. No. 1437**

The purpose of this bill is to enact a new chapter of the Hawaii Revised Statutes to provide for the licensing and regulation of elevator mechanics and to add a new provision to the Industrial Safety Law which will require the department of labor and industrial relations to consult with the proposed elevator mechanics licensing board before promulgating rules and regulations covering working conditions for elevator mechanics.

Although your Committee generally agrees with the findings and conclusions of your Committee on Labor, as expressed in **Standing Committee Report No. 385**, it nevertheless sees no valid reason to grant subpoena powers to the elevator mechanics licensing board to be created within the department of regulatory agencies, and has, therefore, deleted this provision from the bill.

Your Committee is in accord with the intent and purpose of **H. B. No. 1437**, as amended herein, and recommends its passage on Third Reading in the form attached hereto as **H. B. No. 1437, H. D. 1**.

Signed by all members of the Committee.

**SCRep. 655** Judiciary on **H.B. No. 1514**

The purpose of this bill is to allow payroll deductions to be made for payments of insurance premiums without such deductions being considered as the soliciting of insurance.

The present law is unclear as to whether insurance premiums payments deducted from salaries of insureds pursuant to a plan of payroll deduction or collected and gathered by an association from among its members and forwarded to the insurer are to be considered the collection of premiums. The present law is also unclear as to whether the furnishing of information about such methods constitutes solicitation of applications for insurance. This bill would expressly exempt

such methods of deduction and collection from being considered as collection of premiums. Moreover, this bill would expressly exempt the furnishing of information about such methods from being considered solicitations of applications for insurance. In order to prevent these provisions from being used to give preferred rates to groups of persons organized for the purpose of obtaining insurance, this bill would expressly prohibit the granting of preferred rates to such groups.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 1514** and recommends its passage on Second Reading and placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 656** Finance on **H.B. No. 29**

The purpose of this bill is to amend the existing law relating to the public utilities commission by providing for full-time commissioners, and at a compensation rate commensurate therewith.

Under existing law, the public utilities commission is comprised of five members (two from Oahu and one from each of the neighbor island counties). They are compensated at the rate of \$10 per day (plus travel expenses) while actually engaged in the performance of their duties as commissioners, provided that no member shall receive more than \$1,000 per year. As such, the commission, made up of public-spirited lay citizens who depend principally upon other sources of income for their livelihood, is intended to function on a part-time basis. In practice, however, the progressively increasing workload within the commission's expansive jurisdiction has come to require full-time membership.

The bill, as introduced, reduces the number of such commissioners to three, each limited to serving one six-year term (following an abbreviated transition period), and provides for a salary range between \$25,000 to \$28,000 per year. Full justification for a full-time commission, including recommendations for an increase in term of office to ten years and salary to a percentage of circuit court judge, are advanced by your Committee on Public Utilities in **Stand. Com. Rep. No. 50**, which, to the extent it is not inconsistent herewith, is incorporated herein by reference.

Your Committee on Finance is satisfied, for example, that three full-time members are an adequate (if not optimum) number to perform the commission's functions and remain abreast of its foreseeable workload (and, incidentally, we are given to understand that the commissions of the great majority of states are comprised of three members). Your Committee also concurs with the recommended amendment providing "more flexibility" in the amount of compensation by basing the same upon a percentage of a circuit court judge, and with increasing the maximum term of office to ten years. These features are no doubt intended to, and no doubt will, attract more qualified "candidates" as commissioners.

However, it is for this precise reason that your Committee is reluctant to endorse making of the appropriations required unless membership qualification for at least part of the "new" commission is prescribed (as is the case with virtually all other "professional" boards and commissions), and, accordingly, we have further amended the bill.

Considering the variety of public utilities within the commission's jurisdiction—which includes the electric, gas, and telephone companies, water and mass transit operations, and all motor carrier transportation—and considering the full spectrum of its regulatory responsibilities—including capital improvements, safety, accounting practices and financing, ratemaking, certification and related services—your Committee has concluded that the higher costs constituting compensation to members carrying out the functions of a full-time commission shall be received by persons qualified to perform them. Based upon the testimonies presented by representatives of several of the regulated utilities, we are convinced that the interests of the community can best be served (and protected) if the commission contains a professional engineer and a certified public accountant. Existing statutory standards of qualification plus minimum experience of five years are recommended as the criteria.

Because of the nature of the commission's responsibilities, it has been further suggested by utilities' representatives that one member should have the equivalent of at least five years managerial experience in a business with an annual gross income of not less than \$500,000. Your Committee is not adverse to such a qualification, and we commend it as the basis for selection of the commission's

third member; but for purely practical reasons we have determined not to codify it as a criteria for qualification.

Finally, your Committee has substantively amended the previously recommended amendment increasing the term of office from six to ten years. Our proposal still allows for a total of ten years, but limits each term to an appointment of five years with a limitation of two terms. Thus, commissioners proving eminently qualified can be continued while allowing for periodic turnover as changes may prove advisable. Related in this regard, your Committee effected an essentially technical amendment to the bill by deleting as surplusage the final amendatory sentence to the statute (enunciating the governor's authority to remove or suspend for cause) and adding to the opening sentence that the commissioners shall be "removable", as they are to be appointed, in the manner prescribed in section 26-34, which includes the provisions of the deleted sentence.

In Section 2 of the bill, your Committee inserted the sum of \$95,560 as an appropriation from general revenues to fund the full-time commission in the fiscal year of its inception. Of the sum hereby appropriated, \$87,810 is for salaries of the commissioners and a secretary, \$4,000 is for other related expenses, and \$3,750 is for equipment.

Your Committee on Finance is in accord with the intent and purpose of **H. B. No. 29, H. D. 1**, as amended herein, and recommends that it pass second reading in the form attached hereto as **H. B. No. 29, H. D. 2**, and be placed on the calendar for third reading.

Signed by all members of the Committee except Representative Morioka.

**SCRep. 657 Judiciary on H.B. No. 235**

The purpose of this bill is to propose an amendment to the Constitution of the State of Hawaii limiting the number of terms which a person could serve as governor.

The present provision in the Constitution does not restrict the number of terms which a person may serve as governor of the State. This bill proposes an amendment to Article IV, Section 1, of the Constitution of the State of Hawaii, to provide that no person shall be elected to the office of governor for more than two consecutive terms. As drafted, this bill is intended to exempt a person holding the



office of governor at the time this bill is voted upon by the legislature.

Your Committee upon consideration of **H. B. No. 235** recommends that it be amended by deleting the last sentence in Section 2 (last portion of line 9 through line 18 on page 2 thereof).

Your Committee is of the opinion that this proposed constitutional amendment should, if it becomes an amendment, apply prospectively, beginning with the first election for the office of governor following after its enactment.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 235**, as amended herein, and recommends its passage on Second Reading in the form attached hereto as **H. B. No. 235, H. D. 1**, and placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 658** (Majority) Judiciary on **H.B. No. 434**

The purpose of this bill is to amend the workmen's compensation law to require an employer of an injured employee to furnish said employee or his representative with copies of all medical reports relating to the employee's injury which are in the possession of the employer, at the employer's expense and to require an employer to allow the employee or his representative to inspect and copy all transcripts, depositions and other records relating to the employee's injury which are in the possession of the employer.

The law presently requires an employer to furnish medical reports upon the request of the injured employee or his representative. This bill proposes to add all "transcripts, depositions and other records" related to the injury to the list of documents as private investigation reports, voluntary statements from any person, and transcripts and depositions available to the injured employee or his representative.

Your Committee upon consideration of this bill is of the opinion that all pertinent records held by the employer should be made available to the employee, and has amended this bill to so provide. This philosophy is contained in the Hawaii Rules of Civil Procedure

and your Committee consequently feels it fair to include the same philosophy in the workmen's compensation law.

Within fifteen days after being requested to do so by the injured employee or his duly authorized representative, the employer shall furnish the employee or his duly authorized representative with copies of all medical reports relating to the employee's injury which are in the possession of the employer at the expense of the employer. The employer shall allow the employee or his duly authorized representative to inspect and copy all transcripts, depositions and other records relating to the employee's injury which are in the possession of the employer. Any employer who fails to furnish medical reports or to allow inspection and copying of transcripts, depositions or records as required by this paragraph shall be fined in an amount not to exceed \$100.

Your Committee on Judiciary is in accord with the intent and purpose of **H. B. No. 434, H. D. 1** as amended herein and recommends its passage on Third Reading in the form attached hereto as **H. B. No. 434, H. D. 2**.

Signed by all members of the Committee. Representatives Aduja and Judd did not concur.

**SCRep. 659** Legislative Management Informing the House that **House Resolutions Nos. 343 to 348, House Concurrent Resolution No. 88, Standing Committee Report Nos. 530 to 658** and **Standing Committee Report Nos. 660 to 669**, have been printed and distributed.

Signed by all members of the Committee.

**SCRep. 660** Public Health, Youth and General Welfare on **H.R. No. 219**

The purpose of the resolution is to request a joint study by the departments of Health and Agriculture, the University of Hawaii and the Office of Environmental Quality Control to (1) evaluate the environmental effects of cane burning prior to harvest; (2) relate current economical and environmental effects of cane burning to ecological effects of feasible alternatives; and (3) determine the degrees of hazard to public health by cane burning and feasible alternatives.

In testimony before your Committee, the Hawaiian Sugar Planters' Association,

speaking in behalf of Hawaii's 23 sugar companies, support the purpose of this resolution which will augment their research efforts to determine economic and logistic effects of harvesting without burning.

Your Committee on Public Health, Youth and General Welfare concurs with the purpose of **H. R. No. 219** and recommends its adoption.

Signed by all members of the Committee.

**SCRep. 661** Joint Select Committee of Kauai, Maui, Oahu and Hawaii Representatives on **H.C.R. No. 35**

The purpose of this concurrent resolution is to request that the mayors and legislative councils of the several counties establish youth centers at all county community and recreational centers.

It is the sense of the Committee that the State is desirous of promoting the development of productive and healthy activities for the youth of Hawaii, and such centers will provide assistance in these areas.

Your Joint Select Committee of Kauai, Maui, Oahu and Hawaii Representatives concurs with the intent and purpose of **H.C.R. No. 35** and recommends its adoption.

Signed by all members of the Committee.

**SCRep. 662** Joint Select Committee of Kauai, Maui, Oahu and Hawaii Representatives on **H.C.R. No. 36**

The purpose of this concurrent resolution is to request that the mayors and legislative councils of the several counties establish senior citizens centers at all county community and recreational centers.

It is the sense of your committee that the senior citizens of the state, with facilities for recreational and productive activities, continue to contribute to the advancement and success of the community.

Your Joint Select Committee of Kauai, Maui, Oahu, and Hawaii Representatives concurs with the intent and purpose of **H. C. R. No. 36** and recommends its adoption.

Signed by all members of the Committee.

**SCRep. 663** Public Employment on **H.R. No. 231**

The purpose of this Resolution is to request the Board of Trustees of the Employees Retirement System to study the matter of providing more equitable benefits to firemen and policemen at their present rate of contribution.

It has been found that contributions of firemen and policemen to the retirement system exceed those of other members by 73 per cent, while their benefits exceed those of other members by only 25 per cent. This Resolution would attempt to correct this inequity.

Your Committee concurs with the purpose of **H. R. No. 231** and recommends its referral to the Committee on Finance.

Signed by all members of the Committee except Representatives Iha and Unemori.

**SCRep. 664** Select Committee of Oahu Representatives on **H.R. No. 181**

The purpose of this resolution is to request the Department of Traffic of the City and County of Honolulu to study the traffic situation near the University of Hawaii and report its findings and recommendations to the Legislature 20 days before the convening of the 1972 Regular Session.

As indicated in the preamble there is a serious pedestrian traffic problem in the University area. With the expected increase in student enrollment the problem will become more acute unless remedial actions are taken.

Your Committee believes any suggested solution to the problem would affect several agencies and communities. To be meaningful, therefore, the study should be broad based involving the various agencies and community groups. Accordingly, your Committee has amended the resolution so the Traffic Department will coordinate its study with the affected state agencies and consult with the community groups.

Your Committee concurs with the intent of **H. R. No. 181**, as amended herein, and recommends its adoption in the form attached hereto as **H. R. No. 181, H. D. 1**.

Signed by all members of the Committee.