CONFERENCE COMMITTEE REPORTS

Conf. Com. Rep. No. 1 on H.B. No. 1499

The purpose of this bill is to effect more efficient and responsive administration and to defray the cost of the State small boating program.

It is the intent of this bill to clarify legislative intent so that the Department of Transportation can follow specific guidelines in administering and financing the State small boat harbors. Further, your Committee finds it necessary to reorganize the Harbors Division of the Department of Transportation to include a new branch the sole purpose of which shall be the administration of the State small boat harbors, and a comprehensive boating program.

Since small boat harbors are built for and used by boaters who moor their boats in the harbors, and facilities such as piers and catwalks are dedicated exclusively and permanently to their use, your Committee feels that these boaters should be responsible for the costs of capital improvements devoted to their primary or exclusive use as well as the costs of maintaining, operating and managing the harbor facilities constructed after July 1, 1975 along with operation, maintenance and other costs to be paid solely from the boating special fund.

Under the current fee schedule, the special fund is unable to cover the added costs. Since these fees constitute the major support of the program, an increase in fees is necessary. It is anticipated that the Department of Transportation should move forth with a new fee schedule.

Your Committee finds it necessary to establish a fee structure in which non-state residents shall pay an application and permit fee differential. This is intended to equalize the burden of cost of constructing, operating and maintaining State small boat harbors for the State taxpayers. It is recommended that the Department adopt the requirement for resident status that the individual file a State income tax return or show other valid proof.

Your Committee decided that the optimum level of the future number of live-aboards shall not exceed fifteen (15) percent of the respective total space available as of July 1, 1976 at the Ala Wai and Keehi small boat harbors. It is the intent of your Committee that this limit apply only to those harbors where live-aboard permits are presently issued by the department of transportation. In other words, no live-aboard permits shall be issued for any other State small boat harbor except for Ala Wai and Keehi harbors.

Moorage for commercial vessels is permitted in state small boat harbors in cases where there is no commercial harbor within three statute miles. If a vessel is used for commercial purposes from its permitted mooring, the permittee shall pay in lieu of the moorage and live-aboard fees, a fee based on a percentage of the gross revenues derived from the vessel.

Your Committee further finds it necessary to require all vessels moored in a state small boat harbor to have a valid permit. All vessels applying for a permit or a permit renewal must pass an inspection of minimum requirements by a marine surveyor approved by the department of transportation. This is intended to exclude derelicts and house boats moored within state small boat harbors.

Your Committee has amended this bill to reflect the Committee's intent as stated above. Further, your Committee has made the following amendments:

(1) Eliminated the word "taxes" in Section 4 because of the opinion of the Attorney General's Office that the use of tax on live-aboards may be unconstitutional;

(2) Changed the word "shall" to "may" in Section 4 to read "(d) the Department may provide moorage space within State small boat harbors to accommodate visitors on cruising vessels", because the Department felt that the use of the word "shall" in statute would, at times create a burden on State small boat harbors;

(3) Clarified the language of the grandfather clause;

(4) Added a severability clause to be Section 9 of the bill;

(5) Reworded or rephrased throughout the bill for the purposes of style and consistency.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1499, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1499, H.D. 1, S.D. 1, C.D. 1.

Representatives Cayetano, Blair, Kiyabu and Ikeda,
Managers on the part of the House.

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

Conf. Com. Rep. No. 2 on H.B. No. 1886

The purpose of this bill is to increase the number of exempt employees within the Office of the Lieutenant Governor from six to ten.

Since the passage of Act 303, Session Laws of Hawaii, 1967, establishing the ceiling of six civil service exempt positions, demands made upon the Office of the Lieutenant Governor have increased. An increase to the number of exempt positions would allow the Lieutenant Governor more flexibility and staff support to carry out responsibilities of the office.

Your Committee, upon further consideration, has amended the measure by reducing the number of exempt civil service positions from ten to eight.

Your Committee on Conference is in accord with the intent and purpose of H.B. 1886, S.D. 3, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1886, S.D. 3, C.D. 1.

Representatives Lee, Peters, Sakima, Yuen and Larsen,
Managers on the part of the House.

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

Conf. Com. Rep. No. 3 on H.B. No. 2678-76

The purpose of this bill is to require insurers to use the age of the insured at the last birthday in determining a life insurance premium based on age.

Present law is silent on the matter covered by this bill and the industry practice is to use either a person's nearest birthday or last birthday in determining age for the purpose of determining life insurance premiums based on age. Under the nearest birthday method, an applicant who became 25 years old on January 1, 1976 would have his premium rate based on age 25 during the period July 1, 1975 through June 30, 1976, and on age 26 during the period July 1, 1976, through June 30, 1977. Under the last birthday method this applicant's insurance age would follow his actual age - 25 in 1976 and 26 in 1977.

In order to avoid confusion on the part of insureds, this bill requires the use of one method, i.e., the last birthday method.

Your Committee upon further consideration, has made the following amendments to H.B. No. 2678-76, H.D. 1, S.D. 1:

(1) Deleted the reference to the age of a person other than the insured in determining life insurance premiums because there appears to be no reason for such reference.

(2) Changed the effective date of the bill from upon approval to January 1, 1977 to afford the insurance industry time to conform their practices to the requirements of this bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2678-76, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final

Reading in the form attached hereto as H.B. No. 2678-76, H.D. 1, S.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 4 on S.B. No. 1786-76

The purpose of this bill is to enable the Office of Consumer Protection to obtain restitution for consumers who have sustained damages as a result of unlawful acts and practices which are the subject of the action and who testified in the prosecution of the action.

Act 99, Session Laws of Hawaii 1975, provided that in any civil action brought by the Director of the Office of Consumer Protection to collect civil penalties or enjoin any unlawful acts or practices, the court hearing the action may include in its orders or judgments such provisions as may be necessary to effect restitution to any person who sustained damages as a result of the unlawful acts and practices which are the subject of the action and who complained to the office of consumer protection prior to the initiation of the action. Since enactment, this provision "that a person, in order to obtain restitution, must have complained to the Office of Consumer Protection prior to the initiation of the action" has proven to be very restrictive in its scope and has denied certain consumers restitution.

Your Committee recommends that this bill be amended by providing that restitution may be granted to any person who has filed a written complaint with the Office of Consumer Protection and who has sustained damages as a result of the unlawful acts and practices which are the subject of the action. It is the intent of your Committee to allow consent decree but no class action under Section 487-14, Hawaii Revised Statutes. Only these persons who have filed a written complaint with the Office of Consumer Protection will be entitled to restitution.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1786-76, S.D. 1, H.D. 1, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1786-76, S.D. 1, H.D. 1, C.D. 1.

Representatives Yamada, Cayetano, Naito and Fong,
Managers on the part of the House.

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

Conf. Com. Rep. No. 5 on S.B. No. 1998-76

The purpose of this bill is to enable the liquor commissions in the State to obtain criminal information of applicants for liquor licenses.

Section 831-3.1, Hawaii Revised Statutes, prohibits a person from being disqualified to engage in a business for which a license is required, solely by reason of a prior conviction of a crime. This bill amends Section 831-3.1(a) and 831-3.1(d) by providing that Section 831-3.1 shall not apply to a person who has been convicted of a felony when applying for a liquor license.

Your Committee amended the bill by deleting the amendment to subsection(d) of Section 831-3.1 because it felt the amendment was redundant.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1998-76, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1998-76, H.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 6 on H.B. No. 3262-76

The purpose of this bill is to provide additional protection to parcels of prime agricultural land within the agricultural district, which prime agricultural lands are defined as lands with soils classified by the Land Study Bureau as Class A or B. Thus, your Committee has amended the law relating to the Land Use Commission by adding a new section to Chapter 205, Hawaii Revised Statutes, and by amending Section 205-12 relating to enforcement and Section 205-13 relating to penalties.

After careful consideration, your Committee finds there is a danger that agricultural subdivisions may be approved by the counties, and thus, put agricultural lands to uses other than for an agricultural pursuit. Inasmuch as the purpose of the agricultural district classification is to restrict the uses of the land to agricultural purposes, the purpose could be frustrated in the development of urban type residential communities in the guise of agricultural subdivisions.

To avoid possible abuse within the agricultural district, this bill more clearly defines the uses permissible within the agricultural district. Except for those uses permitted under special use permits in Section 205-6 and those non-conforming uses permitted in Section 205-8, uses not specifically permitted by this bill shall be prohibited. This bill further provides that the restrictions on uses and the condition that the uses shall be primarily in pursuit of an agricultural activity shall be expressly contained in the instruments of conveyance and shall be encumbrances running with the land. However, upon reclassification of the land to a land use district other than agricultural, all aforesaid restrictions and conditions are null and void. A provision for a conditional waiver of the deed restrictions is included in this bill for situations where mortgage financing is jeopardized.

Your Committee's concern over lands classified A or B should not be interpreted as a lack of concern over other lands within the agricultural district. It is just as important to protect, for example, the Hanalei taro lands, the Puna papaya lands, and the Kona coffee lands, as it is to protect the A or B lands of Central Oahu. Therefore, this bill is not intended to change the existing permitted uses on lands within the agricultural district which are classified other than A or B. Rather, the intent of this bill is to give additional protection to those lands within the agricultural district which are classified as A or B.

Your Committee has amended the bill as follows:

1. To further define Class A or B lands;

2. To define "farm dwelling";

3. To delete all earlier provisions relating to exceptions for those parcels of lands within the agricultural district which consist of several different soil classifications.

Your Conference Committee is in accord with the intent and purpose of H.B. No. 3262-76, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3262-76, H.D. 2, S.D. 1, C.D. 1.

Representatives Kawakami, Uechi, Kihano and Clarke,
Managers on the part of the House.

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

Conf. Com. Rep. No. 7 on H.B. No. 2130-76

The purpose of this bill is to remedy various problems in the Residential Landlord-Tenant Code.

The bill changes the following sections of the Code:

1. Section 521-42

This bill requires that prior to the initial date of occupancy, the landlord shall inventory the premises and make a written record detailing the condition of the premises and any furnishings or appliances provided.

This amendment is intended to protect both the landlord and tenant from false, inaccurate, or misleading claims regarding the condition of the premises at the commencement of the tenancy.

2. Section 521-43

Presently, this section requires the landlord to make certain disclosures as to the owner or his agent in writing to the tenant. This bill adds a new subsection to permit the landlord to satisfy the disclosure requirements by posting the information, in an elevator or other conspicuous place, in the case of single-owner, multi-unit structures. If there is more than one owner of a multi-unit dwelling structure, the information may be posted in a conspicuous place within the unit.

3. Section 521-45

Presently, under this section, a landlord who sells a rented unit is relieved of any liability arising under the rental agreement. The proposed amendment requires that the landlord notify the new owner in writing of the existing rental agreement in order to be relieved of any liability arising from the rental agreement. The purpose is to clearly define responsibility in order to prevent the situation of the tenant not knowing who is responsible under the rental agreement.

4. Section 521-61

At the present time, a tenant has no remedies if the landlord puts him in possession of the rental unit at the agreed time but not in the agreed upon condition because his remedies only apply if the landlord fails to put him in possession at the agreed upon time. The bill addresses this shortcoming, expanding the applicability of section 521-61 to make the remedies therein enumerated applicable to a landlord's failure to put the tenant into possession of the dwelling unit in the agreed condition as well as at the agreed time.

5. Section 521-64

This section, which deals with the tenant's rights to make certain repairs to the premises and deduct the cost of the repair from his rent, is confusingly worded. This bill rewords the section to make it more understandable to both landlords and tenants.

6. Sections 521-69 and 521-72

These sections currently require a thirty day period before a landlord can recover possession of a dwelling unit from a tenant who has breached the terms of the rental agreement. The thirty day period has proved to be too long and burdensome to both landlords and neighboring tenants who may be affected by the actions of the breaching tenant. In order to correct this problem, the bill reduces the waiting period to fifteen days.

Your Committee, upon further consideration, has amended H.B. No. 2130-76, H.D. 1, S.D. 1, by deleting the proposed change to section 521-64 which would have authorized tenants to make "emergency repairs" to the premises upon the failure of the landlord to effect repairs within a specified number of days and to deduct the cost of the repairs from the rent. The deletion was made because the term "emergency repairs" was ambiguous and could lead to misunderstandings between landlords and tenants as to what type of repairs were included within the term.

Your Committee further amended the bill by changing the style and format of the remaining proposed changes to section 521-64. These amendments have no substantive effect.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2130-76, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2130-76, H.D. 1, S.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 8 on H.B. No. 2894-76

The purpose of this bill is to improve the laws relating to condominiums to afford greater protection to purchasers and owners of condominium units.

This bill changes the condominium laws to:

(1) Allow condominium owners to transfer parking stalls among owners.

(2) Allow the prevailing party in any action brought by an association of apartment owners against an apartment owner to recover all costs and expenses, including reasonable attorney's fees.

(3) Require a developer of a condominium project to provide in writing, certain information to each prospective initial purchaser, including a breakdown of the annual maintenance fees, and a description of all warranties for the individual apartments and the common elements.

(4) Allow the apportionment of charges and distribution of common profits in a mixed use project containing apartments for both residential and commercial use, in any fair and equitable manner as set forth in the declaration.

(5) Allow vendees under an agreement of sale to be members of the board of directors.

(6) Prohibit a resident manager from serving on the board of directors.

(7) Require the board of directors to meet at least once a year.

(8) Require notices of association meetings to be sent to each member of the association at least fourteen days prior to the meetings.

(9) Provide that proxies for meetings shall be valid only for the meeting for which the proxy is sent.

(10) Require the resident manager, or managing agent, or board of directors to keep an accurate and current list of members of the association of apartment owners.

(11) Require association and board of directors meetings to be conducted in accordance with Roberts Rules of Order, or other accepted rules for the conduct of meetings.

(12) Allow members of the association of apartment owners to require a yearly audit of the association books by a certified public accountant.

(13) Require that the meetings of the association be held at the condominium project, or elsewhere within the State as determined by the board of directors.

Your Committee is in agreement that the changes to the law proposed by this bill will be to the benefit of prospective purchasers and owners of condominium apartments. It is your Committee's understanding that the changes to the requirements of the by-laws of any association of apartment owners will operate prospectively, although there is no reason why associations existing on the effective date of this bill cannot amend its by-laws to conform to the requirements provided for in this bill.

Upon further consideration, your Committee has amended H.B. No. 2894-76, H.D. 1, S.D. 3, by deleting the proposed amendment which would allow changes to the by-laws of an association of apartment owners by a vote of two-thirds of the apartment owners of a project. The bill, as amended, retains the present requirement of a seventy-five per cent vote to modify or amend the by-laws.

Your Committee is in accord with the intent and purpose of H.B. No. 2894-76, H.D. 1, S.D. 3, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2894-76, H.D. 1, S.D. 3, C.D. 1.

Representatives Yamada, Stanley, Yap and Sutton,

Managers on the part of the House.

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

Conf. Com. Rep. No. 9 on S.B. No. 1824-76

The purpose of this Bill is to require that all purchasers or lessees of state land shall pay or reimburse the State for all appraisal costs where independent appraisals are required by law or dictated by prudent management.

Under the present wording of Section 171-17, the State has been absorbing the cost of appraisals for reopenings of lease rentals, repurchases of lots, and for certain sales at public auction where prudent management dictates determination of the lease rental or sale price by independent appraisal. The proposed amendments to Section 171-17 will mandate the Board of Land and Natural Resources to have such appraisals determined by an independent appraiser and will require the lessee or purchaser to pay or reimburse the State for such appraisal costs.

Your Committee upon further consideration has made the following amendment to S.B. No. 1824-76, S.D. 1, H.D. 1. In the case of reopening of the rental to be paid on a lease under subsection (d) the lessee shall pay for his own appraiser, the board shall pay for its appraiser, and the cost of the third appraiser shall be borne equally by the lessee and the board.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1824-76, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1824-76, S.D. 1, H.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 10 on S.B. No. 1821-76

The purpose of this bill is to allow an employer who has prepaid the premium for health care coverage to deduct, in cases of voluntary separation, the employer's share of the premium from the employee's last paycheck or to seek other appropriate means to recover the premium. The employer may deduct an amount not to exceed one-half of the premium cost but without regard to the 1.5 per cent limitation.

The Prepaid Health Care Law requires every subject employer to provide health care coverage for his employees. Premiums are usually paid a month in advance to the prepaid health care contractor, necessitating that the employer prepay the employee's share and later withhold the amount from the employee's wages. Should the employee leave his job soon after the employer has made the premium prepayment, the employer cannot recover such prepayments.

Your Committee on Conference has amended the bill by enabling the employer to deduct, in cases of voluntary and involuntary separation, the employer's share of the premium from the employee's last paycheck.

Your Committee on Conference believes this amendment would retain the basic concept of Section 393-13, Hawaii Revised Statutes, which allows an employer who has prepaid the premium for health care coverage to recover, in all cases of separation, an amount not to exceed one-half of the premium cost but without regard to the 1.5 per cent limitation.

Your Committee on Conference is in accord with the intent and purpose of S.B. 1821-76, H.D. 1, as amended and attached in the form hereto as S.B. 1821-76, H.D. 1, C.D. 1, and recommends its passage on final reading.

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

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

Conf. Com. Rep. No. 11 on S.B. No. 1830-76

The purpose of this bill is to authorize the Director of Personnel Services, under certain circumstances, to make initial appointments at any step within the appropriate salary range, but limiting such recruitment above the minimum step to classes SR-18 and above. In the case of blue collar classes, the range which includes a rate substantially comparable to the minimum step of SR-18 shall be applied as a limitation.

Your Committee finds that currently, in occupational areas where recruitment is difficult, it is permissible to hire above the minimum step within the appropriate salary range. However, the highest step that can be offered any eligible person is the lowest step within a salary range that an eligible person requests.

Your Committee further finds that this bill would remedy situations where a department is impeded from securing another eligible who is better qualified for the position and requests a higher step within a salary range.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1830-76, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1830-76, H.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 12 on H.B. No. 2812-76

The purpose of this bill is to amend Chapter 387, Hawaii Revised Statutes, which deals with the Hawaii Wage and Hour Law, by excluding a youth camp staff member in resident situations in youth camps from coverage of the minimum wage law.

Your Committee finds that youth camp staff members in resident situations are generally on duty 24 hours a day because of their responsibility for the safety and well-being of the campers. In such instances, it is difficult to determine the hours of work and conditions of these employees. If these staff members are not exempt from the minimum wage law, the cost of operating youth camps would increase such that the average working family could no longer afford this type of experience for their children.

Your Committee has amended this bill by including the word "seasonal" to ensure that permanent staff members are not included in the exemption to the minimum wage law.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2812-76, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2812-76, H.D. 1, S.D. 1, C.D. 1.

Representatives Peters, Machida, Naito, Takamine, Kamalii and Santos,
Managers on the part of the House.

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

Conf. Com. Rep. No. 13 on H.B. No. 2135-76

The purpose of this bill is to amend certain sections of the Hawaii Revised Statutes relating to election laws and procedures. The effect of this bill is to provide amendments made necessary by recent changes in federal laws and State laws and to implement methods and procedures which would result in an improved election administration.

Accordingly, this bill provides as follows:

1. Amend Sections 11-11 and 11-12, Hawaii Revised Statutes, to provide that a person who shall have attained the age of eighteen at the time of the election is eligible to vote in that election.

2. Amend Section 11-14, Hawaii Revised Statutes, to provide that the register shall contain the name, address, and primary ballot selection data essential for election purposes. Additional information required by Section 11-15, Hawaii Revised Statutes, may be included in the register at the discretion of the clerk.

3. Amend Section 11-15, Hawaii Revised Statutes, to delete age and place of current employment from the registration affidavit and to include the mailing address as part of the residence data.

4. Amend Section 11-12, Hawaii Revised Statutes, to exempt absentee voters from the provision relating to removal from register upon failure to vote.

5. Amend Section 11-24, Hawaii Revised Statutes, to change the closing date of registration for the general election from 26 days to 30 days prior to the general election.

6. Amend Section 11-95, Hawaii Revised Statutes, to add a provision stating that there shall not be any rescheduling of normal hours as a penalty to employees who vote.

7. Amend Section 11-115, Hawaii Revised Statutes, to reword for consistency and clarity.

8. Amend Section 11-119, Hawaii Revised Statutes, to add a provision for determining type style and size to be used in the printing of ballots. It is noted that information relating to the section has been obtained from Section 11-112, Hawaii Revised Statutes.

9. Amend Section 11-184, Hawaii Revised Statutes, to clarify the separate and combined responsibilities of the State and counties for election expenses.

10. Amend Section 12-6, Hawaii Revised Statutes, to reword for consistency and to add a provision for filing procedures to be followed by an indigent candidate.

11. Amend Section 13-4, Hawaii Revised Statutes, to provide for the alphabetical listing of candidates for the Board of Education in the general election.

12. Amend Section 15-1, Hawaii Revised Statutes, to define "absentee polling place" and change all references to "absentee precinct" to read absentee polling place".

13. Amend Section 19-6, Hawaii Revised Statutes, to reword for clarity.

Your Committee upon further consideration has made an amendment to H.B. No. 2135-76, H.D. 1, S.D. 1 to delete the proposed change to Section 12-2, Hawaii Revised Statutes, which would change the primary election date to the last Saturday of September in every even numbered year.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2135-76, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2135-76, H.D. 1, S.D. 1, C.D. 1.

Representatives Roehrig, Cobb, Lee, Santos and Uechi,
Managers on the part of the House.

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

Conf. Com. Rep. No. 14 on S.B. No. 2467-76

The purpose of this bill is to encourage the conservation of energy by providing tax incentives for energy conservation.

Under this bill, a real property tax exemption is provided for all property in the State actually used for an alternate energy improvement. Application for the tax exemption provided by this bill shall be made with the Director of Taxation.

Your Committee upon further consideration has made the following amendments to S.B. No. 2467-76, S.D. 1, H.D. 2:

(1) Placed a 5-year property tax exemption limitation beginning after June 30,

1976 and ending on December 31, 1981;

(2) Delineated some of the alternate energy sources and processes included in the provisions of this bill; and

(3) Specifically excluded nuclear fission from the provisions of this bill because of its potential danger.

Your Committee has further amended S.B. No. 2467-76, S.D. 1, H.D. 2, by adding a new section to provide an additional tax incentive. The bill would allow an income tax credit for individual and corporate resident taxpayers for 10 per cent of the cost of a solar energy device. The tax credit is to be claimed against the net income tax liability for the year in which the solar energy device was installed provided the solar energy device was erected and placed in service after December 31, 1974 but before December 31, 1981. The bill further provides that if the credit exceeds the liability, the excess may be applied to the taxpayer's liabilities for subsequent years until exhausted.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2467-76, S.D. 1, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2467-76, S.D. 1, H.D. 2, C.D. 1.

Representatives Cayetano, Blair, Cobb, Kiyabu, Takamura, Evans and Larsen,
Managers on the part of the House.

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

Conf. Com. Rep. No. 15 on S.B. No. 2739-76

The purpose of this bill is to prohibit discrimination against any person on the basis of a physical handicap.

Your Committee feels that the denial of educational opportunities, covenants, real estate transactions, financial assistance, choice of residency or participation in jury service for any person with a physical handicap constitutes discrimination. It is the intent of this bill to set forth specifically the areas in which discrimination against a person with a physical handicap may result in an abridgement of that person's rights.

Your Committee recommends that the bill be amended by amending the definition of "physical handicap" in the appropriate Sections of the Hawaii Revised Statutes as follows: "a physical impairment which substantially limits one or more of a person's major life activities."

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2739-76, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2739-76, H.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 16 on H.B. No. 2131-76

The purpose of this bill is to allow property owners to have unattended vehicles towed away at the expense of the vehicle owner and to set maximum charges for such towing procedures. The effect of this bill is to protect the rights of property owners from the inconsiderate and occasionally intentional practices of those motor vehicle operators who park in unauthorized areas.

Under this bill, notwithstanding any other provision in Section 290-11, Hawaii Revised Statutes, any vehicle left unattended for more than twenty-four hours on private property without authorization of the owner or occupant of the property, in any county with a population of less than one hundred thousand persons, may

be towed away at the expense of the owner of the vehicle. However, in a county with a population of more than one hundred thousand persons, an unattended vehicle may be towed away for any amount of time it is left unattended on private property.

Your Committee has also determined that a notice prohibiting vehicles to park on the property without authorization shall be posted and has established maximum charges for the towing procedure and storage of such vehicles.

Your Committee upon further consideration has made the following amendments to H.B. No. 2131-76, H.D. 1, S.D. 1:

(1) The proposed new section entitled "Criminal trespass" has been deleted.

(2) The proposed severability clause has been deleted.

(3) A provision has been added to enable each county to enact additional restrictions to this section or criminal sections in this area as required.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2131-76, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2131-76, H.D. 1, S.D. 1, C.D. 1.

Representatives Roehrig, Cayetano, Takamine and Sutton,
Managers on the part of the House.

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

Conf. Com. Rep. No. 17 on S.B. No. 1775-76

The purpose of this bill is to clarify the relationship between prepaid legal services and statutory regulation and taxation. This bill provides for the regulation of prepaid legal services by the department of regulatory agencies by subjecting prepaid legal service plans to consumer protective legislation; by requiring public filing requirements with a statement of the plan's financial structure, benefits, terms and conditions and other required information; by protecting accumulated funds by requiring the filing of a bond or security in lieu of a bond; by requiring an annual exhibit; by controlling investments of the plan; and by providing a penalty for failure to comply with the new law. The bill further provides that prepaid plans are not insurance unless offered by an insurance company. The bill clarifies the income taxation of such prepaid plans by providing that plans offered by certain tax exempt organizations are themselves tax exempt and by providing that the value of legal services provided by a plan to a taxpayer are not taxable to the taxpayer, that amounts paid to a taxpayer to reimburse him for legal services are not taxable to the taxpayer and by providing that contributions of an employer to a plan are not taxable to his employees. Lastly, the bill provides that plans offered by exempt organizations are exempt from general excise taxation.

Prepaid legal service plans are a method by which legal services may be provided to lower and middle income persons at a price they can afford. A prepaid legal service plan is a plan between a group of consumers and one or more attorneys in which the attorneys agree to provide certain legal services to the group. Through formation of a group of consumers, these legal services are provided at a lower price than would be available on an individual basis. In addition, the prepaid legal service plans are a method by which legal services may be afforded to lower and middle income persons at a price they can afford. A prepaid legal service plan is a group legal service plan in which the cost of the services have been prepaid by the group member or by some other person or organization in the member's behalf. A group legal service plan means a prepaid plan by which legal services are rendered to individual members of a group identifiable in terms of some common interest.

The bill further provides that individual members will be afforded the freedom of choice in the selection of their own attorney or attorneys to provide legal services under such plan, that equal amounts for the cost of services rendered without regard to the identity of the attorney or attorneys selected by the plan member or members shall be paid and that no plan discriminate on the basis of the selection of an attorney.

Your Committee finds that prepaid legal service plans are a growing method of

providing legal services on the mainland and that such plans are now being formed in Hawaii. The report of the Office of the Legislative Reference Bureau concerning Prepaid Legal Services and Hawaii found that 17 per cent of the labor unions and 11 per cent of the credit unions answering their questionnaire indicated plans for the formation of prepaid plans within three years. The report further found that there are approximately 200,000 persons between the income levels of $7,000 and $20,000 who are the persons to which these plans are directed. Further, there are 130,000 persons with incomes over $15,000 but less than $75,000 who may also be potential users of these plans. The possibility also exists that some persons entering these plans may presently be otherwise eligible for legal aid or a similar service and such plans will therefore provide relief for these overburdened agencies.

Prepaid legal service plans appear to your Committee to benefit the people of Hawaii. Such plans are now in the formative and experimental stage of development and your Committee finds that overburdensome regulations at this stage would not encourage the growth necessary for such plans. Therefore, your Committee is in favor of this bill which provides that prepaid plans shall not be treated as insurance unless an insurance company is involved. Your Committee does not feel that the requirement of large paid-in capital or surplus, rate schedule filings, and similar regulation is necessary at this stage of the development of prepaid legal service plans.

Your Committee also finds that the tax treatment of prepaid plans should be similar to prepaid medical plans now operating in Hawaii. The bill so provides and your Committee is in favor of such provisions.

Your Committee amended the bill by making language changes.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1775-76, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1775-76, S.D. 1, H.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 18 on S.B. No. 528

The purpose of this bill is to remove the Judiciary from the inappropriate role of having to make determinations about certain trial expenses in criminal cases which in effect determine the quality of the case the prosecution or the defense presents at trial.

At present, the courts have an account titled "Legal Expenses" which is looked to by both the prosecutor and indigent defendants to pay for witness expenses, transcript costs in the case of indigent defendants and investigatory, expert and other services. In managing the funds, the courts are called upon to pass on the reasonableness of making the requested expenditures. The responsibility for obtaining and expending the necessary funds for trial expenses should be left to the prosecutor's office and the public defender's office and not with the courts.

The bill repeals Section 621-11, Hawaii Revised Statutes, dealing with subpoenaing witnesses for the defendant at State expense.

The present in forma pauperis appeal procedure is abolished by repealing Section 801-5(721-5), Hawaii Revised Statutes. However, this does not mean the right to in forma pauperis appeal is abolished because Section 802-7(722-7), Hawaii Revised Statutes, is amended to provide litigation expenses to fill the void left by repealing Section 621-11 and 801-5(721-5), Hawaii Revised Statutes.

The effective date of the bill is July 1, 1977 to coincide with the effective date of the next biennial budget. That date will also give the Supreme Court an opportunity to review and revise the rules related to the subject matter of the bill.

Your Committee recommends that this bill be amended by renumbering the appropriate Sections to conform to the correct Sections in the Hawaii Revised Statutes.

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

No. 528, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 528, S.D. 1, H.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 19 on S.B. No. 2139-76 (Majority)

The purpose of this bill is to establish an interim tourism policy to furnish guidance for the orderly and planned growth of tourism for the benefit of the State, its residents and its visitors. The policy is to serve during the interim period required for preparation of the ten-year Controlled Growth Policy Plan for Tourism. The interim tourism policy would be replaced by the policies of the State Plan upon its approval by the Legislature.

Your Committee finds that there is urgent need for adoption of the interim tourism policy in order to (1) provide an optimum of satisfaction and high quality service to tourists, (2) protect the natural beauty of Hawaii, (3) preserve and enrich the understanding, by visitors and residents alike, of our native Hawaiian heritage, as well as the cultural and social contributions to Hawaii of all its ethnic groups and people, (4) sustain the economic health of the visitor industry to the extent that such economic health is compatible with the policy's objectives, and (5) achieve consistency in the innumerable planning and development decisions which will be made by the public and private sectors during the development of the ten-year master plan for the growth of tourism and thereafter.

Your Committee believes that the adoption of the interim tourism policy is necessary because the Hawaii visitor industry is a major component of the economic base of the State, replacing agriculture and defense as the leading growth industry. Since the visitor industry makes a highly significant contribution to the income and employment within our community and causes widespread effects on all public and private aspects of life in the State, declining or undesirable growth of the visitor industry could be detrimental to the quality of life and well-being of our residents. In that regard, your Committee feels that the interim tourism policy will furnish needed guidance to both the visitor industry and the community-at-large.

Your Committee feels very strongly that the needs and life-styles of Hawaii's residents should receive primary consideration whenever the needs of the visitor industry impinge upon the local residents' sector. Accordingly, this bill emphasizes resident preference in the implementation of the interim tourism policy.

After careful consideration, your Committee has amended the bill by not consolidating all tourism matters under a single new chapter 203 and by deleting all references to the establishment of a tourism coordinator as provided in the house draft. Your Committee made these amendments as a result of the Attorney General's opinions regarding the restrictiveness of the bill's title.

Your Committee has further amended the bill to include a subsection which sets forth some of the primary concerns in the future development and expansion of tourism in Hawaii, such as the continuous monitoring of the social costs of growth, the need for tax revenues, and the direction and quality of the State's tourism promotional efforts.

Your Committee feels that the State, as a matter of policy, should provide adequate opportunities for county participation and private citizens' involvement, as well as visitor industry input, in the decision-making process of tourism planning and policy formulation, and therefore, has amended the bill to create an Interim Tourism Advisory Council.

Your Conference Committee is in accord with the intent and purpose of S.B. No. 2139-76, S.D. 1 H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2139-76, S.D. 1, H.D. 1, C.D. 1.

Representatives Machida, Morioka, Lunasco, Kawakami,
Inaba, Ikeda and Medeiros,
Managers on the part of the House.

Senators F. Wong, Toyofuku, Henderson and R. Wong,
Managers on the part of the Senate.
(Senator R. Wong did not concur.)

Conf. Com. Rep. No. 20 on H.B. No. 2371-76

The purpose of this Act is to grant to minors who are or who have been married all the rights, duties, privileges and responsibilities provided under our civil law to a person who has reached the age of majority.

Your Committee feels that for married minors, the strict requirement of attaining the age of 18 works unnecessary hardship and impedes the minor in assuming the responsibilities inherent in his position. So long as the State permits minors to marry and establish their own households as adults, your Committee believes the State has a duty to extend to them the rights necessary to function effectively as adults in this society. Your Committee therefore recommends that married minors be granted the civil rights of adults, apart from drinking and voting, automatically upon marriage.

Your Committee upon further consideration has decided to accept the Senate amendment deleting the reference to Section 571-11(2)(A) and (B) in Subsection (2) of H.B. No. 2371-76, H.D. 1. Due to the passage of S.B. No. 2527-76, S.D. 1, RELATING TO THE FAMILY COURTS, which proposes numerous changes to the Family Court law, it was felt that references to the above-mentioned Subsections (A) and (B) should be omitted.

Your Committee has made minor grammatical amendments to this Act.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2371-76, H.D. 1, S.D. 1 as amended herein and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2371-76, H.D. 1, S.D. 1, C.D. 1.

Representatives Takamura, Roehrig, Cayetano and Medeiros,
Managers on the part of the House.

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

Conf. Com. Rep. No. 21 on S.B. No. 2294-76

The purpose of this bill is to ensure greater public participation in health planning and to provide a permanent vehicle for citizen input into the health planning process, so that the health services plan of the State will be based on informed decision-making. To achieve this purpose, sub-area planning councils are established.

In 1975, the Legislature enacted the Health Resources and Development Act in accordance with federal law to develop a health planning system. The intent of the law was to ensure the greatest amount of public participation in health planning. To do this, a system in which local planning agencies would be responsible for developing health plans in designated areas was established. The local agency health plans would serve as the statewide guide for the development of health services.

Because of its particular geographic and population characteristics, Hawaii was exempted under the federal law from forming local health planning agencies and the state planning agency was designated the agency responsible for health planning. As a result, Hawaii had one agency for health planning.

Your Committee feels that, with the designation of the state agency as the planning agency, public participation in health planning has been limited. Your Committee, therefore, feels that a mechanism should be established to increase such participation.

Your Committee further feels that any system created for public participation in health planning should be in consonance with the present health planning procedure established under Public Law 93-641. The bill adds a new part to chapter 323D, Hawaii Revised Statutes, the state enabling health planning legislation responding to public Law 93-641, the National Health Planning and Resources Development Act.

Your Committee also finds that within fiscal constraints and with the intent of subdividing the State into districts of equal population or geographical configuration, the

number of sub-area councils to be established should provide for the greatest amount of local area participation. Further, where necessary, additional sub-area councils may be established.

With respect to Sec. 3230-13 and the new section added for appointments to the statewide health coordinating council. The appointment of one person from the sub-area councils to the statewide health coordinating council is not intended to limit the governor's authority to appoint other members to the statewide health coordinating council who may also serve on sub-area councils. Such dual membership may occur provided membership of the statewide health coordinating council meets federal requirements.

Your Committee generally agrees with this bill but has made the following amendments:

1. Housekeeping:

   a. The terms "state agency" and "statewide council" as defined by Sec. 323D-2 have been inserted where appropriate.

   b. "Nominate" on page 3, line 19, has been changed to "recommend".

   c. On page 4, line 9, the following sentence has been added: "If any recommendation of any subarea health planning council is not incorporated into a health systems plan, an explanation stating the reasons for non-incorporation shall be appended to that plan."

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2294-76, S.D. 2, H.D. 2, as amended herein, and recommends that is pass Final Reading in the form attached hereto as S.B. No. 2294-76, S.D. 2, H.D. 2, C.D. 1.

Representatives Segawa, Mizuguchi, Stanley, Yuen,
Clarke and Santos,
Managers on the part of the House.

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

Conf. Com. Rep. No. 22 on S.B. No. 79

The purpose of this bill is to enact into law the Uniform Probate Code with appropriate amendments, additions, and deletions.

Your Committee believes that this bill, as amended, substantially improves existing Hawaii law in the fields of wills, trusts, probate, guardians, and multiple-party bank accounts. The bill is the product of an intensive session-long review by legislators, trustees, bankers, judges, and attorneys.

Your Committee has reviewed at great length the informal probate procedures of H.D. 1. Your Committee has been assisted in this review by judges, probate lawyers, and professional fiduciaries. The sole focus of your Committee's deliberations in this area has been to simplify, lower the cost of, and expedite the handling of informal probates.

Your Committee has been advised that approximately 50 per cent of the probates in the first circuit court over the past two years have involved estates with a value of $20,000 or less. This is not surprising since assets held as joint tenants or as tenants by the entirety are not subject to probate. Thus, by permitting informal proceedings for estates of $25,000 or less, H.D. 1 would permit such procedures to be maintained for well over one-half the probates in the State. Nonetheless, your Committee recommends that the maximum value for an estate eligible for informal proceedings be increased to $30,000 (which is one-half the amount which passes free of federal estate tax) so as to increase the number of estates eligible for informal proceedings.

Your Committee has made numerous other refinements to the informal probate procedures contained in H.D. 1. Amongst the most significant of such changes are: (i) requiring the courts to print standard forms which may be used by laymen so that attorneys are not required in informal proceedings (section 3-110); (ii) permitting the court to designate a clerk of the court to serve as the registrar (section 1-201(41));

(iii) permitting the informally appointed personal representative to file his inventory at the closing of the estate, thereby reducing the number of separate filings with the registrar (section 3-706); (iv) permitting the informally appointed personal representative to make final distribution prior to closing (section 3-704); (v) reducing the time permitted for informal probates from two years to one (section 3-1003); and (vi) making clear that an interested person may not compel a transfer from informal to supervised proceedings without good cause (sections 3-502 and 3-1001).

Your Committee has heard testimony to the effect that such steps could lower fees paid to personal representatives and attorneys (if any) by as much as 50 per cent. In addition, newspaper publication in an informal proceeding would only occur upon the filing of the application, whereas present law requires publication thrice: at filing, to notify creditors, and at closing.

Your Committee has also made numerous amendments to Article VII. This Article contains significant new law relating to trusts. It clearly sets forth the jurisdiction of the courts over trustees. Your Committee's draft restricts but does not prevent a beneficiary from seeking removal of a trust (section 3-305), and makes clear the court's power to review the reasonableness of the trustee's compensation for special services upon petition of a beneficiary (section 3-205).

So that all the amendments to S.B. No. 79 made by the Legislature, together with the reasons therefor, are readily available, your Committee has compiled herein all such information. The specific amendments, other than those of a grammatical nature, to the various sections of S.B. No. 79 are as follows:

1. Change: The title of the chapter has been redesignated as the Uniform Probate Code rather than the Hawaii Probate Code.

Reason: H.D. 1 does not depart as markedly from the Uniform Probate Code as may appear at first glance, and your Committee's draft departs even less so. Your Committee heard testimony that it would be a "disservice" for it to call its draft anything other than the Uniform Probate Code. Accordingly, your Committee has retitled the chapter as the Uniform Probate Code, which is the title carried by S.B. No. 79.

2. Change: Section 1-106 is amended to extend the period within which a proceeding must be commenced after discovery of a fraud from 2 years to 6 years.

Reason: Six years is the general statute of limitations in Hawaii (sec. 657-1, Hawaii Revised Statutes), and your Committee sees no reason to accord a shorter statute to perpetrators of a fraud. Also, section 657-20, Hawaii Revised Statutes, establishes a six year statute of limitations on actions involving fraudulent concealment.

3. Change: Section 1-108 is amended to specifically provide that the settlor of an inter vivos revocable trust may excuse the trustee from its duty to register or account to beneficiaries.

Reason: The comment to the Uniform Probate Code provides that this is the effect of this section, but your Committee seeks to clarify this. It is your Committee's intent that, upon the death of the settlor, the trust would have to be registered. Your Committee seeks to accommodate the interests of the settlor in preserving privacy during his life and the interests of the beneficiaries in being fully informed after the settlor's death.

4. Change: Section 1-201 is amended in numerous small respects by adding definitions, renumbering the paragraphs, etc.

Reason: Your Committee believes that the amendments add clarity and organization to this section which defines terms used throughout the Code.

5. Change: Section 1-201(5) is amended by making reference to the circuit court.

Reason: The change is recommended by the Judicial Council. In its official text the Uniform Probate Code contemplates the creation of a probate court with limited jurisdiction. Under the Hawaii judicial system all matters relating to trusts and the estates of decedents are within the jurisdiction of the circuit courts.

6. Change: Section 1-201(28) is amended by substituting "eighteen years of

age" for "the age of majority".

Reason: While the term "age of majority" is found in other sections of the Hawaii Revised Statutes, there appears to be no statutory definition of the term. To avoid any question "eighteen years of age" has been substituted.

7. Change: Section 1-201(37) is amended to refer to civil actions.

Reason: The change is recommended by the Judicial Council in view of the fact that the distinction between law and equity has been abolished in Hawaii.

8. Change: Section 1-201(41) is amended to refer to an appointee of the court serving as the registrar.

Reason: Your Committee seeks to make clear that a clerk of the court may serve as the registrar.

9. Change: Section 1-202(a) is amended to provide that a proceeding under the Uniform Probate Code may be brought in any circuit.

Reason: Your Committee feels that according exclusive jurisdiction to the first court in which a proceeding is commenced may be inconvenient where the interested persons and property of the decedent are located on different islands.

10. Change: Section 1-302 is deleted.

Reason: The deletion of this section is recommended by the Judicial Council. The original text of the Uniform Probate Code contemplates a probate court of limited jurisdiction as defined in this section. The jurisdiction of the circuit court is defined in section 603-21.6, Hawaii Revised Statutes, which is amended by section 8-104 of S.B. No. 79 to conform the terminology to that of the Uniform Probate Code.

11. Change: Section 1-304 is deleted.

Reason: The Judicial Council recommends the deletion of this section upon the ground that Article V, Section 6, of the Hawaii Constitution gives the Hawaii Supreme Court exclusive power to promulgate rules in all civil actions and that the legislature is without power to direct the application of the rules promulgated by the court.

12. Change: Section 1-308 is deleted.

Reason: The Judicial Council recommends the deletion of this section for the reasons mentioned under section 1-304.

13. Change: Section 1-309 is deleted.

Reason: The Judicial Council recommends the deletion of this section in view of the fact that "the court" referred to in S.B. No. 79 is a division of the circuit court.

14. Change: Section 1-401 is amended by including informal applications within its purview, by deleting the reference to a hearing in the second line, by tightening the standards for mailed notice and by making reference to personal service.

Reason: Your Committee's draft requires notice in informal proceedings, thereby making mandatory the reference to applications which are used in such proceedings. Your Committee's draft requires notice in situations wherein no hearing is required (e.g., opening and closing an informal probate), hence the reference to a hearing is inappropriate. Your Committee doubts that ordinary first class mail is a good method of effective delivery and therefore deleted the reference to such. Rule 5 of the Hawaii Rules of Civil Procedure deals with service, and your Committee intends to incorporate the provisions thereof by specific reference to service, which service for purposes of this bill may but is not required to be made by the sheriff of the State.

15. Change: Section 2-102 dealing with the surviving spouse's share in the case of intestacy is amended in numerous respects.

Reason: The amendments conform more closely to existing Hawaii law found

in section 532-4, Hawaii Revised Statutes, which existing law your Committee believes more adequately reflects the desires of persons dying without wills.

16. Comment: Your Committee has been questioned why a surviving spouse should be entitled to one-half of the estate if the decedent left no will (section 2-102) and only one-third of the estate if the decedent left a will disinheriting the survivor (section 2-201). There is logic to the distinction, for in the former case there is no indication that the decedent sought to disinherit the survivor, while in the latter case such was apparently the decedent's intent and the surviving spouse is being permitted to take against the decedent's estate plan. Note that a surviving spouse who married the decedent after he prepared a will takes her one-half intestate share under section 2-301 unless it appears that the decedent intended that the spouse be disinherited, in which case the surviving spouse is limited to asserting her elective share.

17. Change: Section 2-103 dealing with the share of other than the surviving spouse in the case of intestacy is amended in numerous respects.

Reason: The amendments conform more closely to existing Hawaii law, which existing law your Committee believes more adequately reflects the desires of persons dying without wills. Specifically, your Committee's language retains the existing Hawaii law providing that, where the estate of an intestate decedent without surviving spouse, issue or parents has come by inheritance through one side of the family, that side takes to the exclusion of the other side unless application of this rule would result in an escheat to the State. The reference to representation in paragraph (3) is recommended by the Judicial Council.

18. Change: Section 2-104 is deleted.

Reason: Your Committee believes that deeming that one who dies within 120 hours after the death of the intestate died before the intestate for purposes of intestate succession, etc., is unnecessary and confusing. Any such legislation should be studied in concert with chapter 584, Hawaii Revised Statutes, the Uniform Simultaneous Death Act, and should be enacted only if such study demonstrates a real need therefor.

19. Change: Section 2-107 has been amended to exclude relatives of the half-blood from taking property from ancestors with whom they have no blood relationship.

Reason: The amendment conforms to section 532-8, Hawaii Revised Statutes, which your Committee feels to be the more likely desire of most families.

20. Change: Section 2-109 has been amended to conform to chapter 584, Hawaii Revised Statutes, the Uniform Parentage Act.

Reason: The amendment insures that no conflict exists between the Uniform Probate Code and other Hawaii laws relating to the relationship of parent and child.

21. Change: Section 2-113 is deleted.

Reason: This section would abolish the estates of dower and curtesy. In view of the fact that estates of dower or curtesy may exist, not yet admeasured, on the effective date of the Uniform Probate Code, it is felt that it is inappropriate to abolish the estates entirely. By virtue of amendments of the appropriate provisions of the Hawaii Revised Statutes made by section 8-102 of S.B. No. 79, no new estates of dower or curtesy in property of decedents dying after the effective date of Articles II, III, and IV of the Uniform Probate Code may come into existence except where inchoate dower exists on such effective date.

22. Change: A new section numbered 2-114 is added which deals with the situation which may occur if a person is related to an intestate through two lines, in which event he would take only under the line which entitles him to the larger share.

Reason: The amendment is recommended by the Editorial Board of the Uniform Probate Code to resolve an ambiguous area of the Uniform Probate Code as originally promulgated.

23. Change: Section 2-201(a) is amended by deleting the reference to the augmented estate.

Reason: Your Committee prefers the existing practice of according the surviving

spouse protection against disinheritance by permitting him or her to claim only against the decedent's probate estate.

24. Change: Section 2-202 is amended by deleting the reference to the augmented estate.

Reason: See the discussion of section 2-201(a) above.

25. Change: Section 2-205 is amended to delete the reference to the augmented estate and by clarifying the procedures for making an election.

Reason: See the discussion of section 2-201(a) above. The period for filing the election is redefined in accordance with the recommendation of the Editorial Board of the Uniform Probate Code ("Editorial Board").

26. Change: Section 2-206 is amended as recommended by the Editorial Board.

Reason: The amendment is for the purpose of clarification, and entitles the surviving spouse to homestead allowance, exempt property and family allowance irrespective of any renunciation of other benefits.

27. Change: Section 2-207 is amended.

Reason: The amendment is to conform to the elimination of the augmented estate.

28. Change: The amount of exempt property in section 2-402 is increased from $3,500 to $5,000, and reference is made to the fact that such property must be taken in kind.

Reason: Your Committee felt that a $3,500 limit on exempt property was unreasonably low in this State. At the same time, since the traditional purpose of exempting certain types of property was to insure that all the personal possessions of the decedent were not consumed in paying debts, your Committee seeks to implement this purpose by specifying that exempt property be taken in kind.

29. Change: Sections 2-403 and 2-404 are amended to make clear that the maximum family allowance is $6,000.

Reason: Since the family allowance, like the homestead allowance and exempt property, has priority over claims, your Committee thinks it advisable that a ceiling on the amount of the allowance be set. The $6,000 figure is that which the Uniform Probate Code recommends.

30. Change: Sections 2-501 and 2-504 are amended by substituting "eighteen or more years of age" for "the age of majority".

Reason: See discussion of section 1-201(28) above.

31. Change: Sections 2-502 and 2-513 are amended by deleting the reference to holographic wills.

Reason: See discussion of section 2-503 below.

32. Change: Section 2-503 is deleted.

Reason: Your Committee prefers the present Hawaii law which requires two witnesses for a document to serve as a will.

33. Change: Section 2-504 is amended to accord parity of treatment between a self-proved will from another state and a self-proved will from Hawaii. The form for self-proving must be exactly in the statutory form, not substantially as provided in the Uniform Probate Code.

Reason: Equating the treatment between in and out-of-state self-proved wills is recommended by the Editorial Board of the Uniform Probate Code. Your Committee has declined to adopt a further recommendation of the Editorial Board to the effect that witnesses to a self-proved will would not have to sign once as witnesses and a second time for the sake of the notarial certificate. Your Committee sees no great hardship in requiring two signings and, in fact, feels that the second signing before

a notary adds desirable solemnity to the occasion. Your Committee further believes that requiring the form for self-proving of wills to be exactly rather than substantially as prescribed by statute will avoid unnecessary questions about what constitutes "substantial" compliance.

34. Change: Section 2-506 is amended by deleting a reference to section 2-503.

Reason: Section 2-503 is deleted.

35. Change: Section 2-507 is amended by permitting the partial revocation of a will only by a writing.

Reason: The Uniform Probate Code permits partial revocation by burning, tearing, cancelling, obliterating or destroying. Your Committee feels that too many factual questions would be raised if a physical act on the will were permitted to effect a partial revocation thereof.

36. Change: Section 2-509(a) is amended by adopting the present Hawaii law found in section 536-10, Hawaii Revised Statutes, to the effect that the destruction of a second will which revoked a prior will does not revive the prior will unless it is re-executed with testamentary formalities.

Reason: Your Committee believes that the certainty of the existing Hawaii law is preferable over the evidentiary problems which may arise under the Uniform Probate Code's language. An example is this: testator executes a will, thereafter executes a codicil affecting one paragraph of the will, and later destroys the codicil. Under the Uniform Probate Code language, the relevant paragraph of the first will is revived if there is evidence that such was the testator's intention. Under your Committee's language, the relevant paragraph is revived only by a writing signed by the testator and two witnesses under section 2-502.

37. Change: Section 2-513 is amended by restricting the situations in which a testator may dispose of tangible personalty without testamentary formalities.

Reason: Your Committee's draft permits the testator to make changes to a list bequeathing tangible personalty so long as the list meets the standards for incorporation by reference and so long as the changes to the list after execution of the will are in the testator's handwriting and are signed by him.

38. Change: Section 2-601 is deleted.

Reason: This deletion conforms with the deletion of section 2-104. Your Committee feels even more strongly concerning the 120-hour provision in this instance than in the the case of section 2-104, for if the decedent desired any such result he would have so provided in his will. Proposing such a result by legislation may have the unintended effect of distorting a decedent's death tax planning by denying him a marital deduction.

39. Change: Section 2-602 is deleted.

Reason: Your Committee is disinclined to have our courts bound by the testator's choice of law for the simple reason that your Committee does not know the laws of the other 49 states relating to testamentary dispositions and does not want to bind our courts to laws of which it has no knowledge.

40. Change: Section 2-605 is amended by deleting the reference to 120 hours.

Reason: The deletion conforms to the deletion of sections 2-104 and 2-601.

41. Change: Section 2-608 is amended by rearranging its subsections.

Reason: This amendment is recommended by the Editorial Board to clarify ambiguities in the Uniform Probate Code as originally promulgated.

42. Change: Section 2-611 is amended by making specific reference to the sections which deal with half-bloods, illegitimates, and adopted persons, and by deleting the last sentence.

Reason: Your Committee feels that the addition of the specific sections clarifies the intent of the section. The deletion is to avoid overlap with chapter 584, Hawaii

Revised Statutes, the Uniform Parentage Act.

43. Change: Section 2-801 is amended in numerous technical aspects.

Reason: The amendments are recommended by the Editorial Board of the Uniform Probate Code for the sake of clarity.

44. Change: Section 2-803 is amended to make specific reference to those sections of the Penal Code which, if violated, would cause a person to lose benefits flowing to him on account of the decedent's death.

Reason: Your Committee feels that a person should not receive benefits from a decedent if he either murdered the decedent or intentionally caused the decedent to commit suicide.

45. Change: Section 2-901 is deleted.

Reason: Your Committee does not wish to burden the Judiciary with the task of being a custodian of wills.

46. Change: Section 3-102 is amended by deleting the provisions under which an unprobated will may be used as evidence of a devise.

Reason: Your Committee feels that, if a will is to be used as evidence of the passage of title, it should be subjected to judicial scrutiny and approval in a probate proceeding. See e.g., In re Kaiena's Estate, 24 Haw. 148 (1917).

47. Change: Section 3-105 is substantially amended.

Reason: The language of this section, as amended by S.D. 1, was recommended by the Judicial Council as a substitute for section 3-106, in view of the fact that the original text was designed to apply to a court of limited jurisdiction rather than to a court of general jurisdiction such as the circuit court. The substitution has been made in section 3-105, the original title of which appears to be more appropriate to the subject matter.

48. Change: Section 3-107 is amended to require that all probate proceedings be continuous actions which begin with an application (informal) or petition (supervised) for probate of a will or adjudication of an intestacy and appointment of a personal representative.

Reason: Your Committee's draft conforms with existing Hawaii law and is made necessary by your Committee's amendments elsewhere in Article III which require a probate proceeding to have both a beginning and an end.

49. Change: Your Committee's draft of section 3-108 effects many changes: first, it establishes a basic rule that, except for ancillary probates, no informal or formal proceeding to probate a will may be commenced more than 5 years after the decedent's death (see, e.g. section 531-5, Hawaii Revised Statutes); second, it establishes the following significant exceptions to and modifications of that rule: (i) a proceeding to declare an intestacy may be commenced at any time if a proceeding to probate a will was not commenced within that 5-year period; (ii) a person who was a minor during the important stages of a prior probate proceeding has one year after reaching the age of majority within which to contest (either by offering a will or by arguing for a declaration of intestacy) the prior proceeding if he stands to share in the estate if his contest is successful and if the prior probate proceeding is not res judicata as to him (see, e.g. section 531-5, Hawaii Revised Statutes); and (iii) a person who does not receive notice of a probate proceeding as required by section 1-401 has one year after learning of the prior proceeding within which to contest that proceeding if he stands to share in the estate if his contest is successful and if the prior probate proceeding is not res judicata as to him.

Reason: Your Committee is attracted to the Uniform Probate Code's attempt to add certainty to probate proceedings by setting an absolute bar to actions commenced more than a specified number of years after the decedent's death, but your Committee is reluctant to impose that bar on minors whose interests were unrepresented in the prior proceeding and on persons who had no notice of the prior proceeding. Section 3-108(c) is designed to preserve the rights of a person who has not had his day in court to have a determination of heirs for a quiet title or other proceeding. There is much land in this State as to which the title is cloudy, and your Committee intends

that possible claimants not be bound by the mistakes of their ancestors who were denied the opportunity to participate in prior proceedings establishing heirship.

50. Change: A new section 3-110 has been added which instructs the registrar to prepare and make available forms for the opening and closing of informal probates.

Reason: Your Committee seeks to make the informal procedures as simple as possible. It envisions the creation and dissemination of informal probate forms bereft of legal jargon so that attorney0 need not be involved in informal proceedings. Your Committee is aware of the excellent job which the Judiciary has done in implementing and publicizing the small claims procedures and your Committee is confident that a similar effort will be mounted in the informal probate field.

51. Change: Section 3-201 is amended to permit venue for the first probate proceeding to be in a circuit in which the decedent owned real property as well as in the circuit in which the decedent was domiciled.

Reason: Your Committee feels that there may be instances where a decedent lived in one circuit but had the bulk of his estate in realty in another circuit. In such cases, your Committee does not believe that probate proceedings should be required to be initiated in the circuit wherein the decedent was domiciled.

52. Change: Section 3-202 has been amended to accord Hawaii courts more discretion concerning the maintenance of proceedings here in situations involving multi-state estates.

Reason: Your Committee prefers that Hawaii courts have the opportunity to treat domicile questions in multi-state estates on a case-by-case basis rather than imposing an iron-clad rule that the first state in which probate proceedings were initiated may make a binding determination of the decedent's domicile.

53. Change: Section 3-203 is amended by (i) according children of the decedent priority for appointment as personal representatives, (ii) making clear that the court is not required to appoint as a personal representative a person nominated by persons entitled to more than one-half the estate, (iii) deleting the last sentence of paragraph (e), and (iv) adding a reference to section 3-601.

Reason: Your Committee believes that the first amendment more adequately reflects the probable desire of intestates. Your Committee's second amendment (paragraph (b)(2)) is for the sake of clarity and does not alter the effect of the original language. Your Committee's third amendment (paragraph (e)) is made necessary because your Committee's draft does not permit probate proceedings to be commenced without administration by a personal representative. Your Committee's fourth amendment (paragraph (f)) refers to the new qualification requirements for a personal representative which your Committee has inserted in section 3-601.

54. Change: Section 3-204 is amended in minor respects.

Reason: Your Committee feels that the amendments add clarity.

55. Change: Your Committee has made numerous substantive amendments to section 3-301, which amendments: (i) make clear that only estates with a value of $30,000 or less may be informally probated, (ii) require the applicant to estimate the gross value of the decedent's estate in his application and notice, (iii) require that notice of the pendency of informal proceedings be delivered to persons likely to have an interest in the estate, (iv) identify the contents of published notice, (v) require the appointment of a personal representative, and (vi) permit the informal application to raise any issues concerning entitlement to allowances and exempt property.

Reason: The Uniform Probate Code seeks to simplify and expedite the wrapping up of the affairs of a decedent, but your Committee feels that it eliminates too many safeguards in the process. Your Committee recommends: (i) that the jurisdiction of the small estates clerk under section 531-51, et. seq., Hawaii Revised Statutes, be increased from $3,000 to $10,000, (ii) that informal probate be permitted only for estates with a gross value of $30,000 or less, (iii) that informal probate proceedings require prior notice to persons likely to be affected thereby, (iv) that interested persons have the option with good cause to require that informal probate proceedings be discontinued and formal proceedings be commenced either for the duration of the probate or for the adjudication of a particular issue, (v) that informal proceedings be closed by an order of distribution, and (vi) that supervised probate proceedings

under the continuous supervision of the court be required for estates with a gross value in excess of $30,000. It should be noted that a person is not required to apply for statutory allowances or exempt property in the initial informal application, but has the option of doing so. The scope of published notice referred to in section 3-301(d) is designed to permit the personal representative to close an informally probated estate without further expensive publishing of notices (see section 3-1003(a)(5)).

56. Change: Section 3-302 is amended to make clear that a personal representative must be appointed in a probate proceeding.

Reason: This change effects your Committee's feeling that every probate proceeding must have a personal representative to administer it.

57. Change: Section 3-302 has been amended to specify with greater clarity when the register may issue a written statement admitting a will to informal probate.

Reason: Since section 1-401 requires three publications not less than one week apart, the last not less than 10 days prior to the registrar's admission of a will to informal probate, your Committee feels that it is prudent to require the registrar to withhold his statement admitting the will to probate until interested persons have a chance to respond.

58. Change: Section 3-303 is amended to conform to the revised application described in section 3-301.

Reason: The amendment is necessary in view of your Committee's changes to section 3-301.

59. Change: Section 3-306 is deleted.

Reason: Since your Committee's draft requires notice at the commencement of the proceeding, this section is superfluous.

60. Change: Section 3-307 is amended by deleting the requirement that there be a 120-hour delay after death before a probate proceeding may be commenced.

Reason: The purpose of the 120-hour delay in S.B. No. 79 was to give time for interested persons to learn of the death. Your Committee's draft handles this directly by requiring notice.

61. Change: The amendments to sections 3-308, 3-309, 3-310, and 3-311 parallel the amendments to sections 3-303, 3-305, 3-306, and 3-304, respectively.

Reason: See the reasons for the amendments to sections 3-303 through 3-306.

62. Change: Section 3-401 is amended to make clear that it applies to estates with a value of $30,000 or less and to specify the types of orders grantable.

Reason: Part 4 has a very narrow application: it is the procedure by which disputes which arise in an informal ($30,000 or less) probate proceeding can be resolved by a court after notice and hearing without the necessity of converting the proceeding to a supervised (Part 5) proceeding. Typical questions which might arise would concern whether or not the value of the estate is equal to or less than $30,000, the validity of the will, the heirs of an intestate decedent, etc. Your Committee desires to make clear that the itemization of the types of orders which may be granted is not intended to be exclusive, for this section is designed to resolve any disputes which may arise in an informal probate.

63. Change: Section 3-402 is amended to identify with clarity the contents of petitions to initiate formal testacy proceedings.

Reason: Your Committee feels that the increased specificity of its draft more clearly delineates the types of proceedings maintainable under Part 4.

64. Change: Section 3-406(b) is amended by deleting the reference to a conclusive presumption.

Reason: Your Committee feels that the presumption of compliance with signature requirements should be subject to rebuttal.

65. Change: Section 3-407 is amended by making clear that the court has power to consolidate different probate proceedings concerning a decedent's estate.

Reason: Your Committee desires to make clear the court's power to consolidate all proceedings concerning a decedent's estate.

66. Change: Section 3-412 is amended to make specific reference to the time limits contained in section 3-108.

Reason: Since your Committee's draft of section 3-108 details with specificity the circumstances under which the findings in a prior probate proceeding may be altered, your Committee feels that reference to that section adds clarity.

67. Change: Section 3-502 is amended to make clear that supervised administration is required for estates over $30,000 and by including a provision permitting the court to deny a petition for supervised administration if it determines that the best interests of the estate dictate that informal procedures be maintained.

Reason: Your Committee seeks to make clear that estates which are eligible for informal procedures can only be transferred to more costly formal procedures at the request of any interested person if good cause exists for such transfer. A personal representative, however, need not establish good cause for seeking supervised administration. See also the amendment to section 3-1003(b).

68. Change: Section 3-504 is amended by making clear that a partial distribution need not be preceded by a court order.

Reason: The change preserves existing Hawaii law and is designed to reduce costs by eliminating unnecessary court appearances. The liabilities of personal representatives and distributees for improper distribution (see sections 3-909, 3-1004, 3-1005, and 3-1006) are not affected by the amendment.

69. Change: Your Committee has made substantial amendments to section 3-601, which amendments make clear: (i) that an individual must be a resident of Hawaii in order to serve as a personal representative, (ii) that a corporation, in order to so serve, must be actually doing business in Hawaii prior to serving as a personal representative, and (iii) that, if a corporate personal representative is not a trust company or a bank, it must post a bond and satisfy the court that it will be able to effectively serve as personal representative.

Reason: A requirement of residency for an individual personal representative is a continuation of existing Hawaii law. Permitting a corporation other than a trust company or a bank to serve as a personal representative is a change in Hawaii law. Your Committee wishes to accord Hawaii residents a broader choice of corporate personal representatives. Your Committee has included safeguards to insure that the non-trust company and non-bank corporate personal representatives are capable of serving as such with minimal risk to the estate: first, the court has discretion to decline to appoint one if it does not meet certain standards, which standards are derived in part from the standards required of trust companies by chapter 406, and, second, the court must require a bond from such corporations. Your Committee desires to make clear its legislative intent that this section does not authorize companies other than banks or trust companies to engage in the trust business, but rather only permits such other companies to serve as personal representatives under the conditions specified in the section.

70. Change: Section 3-601(c) (which contains the language found in original section 3-601), has been amended by deleting the requirement for the filing of a statement of acceptance by a personal representative who was the applicant or petitioner.

Reason: A statement of acceptance in a circumstance where an applicant or petitioner is appointed as personal representative pursuant to his application or petition is superfluous.

71. Change: Section 3-602 is amended by requiring notice of any proceeding against the personal representative to be delivered to the personal representative's attorney as well as the personal representative himself.

Reason: This conforms with existing practice of serving pleadings on the attorney.

72. Change: Section 3-603 is amended so as to make clear that a bond is required of a nonfiduciary corporate personal representative as discussed under the change to section 3-601 above, and to make clear that the court or the registrar always has discretion to require a bond. The last sentence appearing in S.B. No. 79 has been deleted.

Reason: Your Committee feels that the amendments add clarity, and the deleted sentence has no application in Hawaii.

73. Change: The language in section 3-604 is rearranged.

Reason: Since all applications and petitions require an estimate of the value of the estate, the language of S.D. 1 which suggests that such estimate may not be so included is inappropriate.

74. Change: Section 3-605 is amended to make clear that, notwithstanding demand by an interested person, the registrar or the court is not required to have a bond posted.

Reason: The Committee feels that the amendment adds clarity.

75. Change: Section 3-606(a)(1) has been amended to have the judge presiding over the probate calendar, or his successor, be named as obligee on a bond.

Reason: This conforms with existing Hawaii practice.

76. Change: Section 3-606(a)(2) is new.

Reason: This new language is designed to insure that a bond is not so worded that the surety is excused in the event that the personal representative defaults in the performance of his duties. Your Committee is aware, for instance, that some bonds now being used excuse the surety if the executor or administrator fails to timely file his accounts. Failure to file accounts is the first indication that something might be amiss, and it is totally nonsensical to permit a bond which excuses the surety from liability as soon as it appears that the risk insured against may materialize.

77. Change: Section 3-606(a)(5) makes reference to service on out-of-state sureties in the manner provided by chapter 634.

Reason: This amendment is designed to harmonize service upon sureties under the probate law with service on other nonresidents under general Hawaii law.

78. Change: Section 3-610 has been amended to provide that termination of the appointment of an informally appointed personal representative occurs in the same manner as termination for one who is formally appointed.

Reason: Your Committee's draft requires orders discharging both formally and informally appointed personal representatives, thereby negating the need to have different methods of terminating their appointments.

79. Change: "Acceptance" is substituted for "qualification" in sections 3-613 and 3-616.

Reason: A personal representative is required by section 3-601 to accept his appointment. Therefore, it makes sense that he not be treated as a personal representative until he has done so.

80. Change: Sections 3-704, 3-711, and 3-715 are amended by making reference to section 3-504 and Hawaii Revised Statutes section 531-29.

Reason: Your Committee seeks to preserve the existing Hawaii law which requires that sales of property in probate be confirmed by the court. In addition, your Committee seeks to make clear that an informally appointed personal representative may make final distribution prior to closing.

81. Change: Section 3-705 is deleted.

Reason: Since your Committee's draft requires notice at the time of the commencement of probate proceedings, this section which requires notice after a personal representative is appointed is unnecessary.

82. Change: Section 3-706 is amended to: (i) reduce the period within which the personal representative shall file an inventory from three months to thirty days; (ii) require the personal representative to file the inventory with the court, but permit the informally appointed personal representative to so file his inventory as late as the closing of the estate; and (iii) provide for a transfer from informal to supervised proceedings in the event that the inventory reveals an estate in excess of $30,000.

Reason: Personal representatives now have thirty days within which to file an inventory, and your Committee does not believe that such requirement is unreasonable for supervised personal representatives. Your Committee's draft requires filing the inventory with the court since (i) the court will ultimately have to issue a closing order and therefore has need to know what was in the estate, and (ii) the court needs to know in proceedings commenced informally whether or not the estate is $30,000 or less. The provisions for transfer of a probate proceeding from an informal to a supervised proceeding are designed to accommodate the situation wherein the personal representative believes that the assets are under $30,000 and therefore so states in his application, but discovers at the time of inventory that the value is in excess of $30,000.

83. Change: Section 3-707 is amended to include reference to an appraiser appointed by the court.

Reason: Your Committee desires to make clear its legislative intent that said section is not intended to prevent a personal representative from hiring his own appraiser, but rather, is intended to empower the registrar or the court to appoint an appraiser if it questions the accuracy of the value attributed to an estate asset. As a practical matter, your Committee anticipates that most such court-ordered appraisals will occur when the inheritance tax unit of the state tax office questions the value of an estate asset.

84. Change: Section 3-708 is amended to conform with the changes to sections 3-706 and 3-707.

Reason: See reasons for amendment of sections 3-706 and 3-707.

85. Change: Section 3-713 is amended to require that any transaction between the personal representative and the estate be approved by the registrar or the court, and any transaction entered into without such approval is voidable.

Reason: Your Committee feels that it is desirable that transactions involving a conflict of interest be subjected to judicial scrutiny. The judicial review may be made at the time of approval of final accounts.

86. Change: Section 3-715(21) has been amended to include a reference to appraisers.

Reason: See comment to section 3-707 above.

87. Change: Section 3-719 is amended to make clear that the compensation paid the personal representative shall appear in his final accounts and shall be therefore approved by the court.

Reason: Your Committee feels that the amendment adds clarity. Your Committee recognizes that providing for reasonable fees rather than a statutory schedule will effect a major change in probate practice. Your Committee feels, however, that the United States Supreme Court decision in Goldfarb v. Virginia State Bar, ___U.S.___, 44 L Ed 2d 572 (1975), casts a shadow over fixed fee schedules. Regardless of the Goldfarb decision, however, your Committee feels that the personal representative should be compensated fairly for the work performed in every case, and the statutory fee schedule is at best an estimate of what constitutes fair compensation in a typical probate proceeding. Your Committee envisions that the courts will continue to look to the repealed statutory fees as a guide in determining a fair rate of compensation in the typical probate for personal representatives. Your Committee does not envision the registrar or the court requiring any evidentiary hearing on the reasonableness of the compensation of the personal representative or his employees unless either there is an objection from an interested person or the compensation appears to the registrar or the court on the face of it to be out of line with the work performed.

88. Change: Section 3-721 is amended to delete the reference to a special hearing for review of the propriety and compensation of an employee of the estate.

Reason: In view of the fact that the final accounts must be approved by the registrar or the court, a special hearing is unnecessary. As to the questions regarding the reasonableness of fees, your Committee's views are expressed in its comments under section 3-719 above.

89. Change: Section 3-801 is amended to (i) permit the notice to creditors to be published as a part of any notice published at the commencement of probate proceedings, and (ii) require that a nominee who is not appointed as personal representative turn over to the person who is so appointed all claims received.

Reason: Your Committee seeks to reduce the costs of probate proceedings by permitting a consolidation of any required notice of the pendency of the proceedings and the notice to creditors.

90. Change: Section 3-802 is amended by requiring only the consent of people whose interests are affected to a waiver of a statute of limitations.

Reason: The change is recommended by the Editorial Board and is designed to preclude an interested person whose interest is not adversely affected from preventing a waiver of a statute of limitations.

91. Change: Section 3-803(c)(1) is amended by adding reference to a "secured interest", and section 3-803(c)(2) is amended by including a statute of limitations for a claim against a liability insurer.

Reason: The amendment to section 3-803(c)(1) is intended to make more inclusive the language of S.D. 1. The amendment to section 3-803(c)(2) establishes the regular two-year tort statute of limitations for claims against a liability insurer of the decedent. The language of S.D. 1 says that claims against a liability insurer are not barred by the four-month nonclaim statute, but does not establish what statute of limitations applies. Your Committee's addition clarifies this point.

92. Change: Section 3-804(3) is amended by adding the requirement that any mailed notice must be by registered or certified mail and by increasing the period within which suit must be filed on a rejected claim from 60 to 90 days.

Reason: Your Committee feels that requiring registered or certified mail better insures that the notice will be received. Your Committee also feels that requiring suit on a rejected claim within 60 days puts too much of a burden on claimants.

93. Change: Section 3-805 is amended by inserting the homestead and family allowances and exempt property as items of priority.

Reason: Your Committee feels that the Uniform Probate Code is not as clear as it might be regarding priority. (See sections 1-201(4), 2-401, 2-402, 2-403, and 3-805.) Your Committee's language makes clear that amounts owing under sections 2-401 and 2-403 and property covered by 2-402 are to be paid and transferred prior to payment of claims.

94. Change: The title of section 3-806 is amended by making reference to the disallowance of claims. The body of section 3-806(a) is amended to make clear that the personal representative is not required to mail a disallowance and to increase from 60 to 90 days following the disallowance the period within which the claimant must sue. The last sentence of paragraph (a) has been deleted.

Reason: The title change is for clarity, as is the additional language in line 4. The change from 60 to 90 days is to conform with the change in section 3-804(3). The last sentence of paragraph (a) would give to the failure of a personal representative to mail notice of action on a creditor's claim the effect of an allowance of the claim. It is felt that the danger that estates will suffer from the inadvertent allowance of claims outweighs the advantage to creditors of enforcing expeditious action on their claims. A creditor may institute legal proceedings for the allowance of his claim without awaiting notice of its rejection.

95. Change: Section 3-807(b) is amended to make clear that a personal representative suffers no personal liability for paying claims without regard to their priority if the estate in fact does pay all claims of equal or greater priority.

Reason: Your Committee feels that the additional language adds clarity without affecting the substance.

96. Change: Section 3-808 has been amended to continue the common law rules concerning the contractual and tort liability of a personal representative.

Reason: H.D. 1 preserved the common law rules in the case of trustees (see section 7-306), and this amendment, together with the amendment to section 5-429, provides for comparable treatment for other fiduciaires.

97. Change: Section 3-812 is amended by making reference to "other secured interest".

Reason: Your Committee intends to make more inclusive the language of S.D. 1.

98. Change: Section 3-816 is amended by adding a reference to the registrar and section 3-1003.

Reason: Your Committee's draft requires closing orders in both informal and supervised administration, thereby making necessary the reference to the closing order in an informal proceeding.

99. Change: Section 3-901 is amended by deleting the reference to "no administration" and providing that title to the decedent's property is established by the order of distribution.

Reason: Section 3-901 of S.B. No. 79 envisions an informal probate in which no personal representative is appointed. Since your Committee's draft requires both appointment and a closing order, the S.D. 1 language is inappropriate.

100. Change: Section 3-902 of S.B. No. 79 provides that realty and personalty abate equally, whereas your Committee's draft calls for personalty in one class of property to be abated prior to realty in the same class.

Reason: Your Committee feels that, given the importance of realty in Hawaii, most decedents would desire that personalty be abated before realty. See, e.g., Hawaiian Trust v. Wilder, 46 Haw. 436 (1963).

101. Change: Section 3-904 is deleted.

Reason: Your Committee prefers the common law case-by-case determination of whether or not devises bear interest. See, e.g., Estate of Wilder, 9 Haw. 492 (1894).

102. Change: Section 3-906(b) is amended by adding the requirement that any mailed notice must be by registered or certified mail and by specifying that the court, in the interest of fairness, may order distribution other than as proposed by the personal representative.

Reason: Your Committee feels that requiring registered or certified mail better insures that the notice will be received. Your Committee also feels that, in the interest of fairness, the court should have the discretion to order distribution other than as proposed by the personal representative.

103. Change: Section 3-907 is amended by deleting reference to the personal representative executing an instrument of conveyance for a distribution in kind and substituting therefor reference to a court order.

Reason: Your Committee's draft requires a court order of distribution, which order is the evidence of the distributee's title.

104. Change: Section 3-908 is amended by substituting "order" for "deed or instrument" and by making such order only evidence of the distributee's succession to the estate's interest in property, rather than "conclusive" evidence.

Reason: The substitution of "order" here and in section 3-910 is to conform to the change in section 3-907. The deletion of the reference to "conclusive" evidence is intended to give the courts broader discretion in weighing the evidence in the event of any dispute.

105. Change: Section 3-910 is amended by (i) inserting the requirement that the purchaser, lender or transferee be without actual notice of the impropriety of

the distribution, (ii) inserting reference to a transferee from the distributee, and (iii) deleting the statement that the recipient need not inquire as to the propriety of the distribution.

Reason: Your Committee's new language discussed in (i) makes clear that the recipient is a bona fide taker if he is to avoid liability for returning improperly distributed property. The language discussed in (ii) is recommended by the Editorial Board in order to extend the protection accorded herein to transferees from the distributee. Your Committee's deletion of the last sentence and its refusal to add additional language recommended by the Editorial Board is not intended to suggest that a purchaser or lender is required to investigate the propriety of a distribution, but rather, is to leave to the common law and the conscience of the court whether or not the facts of any particular case are such as to have indicated that a prudent person would have investigated the propriety of a distribution.

106. Change: Section 3-911 is deleted.

Reason: The Judicial Council recommends the deletion of this section to avoid conflict with chapter 668, Hawaii Revised Statutes.

107. Change: Section 3-914 is deleted.

Reason: The Judicial Council recommends deletion of this section to avoid conflict with chapter 665, Hawaii Revised Statutes.

108. Change: Section 3-1001 has been substantially reorganized and amended, the effect of which is: (i) to require a petition to close an estate within two years after the appointment of the personal representative, (ii) to require that the testacy status, accounts, and distribution be determined, approved, and ordered, and (iii) to permit a closing as described in paragraph (a) to be undertaken either upon the request of an informally appointed personal representative or upon the petition of an interested person and the finding of good cause by the court.

Reason: Your Committee feels it desirable that a limit be set on the time necessary to probate an estate. Present Hawaii law establishes a one-year limit, which limit seems unreasonable on the face of it in view of the fact that the inheritance tax record is not required to be filed until eighteen months following the decedent's death. Your Committee envisions that the order under this section approving the accounts, ordering distribution, and discharging the personal representative will be similar in effect to that now utilized in our probate proceedings. Your Committee also seeks to make clear (i) the power of an informally appointed personal representative to switch to a supervised closing at his discretion, and (ii) the power of the court to deny the petition of any other party to switch from an informal to a supervised closing. Your Committee anticipates that the court would deny such a petition if it felt that a supervised closing was not in the best interests of the estate or its beneficiaries.

109. Change: Section 3-1002 has been deleted.

Reason: Section 3-1002 in S.B. No. 79 envisions the closing of an estate in which there is no order determining whether the decedent died with or without a valid will. Your Committee's draft requires that the testacy status be determined at the outset of probate proceedings, with the result that a closing within the meaning of this section would never occur.

110. Change: Section 3-1003 has been substantially amended, which amendments (i) require the personal representative appointed in informal proceedings to apply for an order closing the estate within one year, (ii) require an itemization of income received, expenses paid, and property left in the hands of the personal representative, (iii) require that the personal representative identify the distributees and the property to be received by each, (iv) require service of the pleadings to close the estate upon all interested persons, (v) permit an interested person to file an objection to the pleadings, (vi) direct the registrar to schedule a hearing concerning the closing upon timely receipt of an objection from an interested party, (vii) direct the registrar in other cases to issue an order approving the accounts, ordering the distribution, and discharging the personal representative, (viii) make reference to taxes which may be unpaid at closing, and (ix) provide that an informal closing may be transferred by an interested person to a supervised closing only upon good cause.

Reason: As indicated above, your Committee feels that all probate proceedings should have a beginning and an end. Your Committee's amendments to section 3-

1003 are designed to provide an end to informal proceedings. The basic difference between a closing under sections 3-1003 and 3-1001 is that, in the latter, a hearing is automatically scheduled and occurs, whereas in the former, a hearing only occurs upon objection by an interested person. Since inheritance taxes are not required to be paid until eighteen months after the decedent's death, it is conceivable that the personal representative will not have paid the same as of the time he seeks to close the estate. Rather than have the probate linger, your Committee's draft envisions a closing with a discharge of the personal representative conditioned upon his later proof of payment of taxes, just as personal representatives are presently discharged conditioned upon the filing of receipts by the distributees. Requiring good cause to switch from an informal to a supervised closing is consistent with the amendment to section 3-502 and is designed to keep the costs of probate low.

111. Change: Section 3-1004 has been amended (i) to provide for the joinder of the personal representative in any suit against a distributee by a creditor of the estate, (ii) to make clear that a distributee may be liable to the claimant for an amount in excess of the value of its distribution as provided in section 3-909, and (iii) to make clear that distributees do not contribute pro rata to the recovery of a claimant against any particular distributee if the order approving distribution allocated liability for the claim in some other manner.

Reason: Your Committee feels that joining the personal representative in a lawsuit against the distributee on account of an improper distribution is desirable since a personal representative is presumably the party with best knowledge as to the propriety or lack of propriety of the distribution. The liability of the personal representative is as determined in section 3-1005. The other amendments add clarity.

112. Change: Section 3-1005 has been amended to make clear that it applies to both formal and informal closings and to increase the time within which the personal representative may be sued for breach of his fiduciary duty from six months to two years after the filing of the order discharging the personal representative.

Reason: Since your Committee's draft requires closing orders in both formal and informal proceedings, your Committee feels that it is logical to have the same rules concerning fiduciary liability applied to both situations. The two-year statute of limitations is the standard tort statute in Hawaii.

113. Change: Section 3-1006 is amended so as to be more parallel with section 3-1005 and to raise from one to two years the time within which a distributee may be sued for return of property improperly distributed to him.

Reason: See discussion of section 3-1005 above.

114. Change: Section 3-1008 is amended by deleting the reference to property discovered more than one year after the closing statement has been filed.

Reason: The deleted language only has relevance in the absence of an order closing the estate, and your Committee's draft requires such an order for every estate.

115. Change: Section 3-1101 is amended by (i) deleting the word "formal" in line 5, (ii) adding language referring to a controversy over the testacy status of the decedent, and (iii) deleting reference to unborn, unascertained, or unlocated persons.

Reason: The deletion of "formal" is intended to make clear that, if the estate is $30,000 or less, it may be probated informally even if the compromise agreement has to be approved in a formal proceeding. Adding reference to the testacy status of the decedent is intended to make clear that one of the subjects of a compromise agreement may be whether or not the decedent had a valid will. Deleting reference to unborn, unascertained, or unlocated parties is intended to make clear that they are not bound by a compromise agreement unless their interests are adequately represented by persons similarly situated or by guardians ad litem.

116. Change: Section 3-1102(3) is amended by providing that minor children are bound by a compromise agreement only if represented by a guardian ad litem who approves thereof.

Reason: Your Committee fears that according parents the power to compromise their children's rights may lead to undesirable results, as where the parents stand to profit at their children's expense from the compromise. The court, of course, has the power to appoint a parent as the guardian ad litem and would probably do

so if there was no conflict. Your Committee envisions that a parent would execute a compromise agreement contingent upon appointment as a guardian ad litem, which appointment would be made at the time of approval of the compromise.

117. Change: Part 12 of Article 3 is substantially amended.

Reason: Your Committee is of the opinion that the present Hawaii procedures which entail a clerk of the court handling small estates has worked very well, and your Committee is unwilling to change said procedures. The only criticism of which your Committee is aware is that the jurisdictional amount of the estate administerable by the clerk is too small. Accordingly, your Committee has included as sections 3-1205 through 3-1215 the existing Hawaii small estates provisions found at section 531-51 through 531-61, except your Committee has increased the jurisdictional limit from $3,000 to $10,000 and has made minor changes in terminology to conform with the language of S.B. No. 79.

118. Change: Section 3-1201 is amended to reduce the amount collectable by affidavit from $5,000 to $100 and to change the content of the affidavit.

Reason: Your Committee's draft incorporates in section 3-1201 the provisions now found in section 531-71. Your Committee feels that the much lower amount collectable by affidavit under its draft is warranted in view of the potential for mischief inherently present in an affidavit collection procedure.

119. Change: Sections 3-1203 and 3-1204 are deleted.

Reason: Your Committee feels that the small estates procedures included in sections 3-1205 through 3-1215 adequately cover the field.

120. Change: Section 4-101 is amended to provided that the spouse, parent, or child of the decedent may be the personal representative in ancillary probate proceedings whether or not they are residents of Hawaii.

Reason: Your Committee does not think it necessary to have a Hawaii resident be the personal representative in ancillary probate proceedings so long as a close family member of the decedent is so appointed.

121. Change: Article IV, Part 2, has been amended by the deletion of sections 4-201 through 4-207.

Reason: The deleted sections allow mainland executors, both individuals and corporations, to come to Hawaii and remove Hawaii personal property with virtually no protection for Hawaii creditors, and allow mainland executors of non-resident decedents powers to administer probate property in Hawaii just as a local executor could, when similar privileges are not extended by most states to Hawaii executors.

122. Change: Section 4-301 is amended by inserting the requirement for the filing of an application or petition for appointment and deleting the reference to receiving property of the decedent without appointment.

Reason: Your Committee's draft requires that a foreign personal representative commence proceedings and be appointed in this State in order to obtain the rights of a personal representative under Article 3. Thus, the language of S.B. No. 79 which makes reference to a personal representative collecting assets without being appointed, is no longer appropriate.

123. Change: Section 4-401 is deleted.

Reason: Your Committee prefers to leave it to the courts to determine on a case-by-case basis the effect of a judgment in another state on ancillary proceedings in this State.

124. Change: Section 5-101 and the balance of S.B. No. 79 is amended by deleting the word "conservator" and inserting in its place the words "guardian of the property", and by inserting the words "of the person" after the word "guardian". A definition of "guardianship proceedings" is added.

Reason: Your Committee feels that the word "conservator" may be misunderstood and may mean different things in different jurisdictions. Your Committee prefers to use the traditional language of "guardian of the person" and "guardian of the property".

These changes are made throughout the Uniform Probate Code. The addition of the definition of "guardianship proceeding" is for clarity.

125. Comment: The House Judiciary Committee recommended that the jurisdiction of the family court be expanded to include guardians of the property in situations wherein a guardian of the person was also being sought. Your Committee has been advised that the family court of the first circuit may be unable to handle the increased workload in view of anticipated increases in its workload resulting from new federal and state laws relating to enforcement of support obligations and commitment procedures for the mentally ill. Accordingly, your Committee's draft retains the existing jurisdiction of the circuit court over guardians of the property.

126. Change: Section 5-103 is amended to limit its application to one payment or transfer with a value not exceeding $1,000.

Reason: Your Committee feels that protective proceedings ought not to be required where one relatively small sum is owing a minor. Where the sum is larger than $1,000 or where there are continuing payments being made on account of the minor, your Committee thinks that the safeguard of having a court appointed guardian of the property is desirable.

127. Change: Section 5-104 is deleted.

Reason: Your Committee feels that a guardian of the person appointed by the court should have court approval of any person to whom he wishes to delegate his powers.

128. Change: Section 5-201 is amended by deleting the reference to a testamentary appointment.

Reason: Present Hawaii law and the language of S.B. No. 79 both require the court accede to a testamentary appointment of a guardian. Hawaiian Trust Co. v. Stanley, 31 Haw. 705 (1930). Your Committee thinks this to be bad law, for the circumstances which led the decedent to designate a guardian in his will may have changed, and your Committee wants the court to have discretion to appoint some other person if the best interests of the minor so require. The court should, however, give preference to a testamentary nominee and should only appoint someone else if there is good cause for doing so.

129. Change: Sections 5-202 and 5-203 are deleted.

Reason: Since your Committee's draft requires testamentary nominees to be approved by the court, there is no longer a need to have special provisions concerning them. Thus, references to testamentary guardian throughout this part have been amended.

130. Change: Section 5-204 is amended to make clear that a testamentary nominee has priority but is not required to be appointed guardian of the person of a minor, and, together with sections 5-304 and 5-401, is amended to require that guardians be residents of Hawaii.

Reason: See the reason for amendment of section 5-201 above. The requirement of residency is existing Hawaii law.

131. Change: Section 5-206 is amended to make clear that the provisions thereof are subject to the provisions of section 5-204.

Reason: Your Committee feels that a testamentary nominee should have priority over the minor's nominee.

132. Change: Section 5-207 is amended by requiring notice to the grandparents of the minor as well as to the guardian of the minor's property. This section is further amended by reducing from six months to 90 days the length of time during which a temporary guardian may serve.

Reason: Your Committee feels that giving notice of the pendency of the appointment of a guardian of the person of a minor to any living grandparent of the minor will insure that the family learns of the proceedings. Giving any guardian of the minor's property notice of the pendency of the appointment of a guardian of the person is to help insure that all persons concerned with the minor have knowledge of all signifi-

cant steps being taken with respect to the minor. The Committee feels that six months is too long a term for a temporary guardian who may be appointed without notice.

133. Comment: The House Judiciary Committee recommended that notice also be given to natural parents. Your Committee has been advised by the family court that requiring such notice may pose very practical difficulties which would unnecessarily complicate guardianship proceedings. Since the appointment of a guardian does not adversely affect any rights of a natural parent (as opposed to an adoption proceeding), your Committee does not believe that the benefits to be derived from such notice outweigh the administrative hardships caused thereby.

134. Change: Section 5-212(a) has been amended to provide for a guardian ad litem requested by a minor to bring a proceeding to remove the guardian of the person of a minor ward.

Reason: S.B. No. 79 provides for a minor ward 14 or more years of age bringing an action for removal of his guardian of the person, but a minor lacks standing to bring an action. Thus, your Committee's draft provides that a minor ward 14 or older may request the family court to appoint a guardian ad litem for the purpose of bringing such a proceeding.

135. Change: Section 5-212(c) is amended by requiring the court to appoint an attorney to represent the minor if the court determines that the interests of the minor are or may be inadequately represented in proceedings designed to remove the guardian.

Reason: Your Committee feels that, once the court has made the determination that the minor's interests are or may be inadequately represented, the court should be required to appoint an attorney to represent the minor.

136. Change: Section 5-301 is amended to give the family court power not to appoint a person designated in the will of a parent or spouse as guardian of the person of an adult if good cause exists.

Reason: See discussion of reasons for amendment to section 5-201.

137. Change: Section 5-303 is amended by making it optional for the court to appoint a physician to examine an alleged incapacitated person, by changing the reference to "the visitor" to "a family court officer or other person designated by the family court", and by deleting the reference to the request of the person alleged to be incapacitated or his counsel to have a closed hearing.

Reason: The first amendment is desirable since there may be situations in which the court does not feel the need to appoint a physician, perhaps because there is other adequate physician testimony, and the court should have discretion in such a case not to make such an appointment. The reference to "the visitor" is deleted as being confusing. The last amendment is intended to give the court discretion as to whether or not the hearing be closed, either on its own motion or the motion of an interested person.

138. Comment: In addition, your Commitee desires to make clear its legislative intent that section 5-303(b) is not designed to handle problems concerning the alleged incapacitated person's rights against self-incrimination. In other words, the court on a case-by-case basis will have to resolve any questions concerning the statements made by the alleged incapacitated person either to any doctor appointed by the court or to any court officer.

139. Change: Section 5-307(c) is amended by making reference to section 5-303.

Reason: Your Committee feels that the amendment makes more clear that the ward has the same procedural safeguards in proceedings to remove a guardian or terminate the guardianship that he has in the initial proceedings to appoint a guardian of the person.

140. Change: Section 5-308 is deleted.

Reason: This section defines "the visitor", which terminology is deleted in your Committee's draft.

141. Change: A new section designated 5-308A is added.

Reason: This new section will require the guardian of a person to report to the court as the court shall request on the condition of the protected person. A guardian of the property is required to account to the court concerning the status of his ward's financer. (See section 5-419.) Your Committee feels it to be even more important that a guardian of the person be required to report to the court concerning his ward's condition.

142. Change: Section 5-309 is amended so as to be more parallel with the requirements of section 5-207.

Reason: See the reason for amendment of section 5-207 above.

143. Change: Section 5-310 is amended to reduce the period during which a temporary guardian may serve from six months to 90 days and to make clear that the family court has the right to apppoint a temporary guardian of the person whether or not another guardian of the person was previously appointed.

Reason: Since a temporary guardian may be appointed without notice, your Committee is reluctant to have one serve for as long as six months. Your Committee feels that the second amendment adds clarity.

144. Change: Section 5-311 is amended to make clear that the family court is not bound by the order of priority listed.

Reason: Your Committee feels that the family court should have discretion on a case-by-case basis to determine who can best serve as a guardian, and your Committee does not wish to tie the court's hands by requiring an appointment in the order of priority listed if good cause exists for the appointment of another. In all events, the standard which the court shall apply in selecting a guardian is the best interests of the incapacitated person.

145. Change: Section 5-402 is deleted.

Reason: Your Committee feels that this section is superfluous since the circuit courts are courts of general jurisdiction.

146. Change: Section 5-405 has been amended to provide for notice in the manner and to the persons specified under section 5-309.

Reason: Your Committee feels that notice of any proposed commencement or termination of a guardianship should be given the widest possible circulation amongst family members, and the provisions of section 5-309 are very thorough.

147. Change: Section 5-407 has been amended to make the procedure parallel with that contained in section 5-303.

Reason: Your Committee believes that the consideration for the rights of an alleged incapacitated person which is found in section 5-303 should also extend to a person alleged to need a guardian of the property.

148. Change: Section 5-408(3) is amended to include reference to section 5-408(4).

Reason: Your Committee seeks to make clear the intent of S.D. 1 that exercise of certain of the powers contained in (3) may be made only after a hearing thereon under (4).

149. Change: Section 5-408(4) is amended to include transactions relating to realty among those requiring notice and hearing, and to identify how and to whom notice is to be given.

Reason: Your Committee feels that transactions involving the protected person's realty should be preceded by a hearing after notice to as many people with a possible interest in the protected person as practicable. Your Committee's language is not intended to apply to transactions with a short-term effect, such as short-term rentals of the protected person's realty.

150. Comment: Your Committee desires to make clear its legislative intent that section 5-408(5) states as a rule that mere appointment of a guardian of the property does not in any manner imply that a guardian of the person is called for.

151. Change: Section 5-412(e)(2) is new.

Reason: The amendment is identical to, and is made for the same reason as, the amendment to 3-606(a)(2) discussed above.

152. Change: Section 5-419 is amended to require the guardian of the property to account to the court upon termination of the protected person's disability.

Reason: Your Committee feels that the interests of the ward are best protected by requiring an accounting filed with the court, whatever the reason for the termination of the guardianship.

153. Change: Section 5-422 is amended to require court approval of a guardian's transaction involving a conflict of interest.

Reason: Your Committee feels that any transaction between a guardian and his ward should be given judicial scrutiny. The judicial review may be made at the time of any required accounting.

154. Change: Section 5-424 is amended to make reference to sections 5-408(4) and 5-422.

Reason: Your Committee's amendment makes clear that the broad powers conferred on the guardian by this section may be exercised only upon court approval, after notice and hearing, if the transaction is within the purview of sections 5-408(4) and 5-422.

155. Change: Your Committee has amended section 5-425(c) and (d) by including reference to section 5-419, and has further added a reference to section 5-429(d) in section 5-425(d).

Reason: Your Committee desires to make clear that a guardian who distributes to a ward under section 5-425(d) without a court order does so at his peril and is not relieved of his duty to file final accounts with the court.

156. Change: Section 5-425(e) is amended to require the initiation of probate proceedings by a guardian of the property if no such proceedings are commenced within 40 days after the decedent's death.

Reason: Your Committee feels that post-death transfers should be handled in proceedings initiated for that purpose rather than in proceedings initiated as a guardianship.

157. Change: Section 5-428(a) is amended by deleting the third sentence.

Reason: The deleted sentence would give to the failure of the conservator to mail a disallowance of a creditor's claim the effect of an allowance of the claim. It is felt that the danger that estates will suffer from the inadvertent allowance of claims outweighs the advantage to creditors of enforcing expeditious action on their claims. A creditor may institute legal proceedings for the allowance of his claim without awaiting notice of its disallowance.

158. Change: Section 5-429 has been amended to continue the common law rules concerning the contractual and tort liability of a guardian of the property.

Reason: See reason for the amendments to section 3-808.

159. Change: Sections 5-431 and 5-432 are deleted.

Reason: Your Committee feels that, in order to be entitled to collect debts due his ward, a guardian of the property appointed in another state should qualify in Hawaii.

160. Change: Section 5-502 is amended to delete the provisions relating to the continuation of the attorney-in-fact's powers after the death, etc. of the principal.

Reason: Such amendment is designed to provide that the death, disability, or incompetence of a principal revokes a power of attorney (other than one under section 5-501) whether or not the attorney-in-fact has knowledge of such death, disability, or incompetence. Thus, an act entered into by the attorney after the occurrence of such an event is void.

161. Change: Section 6-101(3) is amended by deleting the reference to trust companies and building and loan associations and by inserting a reference to industrial loan companies.

Reason: Trust companies in Hawaii do not provide the accounts referred to in Part 6 whereas industrial loan companies do. There are no building and loan associations in Hawaii.

162. Change: Section 6-101(4) is amended to refer to an account payable on request at some time in the future.

Reason: Your Committee seeks to make clear that time certificates of deposit are within the definition of a joint account.

163. Change: Section 6-101(7) has been amended by deleting the reference to an attaching creditor.

Reason: Your Committee does not intend to reduce any rights which creditors now have to attach multiple-party accounts. Rather, your Committee seeks to make clear that the depository is not bound to follow the instructions of an attaching creditor without a court order.

164. Comment: Your Committee has not amended section 6-101(14), but desires to make clear its legislative intent that a financial institution is not required to make any investigation as to whether or not the sums on deposit in a trust account are the only subject of the trust.

165. Change: Section 6-104(c) is amended to make clear how a trustee account with two or more trustees is handled upon the death of one.

Reason: The amendment is suggested by the Editorial Board for the sake of clarity.

166. Change: Section 6-104(c)(2) is amended to provide that there is a right of survivorship amongst two or more beneficiaries surviving the death of the last surviving trustee of a trust account.

Reason: Your Committee desires to keep simple the existing banking procedures for opening trust accounts. Your Committee feels that this can be accomplished by providing for a continuing right of survivorship amongst the beneficiaries of a trust account. If the settlor of the trust account does not desire this result, he may open separate trust accounts for the various beneficiaries.

167. Change: Section 6-105 is amended to provide that the form of an account may be changed only upon written notice signed by all parties thereto.

Reason: Your Committee feels that confusion may result if one party (a "party" being defined in section 6-101(7) as a person with a present right to withdraw from a multiple-party account) may change the form of a multiple-party account, for the other parties to the account may not be aware of such change. If a party desires to effect a change, of course, he may withdraw all funds from the account and open a new account with the desired changes.

168. Change: Section 6-106 is amended by adding a reference to section 6-107.

Reason: Your Committee feels that the amendment adds clarity.

169. Change: Section 6-107 is amended to (i) delete the provision subjecting multiple party accounts to the claims of creditors, and (ii) to provide that a financial institution with actual knowledge that a payment should not be made is not relieved from liability if it makes payment.

Reason: Present law does not accord creditors the right to attach the interest of a decedent in property held in joint tenancy, and your Committee sees no reason why they should be accorded that right in the case of a multiple party account. Throughout Article VI, your Committee has deleted protection for financial institutions which have actual knowledge of facts indicating that payment under a multiple party account should not be made. S.B. No. 79 accords no protection if the financial institution receives written notice; your Committee feels that they should have no protection if they have actual knowledge derived other than from such written notice. Your

Committee feels that the rearranged language more clearly accomplishes the objectives of the section. Your Committee intends that this section permit a surviving spouse or dependent children to claim against a multiple-party account if necessary to secure their homestead or family allowance and further permit a personal representative to so claim if necessary to pay taxes and expenses of administration.

170. Change: Sections 6-108 and 6-109 are amended by adding a reference to sections 236-24 and 6-107 and by making clear that a financial institution may not pay upon a request for payment which is inconsistent with the terms of the deposit agreement.

Reason: Your Committee does not intend for this section to change the provisions of sections 236-24 which permit a financial institution to pay out one-half of a joint account without liability unless the financial institution has knowledge under section 6-107 that payment should not be made. If a financial institution does pay out one-half of the joint account as authorized under section 236-24 without section 6-107 knowledge of any impropriety in doing so, and the remaining one-half is not sufficient to pay the sums itemized in section 6-107, the parties entitled to payment will have to proceed against the joint depositor and not against the financial institution.

171. Comment: Your Committee has not substantially amended section 6-112, but desires to make clear its legislative intent that this section authorizes a party to effectively prevent withdrawals from a multiple-party account by written notice to the depository.

172. Change: Section 6-201 is deleted.

Reason: Your Committee is reluctant to expand the common law rules regarding will substitutes.

173. Change: Section 7-101 is amended to permit registration of a trust relating only to land in the judicial circuit in which the land is located.

Reason: Your Committee feels that such judicial circuit is a logical one for registration purposes.

174. Change: Section 7-102 is amended by deleting the reference to oral trusts.

Reason: Your Committee fears that permitting a person to file a statement which describes an alleged oral trust may make for mischief, since a cloud could be cast upon property by a fraudulent filing. Under your Committee's draft, only trusts evidenced by writings are subject to registration.

175. Change: Section 7-103 is amended by making reference to court rules concerning the service of process.

Reason: Your Committee seeks to preserve the existing court rules for the service of process in civil actions.

176. Change: Sections 7-104 and 7-303 are amended by including a reference to section 1-108.

Reason: Your Committee desires to make clear that the settlor of a revocable inter vivos trust may preserve the confidentiality of the trust by preventing beneficiaries from either securing registration of the trust or obtaining the terms or accounts of the trust from the trustee.

177. Change: Section 7-105 is deleted.

Reason: This section would have permitted a foreign corporation, as trustee, without qualification as a foreign corporation, to receive distribution from a local estate or to hold, invest in, manage or acquire property located in Hawaii, or to maintain litigation. The section is in conflict with section 406-4, Hawaii Revised Statutes, which provides that no corporation may engage in the business of acting as a trustee except a trust company or a bank which is organized under Hawaii law. It is felt that the requirements of section 406-4 should be retained unless and until the legislature provides an effective structure of regulation and supervision of foreign corporate fiduciaries.

178. Change: A new section designated as section 7-106 has been added to provide for the de-registration of a terminated trust.

Reason: Your Committee seeks to avoid cluttering the current trust registry with details of terminated trusts by empowering the court to remove record of the trust therefrom.

179. Change: Section 7-201 is amended by permitting trustees to initiate actions concerning trusts.

Reason: Your Committee believes that the omission of trustees as proper parties to commence an action relating to a trust was an oversight in the Uniform Probate Code.

180. Comment: Your Committee recognizes that section 7-201 may be superfluous since the circuit courts are courts of general jurisdiction, but in view of the Hawaii cases which hold that the probate judge at chambers does not have jurisdiction over the affairs of trusts, your Committee recommends that the section be retained to make clear that the courts do have this jurisdiction under the Uniform Probate Code.

181. Change: Section 7-205 is amended to retain the existing statutory fee schedule for trustees.

Reason: Whereas a statutory fee schedule based on the value of the assets being administered may not be appropriate in the case of decedent's estates in view of the nature of such proceedings as one-time endeavors, your Committee feels that such a fee schedule is appropriate in the case of a trust which entails continuing responsibility and liability. The trustee is in the nature of a businessman with a continuing obligation for the affairs of the trust, and it seems appropriate to your Committee that his compensation be based upon the amount of responsibility assumed. It is your Committee's intent that this section empowers an interested person to obtain judicial review of the trustee's methods of valuing assets and allocating receipts to principal and income, and empowers the court to review the reasonableness of the trustee's compensation for special services upon application of an interested person.

182. Change: Your Committee has amended section 7-303(1) to clarify who is entitled to receive notice of registration.

Reason: It is your Committee's intent that each beneficiary with a present entitlement to receive benefits from a trust (even though the granting of any such benefits may be entirely discretionary on the part of the trustee) should receive notice of the registration of the trust.

183. Change: Section 7-305 is amended to refer to section 554-2, Hawaii Revised Statutes, and to make clear that good cause must exist before a beneficiary may cause a trust to be removed from its principal place of administration.

Reason: Your Committee seeks to balance conflicting interests: S.D. 1 would have prevented removal on the theory that the settlor selected the trustee and his decision should not be overturned by the beneficiaries, whereas H.D. 1 would have permitted removal if the principal place of administration became inappropriate for any reason. Your Committee's draft permits removal on a showing of good cause therefor. The reference to section 554-2 is designed to preserve the rights arising under that section.

184. Change: Section 7-306 is amended to (i) make the trustee personally liable on contracts unless expressly relieved therefrom and (ii) make the trustee personally liable for torts.

Reason: Your Committee's draft retains the common law rules, which rules your Committee sees no compelling reason to amend.

185. Change: Section 7-307 is amended to increase the period within which a trustee may be sued for breach of trust from six months to two years and by making reference to section 1-401.

Reason: Two years is the existing Hawaii statute of limitations on tort actions, and your Committee sees no need to accord trustees a shorter statute.

186. Change: A new Part 4 relating to the powers of trustees is added.

Reason: Your Committee feels that some reference to the powers of trustees should be made.

187. Change: The effective date of Articles II, III, and IV has been postponed until July 1, 1977.

Reason: Your Committee feels that the additional time is needed so that the courts, attorneys, and professional fiduciaries will be able to prepare for the new laws and procedures contained in those Articles.

188. Change: Article VIII has been amended so as to conform with the amendments to Articles I through VII.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 79, S.D. 1, H.D. 1, as amended herein, in the form attached hereto as S.B. No. 79, S.D. 1, H.D. 1, C.D. 1, and recommends that it pass Final Reading.

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

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

Conf. Com. Rep. No. 23 on H.B. No. 3248-76

The purpose of this bill is to promote an effective developmental disabilities program by placing the developmental disabilities council within the Department of Budget and Finance; by restating the definition of "developmental disability"; and by clarifying the responsibilities of the council.

Act 198, Session Laws of Hawaii 1975, established the developmental disabilities council in the office of the governor. The purpose of placing the council in that office was to provide impetus for greater action and program development of services for the developmentally disabled. One of the tasks of the council was to design a developmental disabilities plan which would integrate the activities of the various agencies and align them with the purpose of the program. The council submitted a document entitled, "A Plan for services for the Developmentally Disabled 19761980", which provides the framework and direction for a statewide developmental disabilities program.

With the submission of the plan, the developmental disabilities program enters a new phase. The purpose of the council will now shift from research and development to one of advocacy and monitoring of the recommendations set forth in the plan. Since the major portion of the direct services program is administered by the department of health and the fact that the department does have the fiscal, personnel, and technical services necessary to carry out the functions of the program, your Committee feels that the council should be in a position to have direct communication with personnel involved in program implementation.

Your Committee on Conference has therefor amended this bill by transferring the developmental disabilities council to the Department of Health for administrative purposes.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3248-76, H.D. 1, S.D. 1, as amended herein, and recommends taht it pass Final Reading in the form attached hereto as H.B. No. 3248-76, H.D. 1, S.D. 1, C.D. 1.

Representatives Segawa, Machida, Stanley and Santos,
Managers on the part of the House.

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

Conf. Com. Rep. No. 24 on S.B. No. 2501-76

The purpose of this bill is to require secondhand dealers who deal in scrap metal to keep records of purchases and sales of scrap metal which may aid in the apprehension of criminals engaged in the theft and sale of scrap metal and to make it more difficult for such criminals to dispose of stolen scrap metal by placing a duty upon scrap dealers to refuse to purchase scrap metal which they have reason to believe is stolen.

Your Committee is concerned about the theft of scrap metal from construction sites,

hardware stores, construction companies and similar enterprises dealing in scrap metal and the subsequent sale of such scrap metal by the thieves. Your Committee agrees that this is a serious problem which justifies more stringent regulation of secondhand dealers who trade in scrap metal. While your Committee recognizes that most scrap dealers are honest businessmen, testimony indicates that a major means of disposing of stolen metal is through scrap dealers. The bill requires scrap dealers to keep records of purchases and sales which may aid in the apprehension of those who engage in the theft of scrap metal and to impose a duty on scrap dealers to refuse to purchase scrap metal when they have reasonable cause to believe that it has been stolen.

Your Committee directs the attention of the Police Department to Section 830 of the Hawaii Penal Code which provides that a person commits theft if he intentionally receives, retains or disposes of property of another, knowing that it has been stolen without intent to deprive the owner of the property. It shall be prima facie evidence that a person knows the property to have been stolen, if, being a dealer in the property of the sort received, he acquires the property for consideration which he knows is far below its reasonable value.

Your Committee further directs the attention of the Police Department to Section 445-171 and 445-172, Hawaii Revised Statutes, relating to secondhand dealers.

Your Committee upon consideration of this bill recommends that it be amended by amending the findings of the legislature in Section 1 and deleting Section 2 of the bill. The term "scrap dealer" has been redefined to read as follows:

"Scrap dealer" means any person engaged in the business of buying, selling or dealing in scrap or any person operating, carrying on, conducting or maintaining a scrap yard."

Your Committee further recommends that the bill be amended to provide that every scrap dealer, when purchasing scrap within the State, shall obtain a written statement signed by the seller or his agent certifying that the seller or his agent has the lawful right to sell and dispose of the scrap. The scrap dealer shall require the seller to verify his identity by presenting proper identification. The scrap dealer shall keep the signed written statement for a period of two years after the date of purchase and the statement may be examined at any time by the director of finance or the chief of police. Any person who falsifies a statement required by Section 455-233, Hawaii Revised Statutes, shall be guilty of a misdemeanor. The effective date of this bill has been amended to July 1, 1976.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2501-76, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2501-76, S.D. 2, H.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 25 on S.B. No. 1577

The purpose of this bill is to amend Section 171-36, Hawaii Revised Statutes, by clarifying the existing language of the law with respect to the powers of the Board of Land and Natural Resources to grant extensions during the term of a lease.

The existing law was amended to limit this power to only intensive agricultural or special livestock leases and, in addition, said amendment broadened the list of financial agencies to the extent necessary to qualify the lease for mortgage lending. Said bill also conditions the approval of any extension as enumerated. The fourth condition indicated relating to rules and regulations of the Board is intended to authorize the Board to impose any additional terms and conditions; i.e., that a loan will be used for capital improvements and not any unrelated purposes, nor that such a loan be used merely for the purpose of refinancing. This bill also eliminates for purposes of clarity the reference to macadamia nut orchard lease in Section 171-36(2), Hawaii Revised Statutes, which states that macadamia nut orchard lease shall not exceed forty-five years. There is a specific reference to an intensive agricultural use and is covered in Section 171-37, Hawaii Revised Statutes, as amended by Act 68, Session

Laws of Hawaii 1973, in which "macadamia nut orchard" was changed to "tree crop orchard". This bill itself clearly states that it may be applied retrospectively to existing leases. Other than the foregoing, there has been some minor changes in the style or format of the existing law.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1577, S.D. 1, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1577, S.D. 1, H.D. 2, C.D. 1.

Representatives Uechi, Kawakami, Ho, Lum and Abercrombie,
Managers on the part of the House.

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

Conf. Com. Rep. No. 26 on S.B. No. 2958-76

The purpose of this bill is to clarify the right of recovery of an injured person where there are two or more defendants under the existing comparative negligence law.

Under the existing law an injured person's contributory negligence does not bar his right to recovery of damages against the wrongdoer unless the injured person's negligence is greater than the negligence of the wrongdoer.

An ambiguity exists under the existing law where there are two or more defendants, whose aggregate degree of negligence expressed as a percentage is more than the degree of negligence of the injured person expressed as a percentage, but separately is less. For example, if the injured person's degree of negligence was 40 per cent and if there were two defendants, each of whose degree of negligence was 30 per cent (or 60 per cent aggregate), a question arises as to whether the injured person may recover under the existing law.

Your Committee feels that where there are two or more defendants, the degree of negligence of the injured person expressed as a percentage should be compared against the aggregate negligence of the defendants expressed as a percentage rather than against each one of them individually. Your Committee finds that this is the most fair and equitable portion.

Your Committee upon further consideration recommends that this bill be amended by deleting Section 1 and amending Section 2 of the bill. Section 663-31, Hawaii Revised Statutes, is amended as follows:

1. Add the following words, "or in the case of more than one person, the aggregate negligence of such persons" after the word "person" in line 1 on page 2.

2. Add the words "or in the case of more than one person, the aggregate negligence of such persons" after the word "person" in line 19 on page 2.

3. Add a new subsection (d) to read as follows: "(d) The court shall instruct the jury regarding the law of comparative negligence where appropriate."

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2958-76, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2958-76, S.D. 1, H.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 27 on H.B. No. 2782-76

The purpose of this bill is to clarify the present language and to amend the campaign spending law to conform to the U.S. Supreme Court decision in Buckley v. Valeo, 44 U.S.L.W. 4127, on January 30, 1976, and to those portions of Attorney General's

Opinion 76-2 which discuss the applicability of said decision to limitations on campaign expenditures and on disclosure.

Your Committee is concerned that the carefully molded balance of limiting the effect of large contributions by limiting campaign expenditures has been upset by the Court, and that the primary concerns which must be met are the preventing of abuse and the appearance of improper influence, and the fostering of increased confidence in the electoral process.

Ballot Questions and Issues

Your Committee notes that Buckley discusses issues in terms of candidates campaigning on the basis of their positions on various public issues and in terms of campaigns themselves generating issues of public interest, but the Court did not directly address disclosure by persons supporting or opposing issues that appear on the ballot in the form of ballot questions to be submitted to the electorate for a decision. Particularly in the light of the upcoming ballot question on the constitutional convention and issues that could be placed on the ballot by such a convention, your Committee is concerned that large contributions by individuals and businesses to persons supporting or opposing a ballot question, without disclosure, will distort, unduly influence, and may corrupt our electoral process. Therefore, the following sections have been retained in their present form:

(a)	Section 11-191	Definitions of "committee", "contribution", and "expenditure".
(b)	Section 11-197	Organizational reports.
(c)	Section 11-199	Campaign contributions, generally.
(d)	Section 11-200	Campaign contributions, restrictions against transfer.

Testimonial Affairs

The limitation on the number of testimonial affairs has been very thoroughly discussed. Your Committee does not consider the limit on the number of testimonial affairs to be violative of associational rights under the First Amendment. The intent of your Committee in retaining this provision is to prevent the indiscriminate use of testimonial affairs to repeatedly pressure the public into purchasing tickets to such affairs and, thus, making contributions or larger contributions than it might have otherwise made. The holding of repeated testimonial affairs has been a prevalent practice in the past, and this practice imposes a significant financial burden on the public. Limiting the number of testimonial affairs does not undermine the public's ability to engage in active support for a candidate. Personal services may still be rendered, and additional monetary contributions can be made.

Your Committee upon further consideration has made the following amendments to H.B. No. 2782-76, H.D. 1, S.D. 1:

1. Section 11-191(1) and 11-210 Advertising

Your Committee recommends that the present law on advertising be retained to prevent deceptive political advertisements. The concern is that the failure to require identification of the sponsor of a political advertisement may allow a candidate to publish a misleading advertisement and attempt to attribute the sponsorship to an opponent. Retention of these provisions would also identify the source of negative advertising and allow the rebuttal of advertisements which are inaccurate.

Section 11-210 has been amended to expand the disclosure requirement to include individuals, associations, business entities, and others within the meaning of "persons".

2. Your Committee has also amended the bill to correct minor grammatical and typographical errors.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2782-76, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2782-76, H.D. 1, S.D. 1, C.D. 1.

Representatives Roehrig, Uechi, Cobb, Kondo, Naito, Takamine, Fong and Santos,
Managers on the part of the House.

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

Conf. Com. Rep. No. 28 on S.B. No. 2709-76

The purpose of this bill is to amend certain portions of Chapter 334, Hawaii Revised Statutes, relating to "Mental Health, Mental Illness, Drug Addiction, and Alcoholism." The amendments proposed in this bill are made pursuant to the February 24, 1976 Order on Motion for Summary Judgment of the Honorable Samuel P. King, District Court Judge for the United States District Court for the State of Hawaii in Suzuki, et al. v. Quisenberry, et al., which declared unconstitutional Sections 334-51(a)(2) and (5), 334-53, 334-54(f), 334-71(a), and 334-73, Hawaii Revised Statutes. In addition, Sections 334-76, 334-81 and 334-86, Hawaii Revised Statutes, are amended following Judge King's finding that these sections as written and as applied were in violation of the due process clause of the Fourteenth Amendment.

Your Committee finds that other recent State, federal and Supreme Court decisions have required clarification of procedures to conform to due process requirements for involuntary civil commitment.

Under this bill with respect to the areas of emergency admission and initiation of such proceeding and involuntary hospitalization and discharge, a police officer may take into protective custody and transport to any facility designated by the director any person whom he has probable cause to believe is committing an offense due to apparent mental illness or intoxication, and appears to present an imminent danger to property, himself or others. The standard relating to probable cause of the commission of an offense offered follows current federal and State court decisions relating to this area. In addition, the officer shall make and transmit an application concerning the protective custody to some physician at the facility.

The bill also provides that upon application of any licensed physician, attorney, member of the clergy, licensed health or social service professional or any State or county employee in the course of his employment, a judge may enter an ex parte order stating that there is probable cause to believe a person meets the criteria for emergency admission. Such order may be issued orally, such as through telephone communication, or may be in writing. If such ex parte order is written, it must be issued within forty-eight hours of the application. As provided, the patient should be examined without delay and should be given such treatment as is indicated by good medical practice.

In addition, the bill provides that at any time the examining physician concludes that the patient need not be hospitalized, the patient shall be discharged immediately, unless criminal charges are pending. In any event, the patient must be released within forty-eight hours of his admission, unless he has agreed to evaluation and hospitalization, or a proceeding for court-ordered evaluation and/or hospitalization is initiated as provided in this bill.

With respect to emergency treatment of the patient by the examining physician, the bill provides that if the patient is suffering from substance abuse or is dangerous to himself, others, or to property, and is in need of care, or treatment, the physician may call the judge for an ex parte order authorizing emergency treatment or care pending petition for commitment to a psychiatric facility.

The bill also makes substantial amendments relating to admission for nonemergency treatment or supervision for a minor.

In the instance of a request for discharge of a voluntary patient who would be dangerous to himself or others, the bill provides that proceedings for involuntary hospitalization which must be initiated as described above as soon as possible, and within twenty-four hours.

In the areas of initiation of court-ordered commitments, discharge from custody of a facility, transfer of a patient between psychiatric facilities and transfer of a resident of a correctional facility to a psychiatric facility, the bill delineates the procedure which the petitioner must follow and has specified the necessary requirements which

the petition and necessary papers must meet. In addition, it sets forth the categories of relatives and representatives who may file a petition for involuntary commitment.

The bill sets forth the criteria for proper notice and has conformed the area relating to service of personal notice for court-ordered commitments, discharge from custody of a facility, transfer of a patient between psychiatric facilities and transfer of a resident of a correctional facility to a psychiatric facility to the procedure for notice outlined in Section 1-401, Uniform Probate Code. Notice shall also be given in these proceedings to persons the court may designate. Moreover, as set forth in Section 802-1, Hawaii Revised Statutes, the public defender is designated the primary legal counselor to receive such notice. However, other attorneys may also receive such notice.

With respect to the period of detention, the bill provides that the psychiatric facility may detain a subject for a period of time ordered by the court not to exceed ninety days from date of admission unless sooner discharged pursuant to Section 334-76 or Section 334-74, Hawaii Revised Statutes, or unless the patient was committed pursuant to Sections 406, 411, and 607 of the Hawaii Penal Code. The bill provides that the administrator of a psychiatric facility may discharge an involuntary patient when he is no longer a proper subject for commitment as determined by the criteria for involuntary commitment. If continued hospitalization is necessary, the administrator is required to apply to the court for an order of recommitment, and the procedure for notice and persons to receive notice as stated above shall be followed. Failure to timely notify the applicable categories of persons named above in this report may be grounds for adjournment or continuance of the hearing on the petition for involuntary hospitalization beyond the ninety-day period. Only in exceptional cases shall the court hear the petition more than ten days after the date the petition is filed.

Standards for the hearing of the petition for involuntary hospitalization have been established in the bill. A patient committed to a psychiatric facility under a temporary court order may be held for a period of not more than five days for the purpose of a diagnostic examination and evaluation. In the event the court finds beyond a reasonable doubt that the criteria for involuntary hospitalization has been met, a patient may be either admitted or retained, as the case may be, for ninety days at the psychiatric facility.

The bill provides that at the end of the ninety-day period, the patient shall be discharged automatically, except as provided in Sections 406, 411 and 607, Hawaii Penal Code, unless the facility before expiration of the period obtains a court order for his recommitment for a further period of ninety days unless sooner discharged; provided that prior to discharge of a patient, who upon admission was deemed dangerous to others or to property, notice as provided in Section 1-401, Uniform Probate Code, shall be given to those persons, except grandparents, as specified in Section 5-207, Uniform Probate Code, in the case of a minor and Section 5-309, Uniform Probate Code, in the case of an adult.

With respect to transfer of a patient between psychiatric facilities, the bill provides that proper notice must be given for either intra- or interstate transfer.

In the event of the transfer of a resident of a correctional facility to a psychiatric facility, the bill provides specific procedures for such transfer application and that a hearing with proper notice must be held by the same circuit court which sentenced the resident and the sentencing judge should preferably hold such hearing.

The bill finally provides that if a director of a facility contemplates the discharge of a person deemed dangerous to others or to property at the time of his admission, the director must send notice within ten days of the date of the contemplated discharge. Such patient may be discharged within ten days of such notice unless one of the interested persons who must receive notice files a petition to show cause to object to such release. Upon such filing of petition, the court shall hold a hearing.

Your Committee upon further consideration has made the following amendments to S.B. No. 2709-76, S.D. 2, H.D. 1:

(1) Page 2, line 2, substitute the word "evidenced" for the word "demonstrated" to conform the definition with language found elsewhere in the bill.

(2) Page 2, lines 5 and 6. Changes references from the plural to the singular.

(3) Page 3, line 12. Substitute the phrase "suffering from substance abuse" for the phrase "habituated to the excessive use of drugs or alcohol" to conform the

definition with language found elsewhere in the bill.

(4) Page 5, lines 7, 8 and 9. Substitute the phrase "substance abuse and appears to be imminently dangerous to property, to self or to" for the phrase "intoxication and appears to present an imminent danger to property, himself or others" for sake of conformity.

(5) Page 6, line 1. Substitute the phrase "is mentally ill or suffering from substance abuse and is imminently dangerous to self, others or to property; and is in need of care and/or treatment" after the word "person" for the phrase "meets the criteria for emergency admission," for the purpose of clarity.

(6) Pages 6 and 7. Subsection (b), (c), and (d) have been rearranged into four subsections for clarity. The subsections have been amended to clearly delineate the procedures involving the following situations: subsection (b), examination of a person; subsection (c), his release from emergency examination; subsection (d), further emergency hospitalization; and subsection (e), release from emergency hospitalization.

In addition, the requirement for ex parte orders for the continued treatment of emergency cases, has been amended to make it discretionary in order to permit the attending physician to administer further treatment without the possible delay pending the issuance of such orders. If, however, an ex parte order is obtained for further treatment, an ex parte order for release must be obtained by the attending physician. It should be noted that an attending physician who has not sought an ex parte order for further treatment is not precluded from subsequently obtaining an ex parte order for release if he wishes. Moreover, also required is that if ex parte orders are obtained, they are are required to be reduced to writing.

Further, this provision has been adopted as a procedure to be followed in the case of a release from emergency hospitalization in subsection (e).

(7) Page 9, lines 1 and 2. Additional language has been added to make it clear that some affirmative action must be taken by the administrator of a facility within twenty-four hours of the receipt of a request for discharge, to stay the discharge except that if the time expires on a Saturday, Sunday or holiday, the time is extended to noon of the next court day.

(8) Page 9, line 13. Additional language is added to clearly note that commitment to a psychiatric facility may not only be for the purpose of care and/or treatment but also because there is no suitable alternative available which would be less restrictive than hospitalization.

(9) Page 10. Section 334- (b)(2) has been amended to permit any person rather than certain enumerated persons to initiate court-ordered commitments to a psychiatric facility.

(10) Page 12. Section 334- (b)(3)(A) has been amended to provide for notice of a hearing on a petition for involuntary commitment to be personally served pursuant to Sections 1-401, 5-207, and 5-309 of the Uniform Probate Code or to those specified in a current order of commitment. The purpose for providing for personal service is to insure that prompt service is made to permit those served sufficient time to respond.

(11) Pages 14 and 15. The order of Sections 334- (b)(4) and (5) have been rearranged and renumbered (5) and (4), respectively.

In addition, as renumbered, Section 334- (b)(5) has been amended to clearly indicate that at the end of 90 days, any person committed shall be automatically discharged, except as provided and unless the facility initiates a recommitment procedure before the expiration of the 90 days. The purpose of the amendment is to clearly indicate that the facility must affirmatively take some action to prevent the release of a person who may not be ready for discharge.

(12) Page 18, line 5. Section 334- (b)(5)(G) has been amended to include additional language to assure the subject's Fifth Amendment right against self-incrimination.

(13) Page 19, Subsection 334- (b)(4)(I). This subsection, formerly (b)(5)(I), was amended to exclude redundant references to discharge and to include language in conformity with notice requirements found in Subsection (b)(3).

(14) Page 20, Subsection 334- (b)(6). This subsection has been amended to provide personal service of any notice of intent to discharge any involuntary patient on all persons specified by the court as entitled to receive notice. The purpose of the amendment is to insure that prompt notice of the intent to discharge a patient is received by persons noticed to enable them to take any action regarding the pending discharge. Moreover, objections must be filed with the court within three days of personal service. It is felt that the three-day requirement would provide those noticed sufficient time to take any action they may desire.

(15) Page 23, Section 334- . This section has been amended to limit persons entitled to notice before the transfer of a patient can be effectuated to only those specified by the court. The purpose of the limitation is to exclude those persons whom the court has previously determined have not shown any interest in the proceeding.

(16) Page 24, Section 6. Redundant material contained in Section 334-71 has been deleted.

(17) Page 28, Section 9. Section 334-76 is redundant and is accordingly repealed in its entirety.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2709-76, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2709-76, S.D. 2, H.D. 1, C.D. 1.

Representatives Roehrig, Segawa, Naito, Stanley, Carroll and Santos,
Managers on the part of the House.

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

Conf. Com. Rep. No. 29 on H.B. No. 2984-76

The purpose of this bill is to amend the Horizontal Property Act in matters relating to: (1) blanket mortgages affecting apartments; (2) changes in building plans; and (3) cancellation rights of purchasers.

The bill amends the following sections of chapter 514, Hawaii Revised Statutes:

(1) Section 514-16. This section has been amended to clarify that a blanket mortgage or lien must be released only upon the first conveyance by deed or lease to a purchaser. Under existing law this section could be interpreted to include the first conveyance from the landowner to the developer. Further, the amendment clarifies that blanket mortgages and liens must be satisfied of record only upon conveyance by deed or lease and that first sales of apartments may be by agreements of sale without obtaining releases of the blanket mortgages and liens.

(2) Section 514-37. Presently this section requires that any change in the condominium building plans for a project which requires the approval of the county officer having jurisdiction over the issuance of building permits must be approved by the purchaser. It is common knowledge that during the construction of a building, many minor changes are made which have no substantial effect on the building. This section as presently worded could be interpreted as requiring the approval of the purchaser for every minor change and thereby impose an impossible burden on the developer. The bill amends this section by requiring the purchaser's approval only when there are material changes in the building plans. The amendment conforms this section to section 514-42, Hawaii Revised Statutes, which requires that a supplementary public report be issued when the developer proposes to materially change a project.

(3) Section 514-39. Presently, this section states that if the final report for a project is not issued within one year from the date of issuance of the preliminary report, each purchaser is entitled to a refund of all moneys paid by him without further obligation. No cutoff date is established for the purchaser to exercise his option to a refund and as a result, a purchaser may receive a final report issued more than one year after the date of issuance of the preliminary report and later cancel the transaction. This can work a hardship on the developer as the exercise of the refund option may come many months after the final report was issued. The bill amends this section by establishing a cutoff date of thirty days for the purchaser

to exercise his option subsequent to issuance of a final report. If the purchaser fails to act within the thirty-day period, his right to refund and cancellation of obligation shall be deemed waived.

Your Committee upon further consideration has made the following amendments to H.B. No. 2984-76, H.D. 1, S.D. 1:

(1) The proposed changes to Section 514-39 have been amended to require the copy of the final public report to be delivered to the purchaser personally or by registered or certified mail with return receipt requested. Further, the waiver of rights is effective only if the purchaser is informed in writing that his rights will be waived if he fails to act within the specified period. These amendments provide futher protection to the purchaser.

(2) A section has been added to the bill amending Section 514-41, dealing with the delivery of public reports to prospective purchasers. That section presently states that a developer may not enter into a binding contract for the sale of any unit in a condominium project prior to completion of construction until, among other things, the prospective purchaser receives and executes a receipt for the final report and all supplementary reports, if any, for the project. This has led to problems in cases where a purchaser receives the required reports but refuses or neglects to execute the receipt for the reports. Technically, in such cases, the contract which has been executed by the prospective purchaser is not binding until the receipt is executed and the developer cannot be sure whether the prospective purchaser will go through with the purchase. The proposed amendment resolves the problem by providing that upon delivery of the required reports to the prospective purchaser, the purchaser will have thirty days within which to execute the receipt, after which period he will be deemed to have executed the same. In order to protect the prospective purchaser, the amendment requires that the reports be delivered either personally or by registered or certified mail with return receipt requested and that the purchaser be informed in writing of the time within which he must act.

(3) A new section has been added to the bill to make clear that its provisions operate only prospectively.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2984-76, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2984-76, H.D. 1, S.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 30 on H.B. No. 2700-76

The purpose of this bill is to provide for a medical malpractice insurance system which will: (1) stabilize the cost of medical malpractice insurance and insure the availability of such insurance at a reasonable cost; (2) decrease the costs of the recovery system for medical malpractice and improve the efficiency of its procedures; (3) impose appropriate sanctions on errant health care providers; (4) provide and improve the machinery for resolving patient grievances against health care providers by the addition of lay members to the board of medical examiners, the hiring of additional staff for the board, and increasing the reporting requirements to the board.

Your Committee upon further consideration has made the following amendments to H.B. No. 2700, H.D. 2, S.D. 1:

(1) Pages 4 and 5. Subsection (b) of the section on informed consent has been amended to mandate the Board of Medical Examiners to establish, insofar as practicable, standards for information required to be given and the manner in which it is given to constitute informed consent. In a medical tort action based on lack of informed consent, the standards established by the Board of Medical Examiners will be prima facie evidence of the standard required for obtaining informed consent but may be rebutted by either party.

(2) Page 10, lines 19 and 20. The Senate draft of the bill provided that the living and travel expenses of consultants called by the medical claim conciliation panel

would be paid for equally by the parties. This provision has been amended to have the Department of Regulatory Agencies pay such expenses.

(3) Pages 10 and 11. Section -12 provides that any medical tort claim be first submitted to the medical claim conciliation panel before a suit based on the claim be commenced in court. If this provision becomes effective upon approval of the Act, there may be some problem as to existing claims because some time will be needed to set up the panel. In order to avoid this problem, the bill has been amended to provide for an effective date of July 1, 1976 for claims to be submitted to the panel.

(4) Page 16, lines 11-13. In setting up the medical claim conciliation panel it is intended that no court action may be filed while the claim is being considered by the panel. The language in the Senate draft implied this but for clarification, the bill has been amended to affirmatively state that no action may be filed until one party rejects the recommendations of the panel.

(5) Page 17, lines 13-18. The filing of a claim with the medical claim conciliation panel tolls any applicable statute of limitations. The bill as considered by your Committee provided that the statute of limitations remained tolled until the earliest date that litigation based on the claim can be instituted. That date would be the date on which a party rejects the recommendation of the panel. Therefore, if none of the parties rejects the recommendation of the panel the statute of limitations could be tolled indefinitely. In order to avoid such a situation and to encourage prompt disposition of medical tort claims, the bill has been amended to provide that the statute of limitations remains tolled for sixty days after the panel issues its decision. After that period the statute of limitations continues to run.

(6) Page 22, lines 8 and 9. Your Committee has clarified the fact that the patients' compensation fund is established as a legal entity and may sue and be sued under its name.

(7) Page 23, line 26. The requirement for court approval of settlements which result in payment from the fund has been deleted. The deletion is in harmony with the reason for establishing the medical claims conciliation panel, i.e., the encouragement of early settlement of claims without litigation. The fund is adequately protected against ill advised settlements by an insurer or self insured by the requirement that the insurance commissioner approve such settlements.

(8) Page 24, lines 1-4. The intent that the patients' compensation fund will provide occurrence coverage for medical torts has been clarified. The fund will pay that part of a judgment, award, or settlement in excess of $100,000 if the health care provider against whom the damages are awarded was a participant in the patients' compensation fund when the alleged medical tort occurred.

(9) Page 26a, lines 7 and 8. The section requiring insurers and self insureds to report any claims made against a health care provider to the insurance commissioner has been amended to clarify that such reports are not public records. The reports may contain information that could cause damage to professional reputations and, therefore, should be kept confidential.

(10) Page 26a, lines 21-33; page 26b, lines 1-10. A new subsection has been added creating a cause of action in favor of the patients' compensation fund against an insurer or self-insured who refuses to settle a claim for $100,000 or less in bad faith. In such cases, if a subsequent award or judgment exceeds $100,000, the insurance commissioner may file an action against the insurer or self insured involved for any sums paid by the fund.

A corresponding amendment has been made on page 31 by deleting a proposed subsection which would have provided a similar cause of action but located it in Chapter 431. Your Committee feels that a more appropriate place for the provision is in the section of the law setting forth the powers of the insurance commissioner in connection with the patients' compensation fund. Moreover, the deleted provision did not contain the bad faith requirement for the cause of action to arise and did not specify whether the cause of action would be against the insurer or the insured.

(11) Pages 37 and 38. The manner of selecting the physician and surgeon members of the Board of Medical Examiners has been amended by deleting the mandatory election procedures for a candidate list from which the Governor must select his appointees. Instead, the medical societies are authorized to conduct elections for lists of candidates to be submitted to the Governor. Although the Governor need not limit his appointments

from the lists of candidates, it is your Committee's intention that he give due consideration to the elected candidates when making appointments.

(12) Page 53, line 20. Because of the amendments discussed in item (11) above, Section 21 of the bill which provided that the incumbent members of the Board of Medical Examiners shall continue in office until their terms of office expire, has been deleted as unnecessary. In place thereof your Committee has inserted an appropriation of $85,000 for the purposes of increasing the staff of the Board of Medical Examiners in order that the Board can fulfill its increased duties under this bill.

(13) Other minor changes have been made for clarification; these changes do not alter the intent of the bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2700-76, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2700-76, H.D. 2, S.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 31 on H.B. No. 2786-76

The purpose of this bill is to establish a means whereby a court in its discretion may defer acceptance of a guilty plea ("DAG" plea) for a certain period on certain conditions with respect to certain defendants.

This would give the defendant the opportunity to keep his record free of criminal conviction, if he can comply with those terms and conditions during the period designated by court order. It is in the best interest of the State that in certain criminal cases, particularly those involving first time, accidental, or situational offenders, the offender not be burdened with the stigma of having a criminal record for the rest of his life.

Your Committee upon further consideration has made the following amendments to H.B. No. 2786-76, H.D. 1, S.D. 1:

(1) Instead of amending Chapter 706, Part 1, Hawaii Revised Statutes, amend title 38, Hawaii Revised Statutes, by adding a new chapter.

(2) Enunciate that the court may defer the proceedings for such period of time as the court shall direct but in no case to exceed the maximum sentence allowable. Note: Your Committee anticipates that the court will establish guidelines as regards the period of deferment. In this regard, your Committee notes that the First Circuit Court has established guidelines in this area.

(3) Set out specifically and in detail: (a) how the court shall discharge the defendant and dismiss the charge against him; (b) that the defendant may apply for expungement of all recordation relating to his arrest, arraignment, indictment, information, plea of guilty, or dismissal and discharge and the exceptions thereto; (c) procedures for commencing a "DAG" plea; (d) the legal consequences of violation of terms and conditions during deferment; and (e) when the "DAG" plea chapter would not be applicable.

(4) Enunciate that discharge of the defendant and dismissal of the charge against him under a "DAG" plea besides being not an adjudication of guilt and not a conviction, is also not a civil admission of guilt.

(5) Substitute a new Sec. -2, relating to procedure for a plea of guilty under the provisions of the proposed chapter on "DAG" pleas. Under the new procedure, a plea of guilty under this chapter would be made before sentence, upon motion by the defendant, the prosecutor, or by the court on its own motion. The court would then either proceed in accordance with section -1, relating to deference of further proceedings, deny the motion and accept the defendant's plea of guilty, or allow the defendant to withdraw his plea of guilty only for good cause.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2786-76, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2786-76, H.D. 1, S.D. 1, C.D. 1.

Representatives Roehrig, Cayetano, Lee, Stanley and Santos,
Managers on the part of the House.

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

Conf. Com. Rep. No. 32 on H.B. No. 2932-76

The purpose of this bill is to provide for a mandatory period of imprisonment for a repeat offender and deny the opportunity for parole or probation under circumstances of repeated offenses.

Your Committee finds that the high incidence of repeated of-fense by previously convicted persons within the State of Hawaii presents a clear danger to its citizens. In particular, your Committee concurs that necessary steps should be taken so that any person convicted for some of the most serious and reprehensible felonies as defined by the Hawaii Penal Code be sentenced, for each conviction after the first conviction to a mandatory sentence without possibility of parole.

Your Committee upon further consideration recommends that this bill be amended by deleting Sections 707-711 (Assault in the second degree), 707-731(Rape in the second degree), 707-732 (Rape in the third degree), 707-734 (Sodomy in the second degree), 707-735 (Sodomy in the third degree), 708-851 (Forgery in the first degree), 708-852 (Forgery in the second degree), 710-1022 (Promoting prison contraband in the first degree), 710-1040 (Bribery), (1)(d) of 712-1244 (Promoting a harmful drug in the first degree), (1)(c) of 712-1245 (Promoting a harmful drug in the second degree), and (1)(c), (f) or (g) of 712-1247 (Promoting a detrimental drug in the first degree), Hawaii Revised Statutes, from the provisions of this bill.

Any person convicted under Sections 701, 710, 720, 730, 733, 810, 840, 1241, 1242 or 1244 of the Hawaii Penal Code, who has a prior conviction for the same offense in this or another jurisdiction, shall be sentenced for each conviction after the first conviction to a mandatory period of imprisonment without possibility of parole during such period as follows: (1) Second conviction for the same offense-5 years; (2) Third conviction for the same offense-10 years. The sentencing court may impose the above sentences consecutive to any other sentence then or previously imposed on the defendant.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2932-76, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2932-76, H.D. 2, S.D. 1, C.D. 1

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

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

Conf. Com. Rep. No. 33 on S.B. No. 1853-76

The purpose of this bill is to amend the present law on bicycles, and bicycles equipped with a motor, with respect to: 1) limiting the minimum age of operating a bicycle equipped with a motor to fifteen years of age; 2) to prohibiting more than one person at a time on a bicycle equipped with a motor; 3) to clarifying the rights of persons riding motorized bicycles on roadways and bicycle paths; 4) and to define the safety equipment requirements on a bicycle equipped with a motor.

Presently, "Moped" riders are constantly in danger while riding on busy streets filled with many cars, because there are relatively few protective devices on a bicycle to insure the safety of the rider, there is no minimum age of responsibility required to operate these vehicles and there are people who modify the power of the motor to exceed the 1-1/2 horsepower limit. This situation results in many "moped" riders using the bicycle lanes and endangering the safety of conventional bicycle riders because of the "mopeds" superior speed.

Insuring the safety of the rider of a bicycle equipped with a motor interacting with cars and bicycles on county streets and bike paths, is the major intent of this bill.

Persons riding a "moped" on a county road will be allowed in counties with populations of less than 100,000 people. Counties with populations of 100,000 people or more will be able by ordinance to post certain bikeways to prevent persons riding a bicycle equipped with a motor from using them. Provisions for State or Federally controlled roads were not however brought into the scope of this bill, though federal regulations do stipulate that "Mopeds" in bicycle lanes on Federal Highways be prohibited.

Your Committee upon further consideration has made the following amendments to S.B. No. 1853-76, S.D. 1, H.D. 1:

(1) the amended definition of "bicycle" on pages 1 and 2 has been deleted.

(2) the "motorcycle" definition on page 3 has been amended to exclude "farm tractors".

(3) the section: "no more than one person will be allowed to ride a bicycle equipped with a motor at a time" has been added to section 3, subsection (b) on page 3.

(4) the provision on prohibiting mopeds in bike lanes in counties of 100,000 people or more has been added to section 4, subsection (k), page 4.

(5) section 291C-147, subsections (2) and (3), on the safety equipment requirements on a moped have been deleted:

(2) "an operable stop lamp and reflective devices meeting the specifications of Federal Motor Vehicle Safety Standard Number 108"

(3) "the horsepower rating on its motor certified to and clearly marked on the motor by the manufacturers".

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1853-76, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1853-76, S.D. 1, H.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 34 on S.B. No. 75

The purpose of this bill is to reconstitute the board of paroles and pardons in order to more effectively and efficiently achieve the dual and inseparable purposes of parole, the protection of society on the one hand and the rehabilitation of the offender on the other.

The present part-time board is often frustrated in its effort to provide the necessary services demanded by the needs of the present parole system. The constraints of time, lack of technical knowledge and personal hardship on commission members arising from the time they must take from their own jobs, have hampered the effectiveness of the board.

Your Committee upon further consideration recommends that this bill be amended as follows:

(1) setting the annual salary of the chairman at $37,500. Your Committee finds that the position of chairman of the Hawaii Paroling Authority is an extremely critical position in the criminal justice and corrections system. He is the chairman of a paroling authority that is charged with, among other things, the responsibility of determining the time at which parole should be granted; establishing rules of operation to determine conditions of parole applicable to any individual granted parole; providing continuing custody, control and supervision of paroled individuals; revoking or suspending parole; discharging an individual from parole when supervision is no longer needed; interpreting the parole program to the public in order to develop a broad base of

public understanding and support; and recommending to the legislature sound parole legislation and recommending to the governor sound parole administration. To fulfill those responsibilities, the paroling authority will have to consider among other things, the risk to the community in paroling a committed person and the benefits that the committed person has secured in the correctional institution. Decisions which may have a substantial effect on various communities in the State must be made, and it is crucial that they be based on sound reasoning. Accordingly, it is imperative that a highly qualified and trained chairman be appointed. In order to induce that type of person to apply for and remain in that position, the annual compensation must be commensurate with his responsibility. Your Committee finds that an annual salary of $37,500 is appropriate, and that a continuing review of that salary is needed to ensure the retention of a qualified person.

Your Committee also feels that the chairman should be versed in criminal law so that he can appreciate the crime for which the committed person was convicted and can suggest conditions to parole which may preclude the committed person from committing the same offense.

(2) changing the compensation of the members from 90% of the hourly wage paid the chairman to 80%.

(3) changing the mandatory requirement that all employees of the former part-time board of paroles and pardons be transferred to the newly established Hawaii Paroling Authority to a discretionary one.

(4) adding a new section which amends Section 26-14, Hawaii Revised Statutes, by removing the Hawaii Paroling Authority from the administrative control of the Department of Social Services and Housing. With this amendment the Hawaii Paroling Authority is placed within the Department of Social Services and Housing for administrative purposes only. Your Committee strongly feels that not only should the members of the Hawaii Paroling Authority be adequately compensated, but also that the Hawaii Paroling Authority should be an autonomous body, since independent decisions are desired.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 75, S.D. 2, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 75, S.D. 2, H.D. 2, C.D. 1.

Representatives Roehrig, Kondo, Stanley and Medeiros,
Managers on the part of the House.

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

Conf. Com. Rep. No. 35 on H.B. No. 3196-76

The purpose of this bill is to set a schedule of mandatory sentences for a person convicted of a felony, where the person had a firearm in his possession and threatened its use or used the firearm while engaged in the commission of the felony. Your committee intends to require the court, in the cases of felonies where a firearm was used, to impose a mandatory term of imprisonment.

Your Committee is in agreement that the steadily increasing use of firearms in the commission of criminal activities presents a severe degree of risk of injury to victims of criminal actions. At the present time your Committee feels that there is a need to re-examine the methods with which to discourage the use of firearms and institute strong penalties for persons convicted of such criminal activities.

Your Committee upon further consideration has made the following amendments to H.B. No. 3196-76, H.D. 2, S.D. 1:

(1) Delete the proposed amendment to Section 706-662, Hawaii Revised Statutes, and instead, amend Chapter 6 of Act 9, Session Laws of Hawaii, 1972 (Hawaii Penal Code) as follows:

1. By adding a new section which provides for a mandatory length of imprisonment of up to ten years for the use of a firearm when a class A felony was involved; a mandatory length of imprisonment of up to five years for the use of a firearm when a class B felony

was involved; and a mandatory length of imprisonment of ten years for the use of a firearm where a class A or B felony was involved, and the felony conviction was the defendant's second felony offense conviction which involved the use of a firearm.

2. By amending Section 660.

Your Committee by this bill and the amendments thereto, intends to require the court in cases of felonies where a firearm was used to impose a mandatory term of imprisonment. Nothing contained in this bill should be construed as precluding (a) the court from imposing an indeterminate sentence or an extended indeterminate sentence, or (b) the Board of Paroles and Pardons from fixing the minimum term of imprisonment at a length greater than the length of the mandatory term of imprisonment provided for in this bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3196-76, H.D. 2, S.D. 1, as amended herein and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3196-76, H.D. 2, S.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 36 on H.B. No. 1499

The purpose of this bill is to effect more efficient and responsive administration and to defray the cost of the state small boating program.

It is the intent of this bill to clarify legislative intent so that the Department of Transportation can follow specific guidelines in administering and financing the state small boat harbors. Further, your Committee finds it necessary to reorganize the Harbors Division of the Department of Transportation to include a new branch the sole purpose of which shall be the administration of the state small boat harbors, and a comprehensive boating program.

Since small boat harbors are built for and used by boaters who moor their boats in the harbors, and facilities such as piers and catwalks are dedicated exclusively and permanently to their use, your Committee feels that these boaters should be primarily responsible for the costs of capital improvements devoted to their primary or exclusive use as well as the costs of maintaining, operating and managing the harbor facilities constructed after July 1, 1975 along with operation, maintenance and other costs to be paid solely from the boating special fund.

However, your Committee finds that Section 266-20(7) does not and cannot impair the inherent constitutional authority of the legislature in the future to appropriate and the executive branch to use general obligation bonds with debt service amortized from general funds for small boat harbors. Future legislations should be allowed in each circumstance to determine whether bonds are debt services from the special fund or from general revenues.

Under the current fee schedule, the special fund is unable to cover the added costs. Since these fees constitute the major support of the program, an increase in fees in necessary. It is anticipated that the Department of Transportation should move forth with a new fee schedule.

Your Committee finds it necessary to establish a fee structure in which non-state residents shall pay an application and permit fee differential. This is intended to equalize the burden of cost of constructing, operating and maintaining state small boat harbors for the state taxpayers. It is recommended that the Department adopt the requirement for resident status that the individaul file a state income tax return or show other valid proof.

Your Committee decided that the optimum level of the future number of live-aboards shall not exceed fifteen (15) percent of the respective total space available as of July 1, 1976 at the Ala Wai and Keehi small boat harbors. It is the intent of your Committee that this limit apply only to those harbors where live-aboard permits are presently issued by the department of transportation. In other words, no live-aboard permits

shall be issued for any other state small boat harbor except for Ala Wai and Keehi harbors.

Moorage for commercial vessels is permitted in state small boat harbors in cases where there is no commercial harbor within three statute miles. If a vessel is used for commercial purposes from its permitted mooring, the permittee shall pay in lieu of the moorage and live-aboard fees, a fee based on a percentage of the gross revenues derived from the vessel.

Your Committee further finds it necessary to require all vessels moored in a state small boat harbor to have a valid permit. All vessels applying for a permit or a permit renewal must pass an inspection of minimum requirements by a marine surveyor approved by the department of transportation. This is intended to exclude derelicts and house boats moored within state small boat harbors.

Your Committee has amended this bill to reflect the Committee's intent as stated above. Further, your Committee has made the following amendments:

(1) Eliminated the word "taxes" in Section 4 because of the opinion of the Attorney General's Office that the use of tax on live-aboards may be unconstitutional;

(2) Changed the word "shall" to "may" in Section 4 to read "(d) the department may provide moorage space within state small boat harbors to accommodate visitors on cruising vessels", because the department felt that the use of the word "shall" in statute would, at times, create a burden on state small boat harbors;

(3) Clarified the language of the grandfather clause;

(4) Added a severability clause to be Section 9 of the bill;

(5) Reworded or rephrased throughout the bill for the purposes of style and consistency.

Your Committee on Conference is in accord with the intent and purpose of H.B. 1499, H.D. 1, S.D. 1, C.D. 1, as amended herein and recommends that it pass Final Reading in the form attached hereto as H.B. 1499, H.D. 1, S.D. 1, C.D. 2.

Representatives Cayetano, Blair, Kawakami, Kiyabu and Ikeda,
Managers on the part of the House.

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

Conf. Com. Rep. No. 37 on H.B. No. 2932-76

The purpose of this bill is to provide for a mandatory period of imprisonment for a repeat offender and deny the opportunity for parole or probation under circumstances of repeated offenses.

Your Committee upon further consideration recommends that this bill be amended by inserting in line 6 on page 1 the following:

"720 relating to kidnapping, 730 relating to rape in the first degree,"

Your Committee inadvertently omitted these two sections in the bill.

Your Committee concurs with the findings of your Committee on Conference in Conference Committee Report No. 33-76.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2932-76, H.D. 2, S.D. 1, C.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2932-76, H.D. 2, S.D. 1, C.D.2.

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

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

Conf. Com. Rep. No. 38 on S.B. No. 1758-76

The purpose of this bill is to make improvements in numerous aspects of the housing development program conducted by the Hawaii housing authority pursuant to chapters 356, 359, and 359G, Hawaii Revised Statutes. In addition to substantive changes, the bill contains many style changes for purposes of clarity.

Your Committee upon further consideration has amended the "buy back" section on pages 34 and 34a to allow the authority to repurchase dwelling units subject to existing mortgages by clarifying the intent and satisfying the requirements of mortgage lenders. For the purposes of clarity and consistency other non-substantive amendments have been made.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1758-76, S.D. 2, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1758-76, S.D. 2, H.D. 2, C.D. 1.

Representatives Shito, Kiyabu, Kondo and Lum,
Managers on the part of the House.

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

Conf. Com. Rep. No. 39 on H.B. No. 2253-76

The purpose of this bill is to enable lessees of residential leaseholds to acquire fee simple ownership of their residential lots at a fair and reasonable price through the Hawaii Housing Authority; to enable lessees of residential leases to derive full enjoyment from their leaseholds; and to clarify the law relating to renegotiation of lease rents. The bill provides a vehicle for lessees of residential leaseholds to purchase the leased fee from lessors at a price which is just compensation to the lessor and which is fair and reasonable to the lessees.

This bill, as amended, provides for the following:

(1) An equitable method of determining the fair market value of the leased fee interest in residential leasehold properties utilizing either the income or market data approach. The fair market value of the leased fee shall be determined by whichever approach provides just compensation to the lessor and gives the greater consideration to the lessee's interest.

(2) The steps that the Hawaii Housing Authority must take before acquisition of development tracts have been clarified. Because the Authority has already made a finding of a shortage of fee simple residential properties in the counties, the need to again make the finding has been deleted.

(3) The "buy-back" provision has been amended to ensure that former lessees are equitably compensated if circumstances should require the Hawaii Housing Authority to purchase their residential properties.

(4) Provisions regarding arbitration to determine the value of the lease fee have been added.

(5) Section 519-2, Hawaii Revised Statutes, has been amended to exclude leasehold condominiums in keeping with the intent of this bill to cover only single-family residential houselots.

Upon further consideration, your Committee has made the following amendments to H.B. No. 2253-76, H.D. 1, S.D. 1:

(1) A proviso has been added to the discount rate under the income method of determining the fair market value of the lease fee. The proviso which allows the lessee and lessor to modify the statutory discount rate by mutual agreement is intended to give the parties the opportunity to use a discount rate other than the statutory rate, but only if agreed to by the lessees, lessors and the Authority.

(2) The market data approach has been reworded to clarify all of the lessee's interests which are to be deducted from the fair market value of the lot. The various lessee's interests are listed to insure that the appraiser consider and deduct each and every interest and equity of the lessees. The first of the lessee's interest to be deducted has been reworded to state as follows: "the value of the lease, including any rights therein, if any, which accrues to the lessees." Under this provision, the lessee's interest may include such things as a lessee's right to exercise an option to renew the lease, the value of the leasehold bonus, and any other rights that the lessee may have in the lease.

The second lessee's interest to be deducted relates to the percentage contribution of the lessee to the neighborhood which has enhanced the overall value of the neighborhood. Under this provision, the lessee's interest may include such things as the contributions of the lessees in the neighborhood to the development of schools, playgrounds, churches, shopping centers and other facilities which increases the desirability and value of the neighborhood.

The third lessee's interest to be deducted relates to the lessee's contribution to offsite improvements.

The fourth lessee's interest to be deducted relates to the lessee's percentage contributions to the general enhancement to the development tract by reason of his onsite improvements on his lot. Under this provision, the lessee's interest may include contribution of such things as the dwelling, trees, lawns, swimming pools, landscaping and other onsite improvements to the value of the lots in the development tract.

The fifth lessee's interest to be deducted relates generally to the premium paid by the lessee. This provision has been amended to limit the deduction to only the premium paid by the original lessee.

The sixth lessee's interest to be deducted relates to the fees and costs of transferring the interest to lessee ordinarily borne by the lessor.

A proviso has been added at the end of the list of the lessee's interest to state as follows:

"Provided, however, that the values established by any one of the foregoing provisions shall not be duplicated in any of the other provisions."

The intent of this proviso is to prevent duplicating the deduction of any of the lessee's interest from the fair market value of the lot.

(3) The arbitration provisions of the bill have been amended to make arbitration mandatory; to eliminate provisions which are inapplicable; to require that the arbitration award be rendered not less than 60 days from the date the arbitration panel is formed; and a new section is added relating to the effect of the arbitration on a subsequent condemnation proceeding.

Under the arbitration provisions, as amended, the lessor and lessee are requested by the Authority to negotiate. If negotiation fails, the Authority shall direct the parties to submit to mandatory arbitration. An arbitration award must be rendered within 60 days from the date the arbitration panel is formed. An appeal from the arbitration award may be taken to the circuit court within 30 days after the award is made.

The effect of the arbitration award in a condemnation proceeding is that the award is deemed to be prima facie evidence as to just compensation.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2253-76, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2253-76, H.D. 1, S.D. 1, C.D. 1.

Representatives Shito, Kiyabu, Kondo and Lum,
Managers on the part of the House.

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

Conf. Com. Rep. No. 40 on S.B. No. 2394-76

The purpose of this bill is to establish a community development authority empowered to coordinate public and private sector efforts by developing and implementing community development plans in urban areas designated by the legislature which are deemed to be underdeveloped or blighted, and are or are potentially in need of urban renewal, renovation, or improvement.

The lack of planning and coordination in such areas has given rise to the need for urban renewal, renovation, and improvement and existing laws and the public and private sectors have either proven incapable or inadequate to facilitate timely redevelopment.

Your Committee agrees that such areas may be best developed under an overseeing authority which would create or foster regulations, resources, and plans for implementation. The authority under this bill would be responsible for administering, guiding, and coordinating the pattern of development, the scheduling of implementation, and determining the extent or nature of expenditures required of public and private agencies. The bill provides that such areas will be redeveloped under a mixed-use approach whereby various uses can exist compatibly within the same area. These uses include residential, retail, commercial, light industrial, warehousing, wholesaling, recreational uses, and public facilities.

This bill designates the Kakaako area in Honolulu as the first community development district to be planned and redeveloped by the Hawaii community development authority. The Kakaako district, centrally located in Honolulu proper, is in close proximity to the central business district, the government center, commercial industrial and market facilities, major existing and contemplated transportation routes and recreational and service areas.

Your Committee upon further consideration has made the following amendments to S.B. No. 2394-76, S.D. 1, H.D. 1:

(1) Since Article X, Section 4, of the State Constitution provides that the "legislative power over lands owned or under the control of the State and its political subdivisions shall be exercised only by general laws", to insure compliance with that requirement the Senate version was selected as the vehicle.

(2) Because the authority has jurisdiction statewide, the board members are appointed by the Governor and confirmed by the Senate rather than appointed by the legislative body of the City and County of Honolulu.

(3) The term "authority" has been substituted for "corporation".

(4) The authority's power of condemnation has been limited to the acquisition of property for public facilities.

(5) The authority's power to guarantee mortgage loans has been deleted.

(6) The procedures for approval of the community development plan has been amended to provide that the plan be developed by the authority and approved by the Governor.

(7) The provision for construction contract awards shall be in conformity with the state competitive bidding laws.

(8) Provisions for relocation have been amended to meet the requirements of the existing state relocation law.

(9) All provisions relating to development charges, compensable regulations, and community facilities have been deleted. Under existing laws, no payment is made when downzoning occurs. Since the provision of the compensable regulations section is comparable to making payment for downzoning, the section was deleted in order not to set a precedent which may have statewide implications.

(10) The provision giving the agency management and control of all state lands within the community development district has been amended to allow the Governor to set aside public lands located within the district to the authority for its use. There are possible constitutional problems with reference to the University and Hawaiian Homes Commission lands.

(11) The revenue bond provisions have been deleted in favor of state general obligation bonds.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2394-76, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2394-76, S.D. 1, H.D. 1, C.D. 1.

Representatives Kawakami, Blair, Cayetano, Kihano, Kondo, Shito, Hakoda and Ikeda.
Managers on the part of the House.
(Representative Hakoda was excused).

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

Conf. Com. Rep. No. 41 on H.B. No. 2335-76

The purpose of this bill is to provide State assistance to residents for the renovation and rehabilitation of their existing dwelling units.

The high cost of construction materials, labor and financing which makes new housing construction prohibitive, also discourages rehabilitative efforts to existing housing units. This bill would help to alleviate the problem by providing low-interest state loans, as well as informational and technical assistance to those homeowners who would not otherwise qualify for home improvement loans for the purpose of renovating and rehabilitating existing units.

Your Committee upon further consideration has made the following amendments to H.B. No. 2335-76, H.D. 2, S.D. 2:

1. page 1, subsection (a) has been amended to reflect that the Authority may make loans to qualified residents for the purpose of rehabilitating or renovating existing housing. Loans shall not be in excess of $10,000 and shall be issued upon execution of written contract.

Your Committee upon further investigation has determined that participation loans would be unfeasible. Of the numerous banks and other lending institutions which were queried as to the workability of such a participation loan program, all responded in the negative. Those applicants who would not ordinarily qualify for home improvement loans from these lending institutions would probably still be deemed ineligible for a loan despite the fact that the State would provide a share of such a loan. It has therefore been decided by your Committee that the State shall provide the entire amount of the loan which shall not exceed $10,000. This would not, however, preclude the Authority from contracting with lending institutions for the servicing of such loans.

2. page 1, subsection (b) has been amended by deleting two purposes of the loans: to increase the supply of rental units available to persons of low or moderate income, and to make improvements which are experimental or innovative in nature and are necessary to meet codes or recognized standards of liveability.

Your Committee has agreed that the purpose of this bill is to provide loans for the renovation and rehabilitation of existing housing units. Since it is not your Committee's intent that such loans be used to increase the supply of rental units available to persons of low and moderate income, this purpose has accordingly been deleted.

Further, it is your Committee's intent that all rehabilitation and renovation efforts under the purview of this section be in compliance with county ordinances. Due to the uncertainty of whether experimental or innovative improvements would be in conformance with county ordinances, this purpose has also been deleted.

3. page 2, lines 3-18 have been amended to reflect that the Authority shall be responsible for providing the loans, but may use the services of banks and other mortgage lenders.

4. page 3, subsection (c) has been deleted in its entirety; however it is stated in the conference draft that loans under this section shall be available for rehabilitation or renovation of owner-occupied, single-family and duplex housing.

Your Committee has excluded multiple-unit structures or complexes from qualifying under this section. It is felt that multiple unit structures would present unique problems in the implementation of this program, and therefore would require additional research and legislation in order for it to be effectively implemented.

Further, your Committee has deleted the qualifying income requirement with the belief that such restrictions are too stringent.

5. page 4, line 12 - The words "or complex of dwelling units" have been deleted.

6. page 4, line 21 - Paragraph (6) has been replaced by the following: "Has applied for and has been refused a home improvement loan by at least one bank or other financial institution in the State."

This paragraph has been amended, as it is your Committee's intent that such loans be made only to those persons who are not able to qualify for loans from private lending institutions.

7. page 5, line 5 - Paragraph (8) has been amended to reflect that a qualified resident shall have an adjusted family income not to exceed the maximum limit established by the Authority.

Because this section would come under the purview of Chapter 359G, it is your Committee's belief that the adjusted family income be in consonance with that established by the rules and regulations for this chapter.

8. page 5 - A paragraph (9) has been added to reflect that the resident is, in determination of the Authority, able to repay the loan on term satisfactory to the Authority.

This amendment has been made to provide added surety that the resident will be able to repay the loan.

9. page 6, line 9 - Paragraph (1) has been amended by deleting all references that the Authority shall provide a share of the loan through a private lender and, further, by stating that the rate of interest shall be in conformance with section 359-30.

10. page 6, line 21 - This paragraph has been amended to reflect that the loan may, at the direction of the Authority, be serviced by commercial banks or other lending institutions in the State. The service fee shall be established by contract between the Authority and the lending institutions but shall not exceed the service fee charged by the lending institutions for similar loans made by them.

This amendment details further the servicing of loans by private lending institutions.

11. page 7, line 5 - Paragraph (4) has been deleted, as it would no longer be applicable.

12. page 8 - Subsection (j) and (k) have also been deleted as they, too, would no longer be applicable.

13. page 8 - Subsection (l) has been deleted as the Authority already has this power under paragraph 359G-4(c)(1).

14. page 8, line 22 - The words "in an amount not to exceed $5,000,000" have been deleted.

15. Pages 9-16 of this bill have been deleted with the exception of subsection (e) which has been amended by stating that the Authority shall cause the State to issue general obligation bonds to finance loans for the rehabilitation and renovation of existing housing.

16. Other technical, non-substantive amendments have been made.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2335-76, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2335-76, H.D. 2, S.D. 2, C.D. 1.

Representatives Shito, Kiyabu, Kondo and Lum,
Managers on the part of the House.

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

Conf. Com. Rep. No. 42 on H.B. No. 2949-76

The purpose of this bill, as amended herein, is to make amendments to two aspects of the State housing program by: (1) redefining "elderly person" as it applies to State public housing projects; and (2) increasing State rent supplement payments for elderly persons.

Chapter 359-51, Hawaii Revised Statutes, currently defines an elderly person as one who has attained the age of 65, has continuously resided in the State for at least three years and who is unable to secure safe and sanitary dwelling accommodations at a rental within his financial capabilities. The first amendment seeks to bring the definition of an elderly person into consonance with current federal legislation which defines an elderly person as an individual who has attained the age of 62; or an individual who is physically or mentally impaired to engage in any substantial, gainful activity whose condition may eventually result in death or to be of a long and continued duration; or an individual with a physical impairment which impedes his ability to live independently and is of such a nature that this impairment may improve provided more suitable housing conditions are found. Additionally, this amendment has deleted the three years residency requirement due to unconstitutionality. However, there has been added a requirement that the elderly person be a bona fide resident of the State.

The second amendment proposes to raise the rent supplement payment ceiling from $70 to $90 a month for elderly persons who qualify for rental assistance. This adjustment will provide relief to the elderly who are generally in greater need of rental assistance due to their relatively low fixed incomes.

The rental assistance to qualified persons, other than the elderly, would remain at a $70 maximum.

Upon further consideration, your Committee has made the following amendments to H.B. No. 2949-76, S.D. 2:

1. page 1 - The definition for "elderly person", as provided for in SECTION 2 of H.B. No. 3230-76, H.D. 1, S.D. 1 has been added.

Your Committee deems it appropriate that this definition be added to this bill inasmuch as reference to it is made in SECTION 2 of this conference draft.

2. page 1-5 - SECTIONS 2 through 4 have been deleted.

Inasmuch as the Department of Land and Natural Resources already has the authority to dispose of public lands to the Hawaii Housing Authority at a nominal fee of $1, as provided for in section 171-95 of the Hawaii Revised Statutes, it is felt that these SECTIONS are superfluous.

3. pages 5-8 - SECTION 5 has been deleted in its entirety.

It is the belief of your Committee that this SECTION is unnecessary in that it is already provided for in section 171-11 of the Hawaii Revised Statutes.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2949-76, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2949-76, S.D. 2, C.D. 1.

Representatives Shito, Kondo, Takamura and Lum,
Managers on the part of the House.

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

Conf. Com. Rep. No. 43 on H.B. No. 3230-76

The purpose of this bill is to substantially amend Part III, Chapter 359, Hawaii Revised Statutes to expand and reiterate the responsibilities of the Hawaii Housing Authority in providing housing for elderly persons.

As stated in the Findings and purpose section of this bill, the shortage of housing for elderly persons in the State remains a critical problem. This is confirmed by findings in the Comprehensive Master Plan for the Elderly prepared for the State Commission on Aging by Gordon Associates, Inc. in December, 1974, which states the following:

"A little less than one-third (28 percent) of homes owned in Hawaii are occupied by elderly persons, while one in seven rental units are occupied by those over the age of 60. Using criteria established by the U.S. Department of Housing and Urban Development (HUD), of the elderly-owned homes included in the 1970 Census, one out of every eight (13 percent) lacked plumbing, were overcrowded and were over thirty years old. This proportion is greatest for the County of Hawaii where one in every four (22 percent) elderly-owned units are classified as unsound and inadequate.

When one examines elderly-occupied rental units, the picture is even more dismal. More than half (56 percent) of elderly-occupied units are inadequate and cost more than 25 percent of basic incomes to rent. As these criteria are used to assess the demand for additional or subsidized housing by federal and state housing planners, there is the potential for upwards of 12,000 new low-income homes and apartment units to be built in Hawaii to meet the needs of its elderly."

One factor contributing to the shortage of elderly housing is that presently, the Authority maintains no special allocation for any particular segment of individuals within the group designated as low income. Consequently, there is no amount of funding within the programs set aside especially for the elderly, despite the fact that taken in the aggregate, the elderly demonstrate that they have different needs and preferences than that of the client group served by the Authority as a whole.

This bill would alleviate the above-mentioned conditions by authorizing the Authority to do any and all things necessary and desirable to acquire, construct, reconstruct, operate and maintain housing projects for the elderly. The primary thrust of this bill is to provide funds through a newly created elderly housing fund as well as other available funds of the Authority, and through the financial assistance from the federal government. Further, this bill will provide an incentive for the counties and non-profit organizations to assume a far more active role in elderly housing development than they have up to now.

Upon further consideration, your Committee has made the following amendments to H.B. No. 3230-76, H.D. 2, S.D. 1:

1. The contents of pages 2-19 of H.B. No. 3230-76, H.D. 2 have been added to this bill, with the following exceptions:

a. Page 7, lines 6-10 of H.B. No. 3230-76, H.D. 2 have been deleted.

b. Page 8, subsection (d) of H.B. No. 3230-76, H.D. 2, has been amended to provide greater flexibility in setting the rates of interest charged on loans secured and made under this part.

This proposal seeks to permit the Authority, with the approval of the Director of Finance, to set interest rates chargeable under this part after each sale of general obligation bonds of the State for the purposes of this part. Interest rates shall be established so as to produce up to but not in excess of the maximum yield permitted to the States under the arbitrage provisions of the U.S. Internal Revenue Code.

c. page 18, line 10 of H.B. No. 3230-76, H.D. 2 - The words "in the aggregate amount not to exceed $1,000,000" has been deleted.

2. page 2 - SECTION 2 has been deleted, as it is incorporated in the conference draft of this bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3230-76, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto has H.B. No. 3230-76, H.D. 2, S.D. 1, C.D. 1.

Representatives Shito, Kondo, Takamura and Lum,
Managers on the part of the House.

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

Conf. Com. Rep. No. 44 on H.B. No. 3261-76

The purpose of this bill is to provide much needed support and impetus for the development of the papaya, anthurium, and other cut flowers and ornamental foliage industries which have contributed significantly to Hawaii's economic stability and which hold exceptional potential for further growth.

Your Committee upon further consideration has made the following amendments to H.B. No. 3261-76, H.D. 2, S.D. 2:

(1) Relating to SECTION 2. Appropriation (a) (Papaya Industry):

. Changed the total sum appropriated for the papaya industry from $5 to $545,000; and
. Amended the amounts appropriated for the subitems thereunder.

(2) Relating to SECTION 2. Appropriation (b) (Anthurium and other Cut Flowers Industry):

. Changed the total sum appropriated for the anthurium and other cut flowers industry from $1 to $229,000; and
. Amended the amounts appropriated for the subitems thereunder.

(3) Relating to SECTION 2. Appropriation (c) (Ornamental Foliage Industry):

. Changed the total sum appropriated for the ornamental foliage industry from $1 to $150,000.

(4) Relating to SECTION 3.:

. Inserted the following additional proviso to read as follows: "provided that the sums appropriated for the advertising and promotion of anthuriums, cut flowers, and ornamentals shall be expended on a nonmatching basis."

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3261-76, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3261-76, H.D. 2, S.D. 2, C.D. 1.

Representatives Uechi, Ho, Inaba, Suwa and Hakoda,
Managers on the part of the House.

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

Conf. Com. Rep. No. 45 on S.B. No. 2121-76

The purpose of this bill is to amend Chapter 346, Hawaii Revised Statutes, by adding a new section which directs the Department of Social Services and Housing to pay providers of medical, dental, and other professional health care services participating in the Medicaid Program, their usual and customary fees up to the maximum which federal rules permit.

Biennial budgeting pursuant to this Act, shall be based upon the most current profile of usual and customary fees; and payments to providers during this period, shall not exceed those used as the basis for the appropriation. On even numbered years, the Director must report to the Legislature the amount of additional monies required to raise the level of payment to the prevailing profile of usual and customary fees, and shall request that such amount be reflected in the Governor's supplemental budget to the Legislature. In the event that additional funds are appropriated, the

profile upon which the appropriation is based would be utilized for payment of fees for the remainder of the biennium.

Medicaid is a state administered, federally subsidized, medical assistance program which provides for comprehensive services to meet the health needs of Hawaii's welfare recipients and Supplemental Income beneficiaries, as well as low-income individuals and families who are medically needy. Presently, the program serves an average of 86,800 persons per month, at an estimated total cost of $54,229,176 for fiscal year 1975-76. The federal matching share is 50% of the cost of medical care and services; however, matching funds are not available for medical payments made in behalf of General Assistance adult recipients and pensioners. Thus, the actual federal share in Hawaii's program is about 42% or $23,022,851 for fiscal year 1975-76 and the State's share is 58% or $31,276,325.

The Medicaid program provides for individual choice of service providers and to this end, the Department has enlisted the participation of licensed private practitioners, clinics, laboratories, and other sectors of Hawaii's health care delivery system. With the exception of professional services, payment levels to these providers are at the upper limits permitted by federal regulations. The regulations currently allow states to pay participating health care professionals at their usual and customary fees up to the 75th percentile of prevailing charges. The 75th percentile is determined by distributing individual charges for specific services on a normal bell curve. However, these profiles do not reflect current charges; they reflect the prevailing charges of the year previous to the one for which the 75th percentile is being determined. With the exception of dentists, Hawaii's health care professionals are presently reimbursed for services at 75% of usual and customary fees that do not exceed the 75th percentile of prevailing charges.

In contrast to the present rate of payments to non-professional providers, payments to health care professionals are far below the upper limit allowed by federal regulations. The Department reported that after nine years of participation in Medicaid, they are still receiving payments somewhere near the 50th percentile, and cited this factor as being one reason why a majority of professionals limit the number of Medicaid patients they serve.

The projected cost for all professional services in 1976-77, based on the proposed increase in payments, is $22,459,071. This represents an increase of $4 million over the amount appropriated for the coming fiscal year, with the State's share amounting to $2.3 million. Therefore, your Committee has amended S.B. No. 2121-76, S.D. 1, H.D. 2 by adding an appropriation for the sum of $2.3 million, out of the general revenues of the State, for the purpose of implementing this Act during the fiscal year 1976-77.

Pursuant to the implementation of this Act, your Committee recommends that the Department of Social Services and Housing establish a viable mechanism for monitoring the participation of health care professionals in the Medicaid program, as a means of controlling program costs and undue increases in professional health care fees. Your Committee recommends further, that the Department strive for better coordination and communication with the Hawaii Medical Services Association in its efforts to control costs, and to better project program costs for budgeting purposes.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2121-76, S.D. 1, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2121-76, S.D. 1, H.D. 2, C.D. 1.

Representatives Stanley, Segawa, Mizuguchi and Clarke,
Managers on the part of the House.

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

Conf. Com. Rep. No. 46 on H.B. No. 639

The purpose of this bill is to ensure the continuing availability of needed services for the retarded currently rendered by the Hilo Day Activity Center for the Adult Retarded by having the State assume its ownership, and incorporating its administration and operation into the State Department of Health's community program.

Your Committee has amended this bill by providing an appropriation of $39,959 to insure that existing levels of services which are currently being provided will continue unabated.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 639, H.D. 1, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 639, H.D. 1, S.D. 2, C.D. 1.

Representatives Segawa, Mizuguchi, Takamine and Amaral,
Managers on the part of the House.

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

Conf. Com. Rep. No. 47 on H.B. No. 2359-76

The purpose of this bill is to make the members of the Public Utilities Commission full-time employees of the State and to provide the Commission with its own staff.

Section 1 of the bill creates a full-time Public Utilities Commission of three members to be appointed by the Governor for six year terms. The first commissioners to be appointed will serve staggered terms of two, four, and six years to insure continuity of membership of the Commission.

Because of the complexities of the regulatory process, the bill sets forth general qualifications for the commissioners in that the Governor is directed to appoint persons with experience in accounting, business, engineering, finance, law, government, or other similar fields. The salary of the chairman of the Commission is set at that of a circuit court judge with the other commissioners receiving 95 per cent of the salary of the chairman.

Section 2 of the bill authorizes the chairman of the Public Utilities Commission to hire and define the duties of the Commission's staff. The chairman is also authorized to hire a chief administrator and an attorney, both of whom would be exempt from the civil service laws.

Under the present part-time Commission, each county of the State is represented on the Commission. Because of the impracticality of providing for such representation under a full-time Commission, the bill requires the Commission to employ public utilities commission assistants to be stationed in each county with a population of less than 100,000 to insure direct access to the Commission by the citizens of such counties. The assistants will be responsible for receiving complaints from consumers and meeting with the public utilities in the respective counties to attempt to resolve such complaints. They will report directly to the Commission and the chairman of the Commission may appoint them to carry out certain investigative functions for the Commission.

The bill also removes an incongruity in the present law. Under Section 91-13, Hawaii Revised Statutes, an official who renders a decision in a contested case before an agency is forbidden to consult with any person on any issue of fact except upon notice and opportunity for all parties to be heard. This could be interpreted as preventing the Commission from consulting privately with its own staff in contested cases. The purpose of providing the Commission with its own staff would be defeated by such an interpretation and, therefore, the bill makes clear that the Commission can consult privately with its staff on issues of fact in contested cases.

Section 3 of the bill repeals Section 269-4, Hawaii Revised Statutes, which is an obsolete section dealing with the employment of an inspector to deal with radio interferences.

Section 4 of the bill amends Section 269-5, Hawaii Revised Statutes, dealing with the annual report furnished to the Governor by the Commission, by requiring a more extensive and comprehensive report of all actions of the Public Utilities Commission. In addition, the Commission is required to establish and maintain a register of all its orders and decisions for public inspection.

Section 5 of the bill authorizes the Commission to appoint any of its members as

a hearing officer to hear and decide all matters except rate proceedings and matters relating to tariffs. The findings and conclusions of the hearing officer must be approved by the full Commission after notice and an opportunity to be heard is given to all parties to the proceeding.

Section 6 of the bill amends Section 269-15, Hawaii Revised Statutes, to provide that the Commission may on its own motion institute proceedings before it to remedy any violations of Chapter 269 or any rule or requirement of the Commission. The Commission is also authorized to direct the director of the Department of Regulatory Agencies to appear in any such proceeding. The reason for the appearance of the director of the Department of Regulatory Agencies is that under the overhaul of the regulatory process proposed by this bill and H.B. No. 2375-76, the director is designated the consumer advocate to protect and advance the interests of consumers of utility services in hearings before the Public Utilities Commission.

Section 7 of the bill places the Public Utilities Commission within the Department of Budget and Finance for administrative purposes. One of the recommendations of the Legislative Auditor in his report on the operations of the public utilities program of the State was that the Public Utilities Commission be taken out of the Department of Regulatory Agencies because the decision and policy making functions of the Commission are incompatible with the consumer advocacy function of the director of the Department of Regulatory Agencies.

Section 8 of the bill amends Section 26-9, Hawaii Revised Statutes, which deals with the functions of the Department of Regulatory Agencies, to conform with the provisions of this bill by deleting the reference in that section to the Public Utilities Commission as one of the boards and commissions placed within the Department of Regulatory Agencies for administrative purposes.

Section 9 of the bill is designed to provide for an orderly transition from the present Commission to the full-time Commission. The new Commission is authorized to appoint members of the present Commission as hearings officers to continue hearing applications that are filed before the effective date of the bill when enacted into law. Appropriate powers are granted to the members appointed as hearings officers and provision is made for compensation.

Section 10 of the bill makes an appropriation for the operation of the Commission and its staff. In addition, the Director of the Department of Regulatory Agencies is directed to transfer $94,305 of the sum appropriated to REG 103 by Act 195, Session Laws of Hawaii 1975 to the Department of Budget and Finance. This amount represents sums appropriated to the Department of Regulatory Agencies which were budgeted for use by the Public Utilities Commission. Because the Commission is being transferred to the Department of Budget and Finance, these moneys are being transferred to that department.

Section 11 of the bill provides for transfer of any employees presently serving on the Public Utilities Commission staff to civil service status.

Upon further consideration, your Committee has amended H.B. No. 2359-76, H.D. 1, S.D. 2, in the following respects:

(1) The Public Utilities Commission assistants have been exempted from Chapters 76 and 77, i.e., they will not be under the civil service laws. This was done because it was felt that as direct representatives of the Commission their qualifications and tenure should be directly controlled by the Commission.

(2) An appropriation of $385,252 (16) has been made for the operations of the Commission.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2359-76, H.D. 1, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2359-76, H.D. 1, S.D. 2, C.D. 1.

Representatives Yamada, Kondo, Takamine, Uechi, Yap, Carroll and Fong,
Managers on the part of the House.

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

Conf. Com. Rep. No. 48 on H.B. No. 2227-76

The purpose of this bill is to adjust the cost of safety identification decals or emblems required of motor vehicles under the jurisdiction of the Public Utilities Commission and to increase the fee for safety inspections.

Under present law, motor carriers or private carriers under the jurisdiction of the Public Utilities Commission are required to pay an annual fee of $3 for each safety identification decal or emblem required for each of its motor vehicles. However, the 1968 Highway Safety Act, as amended, requires semiannual safety inspection of all vehicles subject to the Commission's jurisdiction. The semiannual inspection requirement means that two decals or emblems will be issued for each vehicle annually and this bill adjusts the fee for each decal or emblem to $1.50 or a total cost of $3 annually for each vehicle.

In addition, since the present fee of $3 was authorized for safety inspections, the cost of inspection equipment and qualified personnel employed by inspection stations has increased. This bill increases the fee to cover increased costs and to more equitably compensate the inspection stations.

Upon further consideration of this measure, your Committee has amended H.B. No. 2227-76, S.D. 2 to set the fee for safety inspections at $7 rather than $6.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2227-76, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2227-76, S.D. 2, C.D. 1.

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

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

Conf. Com. Rep. No. 49 on H.B. No. 2022-76

The purpose of this bill is to have the Commission on Aging or the Executive Office on Aging, as the case may be, establish state policy for senior centers. The policy shall include, but not be limited to, the establishment of long range and immediate goals and objectives, state standards for the operation and maintenance of senior centers, priorities for program implementation, delineation of state and county roles relative to the administration of centers and the establishment of a monitoring mechanism.

Your Committee finds that since its development in 1968 and 1969, senior centers have proliferated throughout the State. These public and privately sponsored centers have become a gathering place where senior citizens can particpate in activities which are satisfying and fulfilling and receive services that can assist them in their daily living.

Furthermore, your Committee finds that although the State does not have a network of senior centers with a coordinated system of administration and operation, senior centers have operated successfully on the neighbor island counties of Maui, Kauai, and Hawaii. On Oahu, however, a lack of coordination and leadership appears. Because of the variety of arrangements and preferences in the operation of service center programs, a clarification of the roles and responsibilities of state and county governments in this area is needed. Such a policy would allow for maximum effectiveness in administering Hawaii's senior centers.

Your Committee upon further consideration has amended H.B. No. 2022-76, H.D. 1, S.D. 1 to include an appropriation of $2250. This figure represents the amount necessary to finance four meetings of an ad hoc committee on senior centers, to be created at the direction of the Commission on Aging, composed of three representatives each from the counties of Maui, Hawaii and Kauai and seven representatives from the city and county of Honolulu.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 202276, H.D. 1, S.D. 1, as amended herein and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2022-76, H.D. 1, S.D. 1, C.D. 1.

Representatives Takamura, Kunimura and Evans,
Managers on the part of the House.

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

Conf. Com. Rep. No. 50 on H.B. No. 62

The purpose of this bill is to create an executive office on aging in the office of the Governor.

Your Committee finds that such an office is necessary to eliminate the present fragmentation of service delivery functions at both the state and local levels by assigning a clear responsibility to independent agencies at both levels.

Your Committee upon further consideration has made the following amendments to H.B. No. 62, H.D. 1, S.D. 3:

1. A new SECTION 3 has been included, providing for the orderly transfer of functions, programs, officers, employees and commission members from the existing state and county bodies to those created by this bill.

2. A new SECTION 4 has been added providing for transfer of records, equipment and other personal property of the state or county commissions relating to functions transferred to the executive office on aging, the county offices, or the county policy councils.

3. The present SECTION 3 has been renumbered SECTION 5 and amended to appropriate the sum of $40,600 to cover the cost of a) the director's salary, set by H.B. No. 62, H.D. 1, S.D. 3 at a level equivalent to the salary of departmental second deputies in order to be consistent with the salary schedule enacted in 1975; b) two additional positions, including an accountant and a program specialist IV; and c) equipment and other current expenses.

4. A severability clause, SECTION 6, has been inserted.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 62, H.D. 1, S.D. 3, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 62, H.D. 1, S.D. 3, C.D. 1.

Representatives Takamura, Kunimura and Evans,
Managers on the part of the House.

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

Conf. Com. Rep. No. 51 on S.B. No. 1794-76

The purpose of this bill is to change the law relating to notaries public to conform the durational residence requirement with present law, to lower the age requirement to eighteen years, and to increase fees in order to cover increasing administrative costs.

Your Committee has amended this bill by deleting the amendment to the age requirement which lowers the age from 20 to 18. Your Committee notes that the age requirement for notaries was lowered from 20 to 18 by section 22, Act 2, Session Laws of Hawaii 1972. Your Committee has also inserted a comma on page 3, line 7 after the word "acknowledgement" which was inadvertently omitted.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1794-76, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1794-76, S.D. 1, H.D. 1, C.D. 1.

Representatives Roehrig, Cayetano and Sutton,

Managers on the part of the House.

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

Conf. Com. Rep. No. 52 on H.B. No. 1998-76

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

Your Committee has decided to accept the House draft of this bill, with three modifications: (1) add to refund of taxes an item for $3,406.17 for Puna Sugar Co., Ltd; (2) change the amount of settlement in Civil No. 2974 from $778.25 to $1,037.47; and (3) add an additional miscellaneous claim for Thelma Lindsey for $2,250.00.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1998-76, H.D. 1, S.D. 1, as amended herein and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1998-76, H.D. 1, S.D. 1, C.D. 1.

Representatives Lunasco, Kiyabu and Lum,
Managers on the part of the House.

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

Conf. Com. Rep. No. 53 on H.B. No. 1810

The purpose of this bill is to require governmental agencies to give preference to Hawaii services when purchasing services.

Under present law, governmental agencies are mandated to give preference to Hawaii products when purchasing products. This bill enlarges the preference to include purchases of services. Hawaii services is defined as services performed by a business that is wholly owned by Hawaii residents or a corporation that is incorporated in this State and all of whose directors, officers, and employees are residents of this State.

This bill gives preference to Hawaii businesses for the reasons that when a contract is awarded to a local enterprise, there is a greater likelihood that the taxes resulting from the contract will be paid to the State, that the government funds used will be retained within the local economy to provide employment opportunities, and that the quality of services can be better controlled and managed by the contracting agency.

Your Committee, upon further consideration, has made the following amendments to H.B. No. 1810, H.D. 2, S.D. 1:

(1) Added a definition of the term "services". The term is defined as the rendering of any non-professional work, labor, or activity in connection with a contract with a governmental agency in which the performances of services is the primary consideration received by the agency. Further, the state comptroller is empowered to determine what percentage of the contract is related to the performance of services, as opposed to the furnishing of materials or other non-service items, in order for the contract to qualify as a contract for services, provided that the cost of the service portion must be no less than eighty per cent of the total contract price.

(2) Added a provision to Section 103-42, Hawaii Revised Statutes, allowing the state comptroller to utilize the rules adopted for qualifying for inclusion on the Hawaii services list, instead of establishing a list, if the rules are adequate for the purpose of determining when a business is offering Hawaii services. The reason for the amendment is to allow each governmental agency to make its own determination, based on the rules adopted by the state comptroller, as to when Hawaii services are involved rather than having the state comptroller making all determinations.

(3) Added a provision giving a fifteen per cent preference to Hawaii services when services are purchased by governmental agencies.

(4) Added a provision in Section 103-45, Hawaii Revised Statutes, dealing with public works contracts, that for minor repairs, maintenance, or other service contracts meeting the definition of "services", the awarding of the contract will be based on the preference for Hawaii services.

(5) Made other changes to conform the bill to the amendments discussed above, as well as technical changes.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1810, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1810, H.D. 2, S.D. 1, C.D. 1.

Representatives Yamada, Takamine and Carroll,
Managers on the part of the House.

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

Conf. Com. Rep. No. 54 on H.B. No. 934

The purpose of this bill is to limit the retainage allowed under a public contract.

Present laws are silent on retainage provisions in public contracts. However, retainage provisions, pursuant to which a portion of the amount due a contractor under a contract is withheld to insure the proper performance of the contract, are long accepted standard provisions in construction contracts. The current practice is to retain five to ten per cent of the progress payments due contractors under public contracts.

The provisions of this bill limit the retainage in public contracts to a maximum of five per cent of the amount due the contractor until fifty per cent of the contract is completed with no retainage allowed thereafter if progress has been satisfactory. However, if the contracting officer determines that progress has not been satisfactory, a retainage of not more than five per cent may be continued.

Your Committee, upon further consideration, has amended H.B. No. 934, H.D. 2, S.D. 1, by adding a provision authorizing a contracting officer to enter into an agreement with a contractor which will allow the contractor to withdraw from time to time, the whole or any portion of the retainage upon depositing with the contracting officer any government bond with a market value not less than the sum withdrawn.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 934, H.D. 2, S.D. 1, as amended herein, and recommends that is pass Final Reading in the form attached hereto as H.B. No. 934, H.D. 2, S.D. 1, C.D. 1.

Representatives Yamada, Kondo, Lee, Mizuguchi, Uechi, Fong and Hakoda,
Managers on the part of the House.

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

Conf. Com. Rep. No. 55 on H.B. No. 2100-76

The purpose of this Supplemental Appropriations Bill is to make appropriations for the 1975-77 fiscal biennium and authorize the issuance of bonds.

MAJOR ECONOMIC AND FISCAL ISSUES

Unemployment. The latest unemployment figures for Hawaii showing the unemployment rate to be 9.3 percent, the highest in 27 years, make it painfully obvious that the unemploy-

ment problem continues to be serious. Moreover, it illustrates that even with the initiation of State employment programs made possible through appropriations in the 1975 session, conditions are worse than those a year ago, when the unemployment rate stood at 7.7 percent. It is speculative how much worse off the State would be today had there been no legislative initiatives last session, but it is probably safe to say that without State action, the unemployment slide might have been even deeper.

The costs of unemployment have been extremely expensive, both in terms of lost labor and production and in terms of direct costs to government and employers for support payments to the jobless. Regular unemployment insurance payments have been trending inordinately high and, as might be expected in periods of high joblessness, there has also been a significant impact on public assistance costs. Moreover, there are real social costs to the individuals who are unemployed: a lower standard of living, education foregone, health care not obtained, career plans curtailed, disruption of families, and other hard-to-measure social costs which nonetheless weigh heavily on the jobless.

Normally, sustained recessionary conditions at the national level which have an impact on employment in the individual states are problems which the federal government is better equipped to solve through its vast fiscal and monetary powers. However, national policies have fallen far short of bringing about full economic recovery, let along solving the unemployment problems in the individual states. The federal government has been slow to act on the expansion or continuance of national employment programs, even though at least the same level of national effort will be required if employment conditions are not to deteriorate in this State--as well as others. A job for every person who is willing and able to work is a policy which requires a massive commitment by the federal government toward economic recovery measures and direct employment programs. Such a commitment is uncertain at this time, and your Committee has had to proceed with no knowledge whether this State will be assisted by federal action.

While State action and resources are limited in comparison to the vast fiscal and monetary powers of the federal government, your Committee believes that State government should assist in every way that it can to prevent unemployment from deteriorating even further. Last session, the legislature enacted Act 151, which provided for a comprehensive State program for the unemployed and funded the program through an appropriation of over $12 million, including over $11 million for public service jobs. The program will be sustained and expanded by making available some $12 million for public service jobs and other employment programs.

Direct employment programs are to be complemented by funds to assist in the recovery of the ailing construction industry. Of all of the segments of the local economy, the construction industry has been one of the hardest hit by recessionary conditions, and its jobless rolls are distressingly high. To counter the decline in private construction, the State program for the repair and maintenance of public facilities will be expanded and accelerated through additional appropriations which will make available some $15 million to stimulate the industry over the short term. This action is being taken because repair and maintenance activities are labor-intensive; they involve trades sharply affected by unemployment; the program itself has not received the attention it should, particularly with respect to the protection of public investment through preventive maintenance; and the program can be accelerated quickly without the longer lead time required for major construction projects.

Tax Relief for Homeowners. Rising real property valuations and inequities in tax assessments, in combination with other factors, such as inflation and the high cost of living, have resulted in growing discontent among Hawaii's real property taxpayers, especially homeowners. The real property tax has been regarded as a regressive form of taxation since it has no direct relationship to each property owner's ability to pay the tax. Its inequity is best illustrated by the homeowner on a fixed income who is faced with an increase in property taxes. Unlike the owner of other classes of property, such as apartments and hotels or commercial and industrial property, the person who lives in his own home cannot shift the burden of the real property tax to anyone else. And if he continues to live in his own home, he is taxed for an increasing economic value assigned to his home even though he does not receive that value.

This session of the legislature has recognized that the problem faced by the homeowner is a real and growing one. Already enacted into law is Act 6 which provides for real property tax relief through the increase of the home exemption from $8,000 to $12,000. In addition to relief for homeowners generally, the increase is the home exemption will greatly benefit the elderly, since those over 60 are entitled to a multiple of two times the regular home exemption and those over 70, two and one-half times the regular home exemption. The higher home exemption should provide some relief to homeowners or

at least cushion the homeowners from increases in assessments.

State Financing Policies. The State's total outstanding debt is now in the neighborhood of $1 billion. Debt service costs, the periodic amounts required to pay principal and interest to bondholders, have nearly tripled from $35 million in fiscal year 1970-71 to $92 million in the current fiscal year. By fiscal year 1980-81, the Department of Budget and Finance estimates that debt service costs will increase to $163 million.

These indicators of the magnitude of the State's debt clearly call for prudence and restraint in authorizing new capital investments which require financing through the issuance of general obligation bonds. There are timely lessons to be learned from the fiscal problems which befell New York City last year--problems attributable to that city's excessive borrowing policies. The State of Hawaii currently enjoys a favorable credit rating in the municipal bond market. However, that rating could be affected and borrowing costs could soar if the State's debt gets out of hand. Such a condition should not be allowed to develop. It is your Committee's belief that fiscal restraint needs to be exercised to limit the growth of the State's debt and the associated debt service costs.

Over the near term, the financial outlook is such that the State can apply some cash financing for capital investment. It is expected that some $30 million in general fund cash will be allocated to capital expenditures.

Beyond the immediate action of substituting cash for borrowing where possible, it is clear that more analysis needs to be done in the area of financial policies and management. Among the issues which should be examined are the economics of pay-as-you-go (i.e., cash) vs. pay-as-you-use (i.e., borrowing) policies; the effects of debt management on cash management and vice versa; the debt service capacity of the State; the effects on short-term investments when general fund cash is advanced for capital expenditures; the increasingly large pool of authorized but unissued debt; and looking ahead to the possible call of a Constitutional Convention, the principles which might guide changes to the existing constitutional provisions governing the debt limit and the authorization and issuance of debt. These issues should be examined by the legislature, and the legislative auditor is requested to asist in that examination through a study of the State's financial management policies and practices.

SUPPLEMENTAL BUDGET CONCERNS AND FOCUS

Act 195, Session Laws of Hawaii 1975, generally provided adequate funds to meet the financial needs of the State for the fiscal biennium 1975-77. However, there were certain areas where budgetary adjustments or supplementation are required to meet changing needs and circumstances anticipated during the second half of the biennium.

It is to address these needs and concerns that this bill has been formulated. Your Committee believes that the appropriations herein provided are proper and meritorious and that they reflect the legislature's concerns for the social and economic well-being of Hawaii.

Highlights of the provisions of this bill follow:

Economic Development

Tourism. Your Committee suggests several program adjustments intended to maintain the long range quality of the tourism industry. These changes make up a coherent strategy for dealing with tourism in the future. A 10-year growth plan for the tourism industry has been funded. In addition, a permanent staff of five persons has been included within the Executive branch to conduct continuing research and planning for tourism. There is to be maximum coordination between these new research activities and the ongoing research within the Hawaii Visitor's Bureau.

Agriculture. Diversified agriculture has long been a major goal of the State. Your Committee has provided funds to support various programs and activities in furtherance of this goal. Particular attention has been placed on aiding the cattle industry and the growing, processing and marketing of papaya, avocado and banana. To ease the credit problems of farmers, appropriations have also been included for the Young Farmers program statewide; feasibility study on the establishment and operations of a farmer's market at Fort Armstrong; and evaluation of alternative pesticides for ant control in pineapple culture.

Aquaculture and Mariculture. Hawaii, as an island state, is confronted with a tremendous potential for growth in ocean-related economic activities. That potential has not been realized to the fullest extent possible. Your Committee believes that a far-

sighted commitment should be made now so that the potential may be realized in the future. Accordingly, funds are provided for the support of mullet and shellfish (particularly oyster) development which may lead to new industries for the State in these two products. In addition to being a possible food fish, the mullet development may also lead to its becoming available as a bait fish for the local tuna fishing industry. Funds are also appropriated for an economic assessment of aquaculture and a master plan for the development of the areas of greatest potential.

Health

Services for the Developmentally Disabled. It is a matter of great legislative concern to not only maintain but upgrade and improve services for the developmentally disabled. Consequently, we are in support of the need to upgrade the Department of Health's inpatient facilities, treatment, and community-based services for the developmentally disabled.

As a first step in this direction, your Committee has increased the staffing of Waimano Training School and Hospital towards meeting the accreditation standards by the Joint Commission on Accreditation of Hospitals to be eligible to qualify for federal contributions available under Title XIX of the Social Security Act for ICF MR care. It is the intent of your Committee to continue to support the decentralization of Waimano by providing the required resources to maintain and improve community-based programs on a statewide basis.

In order to prevent or minimize the effects of developmental disabilities, your Committee fully recognizes the necessity and treatment program in this area and has, therefore, increased the staffing for these programs on a statewide basis. We have also appropriated sufficient funds to the Genetic Laboratory at Children's Hospital.

School Health Services. Funds have been appropriated to provide health services for all public elementary schools in the State by the end of the 1975-77 biennium, fulfilling the original intent of the School Health Pilot Project and establishing the necessary services for prevention and detection of sensory deficiencies.

State Health Planning. Your Committee realizes the implications of the recent waiver by the Secretary of the U.S. Department of Health, Education and Welfare which granted to the State of Hawaii the authority to implement the provisions of P.L. 93-641. Therefore, sufficient funds have been provided to the State Health Planning and Development Agency, administratively assigned to the Department of Health for such implementation.

Environmental Health. With respect to Hawaii's drinking water, the required resources are provided to initiate an expanded drinking water program inclusive of surface as well as underground water controls. Federal funds are available from P.L. 93-523, the federal "Safe Drinking Water Act" for this purpose.

Appropriations have also been made to provide on-call psychiatric services for West Hawaii Mental Clinic; provide for contractual services for activity center and outreach programs for mentally retarded adults at Lahaina; provide for ambulance service in South Kohala and contractual services for private ambulance service on Molokai; continue family planning services; provide for the bilingual health aide program statewide; and purchase mammagraphic machines for breast cancer detection.

The health appropriations also include grants-in-aid to Molokai Hospital, Kahuku Hospital, Kauikeolani Children's Hospital Poison Information Center, G. N. Wilcox Memorial Hospital, the Hawaii Committee on Alcoholism Industrial Occupational program, the St. Francis Halfway House for Women, and to the Kauai Youth Outreach Substance Abuse Coordinator.

Social Problems

Welfare Payments. The Department of Social Services and Housing is plagued by high error rates both in determining eligibility of welfare claimants and in calculating welfare payments to DSSH clients. This continues to be a major problem and unless corrected will jeopardize receipt of federal funds. The high error rates stem from the high case-load assigned to each line case-worker. Your Committee has p7ovided positions and funds to correct this problem.

Housing. The Hawaii Housing Authority's sole request is an appropriation to supplement the Development Revolving Fund. The DRF lends "start-up" money to non-profit private corporations for the purpose of planning, designing, studying, and initiating low-cost housing projects. The supplementary appropriation accounts for the inflated costs of initiating present construction.

Elderly. Particular attention was paid by your Committee to the needs of the elderly in our community. Separate legislation is expected to be enacted to establish an Executive Office on Aging which will develop, promote and coordinate programs for the elderly. A supplemental appropriation has been made to the Commission on Aging for it to coordinate and fund a wide range of programs, including Areawide Opportunities, North Shore congregate dining, multiphasic health screening, and higher education for the elderly.

Appropriations have been made for the expansion of the nutrition program for the needy elderly in Kauai County; continuation of the Waianae Coast congregate dining program; a demonstration Outward Bound program for youths in the Progressive Neighborhood areas; grant-in-aid to Operation Kokua, Inc., Day Care Center; grant-in-aid to Kaumana Elderly Care Center; and grant-in-aid to the Kalihi-Palama Immigrant Service Center.

Appropriations have also been included for the establishment of a Tenant Security Guard program using the residents at Kuhio Park Terrace; continued operation of the Waianae Coast Rap Center; grant-in-aid to Hale Opio, Inc; one-year extension of the demonstration elderly day care facility on the grounds of Wilcox Memorial Hospital; grant-in-aid to the Salvation Army for the operation of the Hilo Interim Home; operation of the inter-agency council at Kuhio Park Terrace; and operation of the Alternatives for Youth Project of the Kalihi YMCA.

It is the legislature's intent that the Department of Social Services and Housing improve the administration and function of its programs. The department should pay particular attention to the administration and operation of the Food Stamp and General Assistance programs. Policies and procedures should be reexamined and revised as necessary, and worker input should be secured. The legislature intends that the department extend its quality control efforts to the General Assistance program and has appropriated the necessary funds. To improve the administration of the Medicaid program, the department is requested to work cooperatively with the providers, the fiscal intermediary, and the Department of Accounting and General Services, especially to improve the billing process.

It is the legislature's request that thedepartment integrate Title XX funds into its future budget presentations and that the department also review the implementation of the Comprehensive Social Service State Plan. The department should make every effort to work with the Department of Health, Education and Welfare to improve and simplify the administration of Title XX programs.

Education

Appropriations have been made for additional teams of art, music, and physical education specialists to be placed in the seven school districts; the responsive education program of Central Intermediate School and Nuuanu Young Men's Christian Association; additional library books for deficient school libraries, including Kaiser High School and Maui High School; the Blue Water Marine Laboratory; a law enforcement awareness program in the high schools directed at counseling troubled youths; a pilot project to provide services to students with learning disabilities; a special education summer school program; and a pilot project for independent living involving retarded children.

In addition, funds have been appropriated for alternative education programs, including school within a school, Pahoa High corrective reading, Nanaikapono Preschool, Molokai Alternative School, and Kalakaua extended project; support of language schools; external evaluation of the 3-on-2 program; renovation of artmobiles; a Language Arts Coordinator to lead the efforts of reading specialists at the district level; a program for the intellectually and artistically gifted and talented; counseling and guidance resource teachers to be placed in the seven school districts on a contractual basis; and contractual diagnostic services and follow-up treatment for regular and special education students.

Funds have also been appropriated for a water safety program; the field test of teacher evaluation programs; purchase or repair of band instruments; reading specialists on a contractual basis to be placed in the seven school districts; books for public libraries, statewide; and positions for Makiki and Kalihi libraries.

Higher Education

Among the appropriations made are those for custodial services and security guard services at Windward Community College; additional equipment for the trade and vocational programs at Hawaii Community College; and supplemental funds for instruction in the nursing program at Hawaii Community College.

In addition, appropriations have been made for Project RISE (Resources for Individuals

Seeking Education); the Canada-France-Hawaii Telescope Corporation; banana research and development for production and marketing, including nematode control, handling, storage, and packing; a 4-H Youth Development agent for Maui County; a termite control program; public services programs of the college of continuing education program; and the Continuing Education for Women (CEW) program.

Other appropriations include those for the comprehensive training program (university without walls); non-income-generating sports at the Manoa campus; additional staff support in the cooperative extension service office on Molokai; improvement of fumigation methods to eliminate fruit flies in avocados; expansion of the department of architecture; the Hawaiian Studies program; student-help pay; the sports program at the University of Hawaii at Hilo; the college-work-study program; continuation of the operations of the Pacific and Asian Affairs Council; and continuation of the pre-admissions program for disadvantaged groups which are underrepresented in the Hawaii bar and to monitor the progress of these students at the Law School, with the expectation that this program shall provide assistance to those who are undergraduates and who might be potential Law School applicants.

Culture and Recreation

Public Television. Your Committee recognizes the valuable service provided by Hawaii Public Television and has appropriated funds to provide for improvement and expansion of the program. These funds will be utilized to replace existing transmitter facilities, extend broadcast time by two hours per day and continue the production of the series "Rice and Roses". Although your Committee finds merit in the concept of establishing a Public Radio program, it is believed that this item should be deferred until the 1977-79 biennial budget is considered.

Support for Culture and Arts. Among the appropriations made are funds for support of the Honolulu Symphony, Statewide Touring Arts Program (LYCEUM), the Honolulu Community Theater, the Philippine Heritage program, the King Kamehameha Celebration Commission, and the Bishop Museum.

Individual Rights

Public Utilities. Your Committee is concerned with the increased complexities in the area of regulating public utilities. The legislative auditor, in his report on the Public Utilities Division of the Department of Regulatory Agencies, noted several deficiencies on the organization and staffing of the Division. The report also pointed out areas of conflict between the Public Utilities Division and the Public Utilities Commission. Included in the auditor's recommendations to correct these deficiencies and conflicts were those to provide additional staff for both organizations. Legislation is expected to be enacted for the establishment of a full-time Public Utilities Commission with permanent staffing. To complement this action, supplemental funds and positions have been appropriated which is intended to provide the Public Utilities Division with the necessary resources to adequately represent the consumer in matters relating to public utilities.

Legal Aid Society. Your Committee has provided funds to the Legal Aid Society to supplement federal and other funds with the proviso that in the event additional non-State funds become available (other than funds for special projects or programs) the State funds will be correspondingly reduced. The State funds thus provided should be adequate to maintain the level of legal services being provided to the poorer members of our society. It is your Committee's understanding that the Legal Aid Society plans to expand its outreach services and also to provide special legal assistance to the elderly.

Public Safety. With respect to policies and conditions at Hawaii State Prison, one of the most pressing concerns of inmates is their low wages. In order to provide a more humane and realistic wage schedule, funds are appropriated to increase the average of 12 cents an hour to a more reasonable 50 cents an hour.

Government-Wide Support

Elections. In order to comply with Federal law requiring the provision of ballots and other election materials in languages other than English for the convenience of minority group voters, your Committee has approved the supplmental appropriation for the Lieutenant Governor's Office for this purpose.

Overall State Planning. Your Committee recognizes the need for continued overall State planning. The $250,000 appropriated by the last legislature for preparation of a new State Plan has been supplemented by additional funds to ensure that resources are adequate to complete this important undertaking and to match federal funds available under the

State's Comprehensive Planning Program. Finally, the Windward Oahu region has been targeted as an area especially in need of a regional plan, and funds are included for this purpose.

Legal Services. Your Committee is concerned with maintaining high standards of legal services available to the State. The increase in the number and complexity of litigation involving the State necessitates providing the Office of the Attorney General with supplemental appropriations to expand and upgrade services. These funds are intended for hiring additional attorneys, pay increases to enable the Attorney General to retain trained attorneys and litigation expense.

Security of the Capitol Complex. Due to the increase in the scope of problems related to providing security services at the State Capitol, for the Governor and Lieutenant Governor, and for the Judiciary (particularly during criminal trials), the Attorney General has been provided with additional funds and positions.

Personnel Services. Your Committee is in accord with the supplemental appropriation request of the Department of Personnel Services. These funds have been appropriated with the understanding that services in the area of recruitment, training classification and collective bargaining support will be upgraded to provide timely support to other State agencies.

Taxation. The effective and equitable administration of the tax laws is a prime requirement for public confidence in the governmental process. Your Committee is aware of the administrative problems in the Department of Taxation. It is encouraged by the efforts being made by the Department to correct these problems. Your Committee has provided funds to upgrade and modernize the operations of the Department.

RECOMMENDATION

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2100-76, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2100-76, H.D. 1, S.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 56 on H.B. No. 1997-76

The purpose of this bill is to amend the real property tax law provisions relating to the dedication of land for residential use.

This bill extends the residential dedication to any fee simple owner, by eliminating the age restriction, and by allowing parcels for single family dwelling residential use, size to be so dedicated within hotel, apartment, resort, commercial, or on industrial districts.

The term of the period is clarified, and automatic renewal for ten year periods is authorized. The cancellation procedure no longer requires five year notice but may still be exercised by either the owner or the director of taxation. The penalty provisions are also revised to fix the date of retroactive assessments and the percentage penalty is raised from "eight" to "ten". Section 246-12.3, Hawaii Revised Statutes, is accordingly amended, and Sections 246-12.4 and 246-12.5 are repealed.

Your Committee has amended this bill to delete the 10,000 square feet lot size limitation on land area that can be subject to dedication. Any changes in the use of the dedicated lands will subject the lands to the penalty provision, thus minimizing the need for the 10,000 square feet limitation.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1997-76, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1997-76, H.D. 1, S.D. 1, C.D. 1.

Representatives Kunimura, Inaba and Amaral,
Managers on the part of the House.

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

Conf. Com. Rep. No. 57 on S.B. No. 2333-76

The purpose of this bill is to establish revolving funds for correctional facilities stores.

Your Committee has amended S.B. No. 2333-76, H.D. 1, by setting forth the proper title of the Director of Social Services at line 11 instead of the Director of the Department of Social Services and Housing, as it appears.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2333-76, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2333-76, H.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 58 on S.B. No. 1191

The purpose of this bill is to affirm county authority to enact improvement district ordinances for the making and financing of special benefits and improvements in the county.

Under present provisions, the bond counsel for the counties has suggested that the enactment of improvement district ordinances pursuant to county charter may be subject to question. The intent of this bill is to remove this doubt by providing for specific authorization under general law applicable to all counties for the enactment of improvement district ordinances.

This bill also provides that prior ordinances for special benefits or improvements and assessments are expressly ratified, validated, approved, and confirmed by the legislature.

Your Committee has amended this bill by amending section 1, adding a new section to the Hawaii Revised Statutes relating to improvement by assessment, to provide that such section only relates to improvements by assessment and therefore language relating to special benefits has been eliminated.

Page 2, line 10 has been amended by changing the word "thereof" to "hereof" for the purposes of clarity.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1191, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1191, H.D. 2, C.D. 1.

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

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

Conf. Com. Rep. No. 59 on H.B. No. 2237-76

The purpose of this bill is to amend the state income tax law by (1) adding a definition to cover the term "without regard to source in the State," and (2) making adjustments in the excise tax credit schedule.

This definition is necessary for the term "without regard to source in the State" appears frequently in the income tax law and the addition of this definition will serve to clarify the term as it is used in the law.

With regard to the excise tax credits, your Committee was concerned with the plight of the many members in the hard-working poor of the community in the low income brackets. In the under $5,000 category, the state tax department reported in 1975, that there were 142,753 claimants as against the next category ($5,000 to under $6,000) in which the claimants number 24,056. Your Committee agrees that the many persons in Hawaii in the lower income categories, especially the elderly on fixed income, need further relief.

Your Committee therefore recommends that the amount of credit in the first four categories be increased to provide this relief. Your Committee approves this amendment to Section 235-55.5 to increase these four categories accordingly: $30 to $40; $28 to $32; $26 to $28; and $24 to $26. Your Committee also recommends that persons 65 years of age and older be allowed to claim a double excise tax credit and that the adjusted gross income cut-off for the excise tax credit should be increased from $15,000 to $20,000.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2237-76, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2237-76, S.D. 1, C.D. 1.

Representatives Suwa, Mizuguchi and Kamalii,
Managers on the part of the House.

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

Conf. Com. Rep. No. 60 on H.B. No. 682

The purpose of this bill is to lapse certain general fund appropriations which are unencumbered and which have not yet been lapsed by law.

Your Committee finds that in prior acts of the legislature, appropriations have been made for which there remain appropriations and appropriation balances which are unencumbered. The existence of these inactive appropriations obscures the true general fund position of the State. This is because the general fund balance at any point in time includes all appropriations, irrespective of whether the appropriation is being expended or not.

Your Committee has amended the bill by correcting the figures, resulting in a total of $851,866.59 to be lapsed.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 682, H.D. 1, S.D. 1, as amended herein and recommends that it pass Final Reading in the form attached hereto as H.B. No. 682, H.D. 1, S.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 61 on H.B. No. 2987-76

The purpose of this bill is to appropriate or authorize, as the case may be, moneys to fund all collective bargaining cost items in the contracts negotiated with the bargaining representatives of ten bargaining units, and the salary increases and other adjustments for the excluded employees.

Your Committee has amended this bill to appropriate funds to the Executive and the Judiciary to cover the collective bargaining cost items negotiated in contracts with the exclusive bargaining representatives of bargaining units 2, 3, 4, 6, 7, 8, 9, 10, 11, and 13, and of certain other officers and employees excluded from these bargaining units. $12,218,794 in general funds, $2,566,234 in federal funds, and $3,931,362 in special and other funds are appropriate or authorized for fiscal year 1976-77.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2987-76, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2987-76, H.D. 1, S.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 62 on S.B. No. 2226-76

The purpose of this bill is to allow employees of the former Puunene Hospital on Maui and the former Waimea Hospital on Kauai to purchase their previous service with these institutions for purposes of retirement under the State retirement system.

Presently there are 23 former employees of the Puunene Hospital who are affected and who have an average of about 6 1/4 years of former service which is purchaseable. About ten employees of the Waimea Hospital, with an average purchaseable service of eight years, are involved.

Your Committee has corrected an underlining error in this bill. The words "Puunene Hospital and Waimea Hospital, Waimea, Kauai" on page 3, lines 11 and 12 are underlined.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2226-76, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2226-76, S.D. 1, H.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 63 on H.B. No. 2001-76

The purpose of this bill is to amend Act 197, Session Laws of Hawaii 1975 to provide additional funds to the Judiciary operating budget for fiscal year 1976-77 and supplemental funds for the Judiciary capital improvements budget in the same fiscal year.

Your Committee has made the following amendments to H.B. No. 2001-76, H.D. 2, S.D. 2,

(1) Reestablished full funding of personal services costs as originally requested by the Judiciary.

(2) Amended item No. 6 in Section 3 by adding $28,080 to provide for security guard service on a contractual basis for the jurisdictions of Wailuku, Maui; Hilo, Hawaii; and

Lihue, Kauai.

(3) Included an appropriation of $4,675,000 for capital improvements projects in fiscal year 1976-77.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2001-76, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2001-76, H.D. 2, S.D. 2, C.D. 1.

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

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

Conf. Com. Rep. No. 64 on H.B. No. 3299-76

The purpose of this bill is to provide immediate emergency relief funds to aid victims of disaster in the State of Hawaii in consonance with the emergency provisions of Chapter 209, Hawaii Revised Statutes. The supplemental appropriation which contains a provision for $2,000,000 in disaster relief funds commencing July 1, 1976 will also be responsive to the disaster relief conditions contained in Hawaii Revised Statutes.

Your Committee upon further consideration has made the following amendments to H.B. No. 3299-76, H.D. 1, S.D. 2:

(1) Decreased the interest rate from 6 per cent to 5 per cent a year;

(2) Increased the appropriation from $1.00 to $500,000;

(3) Provided for the appropriated sum to be available to victims of disasters which took or take place on or after December 31, 1975.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3299-76, H.D. 1, S.D. 2, as amended herein and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3299-76, H.D. 1, S.D. 2, C.D. 1.

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

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

Conf. Com. Rep. No. 65 on S.B. No. 2745-76

The purpose of this bill is to extend the state program for the unemployed until June 30, 1977, and to extend the applicability of the programs on first priority to unemployed persons whether or not they are heads of households who are underemployed. The bill also extends chapter 87, Hawaii Revised Statutes, benefits to program participants.

Your Committee has amended this bill as follows:

(1) A new section 1 has been added to amend the definition of "head of household". As the definition presently reads it is stated in the masculine and a head of household could be a woman. To eliminate the possibility of sex discrimination from appearing and to prevent possible loss of federal revenues for this or other state programs, the definition has been amended to eliminate the use of the masculine pronoun "he" and the word "wife", and the words "individual" and "spouse" have been inserted.

(2) Page 3, line 5, has been amended to add at the end of the sentence the words "nor higher than $10,000 a year". This provision has been added because the jobs provided under this program are of a temporary nature and it is expected that persons

in this program will find other employment before the wage maximum of $10,000 a year is reached. This limit places a desirable control over these temporary employments.

(3) Page 3, line 9, has been amended to insert the words "collective bargaining" to clarify that these temporary hires are not included within the public employees collective bargaining law.

(4) Page 3, line 22, and page 4, line 13, have been amended to reflect the insertion in the law of the word "the" by underlining such word.

(5) Page 4, line 23, has been amended to substitute the word "encumbered" for the word "used" for clarification purposes.

(6) The appropriation in section 5 renumbered section 6 has been reduced from $16,000,000 to $12,000,000.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2745-76, S.D. 1, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2745-76, S.D. 1, H.D. 2, C.D. 1.

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

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

Conf. Com. Rep. No. 66 on S.B. No. 1187

The purpose of this bill is to assist residents of Hawaii to obtain a dental education through bilateral contracts with dental schools in other states.

This program is similar to the WICHE program, except that the director of budget and finance will negotiate the bilateral contracts outside the WICHE area.

Your Committee has amended the bill to provide an appropriation of $39,000 to establish the Hawaii Dental Education Plan.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1187, S.D. 2, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1187, S.D. 2, H.D. 2, C.D. 1.

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

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

Conf. Com. Rep. No. 67 on H.B. No. 942

The purpose of this bill is to provide an increase of eight percent to the regular bonus and to the special cost-of-living bonus for those who retired prior to July 1, 1965 only.

Your Committee has modified the language contained in Section 2 of the bill to clarify our intent and has modified the sums prescribed in Section 3 of the bill to reflect the actual needs for implementation.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 942, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. 942, H.D. 1, S.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 68 on S.B. No. 2827-76

The purpose of this bill is to appropriate moneys for the repair and maintenance of state-owned or controlled properties.

Your Committee finds that it is the responsibility and obligation of the State to repair, maintain, and renovate its public buildings and facilities. In addition, your Committee finds that the present lapse in the state economy has raised the unemployment rate for the construction industry to twice that of the work force as a whole.

Your Committee has, therefore, provided the necessary funds to fulfill the government's responsibility for the maintenance, repair, and renovation of public buildings and facilities by contracting with private firms in the construction industry to perform these services. To effect this, your Committee has appropriated $15,000,000 as follows:

(1) $10,554,242 to the Department of Accounting and General Services,

(2) $1,208,921 to the Hawaii Housing Authority,

(3) $2,435,000 to the Department of Health, and

(4) $801,837 to the University of Hawaii.

Of the amount appropriated to the Department of Accounting and General Services, your Committee requests the comptroller to use $100,000 for the purpose of repairing and renovating the Marks estate--Kaahaaina. Members of your Committee have visited the estate and were very impressed with its lovely setting, the grounds, and the building itself. The estate seems desirable for a governor's mansion. The comptroller is requested to report to the next legislature on the feasibility and desirability of using the Marks estate as a governor's mansion. In preparing the report, the comptroller should consult with present and past governors and first ladies.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2827-76, S.D. 1, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2827-76, S.D. 1, H.D. 2, C.D. 1.

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

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

SPECIAL COMMITTEE REPORTS

Spec. Com. Rep. 1

Your Committee on Credentials begs leave to report that it has investigated, considered and reviewed the matter of the seating of Tennyson K.W. Lum as a member of the House of Representatives of the Eighth Legislature of the State of Hawaii, Regular Session of 1976.

Your Committee, to which was referred the communication from the Governor of the State of Hawaii on the appointment of Tennyson K.W. Lum to fill the vacancy created by the appointment by the Governor of the State of Hawaii of the Honorable W. Buddy Soares to the Senate, representing the Seventh Senatorial District, has reviewed the communication of appointment, and his qualification, and finds him to be qualified and recommends that Tennyson K.W. Lum be seated as a member of the House of Representatives from the Seventh Representative District.

Signed by Representatives Kihano, Mizuguchi, Kiyabu, Oda, Shito, Takamura, Amaral, Clarke, Kamalii and Medeiros.

Spec. Com. Rep. 2

Your Interim Committee appointed pursuant to House Resolution No. 816, adopted by the Regular Session of 1975, and directed to conduct a review of senior centers throughout the State, begs leave to report as follows:

Your Interim Committee was made up of the entire membership of the House Committee on Youth and Elderly Affairs, and chaired by the chairperson of said committee.

BACKGROUND

Organized elderly recreation activities such as senior social clubs began as early as 1952 in Hawaii. However, elderly recreational activities and senior social clubs did not become part of government funded senior center programs until 1968 under Title III of the Older Americans Act. Under this Act, monies were granted to Kauai, Maui and Hawaii Counties to develop senior centers. Under state guidelines developed pursuant to the federal act, these senior centers would: (1) provide services and activities at a minimum of five days a week for a total of at least 30 hours per week; (2) be staffed by a full-time director; and (3) coordinate activities and services for the senior citizens.

In 1965, the Hawaii State Commission on Aging, established by Act 198, SLH 1963 announced, as part of its proposed program, plans to establish a model senior opportunity center on Oahu. This model center was to be a "multi-purpose" facility which would serve a selected target area and develop exemplary elderly programs and services such as multi-phasic health screening, information and referral, counseling and recreational activities. In 1969, the Hawaii State Senior Center began its operations and presently serves the elderly residents of the Kalihi-Palama area.

Since the late 1960's, given the impetus of federal funding, numerous senior center programs have been developed. The objective of most senior centers is to move from a focal point of social and recreational activities to a "multi-purpose" center--i.e., a physical facility open to senior citizens at least five days a week, four hours a day on a year-round basis under the auspices of a public agency or private, nonprofit organization. The concept of a multi-purpose center also includes paid professional leadership, and the following services: (1) recreation; (2) adult education; (3) health services; (4) counseling and other social services; (5) information and referral services; and (6) community and voluntary services.

To date, the Hawaii State Senior Center is the only center which offers the widest spectrum of services as a multi-purpose center in Hawaii with centralized services and activities for elderly residents living in the surrounding neighborhoods. Other senior center programs in the State consist of recreational and other social activities usually operating out of community centers and administered by the counties.

Federal funds for senior centers were terminated with the 1973 amendments to the Older Americans Act. However, senior center programs on the neighbor island counties

have continued to provide activities and services to meet the needs of their senior citizens in a variety of ways. Kauai, for example, is the only county that has a county-wide senior center program operated by a private, nonprofit organization known as the Kauai Senior Centers, Inc. The Kauai senior center program is funded by state and private funds such as Aloha United Way and encompasses approximately seven operating centers throughout the county. These centers provide leisure time activities, health screening and information and referral services.

In Hawaii County, the Department of Parks and Recreation administers its 25-senior center programs which are presently recreation-oriented but with plans towards becoming multi-purpose centers. Of the 25 existing programs, 11 are located in physical facilities used primarily for elderly activities. The remaining programs operate out of county facilities such as recreation centers, gyms, and public libraries which are used for other activities. Hawaii's senior center programs are supported through state and county funds.

Maui County provides social and recreational activities for its senior citizens through the organization and administration of clubs in various locations by the county Department of Parks and Recreation. At the present time, Maui County does not have a physical facility which is used exclusively by its senior citizens; however, the construction of community centers that would be utilized by all segments of the community including senior citizens is being planned. Maui County's capital improvement project plans include a commitment to building community centers in every community. To date, six community centers have been constructed, three centers were converted from existing private and public facilities, two are presently under construction, and four more are in the planning stages. Like Hawaii County, Maui's senior center programs are supported through state and county funds.

Although senior center programs have experienced considerable growth on the neighbor islands since the late 1960's, this has not been the case on Oahu. At the present time, the Hawaii State Senior Center is the only state-funded and operated facility. The other major public senior center on Oahu is located at Makua Alii, a federally subsidized low-rent elderly housing complex. The City and County of Honolulu funded the construction of additional space for a senior center program within this residential complex, which it administers. The only major privately administered center which receives state and private funds is the Moiliili Senior Center.

FINDINGS AND RECOMMENDATIONS

Your Committee held a public hearing on the subject of senior centers on October 24, 1975. Based on the testimony presented, it has become evident that senior centers are now recognized as a vital part of the state's elderly programs. If anything, the construction of physical facilities to accommodate these programs in areas accessible to the elderly has not kept pace with the demands. Although senior center programs operate differently among the counties of Kauai, Hawaii and Maui, your Committee found that their methods of operation are effective and suitable to their needs. For example, in the testimonies of Maui and Hawaii Counties, satisfaction was expressed with their senior center programs and facilities and, therefore any state assistance for the construction and operation of senior centers should be in the form of grants-in-aid to the county governments. Preference was stated for senior center programs and facilities to remain as county-based operations on the neighbor islands to be administered by their respective departments of parks and recreation.

Your Committee has found that the problems of senior center facilities and programs are located on Oahu where there appears to be a growing need for more facilities and programs combined with a lack of coordination among state, county and private agencies. Your Committee also learned that the Hawaii State Senior Center continues to have need of an appropriate administering agency. The center is currently administered by Honolulu Community College, with the Commission on Aging contracting annually with the University of Hawaii to operate the center. Testimony presented by the University of Hawaii included a request that the center be placed elsewhere in a more appropriate state agency. The State Commission on Aging testified that it has tried unsuccessfully to locate the center in state departments more directly involved with human services or within the City and County of Honolulu's Department of Parks and Recreation.

Testimonies presented to your Committee substantiates the need to construct senior center facilities on Oahu in areas accessible to the elderly so that fullest use of center programs and services can be achieved. It should be noted that legislative attempts

have been made to provide for the construction of more physical facilities. Appropriations for the planning and construction of senior centers in Kapahulu, Waipahu, Moiliili/McCully, Kaimuki, Kailua, and Kaneohe areas have been enacted. However, funds for the foregoing projects have not been released by the governor or as in the case of the Kailua and Kaimuki areas, locating an appropriate site has delayed construction.

In order to effectively and efficiently expand the senior center programs and increase the number of physical facilities, particularly on Oahu, your Committee recommends that a state policy on senior centers be developed which will clarify the roles and responsibilities of the State and counties regarding the construction and administration of senior center programs. Such a policy should recognize and incorporate the county-based operations of the neighbor islands and yet establish objectives for all senior centers in the State in order to ensure comprehensive and equitable state coverage. While a variety of arrangements for senior centers exist on the neighbor islands, it is clear to your Committee that this is but a healthy reflection of such programs being tailored to meet local needs, preferences and resources. However, the variety of arrangements for senior centers on Oahu appears to reflect a lack of coordination, administrative problems, and uneven development. Questions that need to be resolved through the development of a state policy on senior centers include the status of the state senior center and its appropriate administrative placement. Your Committee recommends that as an amendment to pending legislation establishing an executive office of aging, the development of a state policy on senior centers for legislative approval be an added responsibility of this office. Your Committee further recommends that the development of such a policy by the proposed office of aging incorporate interdepartmental agreements facilitating the use of state facilities for senior center programs and activities wherever possible.

Your Committee has also reviewed past appropriations for plans and construction of senior center facilities and assessed the testimonies presented by several senior citizen clubs. Of all the counties in the State, your Committee believes that the lack of senior center facilities is most acute on Oahu. For example, according to the testimony presented by the District III Council of Senior Citizens' Clubs for the Leeward-Central Oahu communities, there are eight senior citizen clubs under the sponsorship of the City's Department of Parks and Recreation and six independent clubs in the Leeward area alone. Currently, all of these clubs must compete with the myriad of other community activities for space and time at the Waipahu Recreation Center. This community center is already heavily used by all segments of the community. Your Committee recommends that the proposed executive office of aging review the State's existing senior center facilities and exert every effort to resolve the facility problem throughout Oahu.

Your Committee also finds that the combination of a senior center within an elderly housing complex, as exemplified in the Makua Alii project, is both attractive and efficient. Therefore, your Committee strongly recommends that in future elderly housing projects, the allocation of land for the construction of senior center facilities be included in the planning of elderly housing projects in the State.

CONCLUSION

Since its development in 1968 and 1969, senior centers have proliferated throughout the State. These public and privately-sponsored centers have become a gathering place where senior citizens can participate in activities which are satisfying and fulfilling and receive services that can assist them in their daily living. Although the State does not have a network of senior centers with a coordinated system of administration and operation, senior centers have operated successfully on the neighbor island counties of Maui, Kauai and Hawaii. On Oahu, however, a lack of coordination and leadership appears. Because of the variety of arrangements and preferences in the operation of service center programs, a clarification of the roles and responsibilities of state and county governments in this area is needed. A bill calling for the development of a state policy on senior centers as a responsibility of the proposed Executive Office of Aging is attached.

Signed by Representatives Takamura, Kunimura, Akizaki, Blair, Cayetano, Cobb, Kiyabu, Kondo, Shito, Suwa, Evans, Hakoda, Ikeda, Sutton.

Spec. Com. Rep. 3

Your House Interim Committee on Youth and Elderly Affairs appointed pursuant to

House Resolution No. 335, adopted by the Regular Session of 1975 and directed to conduct a review of citizen action to help the elderly, disabled and handicapped, begs leave to report as follows:

BACKGROUND

In recognition of the important role volunteer activities of organized groups play in assisting the aged, physically handicapped, and other dependent persons, and the need to further encourage and coordinate such efforts, your Committee held a meeting on the subject on October 24, 1975. A round-table discussion format was used in order to provide a free and informal setting where suggestions by which volunteer efforts could be improved could be explored. Participating in these discussions were representatives of major private, non-profit organizations including the American National Red Cross, the Catholic Social Services, the Honolulu Community Action Program, and the Volunteer Information and Referral Service.

FINDINGS AND RECOMMENDATIONS

Your Committee found that volunteer services and activities in Hawaii involve hundreds of dedicated individuals working out of non-profit organizations who give freely of their time and energy. The range of services provided by these individuals to Hawaii's elderly, disabled and handicapped include counseling and referral, health and safety training, consumer and nutrition education, transportation, home visits, clothing and meals assistance, shopping assistance, and leisurely activities. The social and individual value of these services cannot be calculated in dollars, since the volunteer as well as the recipient both benefit from the rewards of human interaction focused on mutual assistance. It was found, however, that volunteer services do incur some costs to the nonprofit organizations such as providing accident/liability insurance. In some volunteer programs, the encouragement of low-income persons to participate as volunteers require minimal reimbursement of meals and transportation expenses.

While the overall efforts of the nonprofit organizations as well as the individual volunteers are commendable, your Committee finds that the use of volunteers as a community resource carries great potential which might be more fully realized through a more systemized method of coordination of services among these programs. Your Committee finds that there is a need for the individual agencies and organizations to clarify their individual goals and responsibilities in order to minimize overlapping and duplication in their volunteer efforts. Such delineation would also serve to identify gaps in services, which under the present situation could continue unnoticed. A clarification of goals and responsibilities would also meet the need for these many service organizations to consult and interact with each other more often in order that methods of referral, pooling or sharing of services as well as resources, can be developed.

Based on these findings, your Committee recommends the following:

1. The establishment of a position of state coordinator for volunteer services. The state coordinator for volunteer services would identify community needs and work with community service agencies in identifying and separating their particular goals and responsibilities and cordinating volunteer responses to meet community needs. Such an office would thereby minimize agency duplication while serving as a central clearinghouse for all groups and organizations. Your Committee also recommends that, with the establishment of a state coordinator for volunteer services, such an office seek federal ACTION funds for assistance in its initial stages of development.

2. An amendment to the Hawaii income tax law to provide for income tax credits to volunteers based on a certification of the number of hours contributed to a nonprofit organization. This would provide an incentive to volunteers.

3. The establishment of a Volunteer Recognition Week at which time all volunteers in the State may be cited for their valuable contributions to the community. In this way, some public recognition of the importance of the contributions to the community made by individuals and service groups can be achieved.

CONCLUSION

The inquiry made by your Committee into methods by which volunteer efforts could

be encouraged has indicated a need for legislation to coordinate services as well as recognize the efforts of volunteers. A bill establishing a state coordinator for volunteer services, a bill providing for income tax credits for volunteer service, and a resolution establishing a Volunteer Recognition Week is attached to this committee report.

Signed by Representatives Takamura, Kunimura, Akizaki, Blair, Cayetano, Cobb, Kiyabu, Kondo, Shito, Suwa, Evans, Hakoda, Ikeda and Sutton.

Spec. Com. Rep. 4

Your House Committee on Youth and Elderly Affairs appointed pursuant to House Concurrent Resolution No. 85 and House Resolution No. 491, adopted by the Regular Session of 1975 to review the progress, performance and working relationships of the Commission on Children and Youth, Community Coordinated Child Care Committee and all agencies, offices and departments with program responsibilities for child development and youth services, begs leave to report as follows:

Although both H.C.R. No. 85 and H.R. No. 491 refer to the "Community Coordinated Child Care Committee," it should be noted that the name of this committee as designated in Section 581-2, Hawaii Revised Statutes, is the "Coordinated Child Care Committee." In accordance with H.C.R. No. 85, your Committee conducted its interim review jointly with the Senate Committee on Human Resources. Both Committees will report their findings and recommendations to the Speaker of the House and the President of the Senate respectively.

BACKGROUND

Act 294, Session Laws of Hawaii 1949, established the Commission on Children and Youth and charged it with the responsibility of recommending policies and programs relating to children and youth to the Legislature through the Governor's Office. The Commission was additionally responsible for encouraging local community action where identified gaps in youth services existed as well as promoting plans to control juvenile delinquency.

Since its inception, the commission has undergone three major reorganizations. The first occurred with statehood when Act 1, Session Laws of Hawaii 1959, changed the status of all departments, boards and commissions from territorial to state designation. With the conversion of the Revised Laws of Hawaii to the Hawaii Revised Statutes in 1969, provisions relating to the State Commission on Children and Youth were placed under Chapter 581, HRS.

The second and more substantive change came in 1971 when Act 107 drastically reorganized the commission's role from a passive and advisory function to one which would be action-oriented, innovative, and preventive. The commission was restructured as an umbrella agency with two working subcommittees: the Coordinated Child Care Committee (4C's) to be responsible for children from conception through twelve years old; and the Action Committee for Young Adults (ACYA) to be responsible for children from ages thirteen through twenty-four.

According to House Standing Committee Report No. 867 of the 1971 Legislature, the proposed Coordinated Child Care Committee in the Commission on Children and Youth was designed to meet the Department of Health, Education and Welfare priorities in coordinating child development funds and programs. Federal funds were to be used to staff this committee. In particular, the Coordinated Child Care Committee was expected to be extremely useful in coordinating the preschool programs of the Department of Education and the day care programs of the Department of Social Services. The proposed Action Committee for Young Adults was designed to provide a structure through which young adults can propose changes in delivery of services to the youth of the State. Other changes involved organization and composition. The commission was transferred from the Department of Budget and Finance to the Governor's Office thereby designating the Governor's Office as the expending agency. At least one-third of the commission's members were to be less than twenty-five years of age, ex officio and specialist membership were removed, and membership was increased to not less than 21 and no more than 31. Greater autonomy for the county committee on children and youth was also provided.

The most recent changes to the commission's organization occurred pursuant to Act 209, Session Laws of Hawaii 1973. In order to develop a systems approach to comprehensive,

coordinated planning and delivery of child development services for children through age twelve, the following responsibilities were placed with the commission's sub-committees:

(1) Sponsor, stimulate, organize, and, if necessary, conduct action research and demonstration projects in support of child and youth development and prevention and control of juvenile delinquency;

(2) Develop plans and integrate planning for services and programs, relative to children and young adults; and

(3) Coordinate and mobilize resources, both public and private, which address problems and enhance opportunities for children and young adults.

Currently, the commission is comprised of 31 citizens appointed by the governor with the advice and consent of the Senate. Its present responsibility is to serve the governor and the Legislature in an advisory capacity, as well as to:

(1) Plan, coordinate and review children and youth programs and services throughout the State:

(2) Initiate, innovate, review and evaluate children and youth programs, services, and agencies; and

(3) Recommend legislative and executive action relative to children and youth.

APPROACH TAKEN

On November 18, 1975, your Committee held a joint hearing with the Senate Committee on Human Resources to review the Commission on Children and Youth and its two statutorily established subcommittees--the Coordinated Child Care Committee and the Action Committee for Young Adults. Both authorizing resolutions requested your Committee to review the progress, performance and working relationships of the commission with other public and private agencies.

However, these tasks were undertaken by the Legislative Reference Bureau in the preparation of "an analysis of the operation of the Commission on Children and Youth" pursuant to a directive in the budget act, Act 195, of the 1975 Legislature. The report, Hawaii's Commission on Children and Youth--An Assessment of Its Organization, Management and Operation, was submitted to the Legislature in October 1975; and, therefore, your Committee focused on the findings and recommendations contained in the report.

Regarding the commission's administration and operations, the report found that: (1) the Commission on Children and Youth has been remiss in carrying out its responsibilities as outlined in Chapter 581, Hawaii Revised Statutes; and (2) a major overhaul of the commission's organization, systems, and processes is necessary if legislative goals for children and youth programs are to be fulfilled.

Testimony presented by two members of the State Commission on Children and Youth, one representing the commission and the other by the chairman of the Coordinated Child Care Committee supported the findings of the report. Your Committee was informed that the LRB's criticisms of the commission's failure to carry out its responsibilities, the uncertainties, confusion and conflicts relative to the roles of the commission, its executive secretary and its subcommittees, the lack of funds and inadequate staff, and other unresolved problems were warranted.

In view of the commission's unwieldy organizational problems, your Committee examined the proposed organizational plan recommended in the LRB report for possible legislative action at the coming 1976 session. In this regard, testimony was presented by the Legislative Reference Bureau which included the following recommendations:

(1) Abolish the existing Commission on Children and Youth and replace it with an Office of Children and Youth to be located within the Office of the Governor;

(2) Empower this office with the authority to effectively coordinate and implement programs and the delivery of services relating to children and youth;

(3) Provide for a director of the Office of Children and Youth to be appointed by the governor and sufficient staff and resources to carry out its responsibilities;

(4) Authorize the director of the Office of Children and Youth as directly responsible to the governor which would clearly define the office as operational rather than advisory; and

(5) Establish an advisory council to the director of the Office of Children and Youth to facilitate coordination. This advisory council would be comprised of representatives from the general public and public and private agencies to be appointed by the governor with the director of the Office of Children and Youth serving as the chairman.

The proposed duties of the Office of Children and Youth would include:

(1) Serving as a central, permanent, information-gathering and record-keeping clearinghouse for all public and private programs relating to children, young adults and their families;

(2) Providing referral, resources, and consultative services to all public and private agencies involved with children and youth programs and services;

(3) Reviewing existing children and youth programs and services;

(4) Assessing the needs of children, young adults, and their families on a continuous basis;

(5) Advocating the unmet and/or poorly met needs of children and young adults including gaps in services and making these known to the governor and the Legislature;

(6) Keeping the public aware of the needs, programs, and services relating to children and youth;

(7) Coordinating all efforts, programs and services relating to children and youth to avoid unnecessary duplication; and

(8) Evaluating innovative plans and programs as well as monitoring the conduct of pilot projects and other research efforts.

Although there is general agreement by all concerned that the establishment of an Office of Children and Youth is desirable, the Commission on Children and Youth recommended certain modifications to the proposed advisory council. The commission believes that a children and youth council with policy-making powers rather than an advisory council would be appropriate. This council would assist the director of the Office of Children and Youth in policy planning at the statewide level as well as policy making and policy implementation. Although final authority would rest with the director, all major policy issues would be brought before council members for their input.

RECOMMENDATIONS

Based on an interim review of the Commission on Children and Youth, including the recently concluded LRB Report and testimony received in public hearing, your Committee supports the establishment of an Office of Children and Youth within the Office of the Governor. Your Committee believes that this office should be headed by a director, appointed by the governor, and responsible for the aforementioned duties of the Office of Children and Youth.

With regard to the advisory council to the director of the Office of Children and Youth, your Committee has reviewed the proposal presented by the LRB and the modifications suggested by the Commission on Children and Youth. Your Committee believes that such an advisory council is a necessary element to provide a formal mechanism by which participation from the general public as well as the public and private agencies involved in programs and services for children and youth can be achieved. Your Committee also believes that both the LRB proposal and the modifications suggested by the commission are alike in concept, except for the commission's view that the word "advisory" is too limiting. Therefore, your Committee feels that, in view of the overriding goal of public participation, the concern should not be the nomenclature of the council as much as council membership.

During this interim period, your Committee has also examined other related areas involving children and youth. In particular, your hearings have been conducted regard-

ing the establishment of the Juvenile Justice Coordinating Council, a recommendation of the proposed Juvenile Justice Master Plan. Your Committee has noted the similarity in responsibilities between the proposed advisory council to the Office of Children and Youth and the Juvenile Justice Coordinating Council. Both studies--the LRB report and the Juvenile Justice Master Plan--recommends the abolishment of the existing Commission on Children and Youth.

Having examined each proposed council, your Committee recommends that one council be established to serve both as the advisory council for the Office of Children and Youth and as the Juvenile Justice Coordinating Council. Overlapping jurisdictions and duplication of activities will then be avoided and a singular, concerted effort exerted to provide for the efficient and effective development of programs and delivery of services for children and youth in this State.

Your Committee further recommends that the composition of the advisory council consist of 21 members, with seven as ex officio, voting members: the director of the Department of Social Services and Housing; the chairman of the Board of Education; the director of the Department of Labor and Industrial Relations; the director of the Department of Health; the senior judge of the Family Court, First Circuit; the chief of police, City and County of Honolulu; and the director of the Office of Children and Youth. Seven other members are to be from private social service agencies to serve for specified terms, with the remaining seven members to be, at the time of appointment, under the age of twenty-six and to serve for a specified term.

The governor shall appoint the members of the advisory council who shall serve without compensation but be reimbursed for any expenses incurred in the performance of their duties as council members.

On occasions where the director of the Department of Social Services and Housing or any other public administrator appointed to the advisory council cannot attend a meeting, the next individual authorized to act in the absence of the head administrator shall attend.

Your Committee recognizes the importance of the advisory council in assisting the director of the Office of Children and Youth in carrying out the responsibilities of the office. Thus, your Committee strongly supports the appointment of high-level, experienced public administrators to the council because of the need for participation and commitment from other government agencies in order to ensure effectiveness of the office. Your Committee would like to note that, since the largest children and young adult population is concentrated on Oahu, the appointment of the senior judge of the Family Court, First Circuit (Oahu) and the chief of police, City and County of Honolulu seemed most appropriate.

While mindful of the need for high-level public administrators on the advisory council, your Committee also recognizes the importance of community participation. Therefore, your Committee recommends that the majority of the members of the advisory council not be full-time, federal, state or county personnel in order to ensure broad based community involvement. Although the chairman of the Juvenile Justice Coordinating Council must come from the private sector as required by the federal guidelines of the Juvenile Justice and Delinquency Prevention Act, when the body convenes as the advisory council to the Office of Children and Youth, your Committee recommends that the chairman of the council be the director of the office. This would provide for greater accountability in the implementation of policy-related recommendations and also requires the director, as the chairman of the council, to remain neutral and without a vote except in cases where there is a deadlock.

CONCLUSION

A close examination of the existing Commission on Children and Youth and its operations have led your Committee to develop the foregoing recommendations for the 1976 legislative session. Your Committee strongly believes that if the State is to progress, especially in the needy areas of child care planning, development, and implementation, such corrective action is necessary. A bill incorporating the recommendations made herein is attached.

Signed by Representatives Takamura, Kunimura, Akizaki, Blair, Cayetano, Cobb, Kiyabu, Kondo, Shito, Suwa, Evans, Hakoda, Ikeda and Sutton.

Spec. Com. Rep. 5

Your House Committee on Youth and Elderly Affairs appointed pursuant to House Resolution No. 238, adopted by the Regular Session of 1975 to review the feasibility of licensing all care and adult family boarding homes, begs leave to report as follows:

Because of the specific nature of the subject and the jurisdictional authority of the Department of Health and the Department of Social Services and Housing, a 7-member subcommittee was formed to conduct an interim review of care homes and adult family boarding homes. The subcommittee's membership included the chairpersons of the Committee on Youth and Elderly Affairs, the Committee on Health, and the Committee on Public Assistance and Human Services.

BACKGROUND

According to the Comprehensive Master Plan for the Elderly, as adopted by the 1975 State Legislature, it is believed by many authorities in the field of gerontology that the present emphasis on institutionalization of the elderly is not only deleterious, but is unnecessary if suitable arrangements can be made to provide the elderly with an independent living status in home-like environments. This shift in philosophy in the treatment of the aged, mental patients and the handicapped has resulted in greater demands for care homes and adult family boarding homes.

The psychological and therapeutic benefits of integrating these individuals into the community, coupled with the economic advantages of these types of facilities have supported the establishment of these living arrangements as alternatives to hospitals and nursing homes. As revealed in the 1970 Audit of the Medical Assistance Program of the State of Hawaii, the medical costs involved in operating intermediate care facilities or care homes are substantially less than those of a hospital or nursing home. In the State of Hawaii, care homes are regulated by the Department of Health and; adult family boarding homes are regulated by the Department of Social Services and Housing.

Care Homes. The evolution of care homes and care home regulations in Hawaii is related to the existence and licensing of nursing homes in the State. A nursing home is a facility which provides 24-hour medical care for individuals not in need of hospitalization but who require nursing or related medical services as prescribed by a physician. Doctors and registered nurses are readily available in a nursing home. In Hawaii and across the nation the development of nursing homes accelerated tremendously after federal medicare and medicaid legislation were enacted. Also in Hawaii, as in other jurisdictions, nursing homes were licensed by the State to meet federal requirements. However, in 1961, the State Department of Health published a survey which revealed that approximately 32 homes could not be categorized as nursing homes and were operating in the State without standards and departmental supervision.

Because it was apparent that the existence of these facilities met a need to provide general or rehabilitative care incident to old age or disability not necessarily involving 24-hour medical care and in a non-institutional setting, the Department of Health, under its discretionary authority in Section 321-11(10), Hawaii Revised Statutes, promulgated Chapter 12B, Public Health Regulations on Care Homes. Section 321-11(10), Hawaii Revised Statutes, authorizes the department "...to make such regulations as it deems necessary for the public health and safety respecting...hospitals, maternity homes, convalescent homes, children's boarding homes, old folks' homes, and home health agencies..." The department has interpreted home health agencies to be care homes.

Adult Family Boarding Homes. The Department of Social Services and Housing began its adult family boarding home program in 1965 in order to comply with federal regulations. Explicit authorization for the regulation of adult family boarding homes by state law was provided in 1971. Under Act 20, SLH 1971, the Department of Social Services and Housing is authorized "...to recruit and license adult family boarding homes...to care for adult recipients who do not require the level of care provided in an intermediate care facility or care home." Rule 12, "Rules and Regulations Governing Adult Family Boarding Homes," defines an adult family boarding home as a family home operating as a business for profit providing accommodations to more than three adults, unrelated to the family, who require minimal care and supervision in their daily activities.

APPROACH TAKEN

Your Subcommittee began its interim work by meeting initially with representatives

of the Department of Health, the Department of Social Services and Housing as well as representatives of other public agencies including the State Commission on Aging, the Maui County Committee on Aging, the Maui Planning Department, Hawaii County, Kauai County, City and County of Honolulu Building Department and the City and County of Honolulu Corporation Counsel. At this first meeting, problems associated with the establishment, licensure, operations and supervision of care homes and adult family boarding homes were discussed.

Your Subcommittee was informed that care home regulations have not been updated since its inception in 1960. The department reported that it has been attempting to revise its rules regarding care homes but has yet to complete the task. Your Subcommittee was further informed that, although the Department of Health carries the responsibility for the licensure of all care homes operating in the State, it has not provided adequate monitoring and supervision of these licensed care homes. The department explained that annual routine inspections of care homes have not been conducted because of the lack of staff.

The Department of Social Services and Housing informed your Subcommittee that its rules and regulations relating to adult family boarding homes were designed to meet the needs of individuals who, because of age or other physical and emotional handicaps, require minimal assistance and supervision in daily living activities and who desire the opportunity to be part of a family group. The department reported that there are currently 181 licensed adult family boarding homes in the State which have been recruited and licensed by the department to serve its clients who receive income maintenance payments.

Because Act 20 restricts the licensing of adult family boarding homes to those which provide care for "adult recipients," it is estimated that there are well over 100 unlicensed, private boarding homes in operation. Some of these unlicensed, private homes provide optimum levels of services while the standards of others are questionable. The department reported that, not only is it aware of substandard conditions in unlicensed boarding homes, but also acknowledges that many adult recipients are in fact being housed in these unlicensed boarding homes. It was pointed out to your Subcommittee, however, that federal regulations explicitly state that income maintenance payments are not contingent on the acceptance of social services which includes referrals to licensed boarding homes. Therefore, a Department of Social Services and Housing client is free to live in an unlicensed boarding home if he so chooses.

The 181 licensed adult family boarding homes are distributed throughout the State as follows: the City and County of Honolulu, 114; Hawaii County, 30; Kauai County, 29; and Maui County, 8. Discussion by your Subcommittee and Mr. Andrew Chang, director of Social Services and Housing, focused on the problems of recruiting and licensing homes in rural areas. Your Subcommittee was informed that the 8 licensed boarding homes in Maui County are located on the island of Molokai and that there are no licensed adult family boarding homes on the island of Maui. Additionally, the status of 6 of the Molokai facilities is in question because county zoning variances were not obtained for their operations.

Your Subcommittee was further informed that recruiting and licensing homes in Kona have also been difficult. In rural areas such as Kona, the department is attempting to provide in-home type services in which a homemaker visits the home daily and tries to provide for an individual's needs. The Maui County Committee on Aging further explained that the regulation requirements and inadequate payment levels for adult family boarding home operators have been deterrents to interesting families in establishing either care or adult family boarding homes on Maui.

Your Subcommittee also conducted public hearings to encourage the participation of care homes and adult family boarding homes operators. Realizing that managing these facilities involves 24-hour demands on the operators, the location of these hearings were based on the listing of licensed care homes and licensed adult family boarding homes maintained by the departments of Health and Social Services and Housing. Public hearings were, therefore, held in the Liliha/Kalihi-Palama and the Leeward/Waipahu areas. Testimonies received at both hearings substantiated the problems highlighted in the earlier meetings with the departments of Health and Social Services and Housing.

Care home operators who testified focused on the out-of-date regulations which have not been revised for 15 years. One example cited was the department regulations regarding bedroom dimensions. Part III of Chapter 12B stipulates that at least 70 square feet per resident, or a room equal to 140 square feet or 10' x 14' must be provided for every two residents. However, newer homes have smaller bedrooms which usually

are 100 square feet, or 10' x 10', or 120 square feet or 10' x 12'.

The lack of proper departmental supervision and inspection was also confirmed. Care home operators claimed the absence of periodic inspections have led to poorer levels of care in some homes and further reported that the department does not provide needed supervision and information on medication as well as insurance coverage, responsibilities and liabilities as operators.

In addition, your Subcommittee found that those persons interested in establishing a care home or adult family boarding home must deal with a number of agencies at different levels of government. Care home operators often feel that they are shunted about among state and county agencies such as the Health Department the Social Services and Housing Department, the Fire Marshal, the County Building Department and the County Planning Department. It was also learned that home vacancies must be reported to and filled by the Health Department. Care home operators may not refer nor receive referrals from other operations--a situation which they feel is not the best method of placing residents and which makes operators feel too dependent on the department.

The one criticism common to both care homes and adult family boarding homes was that the payment levels to home operators have not kept up with the cost of living and, in fact, discourage those interested in establishing either type of facility. Another major criticism of the state's adult family boarding home program centered on the unlicensed private adult family boarding homes where unhealthy and unsafe conditions were cited, such as overcrowding, poor nutrition, disinterest in the boarders and unsanitary facilities.

RECOMMENDATIONS

Based on the findings of your Subcommittee, the major problems involved in the operations of care homes and adult family boarding homes in the State appear to be out-dated care home regulations; inadequate inspection and supervision of licensed care facilities; the existence of a number of unlicensed, private boarding homes; and inadequate payment levels for both types of facilities.

As a result of your Subcommittee's review of these problems, your Committee on Youth and Elderly Affairs recommends the following:

(1) Your Subcommittee was informed that the Department of Health has been revising its care home regulation during the past several years. Your Committee on Youth and Elderly Affairs will direct the Department to complete and submit revisions to the legislature before March 1, 1976 and suggests that the Department of Health seek the assistance of those care home operators and care home associations that have expressed their willingness to work with the department in revising its regulations.

(2) In addition to its revision of care home rules and regulations, your Committee directs the Department of Health to establish a care home advisory council composed of care home operators as well as representatives from public and private agencies. In this way, the department can be apprised of the needs and problems of care homes, be assisted in upgrading and maintaining a higher level of services and be advised on administrative actions affecting its care home program.

(3) Your Committee believes that the State Commission on Aging should develop a comprehensive home health care program for the elderly which should have as participants the departments of Health and Social Services and Housing and private agencies such as the Health and Community Services Council of Hawaii. This program should include, but not be limited to, preventive health education for the elderly; information to individuals who are not home operators but who have elderly or handicapped persons in their household; assis tance to care home and adult family boarding home operations on methods of improving levels of care being provided; and encouragement of volunteer efforts to care homes and adult family boarding homes.

In addition, your Committee suggests that the State Commission on Aging conduct a review of the in-homes services program of the Department of Social Services and Housing to determine its effectiveness and feasibility as an alternative to care homes and adult family boarding homes.

(4) Just as in-home services may hold much promise, particularly for Hawaii County, your Committee also believes that elderly day care centers may be another alternative. The percentage of both husband and wife working in our State is considerably higher than the national average; and, where there is an elderly relative in the household, working couples often have no alternative but to place such an individual who requires attention during the day in a care home or adult family boarding home. Your Committee believes that elderly day care centers would be a viable solution to serve the older person who needs fairly constant attention but does not need the level of care provided in a hospital, nursing home, care home or boarding home. Your Committee also feels that an elderly day care program would be less costly and more importantly, would prevent the institutionalization of the aged.

Your Committee is aware that an elderly day care center pilot project funded through Act 218, SLH 1974, is currently being conducted at Wilcox Memorial Hospital on Kauai. To determine the feasibility of establishing an elderly day care program in other areas of the State, your Committee recommends that the State Commission on Aging evaluate the Wilcox project as well as ongoing private elderly day care centers such as the Kuakini Day Care Center.

(5) To further encourage the de-institutionalization of the aged, your Committee recommends that the Legislative Reference Bureau review the Hawaii income tax law and recommend incentives for families who have an elderly relative residing in their household.

(6) Monitoring licensed care homes including annual inspections by the department should not be neglected any longer. Your Committee feels that this is a serious shortcoming on the part of the Depart ment of Health and directs the department to reorder its priorities and allocate the manpower and resources necessary to conduct at least one inspection of all licensed care homes within a one-year period. Moreover, your Committee recommends that unannounced spot inspections of care homes be conducted within the next calendar year by the Department of Health and that the Department of Social Services and Housing do the same for licensed adult family boarding homes.

(7) Your Committee recognizes the problems associated with unlicensed, private boarding homes. While mindful that some unlicensed boarding homes do provide their boarders with proper care, there is a need to ensure that all of the Department of Social Services and Housing's clients will receive quality care. Although your Committee supports actions to prevent the department's clients from living in substandard conditions, it is also aware of the strict guidelines for states receiving federal funds under their income maintenance programs. In order to prevent placing these federal funds in jeopardy and to more fully assess the impact of unlicensed homes on Hawaii's federal funds, your Committee recommends that the Legislative Reference Bureau conduct an indepth study to include but not be limited to (1) a review of the state's current practice of de-institutionalization of its aged, mental patients and other handicapped persons; (2) the extent of the problem of unlicensed, private boarding homes operating throughout the state; (3) documentation of abuses reported in these unlicensed facilities; (4) the impact of unlicensed homes on Hawaii's federal funding for income maintenance and the possibility of restricting such public funds to only those recipients who are residents in licensed adult family boarding homes; and (5) recommendations on how this problem may be resolved.

(8) In times of fiscal austerity, it is difficult to increase payment levels, no matter how warranted, when other public programs are finding it equally difficult to keep up with inflationary costs. Your Committee reviewed the payment levels for both types of living arrangements and examined programs in other states. Connecticut maintains a successful payment program which your Committee believes is workable in Hawaii, with modifications. Using the Connecticut plan as a model, your Committee recommends that care homes and adult family boarding homes be classified by services offered and resources available and that payment levels be tied to a home's classification. The responsibility for developing this classification system, which would emphasize preventive and restorative services, will be placed with the appropriate departments. Your Committee notes that, in Hawaii, there are differences in services offered and resources available among existing licensed facilities. The formulation of an equitable

classification system with the ultimate objective of encouraging quality care in the State can provide the proper incentives to upgrade existing facilities and justify increases in payment levels.

CONCLUSION

Your Committee's review of the State's care home and adult family boarding home programs during the interim period reveal that reports of proper care and other shortcomings are not unfounded and is cause for concern and government action. Although the departments of Health and Social Services and Housing have attempted to improve their respective programs and eliminate abusive practices, there is a need for a more concerted effort to strengthen their programs. Therefore, the recommendations made above are submitted in the form of legislative measures as attached. Your Committee further encourages both departments to take action on whatever program deficiencies can be handled internally.

Signed by Representatives Takamura, Kunimura, Akizaki, Blair, Cayetano, Cobb, Kiyabu, Kondo, Shito, Suwa, Evans, Hakoda, Ikeda and Sutton.

Spec. Com. Rep. 6

Your House Interim Committee appointed pursuant to House Resolution No. 816, adopted by the Regular Session of 1975, to review the public utilities program, begs leave to report as follows:

Your Committee conducted its interim review of the state public utilities program jointly with the Senate Committee on Public Utilities. Both committees will report their findings and recommendations to the Speaker of the House and the President of the Senate, respectively.

APPROACH TAKEN

Your Committee conducted an indepth review and analysis of major aspects of the public utilities program of the State of Hawaii, including two volumes of the 1975 management audit of the public utilities program issued by the Office of the Legislative Auditor: The Organization for and the Management of the Public Utilities Program (volume I); and the Regulation of Public Utilities (volume II).

Your Committee was initially briefed on the legislative issues involved in these volumes by the Legislative Auditor where many of the legislative issues involved in the public utilities program were identified and the audit's findings and recommendations were discussed.

A series of public hearings throughout the State were held in order to obtain comprehensive public testimonies relating to the subject matter contained in volumes I and II of the management audit. These hearings took place in Lihue, Kauai; Wailuku, Maui; Hilo and Kona on the Big Island; and in the State Capitol in Honolulu.

On the neighbor islands, numerous testimonies were received, including those from Mr. Henry Gomes, PUC member from Kauai; Kauai County Councilman Robert Yotsuda; Mr. Colin Murdock, President of Maui Electric Company, Limited and C. Dudley Pratt, Jr., attorney for Hawaiian Electric Company; Mr. James English of Maui Community College newspaper; Mr. William MacKenzie, President of Hawaiian Electric Light Company; and Mr. Jack Keppeler, Managing Director of Hawaii County.

At the public hearings held in Honolulu, your Committee received testimonies from the following persons: Mr. Mel Ishihara, Administrative Director representing the Public Utilities Commission; Mr. Wayne Minami, Director of the Department of Regulatory Agencies; Mr. Tany S. Hong, Deputy Attorney General; Mr. Joshua Agsalud, Director of the Department of Labor and Industrial Relations; Mr. Hideto Kono, Director of the Department of Planning and Economic Development; Mr. Lawrence K. Hao, Assistant Highway Safety Coordinator, Department of Transportation; Mr. Carl Williams, President, Hawaiian Electric Company; Mr. Andrew Ing, Financial Vice President, Hawaiian Electric Company; Mr. John D. Field, Revenue Requirements Vice President, Hawaiian Telephone Company; Mr. Joseph A. Pelletier, Executive Vice President, GASCO, Incorporated; Mr. Lloyd F. Char, President, Hawaii Cable Television Association;

Mr. Ted Merrill, President, Statewide Telephone Users Committee; and Mr. Shoji Okazaki, representative of ILWU Local 142.

FINDINGS AND RECOMMENDATIONS

The focus of the Committee's interim work was on legislative issues concerning the organization and general management of the public utilities program, and the regulation of public utilities, as contained in volumes I and II of the Legislative Auditor's management audit. Therefore, your Committee's findings and recommendations are addressed primarily to the concerns raised in these audit reports.

VOLUME I - The Organization for the Management of the Public Utilities Program

1. Primary Objective of Public Utilities Regulation

We agree with the Legislative Auditor that Hawaii's public utilities program currently consists of a wide intermixture of regulatory activities which have diverse, competing and sometimes conflicting objectives, and that the program is being administered or affected by a variety of governmental agencies whose functions and roles are often unclear and uncoordinated. We agree conceptually that there can be a more meaningful sorting out and definition of objectives, activities, functions and roles so as to provide a clearer focus and an ordering of priorities within the field of public utilities regulation.

Your Committee therefore recommends that the Legislature make a determined effort to define and separate economic regulation functions and organizational roles, and that these be clearly assigned to the Public Utilities Commission, with noneconomic regulatory functions assigned to agencies other than the PUC.

2. Full-Time Public Utilities Commission

Your Committee has found that, because of the heavy workload demands undertaken by the Commission, the present part-time Public Utilities Commission should be changed to a full-time body. A full-time commission would provide better staff direction and supervision and would enable the Commission to engage in more planning in the public utilities field.

3. Sufficient, Independent Staff for PUC.

Your Committee firmly believes that the PUC should have its own independent staff under its direct supervision. Such staff should have the expertise and experience necessary and essential to cope with the very large and complex tasks of the PUC, to facilitate decision making in the public utilities field, and to handle other filing and administrative functions.

4. Director of Regulatory Agencies and its Staff (Public Utilities Division) to be Consumer Advocate

The Legislative Auditor found that within the State's overall program structure, the PUC is designated as the consumer protection agency, while in actual fact it is primarily concerned with economic decision making. The public utilities division (PUD) is presently caught in the untenable positon of serving two masters with different functions and objectives--the PUC for decision making, and the Director of Regulatory Agencies for consumer advocacy.

Your Committee agrees that there should be a clear separation between economic decision making (PUC) and consumer advocacy (PUD) in the utilities field, and recommends that the Director of Regulatory Agencies and his public utilities division (PUD) staff be designated as the consumer advocate in the public utilities field with the right to participate in all PUC proceedings.

5. Relocation of PUC

In keeping with the view that the functions of the PUC be kept separate from that of the public utilities division, your Committee recommends that for administrative purposes, the PUC be relocated to an appropriate existing department other than the Department of Regulatory Agencies which presently houses both the PUC and PUD. It is also recommended that with the placement of the PUC in an appropriate

agency, the head of such agency shall have no authority to revise or modify budgetary requests made by the PUC, as in the case of the Hawaii Public Employment Relations Board.

6. Qualifications, Salary, Term and Number of Public Utilities Commission Members

Your Committee recommends that the PUC be constituted as a body which will be representative of the various public and private interests and concerns in the public utilities field. With regard to the number of commissioners, your Committee recommends two options: (1) one full-time chairman with four part-time commissioners representing the four counties (total of five commissioners); or (2) three full-time commissioners.

Your Committee requests that the Legislative Auditor further study the matter of term of office and make specific recommendations thereon for each of the two proposed options mentioned above, including adequate compensation.

7. Regulation of Cable Television

Regulation of cable television (CATV), although part of Hawaii's public utilities program, is administered by the cable television division rather than the PUC. The Legislative Auditor has recommended that CATV be placed under the PUC because it is a more effective and efficient means of regulating CATV on a separate, specialized basis or as part of the overall program for regulating utilities, and because CATV regulation is not large enough to justify and support a regulatory staff which must largely duplicate the PUC staff.

After due deliberation on the matter, your Committee recommends that the status quo be maintained at the present time. Since this is a transitional period for the reorganization of the PUC, your Committee feels that the relocation of CATV regulation should be considered subsequent to the transitional period of the PUC.

8. Reorganization of PUC, Transitional Period

In deliberating on the period of transition during which the PUC shall be reorganized, it was generally agreed that the new full-time commission should be in operation not later than July 1, 1976. However, prior to this date, every effort should be made to achieve full operational status as far as staffing and funding is concerned.

9. Jurisdiction of PUC in Policy Making, Adjudication and Administration in the Public Utilities Field

The Public Utilities Commission has combined together the processes of policy making, adjudication, and administration, but this has been frequently criticized as intermixing distinct processes and detracting from overall effective regulation. However, the Legislative Auditor has stated that in the absence of clear evidence that separation is desirable, the PUC should be vested with full authority (policy making, adjudicatory and administrative) over those activities with economic objectives.

Your Committee agrees with this view and believes utility regulation can be performed most effectively and efficiently by continuing to combine the processes of policy making, adjudication and administration.

10. General Managerial Improvement in the Regulation of Public Utilities

The Legislative Auditor has made numerous recommendations for administrative changes and managerial improvement in the public utilities program. Your Committee is in general agreement with the Legislative Auditor. In particular, it is recommended that more expertise in the Attorney General's Office, as well as in the PUD, be developed. It is also recommended that additional funding be provided for education and training in these agencies, as well as for the continual revision and upgrading of PUC rules and regulations.

Volume II - The Regulation of Public Utilities

1. Efficiency in the Utility Rate Making Process

Your Committee agrees with the Legislative Auditor's finding that the present long and drawn-out utility rate making process is detrimental to both the utility companies

as well as the consumers. Accordingly, your Committee recommends that staff resources for the PUD, PUC and attorney general be strengthened, as recommended by the Legislative Auditor, that appropriate duties for staff be clearly defined and assigned in order to enable and facilitate advance planning for all rate cases; that operating procedures for handling rate matters be established; and that effective guidelines for rate matters be developed.

2. Adoption of the "File and Suspend" Concept

Your Committee recommends that as an additional approach towards achieving efficiency in the utility rate making process, the Legislature should adopt the "file and suspend" concept.

Under the "file and suspend" concept, increases in utility rates, fares and charges may be effected in a manner similar to nonrate increase actions, upon 30 days' notice, subject to suspension action by the commission. In addition, a temporary increase in rates, fares and charges may be authorized upon a showing by a public utility of probable entitlement thereto. Under the concept, the commission will have the power to suspend rate increase applications for a period of six months or 180 days. After that period of time, two-thirds of the rates sought may become effective, if the commission has not rendered its decision. Rates placed into effect, pending final action by the commission, will be subject to refund at the legal interest rate in accordance with such final action, as may be ordered by the commission.

It should be emphasized, however, that under this concept the PUC should have the full authority to require that there is sufficient data submitted at the time of filing of the application for a rate change and that the tolling of the time period shall begin only after there is filed a completed application supported by sufficient data.

3. Emphasizing Efficiency and Adequacy of Service in Utility Operation

Your Committee is in general agreement with the Legislative Auditor's finding that presently the rate making process primarily focuses upon utility company profits and costs, rather than upon the efficiency of utility operations and adequacy of services.

Your Committee concurs with the auditor in recommending that the PUC institute a program of continuous surveillance which will include: (1) a periodic study of management efficiency by the utility companies; (2) the development of long and short range objectives by the utilities to which all utility rate and budget submissions will be linked; and (3) examination of all major utility capital expenditure proposals in the form of appropriate cost-benefit studies.

Your Committee further agrees with the auditor's recommendation that all affected parties seek jointly to devise new formulas which will reduce or eliminate the dependence on cost-plus approach to rate making, and provide incentives for utility companies to achieve more efficient and economical operations.

4. Freer Intervention by Third Parties in the Rate Making Process

Your Committee feels that the rate making process should be made more accessible to the diversity of interest groups by allowing greater third party intervention in rate cases. It is therefore recommended that greater use should be made of the procedure to allow third parties to intervene in accordance with rules and regulations.

5. Tariff Filings Which Do Not Involve Rate Increases

Your Committee concurs with need for adequate public notice of proposed changes in nonrate increase matters and assurance of proper in-depth regulatory review of such changes. It is therefore recommended that rules and procedures be established by the PUC for the simplified handling of nonrate increase matters.

6. Fuel Oil Adjustment Clause

Your Committee is generally in agreement with the Legislative Auditor's observations with regard to the present practice of allowing the automatic adjustment of gas and electric utility rates to reflect changes in the cost of fuel oil. Moreover, the fuel oil adjustments should be carefully examined by the utility regulators, so that inequities and overcharging can be corrected.

Your Committee is cognizant of the fact that fuel oil, including diesel fuel, is a significant cost of utility energy production and is subject to fairly frequent and sometimes wide fluctuations in price. Due to the time-consuming nature of utility rate making, the PUC has developed an automatic device for adjusting energy utility rates to reflect fluctuations in fuel oil costs as they occur. The fuel adjustment mechanism appears to rest on doubtful legal grounds because it does not seem to be contemplated or provided for by law. Hawaii Revised Statutes, Section 269-16, appears to require a public hearing process for all rate increases.

The fuel adjustment mechanism:

- Appears never to have been subject to separate investigation and careful analysis.
- Receives scant attention during regular rate cases.
- Escapes close scrutiny, careful analysis, and continuous monitoring on the part of utility regulators during intervals between rate cases.
- Does not require any sort of advance public notice before being put into effect.

As a result, consumers in recent months have been caught by surprise by vastly increased energy utility bills and in many cases seem to have been the victims of overcharging and highly inequitable treatment.

Your Committee concurs with the Legislative Auditor in his recommendation that a thorough examination be made of the fuel oil adjustment mechanism in Hawaii, including:

- Careful review of the legal validity of existing fuel oil adjustment clauses.
- Formulation of uniform rules and regulations governing the application of fuel oil adjustments.
- Development of internal procedures to ensure careful analysis of all fuel oil adjustment formulas.
- Maintenance of continuous oversight of the implementation of fuel oil adjustment clauses.
- Provision of adequate public notice of all impending increases in rates resulting from the application of fuel oil adjustment clauses.

Your Committee believes that an appropriate procedure for the handling of fuel adjustments should be set forth in either statutory form or in rules and regulations of the PUC. Further review and study of this question should be undertaken in the forthcoming legislative session.

Your Committee also believes that stringent civil or possibly criminal penalties should be provided for companies which knowingly submit erroneous information in this area with the intent of overcharging the public. Here, too, a further review during the forthcoming legislative session is recommended.

7. Matters Which Should be Handled Internally by the PUC or Other Appropriate Agency

Your Committee has examined several other recommendations regarding the regulation of public utilities made by the Legislative Auditor. These include: ways to improve regulation of the quality of utility services so as to insure fair and adequate consideration of consumer interests; the development of a comprehensive system for complaint-handling by the PUC; the establishment of rules governing credit policies and practices in the utilities field; the need for improvements in the area of ensuring proper representation of Hawaii's interests before federal regulatory bodies; the improvement of regulations covering utility company programs and practices involving capital improvements, line extensions and promotional activities; and the need for an integrated approach toward the interrelated subjects of economic regulation and environmental protection in the public utilities field.

Your Committee is in general accord with these observations and recommendations. Your Committee feels, however, that these matters should be handled internally by

the PUC or other appropriate agency subject to legislative review.

8. Application of Antitrust Law

The Legislative Auditor has recommended that a coherent, consistent and coordinated approach be taken to antitrust matters in the public utilities field and that there be clarification of state policy and the formulation of appropriate statutory amendments to implement the policy.

Your Committee has agreed that its co-chairmen communicate with the attorney general on this matter in order to obtain a clear understanding of the scope and extent of possible application of antitrust laws in the public utilities field. Such communication will be made prior to the next legislative session.

CONCLUSION

Your Committee wishes to extend its appreciation to the Office of the Legislative Auditor for its comprehensive management audit relating to the State's public utilities program and to the large contributions made by the various persons, organizations and governmental agencies during this review of the program.

Appropriate bills and resolutions, in accord with the general guidelines outlined in this report, are being prepared for the forthcoming session by the Office of the Legislative Auditor.

Your Committee feels that, while much has been accomplished, there is still much to be done. Steady progress in the establishment and implementation of improvements in the public utilities field is anticipated. However, the task of reviewing, evaluating and monitoring the many difficult and complex issues and problems in this field will require continual legislative efforts.

Signed by Representatives Yamada, Kondo, Stanley, Yap, Fong and Sutton. Representative Takamine was excused.

Spec. Com. Rep. 7

Your Interim Committee appointed pursuant to H.R. 179 adopted by the Regular Session of 1975 and directed to review the proposed Juvenile Justice Master Plan, begs leave to report as follows:

Your Interim Committee was made up of the membership of the House Committee on Youth and Elderly Affairs and the Committee on the Judiciary and co-chaired by the respective chairpersons of said Committees.

BACKGROUND

In 1975 the Seventh State Legislature adopted the Hawaii Correctional Master Plan as developed by the State Law Enforcement and Juvenile Delinquency Planning Agency pursuant to Act 179, SLH 1970. The State Correctional Master Plan, although embracing both adult and juvenile correctional needs, placed its primary focus on adults, integrating juvenile concerns when appropriate. It became apparent that the youth population and the social apparatus for dealing with youth needs and problems would require a separate, supplementary review, particularly when viewed in the light of a preventive program rather than a correctional program. Taking this view, a number of separate and scattered laws have been enacted over the years which, in fact, touch on all aspects of juvenile concerns. In a similar way, many programs, both public and private, relating to juveniles have developed, resulting in a loosely related assemblage of services rather than a cohesive and systematic whole.

In order to achieve a "system" of juvenile justice to meet the needs and problems of Hawaii's youth, a review and assessment of statutes and programs having to do with juveniles was in order. Such an effort would involve the development of a common philosophy and understanding of correctional concepts, as the required juvenile justice system to meet these goals.

With the National Clearinghouse for Correctional Planning and Architecture providing professional planning assistance, the State Law Enforcement and Juvenile Delinquency Planning Agency completed the State of Hawaii Juvenile Justice Plan. It was presented

in 1975 to the Eighth Legislature of the State of Hawaii.

During the 1975 Regular Session, your Committees on Youth and Elderly Affairs and on Judiciary received testimony on the proposed master plan from the State Law Enforcement and Juvenile Delinquency Planning Agency, the Hawaii Council of the National Council on Crime and Delinquency, the Juvenile Justice Plan Ad Hoc Committee and many other interested persons and agencies. It was found that the plan's proposals required additional refinement in order to be sufficiently concrete for legislative consideration and would benefit from greater in-depth community participation than was possible during the legislative session.

In view of these factors, as well as the comprehensiveness and social impact that the Juvenile Justice Plan carries, it was felt that the interim period was a more appropriate time for the review desired by your Committees.

THE JUVENILE JUSTICE MASTER PLAN

The Juvenile Justice Plan is based on the premise of prevention of criminal conduct by juveniles and the establishment of certain objectives consistent with this goal. The plan calls for a shift in attention and resources from the later phases of the juvenile justice process to not only the earlier stages of involvement, but also to those who are not in the formal justice system.

It proposes minimum involvement in, or earliest possible release from, the juvenile justice system. It also calls for a shift in focus away from the justice system to the community instead and proposes maximum use of in-community resources. It recognizes that delinquency and non-delinquency can and do arise out of the same socio-economic setting and that both the problem and the potential solutions exist in the same context.

The plan acknowledges Hawaii's ongoing efforts of minimizing institutionalization and increasing in-community resources in the area of juvenile justice. However, it recommends a juvenile justice coordinating council as an organizational structure to facilitate a more cohesive and coordinated delinquency prevention and juvenile justice process; methods for minimizing involvement of youth with the formal justice system; improvements for the intake process to allow for appropriate help at the earliest stage in the process; the continuance and acceleration of Hawaii's practice of minimizing institutionalization of youth; and specific types of programs for appropriate stages in the juvenile justice process.

APPROACH TAKEN

During the 1975 interim period, your Committeemet with Mr. Seido Ogawa, juvenile delinquency specialist of the State Law Enforcement and Juvenile Delinquency Planning Agency, conducted visitations to various youth correctional programs and facilities on Oahu and held a public hearing to review the concerns raised during the 1975 legislative session regarding the Juvenile Justice Plan.

Your Committee recognizes that a cautious approach to implementing a juvenile justice system for the State of Hawaii is necessary in order to assure effectiveness; that it is a vast and complex process; and that the various recommendations require close legislative examination.

Your Committee found that the plan does not establish any priorities in its recommendations and that this lack of priorities should be its immediate concern. The creation of new plans and programs to overcome whatever might be lacking in the present system could then be more easily resolved. The proposed juvenile justice coordinating council appeared to be a mechanism capable of meeting these concerns. Therefore, your Committee concentrated on this particular recommendation of the proposed Juvenile Justice Plan.

As mentioned above, there are numerous agencies in the State which provide services and programs relating to delinquents as well as non-delinquents. These programs range from prevention of any act of delinquency to rehabilitation after incarceration and are found scattered among a wide variety of public and private agencies including the Family Court, the Department of Social Services and Housing, the State Commission on Children and Youth, county police departments, the Palama Settlement, the John Howard Association and the Health and Community Services Council of Hawaii.

According to the plan, juvenile justice components in this State reveal above average

efficiency and the use of progressive policies and practices within their own spheres. However, these components fall short of a total system of juvenile justice. The plan maintains that, without a cohesive system of component agencies, the juvenile justice process cannot function at an optimal level. In particular, it found that the follow-up responsibility tends to be lost as a youth moves from one agency to another. The proposed juvenile justice coordinating council is to include representation from all public and private agencies, judicial and non-judicial programs and the community at large, as a reflection of the scope and responsibilities the juvenile justice system entails.

At its meeting with Mr. Ogawa, your Committee were informed that the role of the State Law Enforcement and Juvenile Delinquency Planning Agency is that of a planning agency and that the responsibility for developing priorities should go to an agency such as the juvenile justice coordinating council. It was also brought to the attention of your Committee that, because the plan was completed before the passage of the federal juvenile delinquency prevention act, the proposed coordinating council does not meet all the funding requirements of the act. The State Law Enforcement and Juvenile Delinquency Planning Agency suggests that one course of action would be to create two groups: a smaller decision making council made up of state and county personnel involved in law enforcement, correction, family court judges and public agencies providing delinquency prevention or treatment such as welfare, social services, mental health, education or youth services; and a larger advisory group with representation from the private sector concerned with delinquency prevention or treatment to advise the aforementioned council.

It was also recommended by SLEPA that a juvenile justice coordinating council should first be established within the Governor's Office and given the responsibility of determining priorities and formulating a timetable for the development and implementation of a comprehensive juvenile justice system. The council would also conduct the planning and study of programs for treatment of juveniles within the system, be responsible for setting long-range objectives for juvenile justice, and encourage agencies and programs to move toward those objectives.

Your Committee conducted field trips to three Oahu juvenile delinquency programs and found that a diversity of services exists. Such diversity contributes to the problem of coordinating juvenile justice programs and at the same time reveals the need for such coordination. The Detention Home, Hale Ho'omalu, is a temporary detention care facility operated by the Family Court for juveniles who cannot be returned to their parents or guardians while awaiting either court adjudication or a determination as to whether they should be further obtained. Palama Settlement, a private, nonprofit organization, offers a non-residential treatment program for juveniles as a last alternative to incarceration. Hale Kipa is a private, nonprofit runaway shelter program for girls.

A public hearing was held to solicit testimony from the many public and private agencies involved in juvenile programs to hear their views on a coordinating body for a juvenile justice system. Presenting testimony were: Mr. Seido Ogawa, juvenile delinquency specialist for the State Law Enforcement and Juvenile Delinquency Planning Agency; Judge Herman Lum of the First Circuit Family Court; Mr. Andrew Chang, director of the State Department of Social Services and Housing; Mr. George Yuen, director of the State Department of Health; Mr. Jay Nakasone, chairman of the State Commission on Children and Youth; representatives of the State Department of Education; representatives of each county or its police departments; Mr. Robert Higashino, executive director of the Palama Settlement; representatives of YMCA Outreach Services and the YWCA; Mr. David Cole of the Hawaii Chapter of the American Civil Liberties Union; Mr. Don Moore of the Hawaii Council of the National Council on Crime and Delinquency; and Mr. Ric Hyland, a private citizen.

The majority of persons appearing before your Committee agreed to the need for the coordination of efforts and programs directed at juveniles. However, differences occurred on the exact composition, duties and powers of a body charged with the task of coordination.

Those testifying supported a decrease in governmental representation and an increase in representation from the community, private agencies and the counties as compared to the plan's recommendation, Some advocated splitting the plan's proposed large representative policy-making body into two groups--a small body with functional capabilities and a larger advisory body to accommodate appropriate representation. Others proposed coordinating bodies at the county level rather than the state level as being more effective and desirable.

RECOMMENDATIONS

In reviewing the testimonies presented, your Committee believes that a juvenile justice coordinating council that is both viable and meets the federal act requirements can be established. Therefore, your Committee recommends the creation of a 21-member juvenile justice coordinating council within the Office of the Governor. Seven are to be ex-officio voting members: the director of the Department of Social Services and Housing; the chairman of the Board of Education; the director of the Department of Labor and Industrial Relations; the director of the Department of Health; the senior judge at the Family Court, First Circuit; the chief of police, City and County of Honolulu; and the director of the Office of Children and Youth. Seven members are to be from private social service agencies to serve for specified terms; and seven members who, at the time of appointment, shall be under the age of 26 and shall serve for a specified term.

The Governor shall appoint the members of the coordinating council who will serve without compensation but be reimbursed for any expenses incurred in the performance of their duties as council members.

On occasions where the director of social services or any other public administrator appointed to the Coordinating Council cannot attend meetings, the next individual authorized to act in the absence of the head administrator shall attend.

Your Committee recognizes the importance of the juvenile justice coordinating council as the body that must assume responsibility for setting goals and priorities and insuring coordination and effective service delivery to effectuate a total juvenile justice system. Thus, your Committee strongly supports the appointment of high-level public administrators because they will be able to make the necessary commitments to implement the decisions of the coordinating council. Your Committee would like to note that, since a high delinquency rate is most evident on Oahu, the appointment of the senior judge of the Family Court, First Circuit (Oahu) and of the chief of the Honolulu Police Department seemed most appropriate.

While mindful of the need for high-level public administrators in the coordinating council, your Committee also recognizes the importance of community participation. Although the juvenile justice coordinating council as proposed in the Juvenile Justice Plan calls for two members from private, social services agencies and one member from the Health and Community Council of Hawaii, your Committee agrees with testimonies calling for increased representation from the community and private agencies. Provisions to ensure broad-based community involvement include a requirement that the majority of the members of the coordinating council not be full-time federal, state or county personnel and that the council chairman must be from the private sector.

It should also be noted that your Committee has reviewed the Legislative Reference Bureau's report, Hawaii's Commission on Children and Youth--An Assessment of Its Organization, Management and Operation. This report proposes the dissolution of the State Commission on Children and Youth and its functions transferred to a new office of children and youth to be placed within the Governor's Office. This office is to be headed by a director, responsible for coordinating, monitoring and advocating all state programs, policies and services relating to children and young adults. As proposed in the report, the director is to be assisted by an advisory council in planning and policy development.

Your Committee believes that this proposed advisory committee will perform the same functions as the juvenile justice coordinating council, but on a broader scale. The advisory council's responsibilities will cover all children and youth programs and services in the State including those responsibilities which will be charged to the juvenile justice coordinating council. To avoid the problems of overlapping jurisdictions and duplication of effort, your Committee surmises that in the event an office of children and youth is established, one body can be appointed to serve both as the advisory council to the director of children and youth and as the juvenile justice coordinating council. However, at this time, your Committee feels the need to examine further the proposed relationship between the office of children and youth and the juvenile justice coordiating council. Therefore, your Committee will continue its examination of the juvenile justice system to coordinate with the development of a state office of children and youth. In addition, your Committee intends to look into the area of staffing which will be needed to provide for the effective and efficient delivery of programs and services for children and youth in the State.

CONCLUSION

The interim hearings conducted by your Committee highlighted the need for a total cohesive system of juvenile justice in the State, especially in view of the goal of preventive action. Your Committee believes that the establishment of a juvenile justice coordinating council is a major step toward this goal. Your Committee believes that a need has been demonstrated for such a coordinating body composed of individuals who, by the nature of their offices, possess the expertise and authority to work with members of the community who are also involved in juvenile programs.

Signed by Representatives Takamura, Roehrig, Kunimura, Uechi, Akizaki, Blair, Cayetano, Cobb, Kiyabu, Kondo, Lee, Naito, Oda, Shito, Stanley, Suwa, Yamada, Yap, Evans, Fong, Hakoda, Ikeda, Medeiros and Sutton. Representatives Takamine and Carroll were excused.

Spec. Com. Rep. 8

Your House Interim Committee on Labor and Public Employment appointed pursuant to H.R. No. 146, adopted by the Regular Session of 1975, and directed to review the State's unemployment insurance program, begs leave to report as follows:

In the interest of time and efficiency, your Committee conducted joint hearings with the Senate Committee on Human Resources which was requested to investigate the possible abuses of the unemployment insurance program pursuant to S.R. No. 115. The hearings were co-chaired by both chairpersons of said committees and each will report their findings and recommendations to the Speaker of the House and the President of the Senate, respectively.

BACKGROUND

The Hawaii Employment Security law provides the bases for the implementation and administration of the State's unemployment insurance program which is housed in the Department of Labor and Industrial Relations. In order to properly review the State unemployment insurance program, your Committee felt it was necessary to examine the principles underlying the concept of unemployment insurance.

According to a 1963 report on unemployment compensation in Hawaii, government unemployment compensation generally reflects five basic principles of unemployment compensation to mitigate adverse economic effects of sudden or prolonged unemployment on workers:

(1) To pay benefits to those workers who are involuntarily unemployed.

(2) To pay benefits to those workers who by their recent work history have shown a real and substantial attachment to the labor force.

(3) To pay benefits in an amount adequate to keep the unemployed worker's living standard from being undermined but not so much as to impair his interest in working.

(4) To pay benefits for a reasonable period of time to protect the worker from wage loss in periods of temporary unemployment, but not to pay them for so long as to permit him to adjust to this way of life.

(5) To pay benefits only to those unemployed persons who are currently and actively seeking work; in other words, not to pay benefits to persons who have withdrawn from the labor force.

Perhaps at no time since its inception in 1937 through the enactment of Hawaii's employment security law, has the state's unemployment insurance program been subject to as much attention as it has recently received. Soaring unemployment rates nationwide as well as in Hawaii, and resulting concern over the increasing cost of financing unemployment insurance benefits and the declining balance of the unemployment insurance trust fund are probable contributing factors to the high interest shown in the state's program.

In consideration of these factors, your Committee has reviewed Hawaii's Employment

Security law, including an investigation of reported cases of claimant abuse and fraud.

APPROACH TAKEN

Joint hearings were conducted on June 24, 25 and 26. At these meetings, testimonies were received from Mr. Ralph Altman, deputy director, Unemployment Services Program Administration, U.S. Departmnent of Labor; Mr. Joshua Agsalud, director of Labor and Industrial Relations; Mr. Thomas Mayeda, administrator, Unemployment Insurance Division, State Department of Labor and Industrial Relations; small and large businesses; labor unions; business associations; organizations representing management; and private citizens.

FINDINGS

Several major concerns emerged from these discussions and your Committee's review of the state's unemployment insurance program, which are discussed below.

Unemployment Insurance Trust Fund. Your Committee found that the unemployment insurance trust fund, from which unemployment benefits are paid and which is maintained by employer contributions, penalties, and interest earned, has experienced rapid depletion due to the high rate of unemployment in recent years. The end of intensive construction activity in the middle of 1970 marked the beginning of increased unemployment in Hawaii. Dock strikes in 1971 and 1972 and a slowdown in tourism due to national and international economic recession contributed to Hawaii's unemployment rate increasing from 4.5 percent in 1970 to 7.3 percent in 1972. While a decline to 6.8 percent occurred in 1973 due to Hawaii's improved economic conditions, an increase to 7.6 percent occurred with Hawaii's energy crisis, shortage of credit in the money market, several work stoppages, and the recessionary mainland economy. With the increase in the number of unemployed from 8,820 in 1969 to 27,160 in 1974, unemployment insurance claims also significantly increased from 26,043 to 62,064 for the same 5year period, thereby increasing amounts of benefits being paid out from the unemployment insurance trust fund.

From a balance of $44 million in 1970, the fund has declined to $10.7 million as of the end of November, 1975. At the same time unemployment benefit payments are exceeding contributions. In 1970 unemployment insurance payments totaled $14.7 million while contributions and interest were $15.7 million. In 1974 payments were $35.3 million while contributions and interest totaled only $27.6 million.

Unemployment Insurance Tax Rate. The conditions of the state's unemployment insurance trust fund affects the employer's contribution rate into the fund. Statutory provisions regulate the unemployment insurance tax rate which is what an employer must pay to the fund and is computed on an employer's reserve balance in the fund. However, if at the end of the calendar quarter the fund's balance is less than $20 million but at least $15 million, the contribution rates to all employers are increased by .5 percent. If the fund balance drops below $15 million, all employers are assessed the maximum rate of 3 per cent.

Employers with good unemployment compensation records view being taxed at the full 3 percent contribution rate as a disincentive to maintaining their good records. Testimony from labor unions supported this view. Other testimony presented by employers revealed objections to government employees receiving benefits from the fund which is financed primarily by private employers' contributions.

Suggestions received by your Committee relating to unemployment insurance tax rates include a change in the tax schedule which would reflect lower tax rates for employers with good unemployment compensation records and the establishment of a revolving unemployment insurance trust fund for government employees, thereby reducing the financial burden on the existing fund.

Claimant Abuse. Your Committee found general agreement that claimant abuses do exist. Claimant abuse as defined by the Department of Labor and Industrial Relations is any action on the part of a claimant which results in the payment of benefits in violation of the unemployment insurance laws. However, your Committee found that testimonies varied on the frequency and gravity of abuses.

Testimony received from employers and business associations described numerous individual experiences with claimant abuses and cited inadequate administration

of the program by the department in preventing claimant abuse and in the enforcement of violation penalties.

Both labor unions and the department testified that the number of abuses are minimal. The department cited two documents which reveal the minimal occurrence of claimant abuse and fraud.

The first document, a DLIR report of the State benefit payment control program, revealed that only 2.5 percent of a total of 9,822 cases examined for the fiscal year ending June 30, 1974, were determined to involve fraud by the claimants. The total benefits paid out to these fraud claimants amounted to $44,748, which is approximately .1 percent of the total benefits of $44.7 million.

The second document is a DLIR pilot study of four groups of unemployment insurance claimants alleged to be claimant abusers of the unemployment insurance program, i.e., the disqualified, pensioners, repeaters, and exhaustees. The study revealed that no single group was significantly abusing the State's unemployment insurance program. Further, your Committee was informed that the procedures of the program were relatively effective in detecting and limiting claimant abuse. However, while these procedures were effective in cross-checking information from a variety of sources on the claimant, it was revealed that,in the checking of a claimant's availability for work, the claimant himself is often the only source of information. Thus, there is no means of cross-checking a claimant's attitude or intent.

Suggestions regarding claimant abuse received by your Committee include:

(1) The listing of all job vacancies, both private and public, with DLIR so that each claimant qualified for a specific vacancy would be exposed to that vacancy with disqualification of any claimant refusing job offers for which he is eligible.

(2) Increasing penalties for claimant fraud from the present benefit disqualification for up to 52 weeks or maximum penalties of imprisonment for not more than 30 days and/or a fine of $200 to a disqualification period beyond the 52-week maximum by including the unexpired portion of the claimant's benefit year in which fraud was determined. A person is also presently required to repay benefits wrongly collected and is disqualified from further benefits. The suggested change is to increase the amount to be repaid by adding a 10 percent penalty to the total amount of the benefits wrongfully collected.

(3) Stiffer penalties for those who receive benefits under false pretenses and better coordination between the State compensation section and employment division to improve enforcement procedures. Since such procedures play an important role in detecting unemployed persons refusing suitable work and in terminating unemployment benefits for such persons.

Benefit Provisions. Many private employers testified that the 14-weeks-of-work requirement was set arbitrarily and was an inadequate base for determining benefits. Dissatisfaction was also expressed with the present definition of "weeks-of-work" being at least one hour per week as a qualification for unemployment benefits. It was also revealed that because weekly benefits are computed on a claimant's highest wages during the calendar quarter of a worker's base period, in some cases unemployment benefits received by claimants exceeded wages earned. Business associations and employers also contended that benefit provisions allow seasonal and part-time workers to collect unemployment benefits if they meet the eligibility requirements, which contradicts the spirit of the law.

Suggestions received by your Committee include increasing the base period eligibility from 14 to 20 weeks; making the base duration period equal to the maximum duration benefit of 20 hours of work per week; revising the definition of weeks-of- work to mean a person must work at least three days per
week to qualify for benefits; reducing the benefit amount to approximately 55 percent of the average weekly pay earned during a worker's base period; and reestabishing the seasonability provision which limits unemployment benefits of seasonal workers to only the season they are employed.

Disqualification Provisions of Unemployment Insurance Law. Employers expressed concern over provisions of Hawaii's unemployment law which allows workers who have voluntarily quit their jobs or who have been discharged for misconduct to be

eligible for benefits after a 3 to 8 week disqualification period. After the disqualification period of 8 weeks, the worker's continued unemployment is no longer presumed to be due to his disqualifying act but to the condition of the labor market.

It was suggested that the law be changed to require individuals directly responsible for their unemployment status to work for a minimum of 7 weeks in subsequent employment before qualifying for unemployment benefits. DLIR estimated that this proposal would result in an estimated savings of 15 percent of the total benefits paid under the State unemployment insurance program.

Suitability of Work. The definition and interpretation of the "suitability of work" provision under Hawaii's unemployment insurance laws varied among employers, business associations and labor unions. Considerations in determining "suitability of work" include prior training, experience, and comparable earnings. This means that if a person is qualified for a job in terms of training and work experience, he may still refuse the job on the basis that the salary is lower than his previous earnings. Employers and business associations felt that comparable earnings should not be a consideration in determining "suitability of work;" whereas, labor unions felt that the present provision was satisfactory.

Suggestions received by your Committee include a redefinition of "suitable work" so claimants cannot refuse any available job which is in accordance with his previous training and work experience. The idea of having all employers list their jobs with the state employment service to more fully test a claimant's availability for suitable work was suggested again and the need for an improved system on checking claimants who seek employment at companies not hiring or unable to hire persons with their skills.

OTHER CONCERNS

Work Stoppage. Another major concern of employers regarding the disqualification provisions is that unemployment insurance laws allow striking employees to receive unemployment benefits if DLIR rules that no work stoppage has occurred during the strike. Employers, such as Hawaiian Telephone Company and Hawaiian Electric Company, contend that payments of benefits to striking employees create an imbalance in labor-management collective bargaining relations and does not preserve government neutrality in labor disputes. It was proposed by some employers that the disqualification of unemployment benefits be based upon labor disputes rather than work stoppage. Such a proposal would prohibit striking employees from collecting unemployment benefits, thereby eliminating any imbalance in labor-management collective bargaining relations.

Pensioners and Retirees. It was also brought to your Committee's attention by employers that Hawaii's unemployment insurance laws allow pensioners to collect unemployment benefits while receiving income from social security and a pension. Employers contend that most pensioners have retired from the labor force and have no serious intentions in seeking employment. Under these circumstances, it was felt that such persons are not actively seeking employment and, therefore, should be disqualified from unemployment benefits. Furthermore, in some instances, pensioners receiving unemployment benefits, social security income, and a pension, enjoy a higher standard of living than prior to receiving unemployment benefits.

It was proposed by employers that the income of pensioners who are not working should not exceed the income earned prior to retirement. Such a proposal would allow pensioners to receive unemployment benefits which are equal to the difference between the weekly benefits received and the weekly income received from social security and a pension. If a person earns an income which is equal to or exceeds his unemployment benefits, he would not receive unemployment benefits. Mr. Thomas Mayeda, administrator of the State's unemployment insurance division, noted that H.B. No. 413 which was introduced during the 1975 session would also similarly calculate unemployment benefits of pensioners. The only difference is that it would allow pensioners to receive unemployment benefits which are equal to the difference between the weekly unemployment benefits received and the weekly income received from a pension, excluding social security payments.

RECOMMENDATIONS

The State's unemployment insurance program represents one of the four major employee benefit programs in Hawaii. Because it was established to provide income

maintenance to the worker who due to temporary economic and social conditions is unemployed, your Committee believes that it is important to ensure worker accessibility to the program. In reviewing the testimonies as well as the recommendations contained in them, your Committee has kept this underlying philosophy in mind. Your Committee feels that Hawaii's unemployment insurance program has served the worker and should continue to protect all regular wage and salary workers who face the risk of unemployment. Your Committee also believes that unless the State's unemployment insurance program protects the majority of Hawaii's insured workers long enough to carry them through periods of unemployment, it is not fully achieving its purpose.

Therefore, your Committee believes that major, drastic amendments to the Hawaii Employment Security Law may not be necessary at this time. Your Committee, however, recognizes that benefit abuse may exist and that administrative provisions for the implementation of the law may need to be modified to ensure their equitable and effective application. While your Committee generally believes that benefit abuse cases are minimal, your Committee recommends the following corrective steps:

(1) The Department of Labor and Industrial Relations should expand its benefit control program. As pointed out in the department's testimony, it was able to investigate 26 per cent of the total number of cases where intial payments of unemployment benefits were made. Your Committee feels that expansion of the benefit control program would serve as a deterrent to claimant abuse and fraud.

(2) The Department of Labor and Industrial Relations should promote its "hot line." The department testified that it has instituted a "hot line service" where employers may report possible claimant abuse as fraud cases. Your Committee believes that this is a positive step to internal department control of its program. However, your Committee believes that the department can exert more effort in encouraging the use of the "hot line service" among the employers.

(3) The Department of Labor and Industrial Relations should review its proposed amendments to the State's unemployment law to assure themselves that they are aware of the ramifications of its recommendations on the worker, the employer and the State's program.

With regard to the unemployment insurance trust fund, your Committee believes that the depletion of the unemployment insurance trust fund is mainly due to recent economic conditions of recession and high unemployment on the one hand, and inflation on the other. Thus, until economic conditions stabilize, your Committee recommends that no major, drastic changes be made in the provisions regulating the fund on the emloyer contribution rates.

Any real improvement in the high unemployment rate is partly dependent upon the desired change in the inflation rate. Furthermore, our nation's fiscal and monetary policies will greatly determine the growth and recovery rate of our economy. Therefore, the unemployment rate is not likely to drop drastically until our economy recovers sufficiently. Federal monies are made available to the states if a state's trust fund is deemed inadequate to meet the unemployment compensation costs. These funds are borrowed from the federal government on a no-interest basis and could be used by Hawaii if necessary.

Finally, your Committee will take into consideration the many concerns expressed by employers, labor unions, and management organizations and will continue to monitor the implementation and administration of Hawaii's unemployment insurance program. Should new developments warrant a reconsideration of the program, the Committee will take further action at that time.

Your Committee was encouraged by the interest, concerns, and recommendations it received on the State's unemployment insurance program from the many segments of Hawaii's working population. Your Committee recognizes that, although each segment approaches and holds different views on the effectiveness of the State's program, ultimately all are supportive of the program's goal--i.e., to ensure income maintenance to the unemployed worker. Your Committee feels that it has had the opportunity to thoroughly review the State's unemployment program during this interim period and has had the benefit of meeting with those affected by the law--i.e., employers and workers--as well as the administrators of the law--i.e., the Department of Labor and Industrial Relations.

Signed by Representatives Lee, Takamine, Machida, Mizuguchi, Naito, Peters, Sakima, Segawa, Stanley, Yamada, Yuen, Fong, Kamalii, Larsen, Santos and Sutton..

Spec. Com. Rep. 9

Your House Committee on Labor and Public Employment requested to review the implementation of the Hawaii Occupational Safety and Health Law pursuant to House Resolution 139 begs leave to report as follows:

COMMITTEE APPROACH

A subcommittee was appointed to review the Hawaii Occupational Safety and Health law including its implementation, staffing and public agency coordination. The subcommittee was chaired by Representative Henry Peters and membership including the members of the House Committee on Labor and Public Employment.

The subcommittee conducted two days of public hearings on the State Occupational Safety and Health program. Testimony was received from private businessmen, industry associations, unions and public agencies. The subcommittee also reviewed federal government evaluation reports on the state program and the organizational structure and personnel positions of the division of occupational safety and health.

BACKGROUND

In 1970, Congress passed the Williams-Steiger Occupational Safety and Health Act. The Federal Act required that the states assume the function of occupational safety and health protection through a state plan provided that the enabling legislation and the standards adopted were in conformance with federal requirements.

Accordingly, the Hawaii State Legislature enacted the Hawaii Occupational Safety and Health law in 1972 as part of its state plan detailing adoption and enforcement of standard procedures. The state plan received approval from the federal government in 1974, and the fiscal year 1974-75 marked the first full year of operations.

The purpose of the Occupational Safety and Health program is to assure a safe and healthful working environment for all employees in the State and to promote proper safety and health practices among employers. To carry out this purpose, the Division of Occupational Safety and Health in the Department of Labor and Industrial Relations enforces occupational safety and health standards through inspections of work plants and sites, inspection and certification of elevators and consultation, training and information services on standards. Since its inception, the division's operations now stand at a $1.2 million annual operation with 59 staff members placed among its five branches.

FINDINGS

Although the Subcommittee found the operations of the State Occupational Safety and Health program to be generally satisfactory, there are specific areas which warrant particular attention.

Program Approach. The Subcommittee's review of the occupational safety and health program showed that the division of occupational health and safety has generally administered the program with a positive attitude. However, the Subcommittee wishes to emphasize that more attention be given to promoting cooperation between the division and the private employer. The Subcommittee feels that the imposition of government regulation and standards should be based on cooperation. As a consequence, the division should be sensitive to assisting the employer in conforming to the OSHA rules. Citations should be used in a positive manner and not as punishment for nonconformance.

Occupational Health and Safety Program. The division of occupational safety and health personnel apprised the Subcommittee of problems in hiring qualified personnel to fill positions within the several branches of the division. Persons with qualifications meeting the position requirements were difficult to find. To compound the problem, once qualified personnel were found, the division experienced delays in the hiring

process both internally and with job classification by the Department of Personnel Services. As a result, the division was not able to complete staffing its education and information branch until this year, with the occupational health branch still at partial staffing and vacancies in all other branches of the division.

The Subcommittee feels special attention should be focused on more expedient ways to hire personnel as it will affect program effectiveness. This lack of personnel has partially contributed to certain deficiencies in program implementation. The Subcommittee found one of these program deficiencies to be in the area of education and information.

The Subcommittee found that many small businesses were unaware of OSHA or what its responsibility is in occupational health and safety. Small businessmen testifying before the Subcommittee reported difficulties in understanding OSHA rules and in determining which rules were applicable to their specific situation. Many suggested that a change in the format of the OSHA rules should be considered to facilitate use and understanding.

Division officials reported that seminars are held quarterly and consultation services are provided upon request. In addition, OSHA posters have been sent to all employers in the State for display in work areas, and all materials are available at no cost.

Larger more organized businesses and industries did not report as serious a problem in this area as small businesses. Although awareness of OSHA is higher among these industries, your Subcommittee feels that education and information is still a problem and that it should be granted a high priority item for a new program. Since so much of employer compliance to OSHA safety and health standards depends upon awareness of what these standards are and because it was found that the OSHA division views voluntary compliance as a goal, your Subcommittee feels that education and information is an integral part of achieving employer compliance.

Enforcement. The Subcommittee found that there were varying opinions as to the enforcement of OSHA laws and division standards. From testimony presented, the Subcommittee found certain inconsistencies involving levels of fines levied and appropriateness of persons cited. The Subcommittee found that the division does not have a graduated scale of fines based on the seriousness of the violation, and that there seemed to be some inconsistency in the fines charged for similar types of violations. Division personnel reported that although all fines are reviewed for their appropriateness, fines are left to the inspector to set.

The Subcommittee therefore feels that some guide should be provided for fines based on the seriousness of the violation in order to ensure the enforcement of a certain standard and to prevent possible overfining or complaints on the part of those cited as to the equitability of the division's fining system.

The Subcommittee also found that disputes occurred in multiple contractor cases where one contractor is cited for a violation concerning a safety device installed by another contractor. It is the practice of the division to cite the person working in the area at the time of the discovery of the violation and not necessarily the person responsible for constructing or installing the safety device.

The Subcommittee feels that in cases such as these, both the person responsible for the safety equipment and the person using the equipment at the time of the citation, are equally responsible and should be fined. Your Subcommittee therefore recommends that some system to allocate responsibility should be established.

Small businessmen testifying before the Subcommittee noted that many of the standards imposed by the occupational safety and health requirements have caused a financial burden. Some reported that they may have to go out of business since investments to meet occupational safety and health act requirements would be too costly. Still others noted that the citations issued reflect overly stringent and technical standards. Your Subcommittee recognizes the importance of safety even within very small businesses. However, the Subcommittee does not feel that standards imposed should be so stringent as to cause businesses to close down. In cases where installation, construction or remedial steps necessary to meet OSHA requirements is too costly, the Subcommittee feels that some agreement on a graduated compliance schedule could be reached between OSHA officials and the small businessman. This would assure that OSHA standards will be met without creating untenable fiscal burdens on the businessman.

Government Safety Programs. The Subcommittee was disturbed to find that state

and county governments have not been as active in promoting safety and health standards as they could be. Division personnel reported that offers made to state and county agencies for OSHA services have had minimal response. Presently, the only time OSHA deals with public agencies is through complaint or citation procedures.

Your Subcommittee feels that state and county government should place more emphasis on promoting occupational safety and health.

Private Industry and Union Participation. A review of the occupational safety and health programs in the private sector revealed the need for unions and employers to take a more active stance. The Subcommittee notes that one union has implemented self-regulating measures among its membership. The union has an internal program which fines members who violate safety and health standards. The Subcommittee feels that all unions and industrial associations should consider instituting self-regulating programs to promote on-the-job health and safety among its membership.

RECOMMENDATIONS.

Based on a review of the occupational safety and health program, your Committee recommends:

(1) A standard fine scale be established for types of violations. Your Committee feels that such a scale would provide more equitable assessment of fines.

(2) A stronger more active educational program be undertaken to inform both employers and employees about OSHA. Your Committee feels that if voluntary compliance is to be achieved a more effective educational program is necessary.

(3) A system be worked out to provide more equitable treatment in cases where there are multiple contractors and violations are found. Your Committee feels that penalizing the person working in the area at the time of the citation is not enough, if other persons were responsible for constructing or installing faulty safety equipment.

(4) A stronger occupational safety and health program be established on the public agency level. Your Committee feels that too often regulations are imposed on the private sector without enforcing the same standards for the public sector.

(5) A greater amount of attention should be placed on developing an attitude of cooperation between industry and the Division of Occupational Health and Safety. Your Committee feels that part of promoting occupational health and safety is to assist employers in conforming to OSHA standards.

(6) A change in the format of the OSHA rules be considered by the Division. Your Committee feels that rules should be presented in a vertical manner so that all rules applicable to a given industry can be found in one place. Presently, an employer must refer to several different chapters in the OSHA rules to find those applicable to his situation.

(7) A more active role among industrial associations and unions to promote occupational health and safety should be undertaken. Your Committee feels that occupational health and safety is as much a responsibility of the private sector as the public sector.

Signed by Representatives Lee, Takamine, Machida, Mizuguchi, Naito, Peters, Sakima, Segawa, Stanley, Yamada, Yuen, Fong, Kamalii, Larsen, Santos and Sutton.

Spec. Com. Rep. 10

Your House Committee on Labor and Public Employment appointed pursuant to House Resolution No. 151, adopted by the Regular Session of 1975 to re-examine the State's collective bargaining law, begs leave to report as follows:

Since the Senate Committee on Human Resources also planned an interim review of the State's collective bargaining law, in the interest of time and efficiency, joint

hearings were conducted. These hearings were co-chaired by the chairpersons of such committees which will report their findings and recommendations to the Speaker of the House and the President of the Senate, respectively.

BACKGROUND

In 1970, the Hawaii State Legislature implemented Section 2 of Article III of the Hawaii State Constitution which grants public employees the constitutional right "...to organize and to present and make known their grievances and proposals to the State..."

Act 171, SLH 1970, (1) grants public employees the right to organize for the purpose of collective bargaining; (2) grants public employers the right to negotiate with and enter into written agreements with exclusive representatives on matters of wages, hours, and other terms and conditions of employment while at the same time maintaining the principles of merit and of equal pay for equal work; and (3) creates a public employment relations board to administer the provisions of the collective bargaining law.

Chapter 89 of the Hawaii Revised Statutes, Hawaii's collective bargaining law has served as the basis for the negotiaation and implementation of thirteen collectively bargained contracts. With the State's five-year experience under this law, the 1975 State Legislature proposed that a re-examintion of certain provisions of law was needed.

APPROACH TAKEN

In response to the authorizing resolution, your Committee conducted hearings on the general matter of "scope of negotiations" which were followed by informal round table discussions involving management and the exclusive representatives of the thirteen bargaining units. The phrase "scope of negotiations" in collective bargaining generally refers to the established parameters of discussion to which both labor and management are confined in the formulation and joint administration of an employment contract. Section 89-9, HRS, establishes such parameters and procedures for the negotiation process in the public sector, including items which are deemed non-negotiable and the rights of a public employer, i.e., management rights.

On September 10, 1975, various state and county public employers presented testimony which focused primarily on management rights and excluded subjects of negotiations. The executive secretary of the State Employees' Health Fund presented testimony relating to the projected effects of having retirement and health fund benefits converted from non-negotiable to negotiable items. Testimony was also presented by the Tax Foundation of Hawaii on general concerns relative to the collective bargaining law. This formal hearing was followed by a round table discussion where the exclusive representatives of the thirteen bargaining units responded to the concerns presented by public management and discussed other problem areas in collective bargaining.

On November 17, 1975 your Committee received testimony relative to management rights and excluded subjects of negotiations from the exclusive representatives of the thirteen bargaining units which included the Hawaii Government Employees Association (HGEA), Hawaii Nurses' Association (HNA), Hawaii State Teachers Association (HSTA), State of Hawaii Organization of Police Officers (SHOPO), United Public Workers (UPW), University of Hawaii Professional Assembly (UHPA), and the Hawaii Fire Fighers Association (HFFA). Twelve of the bargaining units joined together to present one testimony and Unit 11, the firemen, presented separate testimony. Approximately one week later, a round table discussion was conducted to enable management to respond to the exclusive representatives' testimonies.

FINDINGS

Management Rights. Under Section 89-9(d), HRS, those rights reserved for the public employer are to: "...(1) direct employees; (2) determine qualification, standards for work, the nature and contents of examination, hire, promote, transfer, assign and retain employees in positions and suspend, demote, discharge, or take other disciplinary action against employees for proper cause; (3) relieve an employee from duties because of lack of work or other legitimate reason; (4) maintain efficiency of government operations; (5) determine methods, means and personnel by which the employer's operations are to be conducted; and to take such actions as may be necessary to carry out the missions of the employer in cases of emergencies..."

Based on the testimonies received from public employers, there appears to be general agreement that these rights should be retained. The state director of personnel services testified that these rights provide the proper balance to the rights, privileges and powers accorded employees as well as define the limits to the negotiation process." State Board of Education member, Hiroshi Yamashita, further elaborated that "...a fair and equitable 'balance of power' must be retained, if we, as public servants, are to fulfill our responsiblities as managers and are to meet our mission efficiently and effectively." The recommendation of the November 1974 Governor's Ad Hoc Commission on Operations, Revenues and Expenditures (CORE) that the statutory elimination of management rights would be premature at this time was also cited. Management testimony further elaborated that the current method of resolving management rights issues through the Hawaii Public Employment Relations Board had been successful and that fair and equitable decisions had been rendered and that management rights in the public sector, as compared to the private sector, carries the major difference of the public employer by statutory authorization being required to operate government for the benefit of all residents and "...just as it has no option to 'go out of business' so also is he constrained from abdicating or bargaining away rights conferred by legislative discretion, especially as they touch on matters of public policy."

Public sector unions, however, testified that the elimination of management rights would help achieve the purpose of the collective bargaining law as stated in Section 89-1, HRS, "...to promote harmonious and cooperative relations between government and its employees and to protect the public by assuring effective and orderly operations of government." The example of the National Labor Relations Act which contains no statutory provisions for management rights and which governs private sector collective bargaining was cited.

The fact that private sector unions are not interested in being managers nor in taking away basic management rights such as hiring, firing, or promotions was described as reasons for the general practice of private sector contracts containing a negotiated management rights clause. This practice, along with experiences in public sector bargaining where statutory management rights provisions have interfered in the good faith negotiation process between management and labor, were cited by public sector unions as reasons for a willingness to negotiate management rights clauses in public employment contracts.

The Hawaii Fire Fighters Association, however, informed your Committee that it viewed the right to manage as inherently invested in the employer, and its statutory status was not as much at issue as the actual exercise of those rights.

Excluded subjects of negotiations. Under Section 89-9(d), HRS, subjects excluded from collective bargaining are: "...matters of classification and reclassification, the Hawaii Public Health Fund, retirement benefits and the salary ranges and the number of incremental and longevity steps now provided by law..."

As revealed in testimony received by your Committee, public management holds the following views on each subject:

- Classification and reclassification. Because classification work requires technical skills, considerable training, and a highly specialized staff, subjecting it to negotiations between parties that are untrained may result in an inadequate classification plan. Furthermore, classification and reclassification are viewed as an ongoing process, contingent upon an understanding of the interrelationships between position classification, qualification standards, pay structures, prevailing rates, and pricing techniques.

- Health Fund. Prior to its deletion as a negotiable subject through Act 31, Session Laws of Hawaii 1975, joint bargaining among all exclusive representatives and public employers regarding contribution levels to the health fund was attempted. Although the advantages of a common plan were recognized, joint bargaining efforts failed. Following this failure, individual exclusive representatives sought individual modifications to the health fund tailored to each unit's interests.

Testimony received by your Committee from the health fund administrator substantiates management's contention that the health fund as a negotiable subject could lead to 14 separate plans. Your Committee was further informed that the health fund board of trustees have been able to negotiate favorable rates and terms of medical, dental, and group life insurance with various insurance carriers because of the size of the total employee group the health fund represents. However, should each bargaining unit

negotiate a separate plan, larger units would be at an advantage with the ability to purchase better fringe benefits than smaller units.

Also, the possibility of having a separate health plan for each of the 13 bargaining units plus another for excluded employees, resulting in 14 health plans, would increase the administrative cost of maintaining the current level of services for each plan.

Retirement benefits. Retirement benefits, like the health fund, as a negotiable subject may result in 14 separate retirement plans.

Testimony presented by the executive secretary of the State Employees' Retirement System also supported the retention of retirement benefits as a non-negotiable item. It was explained that the negotiability of retirement benefits would encourage a leapfrogging or whipsawing effect whereby whatever is negotiated by one bargaining uould be the base for other bargaining unit's negotiating contracts at a later date, with each bargaining unit attempting to negotiate higher rates.

Salary ranges and incremental and longevity steps. The exclusion of salary ranges and incremental and longevity steps as negotiable items ensures continued stability in pay administration, particularly payroll processing; prevents continual increases in the number of vertical steps in a salary grid thereby creating inequities between bargaining units; assures classification procedures based on systematic job evaluation; and prevents changes in internal class differentials and job relationships.

The public sector unions expressed deep concern over the delays in bargaining due to questionable interpretations of the definition of non-negotiable items. Because the bargainers face a time limitation, in terms of seeking legislative approval for cost items in a negotiated contract, the unions try to avoid the time-consuming process of seeking HPERB ruling on questionable items. The Hawaii Firefighters Association further pointed out that if all matters were negotiable, management would then be in a better position to offer concessions in return for union concessions on other cost items.

OTHER CONCERNS

As a result of the public hearings and round table discussions on the general subject of scope of negotiations, your Committee was made aware of other concerns under the state's collective bargaining law which are worthy of consideration. These include service fee provisions and the exclusion of certain public employees.

Service Fees. Section 89-4, HRS, authorizes the public employer to make payroll deductions for its employees for service fees, which are defined as an "assessment of all employees in an appropriate bargaining unit to defray the cost for services rendered in negotiating and administering an agreement..." The law also allows payroll deductions for union membership dues, initiation fees, group insurance premiums and other association benefits.

Your Committee was informed that inconsistencies in the administration of this section exist where state public employers have interpreted service fees and union dues to mean two separate deductions. Thus, two deductions are made from a state employee's payroll if he belongs to one of the thirteen bargaining units, i.e., a service fee, and is also a member of the union that is the exclusive representative for the unit, i.e., union dues. However, the City and County of Honolulu, as a public employer, deducts either a service fee for non-union members or membership dues for union members.

Public sector unions testified that the State's interpretation of this section tends to penalize those public employees who are union members, that this was not the intent of the section, and that some legislative action should be considered to either clarify this section or to amend it by establishing a mandatory agency shop. The Hawaii Fire Fighters Association, in particular, supported the concept of a mandatory agency shop where an individual's employment is conditioned upon membership in the union representing that particular bargaining unit.

Excluded Employees. Top-level managerial and administrative personnel, employees handling confidential matters affecting employee-employer relations, and other individuals cited under Section 89-6(c), HRS, are currently excluded from membership in their appropriate bargaining units. Public employers have expressed the concern that

excluded employees may not be afforded the same benefits and privileges that other employees receive, in terms of wages, conditions of work, etc. They feel these benefits should be extended to excluded employees in a fair, equitable, and timely fashion, and therefore statutory amendments might be needed to assure this. The unions, however, felt that to amend the law to assure negotiated benefits to excluded employees, who are not subject to service fees or union dues, would be demoralizing to those who have to pay the fees.

RECOMMENDATIONS

Management rights and excluded subjects of negotiations. In reviewing the testimonies presented, it has become evident to your Committee that the public employers support the retention of the scope of negotiations provision relating to management rights and excluded subjects of negotiations as currently provided in the law while the public sector unions, representing the thirteen bargaining units, favor the elimination.

Your Committee feels that the key to the scope of negotiations provisons is that both parties must "negotiate in good faith." Therefore, the balance of power between unions and management in the collective bargaining process is a delicate one which should function to assure the best interests of management, unions, and the general public and to reinforce the concept of negotiating in good faith.

In view of these considerations, your Committee feels that further examination is needed to determine the effects of eliminating management rights.

Your Committee has considered the testimonies relating to excluded subjects of negotiations. Your Committee feels that no action should be taken on excluded subjects of negotiations at this time, in view of major amendments to the collective bargaining law enacted during the 1975 session. The 1975 amendments include: the coterminous expiration dates of contracts for all collective bargaining agreements, which are expected to restrict the whipsawing effect predicted in testimonies relating to retirement and health fund benefits; the deferral of annual salary increment and longevity pay increases in any fiscal year that an increase is effected whether by statute or agreement; the exclusion of health fund benefits as a negotiable item; and the establishment of the office of collective bargaining with a chief negotiator to represent the State as a public employer.

Your Committee was also informed by the director of personnel services that the department presently has under study the development of an amendment to the statutory pay grid where the rates of wages to be paid in each range and step and the length of service necessary for incremental and longevity steps shall be negotiable. However, the horizontal and vertical parameters of the pay grid will not be negotiable. The possibility of developing a grid structure of different bargaining units that would be tailored to their respective needs is also being considered.

Service Fees. Your Committee feels that there appears to be general agreement on the part of public employers and the exclusive representatives that the law should be clarified on payroll deductions for service fees and union membership dues. Therefore, your Committee will consider an amendment to Section 89-4, HRS, to allow payroll deductions for either service fees or union membership dues. Your Committee feels that further investigation into the concept of the mandatory agency shop is needed prior to the drafting of any statutory amendments on the subject.

Excluded Employees. Your Committee does not intend to propose any legislation relative to excluded employees until further discussions and investigations on the matter are completed.

CONCLUSION

The essence of collective bargaining in the public sector is the joint negotiation between public employers and unions to achieve a set of terms and conditions under which employees of a bargaining unit will work. As such, collective bargaining, since its enactment five years ago, is already operating at all levels of Hawaii's State and county government. What makes it operative is that every bargaining unit under the law has exercised its right to organize, the opportunity to bargain over substantive matters, and the achievement of a written employment contract.

Although all this has been accomplished and a mechanism for resolving questions

of interpretation and application of negotiated contracts exists in the Hawaii Public Employment Relations Board, problems remain which, for the most part, flow from the peculiar nature of collective bargaining in the public sector. It is to these problems your Committee has addressed its interim work and which it will continue to examine during the coming session.

Signed by Representatives Lee, Takamine, Machida, Mizuguchi, Naito, Peters, Sakima, Segawa, Stanley, Yamada, Yuen, Fong, Kamalii, Larsen, Santos and Sutton.

Spec. Com. Rep. 11

Your House Committee on Health appointed pursuant to House Resolution No. 125 and directed to review, assess, and evaluate the existing health care services and facilities of the State's correctional institutions, begs leave to report as follows:

COMMITTEE APPROACH

A subcommittee of the Committee on Health was formed to assess the existing health care services and facilities at the State's correctional institutions. The subcommittee's membership consisted of Representative Lisa Naito, chairperson, Representative Akira Sakima, member, and Representative George Clarke, member.

As part of its review of health services and facilities at correctional institutions, the subcommittee held one hearing with the corrections program administrative personnel, and visited Hawaii State Prison, Hawaii State Hospital and Halawa Correctional Facility to inspect health facilities. The subcommittee also held discussions with other state and county agencies including the Judiciary, the Ombudsman, and the Prosecuting Attorney. In addition, judicial reviews, legal anthologies and State and federal laws were reviewed.

FINDINGS AND RECOMMENDATIONS

I. HEALTH CARE AND FACILITIES IN STATE CORRECTIONAL INSTITUTIONS

A. Hawaii State Prison

1. Facilities

Dispensary: The 3-room dispensary at the prison is being renovated with only the dental office still to be remodeled. Otherwise, the facilities are said by the staff to be adequate.

Medical equipment includes a small x-ray machine and equipment for minor surgery. There is no dental x-ray machine and other dental equipment is very old, especially the chair, which is said to be about 60 years old. None of this equipment is expected to be replaced in the current remodeling.

Hospital: In the hospital section, there is a 6-bed medical ward and a 10-bed psychiatric ward. The hospital has crank beds, new mattresses donated by a hotel, sheets, blankets, and bedspreads. Lighting in the wards seems inadequate to read by; one window is covered because of water leakage due to rain. There is enclosed outdoor space connected to the psychiatric ward.

2. Medical Staffing

The present staff consists of one part-time doctor, one half-time dentist, and five LPNs. The M.D. spends 1-1/2 hours per day, three days a week at the dispensary. He is also on call and visits prisoners in private hospitals. An eye, ear, nose, and throat specialist visits one day a week, and a dermatologist once a month. The dentist is available 3 hours a day, five days a week. One psychiatrist spends four days a week at the prison.

An additional position for a half-time doctor has been funded from July 1, 1975. Two more LPNs are also funded as of that date. This

additional staffing will allow for a five-day clinic and 24-hour a day medical coverage at the prison.

3. Health Care, Physical

The dispensary is open until 9 p.m. five days a week, and a nurse is on call for night emergencies. Immediate emergencies are moved to a private hospital. The dispensary serves 60-70 patients per day but only about ten need to see the doctor. X-rays and minor surgery are performed in the clinic. About 25 inmates are on medication which is dispensed three times a day by prescription and to walk-ins for headaches, colds, etc.

When inmates enter the prison, they are placed in the Diagnostic Center and receive health screening and physical examinations. They are interviewed by a psychiatrist, psychologist, and prison counselors. Every inmate has a physical and a dental examination on release from prison.

There is no round-the-clock nursing care in the medical ward. Very sick inmates are sent to Queens Medical Center or to Kuakini or St. Francis Hospitals. Only post-operative and minor cases are kept in the prison ward. Guards check the ward periodically and call a member of the staff, if necessary. Contagious patients are sent to private hospitals. At the time of the Committee visit, there were no patients in the medical ward.

4. Health Care, Mental

General Population: Within the general population of the prison, there are about 12 psychiatric patients on medication. The rationale is not to put them into the prison hospital because of its stigmatizing effect and harm to patients' self-images. If not in the hospital, patients can take advantage of recreational and vocational programs and can continue ordinary activity even though they are under medication. It is felt by the psychiatrist that they are in a more normal supportive atmosphere.

The psychiatrist is also on call to intervene in mental problems on request of the inmates. Aside from this intervention, only one inmate in the total population of the prison has been participating in psycho-therapeutic sessions with the prison psychiatrist on a regular basis.

Within the Psychiatric Ward: There are currently eight patients in the psychiatric ward. Five of these are on medication. For the three patients not on medication, there is no regularly formulated plan of treatment.

Most of the patients in the psychiatric ward have serious emotional disturbances. Some are in the ward for their own protection--either because of incompatible personalities or to protect them from themselves.

In the psychiatric ward, there are two sleep-in hospital stewards, each on a twelve-hour shift.

The psychiatrist sees the patients in the ward on an average of once a week and talks with each informally for 3 minutes to 15 minutes.

AREAS OF CONCERN AND RECOMMENDATION

HAWAII STATE PRISON

FACILITIES -

Dental equipment is antiquated. There is no x-ray machine. Although the prison dentist has said that he can give dental treatment to inmates, he has stated that in some cases, he needs to send patients out because of the inadequate equipment. No new equip-

ment has been requested in the budget. The prison officials have stated that a decision was made to hold up this request until the Correctional Master Plan is implemented. This decision can be considered questionable since a modern dental chair, drill, x-ray machine, and other necessary equipment can be moved to the new unit in the Master Plan when it is completed.

Although the facilities of the hospital wards seem adequate, necessary repairs should be undertaken.

STAFFING -

Though inadequacies in terms of round-the-clock medical care exist, with the additional staff, these problems should be eliminated. A follow-up should be made to see that these positions are filled.

HEALTH CARE, PHYSICAL -

Protective custody inmate complaints relating to health care included delay in time of request for appointment with the doctor and compliance with the request. In addition, prescribed medication for protective custody inmates is not delivered to their cell-block as may be warranted under their protective custody status.

HEALTH CARE, MENTAL -

There is no apparent individualized regularly formulated treatment plan for psychiatric patients within the unit. There are also no activities for the patients who are not on medication. They are vegetating.

Little psychiatric counseling and no alternate methods of treatment aside from medication have been formulated for the mentally disturbed inmates in the general population of the prison.

An overall plan must be adopted for the care and treatment of mentally disturbed patients within our correctional institutions.

B. Halawa Correctional Facility

1. Facilities.

The present medical unit at Halawa Correctional Facility consists of two small rooms, a dispensary and an infirmary. $35,000 has been allocated for renovation and expansion of the present facilities. Renovation was to begin July 1, 1975. However, other emergency priorities in the DSSH have resulted in a six-month delay. The current date of completion is February, 1976. A large room which was the library will be divided into a two-bed ward, an examination room and doctors', nurses and psychiatrists' offices. The present facility will be used as a dental office.

At present, there is no dental equipment; the dentist brings his own portable equipment and, consequently, it is inadequate for any but cursory care. The dental equipment has been ordered and is expected to be delivered in September. Equipment for the renovated clinic has also been ordered but will not be installed until the renovation is completed.

2. Medical Staffing.

The doctor, a City and County employee on contract to the State for half-time, arrives at 4:15 p.m. daily, Monday through Friday, and remains until he has seen all of the patients. He is also on call. The half-time dentist is at the facility every afternoon, five days a week. There is a full-time nurse, a full-time psychiatrist and two full-time social workers. Funds for an on-call position for an obstetrician-gynecologist will be released July 1, 1975. Two paramedics have been requested.

3. Health Care, Physical.

Each inmate receives a health examination on arrival at the correctional facility. Since the State takeover of the facility on June 1, 1975, the caseload has increased from about 10 to 36--a reflection of greater confidence in the new doctor, according to the staff. Most of the caseload is of minor problems. Emergencies are taken directly to Queen's Medical Center.

Medicine is prescribed by the doctor and dispensed by the nurse to the guard station. Medicine is purchased directly from the distributor by the correctional services administrator and, therefore, it is not necessary to keep large supplies and unusual medicines on hand.

Comments by women inmates indicated that they felt emergency care (direct transfer to Queens) is adequate. One woman mentioned that, in the past, medicine and tranquilizers were given to the patients by the doctor at their own request, but that the situation has been tightened since the arrival of the new doctor.

4. Health Care, Mental.

Halawa Correctional Facility is a short-term, holding facility and has no long-term psycho-therapy. The duties of the psychiatrist consist mainly of screening, keeping records, and directing inmates to the proper institutions for continuing care on their release. Counseling is said to be appropriate here for identification of current situations and for short-term, single-problem cases. The social workers refer inmates to the psychiatrist as they deem necessary.

Thirty-six inmates are presently on medication. About three-fourths of them are on mild tranquilizers such as valium, about 15 on thorzine or mellaril, six are on high dosages of these stronger tranquilizers. These six are all returnees from Hawaii State Hospital. It was stated that misrepresentation of drug needs by patients can usually be avoided since most have some obvious symptoms or verifiable previous history at drug-related institutions.

Those psychiatric patients who need hospitalization or who are considered dangerous to themselves or to others are sent to Hawaii State Hospital. The Halawa administrator, both on the advice of the psychiatrist and depending upon the nature of criminal charge, recommends either maximum security or minimum security for transferees to the State Hospital, i.e., for an inmate who has been charged with murder, the recommendation would be to place him in the maximum security unit. An inmate charged with theft or robbery could be placed in an open ward.

Often transferees from Halawa are returned to the jail with heavy dosages of medicines which are used for major disorder psychoses, with the rationale that they have responded adequately to treatment. Sometimes inmates' return to the jail environment causes them to revert to an unstable condition and, subsequently, returns these patients to the State Hospital.

AREAS OF CONCERN AND RECOMMENDATIONS

HALAWA CORRECTIONAL FACILITY

The implementation of programs at Halawa Correctional Facility since the take-over by the State, 4 weeks ago, is not sufficiently advanced for analysis at this time. However, there are several areas of concern that should be mentioned in the hope that certain inadequacies and problems will be recognized and overcome in the process of reorganization.

FACILITIES -

A speed-up of the timetable for the renovation of the clinic should be undertaken.

STAFFING -

In view of the 24-hour, 7-day admissions of inmates at this facility, round-the-clock

medical staffing would seem to be a necessity for immediate medical evaluation and treatment. There is an obvious need for the two paramedics which have been requested.

MENTAL HEALTH CARE -

A major area of concern is the evaluation of inmates on arrival at the facility.

A one-month study of potential suicide risk was to be undertaken. However, on examination, the adequacy of this study is questionable. Potential suicide screening and more definitive evaluation of mental problems should be a routine and on-going procedure for all arrivals at the facility.

An overall plan should be adopted to handle the needs of potential suicides and psychotic inmates. The shifting back and forth of inmates between Halawa Correctional Facility and the State Hospital is evidence of the lack of such a plan. The use of isolation cells and the resultant 8 out of 9 suicides in the last 10 years taking place in these cells is further proof of the non-existence of any coordinated plan for the mentally ill inmate.

C. Hawaii State Hospital

1. Security Facilities

The security facilities at the Hawaii State Hospital include a seclusion ward containing 20 individual rooms in Goddard Building, and Hina Mauka which is now used occasionally for maximum security or for other cases which must be isolated. The seclusion ward has double locked doors, no bars on the windows, and is not considered really secure. (Since the inspection tour, some additional security measures have been taken.) Rooms are located around small open courtyards and are locked only when maximum security is necessary. Hina Mauka has open interior space, a day room, and a lanai, but no fenced areas for outdoor activity.

Hina Mauka will be renovated to accommodate maximum security cases, most of which will be handled there without "lock up". There will be four 4-bed wards, one 2-bed ward, three seclusion rooms, and fenced outdoor recreation space. Renovation will cost roughly $250,000 and will include security arrangements and conformance to life-safety standards. The consultant contract is now being negotiated; total project is expected to be completed in 1-1/2 to 2 years. (Since the inspection tour, a Governor's task force has recommended the speeding up of the time table for renovation and possible expansion of the facility.

2. Medical Staffing

Except for the adolescent unit, the administrators stated that staffing is generally inadequate throughout the hospital. There are 2 male aides, 2 female aides, and 1 nurse for round-the-clock care of 60 patients including those in the seclusion wards. Psychiatric staffing for the purposes of psycho-therapy, rehabilitation, and counseling is insufficient.

Fourteen additional positions for nurses and paramedics are scheduled to be filled.

3. Mental Health Treatment

Medication is the main method of treatment.

One psychiatrist stated that he has brief weekly group meetings with the patients in the maximum security ward. Other psychiatrists are available for emergency treatment. Administrative procedures rather than direct treatment seem to account for large proportions of the doctors' time. The Committee was unable to gather any definitive information on the number of psychiatrists attending patients or treatment plans.

4. Youth Correctional Facilities Transfers

Official transferees from the Hawaii Youth Correctional Facility average four or five at any one time. Two kinds of cases are transferred to Hawaii State Hospital - those which need 24-hour care and those which are expected

to benefit from the hospital atmosphere because of the character of their disability; in these latter instances, hospitalization is said to be elective rather than necessary.

Youths are placed on 48-hour restriction when they arrive at the State Hospital, during which time they are evaluated. They are placed "on contract" which designates certain behavioral requirements and are returned immediately to the Correctional Facility if the "contract" is broken. They may then be returned to the hospital again. An average of two out of five adolescents escape the first time they are sent from the Youth Facility. The staffs of both institutions become familiar with the cases of those who are apt to try to leave and the escape rate at subsequent commitments is lower.

According to the staff, there are extensive individual programs, regular therapy, and, to the extent possible in each case, involvement in educational programs at Olomana.

Most of the patients from the Youth Facility are in open wards, which, in general, the staff prefers. They say "lock up" invites problems because the patients try to test the security of the unit. The administrator said more closed ward security ward space is needed and there was some small indication from him that there may generally be a move in the direction of more closed units. However, the staff feels that, if patients are coming into a therapeutic program, they should not be treated as criminals.

After being judged non-violent, or "cured", the youths are sent back to the Youth Facility. The hospital has no authority to permanently release patients transferred from correctional institutions but release is discussed by both the youth correctional facility staff and the hospital staff and "reasonable action always seems possible".

The Hawaii Youth Correctional Facility would like to develop a program of psycho-therapy within its own facility with the help of the State Hospital staff.

5. Adult Correctional Facilities Transfers

At the time of the inspection, among the hospital's population ten adult patients had been committed by the courts under the penal code and seven or eight additional patients were from Halawa Correctional Facility. The population of the maximum security unit was eleven. Three or four were not from the courts but were considered dangerous. Under present conditions, patients from each of these categories can be placed in the security units together.

Transferees from Halawa Correctional Facility can be assigned to open wards at the discretion of the hospital staff. None of the four recently publicized escapees had been in the security units. Three of them had privileges or were on pass when they escaped; one escaped during his first day of transfer to the hospital. The staff had judged him to be "cooperative" and therefore placed him in an open ward from which he escaped.

For both adults and adolescents, after 90 days the law allows the hospital to authorize absence on pass of up to 30 days without court consent.

It was stated that some patients are put on medication because of their types of illnesses, and may have life-time needs for medication. Psycho-therapy depends on the case, but, in general, psycho-therapy, rehabilitation, counseling, or alternate methods of treatment are either inadequate or non-existent throughout the hospital because of staff limitations.

AREAS OF CONCERN AND RECOMMENDATIONS

HAWAII STATE HOSPITAL

SECURITY FACILITIES -

Even after renovation of Hina Mauka is complete, the planned 18-bed security unit will be inadequate to handle the caseload from the correctional system which should be accommodated at the State Hospital and from the courts. Renovation is a short-range "solution". A 30 or 40-bed facility for correctional system inmates and other patients in need of a secure situation would require additional construction and additional funding.

Because of the inability of the Correctional Institutions to handle mentally disturbed inmates adequately, it must be recognized that the scheduled renovation does not solve the problem of security facilities for all the mentally disturbed inmates, even at the present time.

Looking ahead, the State Correctional Master Plan also does not address itself to the problem of psychotic inmates. Only a five-bed psychiatric unit within the hospital complex is planned. (This is a reduction by half of the current bed space at Hawaii State Prison alone.) When questioned about this reduction of avilable space for the mentally disturbed, the Committee was told by State administrators that it was hoped that the implementation of the Correctional Master Plan would bring about remarkable changes of inmate behavior and far less would become psychotic. Further questions regarding the methods of handling its additional caseload of inmates from the Correctional Facilities aside from the Hawaii State Prison, such as Halawa Correctional Facility, or the State Hospital, produced no further replies from the administration.

The current piecemeal approach to housing of the "criminally insane", and the fact that this major problem area has not been given consideration in the future either, is appalling.

This massive inadequacy in correctional planning must be dealt with without delay. A plan must be developed and implemented for a maximum security facility of adequate size to maintain inmates sent from the court and from the Correctional Facilities. Priorities must be given to the security of the facility and adequate treatment plans.

MEDICAL STAFFING -

It appears to be an acknowledged fact by State administrators that the staffing of Hawaii State Hospital is far below par. Steps have been taken to alleviate some of the shortages but lack of comprehensive planning may be hampering the efforts to make decisions relating to best use, numbers, and types of personnel needed.

MENTAL HEALTH TREATMENT -

Minimal effort at meaningful treatment is apparent. Medical maintenance seems to be the only mode of handling the cases in the security units. No individualized plans of treatment leading to a renewal of good mental health has been evident. Little effort is being given to individualized psycho-therapy or group therapy. Other alternate methods of eventual rehabilitation are totally lacking. Under the current procedures, the inmate may be returned to Halawa Correctional Facility "maintained" by large doses of tranquilizers.

Treatment plan records are deficient or not meaningful. A variety of medical experts seem to visit the hospital but no cohesiveness or coordination is evident in terms of treatment. To the Committee's knowledge, no overview of treatment is being considered which might eventually lead to an inmate's cure.

YOUTH CORRECTIONAL FACILITIES TRANSFERS -

The fact that two out of five youths transferred from the Hawaii Youth Correctional Facility go AWOL raises serious questions about security, as well as the judgment of the staff in placing the youths in open wards. While it is understandable that the staff chooses to give priority to the youths' problems and rehabilitation, the fact that these adolescents have been placed at a Correctional Facility for an offense must also be given consideration. While no statistics were available on how many of these AWOLs commit additional offenses before being caught, in the Committee's opinion, these youths must be maintained within a more secure unit rather than being placed with other adolescent patients who have not exhibited criminal behavior. The only plans expressed for such future containment is the possibility of placing these youths in the renovated Hina Mauka security unit with the adults. It was pointed out that there will be separate programs for the two groups, but this leaves a considerable amount of time for them to be together. This is an undesirable situation because of the cross-effects between the

adult inmates and the youths and should not be implemented. Instead, a separate wing of the security facility should be considered for their needs.

ADULT CORRECTIONAL FACILITY TRANSFERS -

The current approach to transfers from the Correctional Facilities as well as the courts, of mentally ill people who have either displayed criminal tendencies or actually committed a crime, is to give consideration only to the violent aspect of their current condition. Therefore, many of these inmates are placed in open wards without security. The decision is made by the hospital staff. Considering a uniform approach for the penal system's mentally ill people, we must give priority to the protection of society. If a line must be drawn as to which inmates get placed in the security unit, the fact that they have committed a crime and its seriousness must be given consideration. It must hold that those who have been sentenced are not to be placed in open wards but instead be given treatment within the confines of a security unit.

In addition, passes to leave the hospital of up to 30-day duration can be extended to mentally ill prisoners at the discretion of the hospital staff without prior approval of the jail or court must be reexamined. It would seem that the prison, jail, youth facility, or court should have primary jurisdiction over the freedom of movement of these inmates.

II. CORRECTIONAL SYSTEM PROCEDURES FOR MENTALLY DISTURBED

A. MENTAL COMPETENCE

When a defendant files notice that competence is to be used as a defense and the court feels that there is reason to doubt the fitness of the defendant to proceed, all proceedings are suspended. (Hawaii Penal Code Sec. 404-1). The court must then appoint a three-member panel to determine the competence of the defendant. The panel is to consist of one Department of Health physician or clinical psychologist and two qualified, unbiased physicians. The court may order the defendant to be committed to a hospital at this time for the purpose of examination. (Sec. 404-2)

If the defendant is found unfit to stand trial, the proceeding may be suspended. the defendant may be placed into the custody of the Director of Health to be committed to an institution where proper care and treatment shall be given. If the court feels that the defendant can be released without danger to himself or others, he is released under the supervision of the court. (Sec. 406-1)

When the court, Director of Health, Prosecutor, or defendant determines that the defendant has regained fitness to proceed, the proceeding shall be resumed. If the court feels that so much time has lapsed that it would be unjust to resume the proceedings, the court can dismiss the charge and the defendant, conditionally release the defendant or order the defendant committed to the custody of the Director of Health to be given proper care and treatment. (Sec. 406-2)

During commitment, the defendant, counsel, or Director of Health, may apply for a special post-commitment hearing. If counsel satisfies the court that there is a defense other than incompetence that excludes responsibility, a hearing shall be granted. Following the hearing, all defects that may exist in the case must be amended or the court must discontinue commitment or conditional release that was previously ordered and discharge the defendant, or commit the defendant to the custody of the Director of Health to be placed in an institution to receive proper care and treatment. (Sec. 407)

B. ACQUITTAL

If the court determines that the defendant was incompetent when he committed the crime, he is acquitted (Sec. 408). Following the decision of acquittal, the court may have a hearing to determine the risk of danger the defendant poses to himself and to others (Sec. 411-2). The court shall appoint a panel consisting of one Department of Health physician or clinical psychologist and two unbiased, qualified physicians to determine the present physical and mental condition of the defendant. The court shall then commit the person to the custody of the Director of Health, order a conditional release, or discharge the defendant basing their decision upon the panel's evaluation of the defendant's mental condition (Sec. 411-1).

C. COMMITMENT AND CONDITIONAL RELEASE

An application for conditional release or discharge may be made to the court by the Director of Health or the person committed 90 days after commitment (Sec. 413). If the court's decision is adverse, a duration of one year is required before reapplication. (Sec. 412-2; Sec. 413-3)

Upon application for discharge, conditional release, or modification of conditional release, the court shall appoint a panel to determine for the court whether or not the person is of no danger to himself or others. (Sec. 414)

If the court is satisfied with the person's condition, it shall order discharge, conditional release, or modification of conditional release. If the court is not satisfied, it shall order a hearing to determine what action is to be taken. The hearing shall be a civil action in which the burden shall be upon the State to prove why the conditions asked for in the application should not be granted. According to the outcome of the hearing, the court shall commit the person to the custody of the Department of Health or place the person on conditional release or discharge. (Sec. 415)

Under conditional release, the court may decide within five years after the original order that the conditions of release have not been fulfilled or a change is needed for the safety of the person himself and others. Acting upon this decision, the court shall commit the person to the custody of the Director of Health or make a modification of the conditional release. (Sec. 413-2)

AREAS OF CONCERN AND RECOMMENDATIONS

CORRECTIONAL SYSTEM PROCEDURES

Some of Hawaii's methods of dealing with the area of incompetence in criminal cases should be re-examined:

1. When a defendant's competence is to be decided by a court-appointed panel, it should be mandatory, rather than discretionary as it now is, that the defendant be placed in a hospital during the course of the examination. (Sec. 404-2)

2. After a defendant is declared incompetent, it should be mandatory, rather than discretionary as it is now, that a second panel shall decide upon the defendants potential threat to society. (Sec. 411-2)

3. The panel to decide the potential threat to society of the defendant should include only one of the original panel members and two unbiased members of the public. (Sec. 411-3)

4. If the defendant is declared incompetent and the crime was of a violent nature, or if the defendant has a past history of violence, automatic commitment to the State Hospital should be required with no option of conditional release. (Sec. 406-2)

5. If the defendant is declared incompetent, he should not automatically be acquitted (Sec. 408). Instead, the trial should be suspended until the defendant is declared competent. (See California Penal Code, Sec. 1370)

6. If the offense was of a minor nature, i.e., a petty misdemeanor, and the defendant is declared incompetent and in the judgment of the panel and the court poses no threat to society, the defendant may be placed on conditional release.

7. If a defendant is on conditional release, adequate mechanisms for follow-up procedures and monitoring of records by the court should be established.

8. Separate files should be created by the courts on all cases which have gone through competency hearings to expedite follow-ups.

9. The court and not the hospital staff shall have jurisdiction over short or long term leaves from the State Hospital for the incompetent defendants it places there.

10. California's Penal Code was amended in 1974 relating to the criminally insane. Their philosophy and approach should be examined.

111. RIGHT TO TREATMENT

A. GENERAL

The Sub-committee on Health in its fact-finding inspection trips and in discussions with State authorities, has developed grave concerns over the apparently inadequate treatment of mental health problems of inmates at the Hawaii State Hospital. Additional discussions with private attorneys have confirmed some of these concerns by way of focusing attention on possible future litigation against the State in the area of Right to Treatment. The following research was directed toward this area:

Analysis of laws and court decisions that affect a patient's right to treatment does not portray Hawaii as an effective State in dealing with the problem of mental health treatment. Perhaps the recent case of Michael Figueroa in the Hawaii Youth Correctional Facility is an indication of things to come. When there are laws and recent Federal court decisions that specifically indicate a patient's right to treatment, an occurrence such as the Figueroa case demands special attention. If our own institutions do not meet the required standards, we may have even more reason for alarm.

B. STATE AND FEDERAL LAW

At the base of our concern should be two lars, one Federal and one State. In 42 U.S. Code Sec. 1983 (1970), the law indicates that anyone who deprives another person of rights granted by the Constitution of the United States is "liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress. (42 U.S. Code Sec. 1983)." In the Hawaii Revised Statutes, Title 19, Chapter 334-35, the right to treatment of a mentally ill individual is more specifically stated. . ." The Director of Health shall (1) see that every patient receives care and treatment commensurate with his needs and the means available for such treatment, (2) make periodic reexamination of each patient and review his records. . ." It should be noted however, that regarding the means available for such treatment, it has been ruled in Federal Court (503 F 2d 1305, 493 F 2D 507) that inadequate funding by the State for staff or facilities cannot be interpreted as a reasonable excuse for inadequate treatment. Any individual then, who is committed to a mental institution who does not receive proper treatment, may sue the State, the Federal government, and/or individuals responsible for the inadequate treatment they received.

C. FEDERAL CASES

The right to adequate treatment is supported, also, in the Federal Courts. In 1966, in the U.S. Court of Appeals, D.C. Circuit, Charles Halpern argued the precedent-making case of Rouse v. Cameron in which mental patients were for the first time acknowledged to have a right to adequate treatment (373 F 2d 451). In the most recent case, Wyatt v. Aderholt (503 F 2d 1305), the U.S. Court of Appeals, Fifth Circuit, upheld a decision made in an Alabama district court that patients involuntarily committed to a mental institution have the constitutional right to treatment. More specifically, treatment is constitutionally required in the hospital if confinement is for treatment. This applies to patients who voluntarily commit themselves as well as those involuntarily committed. To not give treatment is to transform the institution into a penitentiary "where one could be held indefinitely for no convicted offense." (Ragsdale v. Overholser 281 D 2d 943, 950)

D. INTERPRETATION OF ADEQUATE TREATMENT

The Wyatt v. Stickney (325 F Supp. 781, 334 F Supp. 1341, 344 F Supp. 373, 387) decisions, which were upheld in Wyatt v. Aderholt, describe what is adequate treatment for a mental patient. For example, "medication shall not be used as punishment, for the convenience of staff, as substitute for program, or in quantities that interfere with the patient's treatment program." In the patient's treatment plan should be "criteria for release to less restrictive treatment conditions, and criteria for discharge." Treatment should prepare a patient to live outside of the hospital. "As part of his treatment plan, each patient shall have an individualized post-hospitalization plan." There should be treatment or observation of the patient after he has been released. (344 F Supp. 387, Minimum Constitutional Standards for Adequate Treatment of the Mentally Ill, upheld in 503 F 2d 1305). The Hawaii Penal Code, in fact, specifically states that after release from the State Hospital, a check-up is to be made periodically. (Sec. 413)

Another area that should be of legal concern is mootness. It would seem that releasing a patient after suit has been filed will make the case moot. This is true; but Donaldson v. O'Connor (493 F 2d 507) which sets another precedent in the right to treatment does away with the mootness solution. Donaldson provides for redress in the instance of inadequate treatment as is indicated in 42 U.S. Code 1983. Recourse of a patient who has not had adequate treatment is to sue after he is released.

AREAS OF CONCERN AND RECOMMENDATION

RIGHT TO TREATMENT

Federal law, State law, and judicial law has clearly stated that a person committed to a mental institution has a right to treatment. Thorough programs involving adequate treatment plans are mandated by the courts. People who do not receive treatment have the right to sue for damages while they are in or out of the institution.

The treatment received by mental patients at Hawaii State Hospital is inadequate by the standards set in the Federal courts. The State of Hawaii may very well find itself involved in law suits relating to the right to treatment in the near future. To avoid such court actions, steps must be taken to set aside funds to meet adequate standards in staff, facilities, programs, individualized treatment, and post-hospitalization programs.

IV. SUMMARY

In its investigation of the health care of inmates in correctional facilities, the Committee gave consideration to both the physical and mental aspects of health.

On each tour of inspection, a number of deficiencies were found in terms of health facilities, equipment, and staffing. Inadequacies in the delivery of physical health care that exists seem to be a direct result of these deficiencies rather than a poor methodology. Therefore, as additional funding is released and utilized to correct or expand the facilities, purchase new equipment, and hire additional personnel, physical health care services for inmates should become adequate.

The same appraisal may not be made for mental health treatment. In this area, an inmate with serious mental defects may flounder in a veritable wasteland of drugged consciousness or be left to vegetate with no meaningful program of treatment. Care at the State Hospital is often as insufficient as that of the correctional facilities. Drugged inmates are shunted back and forth between the jail and hospital. Nowhere in the correctional system does a cohesive plan exist regarding the criminally insane. Even for the future, highly inadequate consideration is given to psychotic inmates in the Correctional Master Plan.

Since no overview of appraisal for this problem exists, no adequate facility exists. Slight moves in the direction of a security facility are now being seen but the prospective unit falls far short of being considered even a beginning to a solution.

Further investigation led us into a consideration of the Penal Code and its approach to the criminally insane. The protection of society is not given the highest priority in this area and specific recommendations for changes are presented.

And finally, research on "Right to Treatment" was undertaken, with an eye toward possible future litigation against the State for the obvious insufficiencies in the methods of treatment for mental patients.

A two-fold approach to the problem seems evident: the protection of society and the right to adequate treatment. It is our hope that this report will generate the long overdue implementation of progressive changes in the area of the criminally insane.

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

Spec. Com. Rep. 12

Your House Committee on Health, appointed pursuant to House Resolution 816 adopted by the Regular Session of 1975 and directed to review the programs and operations of the Waimano Training School and Hospital, begs leave to report as follows:

INTRODUCTION

The Waimano Training School and Hospital is the principal public institution with the State of Hawaii for the care of the mentally retarded and the severely disabled. In April, 1973, Waimano requested medicaid certification as an intermediate care facility under the federal government but was found to be deficient in meeting federal standards by a federal survey team. As part of a plan to correct these deficiencies, in March, 1974, the State Developmentally Disabled Planning and Advisory Council hired David Sokoloff on a consultant basis, who criticized the conditions at Waimano, describing the facility as an "under-staffed, under-programmed prison." He reported that Waimano did not have educational programs or social training programs and had no evidence of stimulating activities for facility residents. The State administration, in response to the Sokoloff report, acted to increase staff and upgrade facilities, programs and medical care.

In July 1974, a class action suit was brought against the governor and three state officials. The suit requested the court to rule whether Waimano failed to meet minimum constitutional standards of habitation. In March 1975, federal officials divested Waimano of its eligibility for medicare and medicaid funds as a result of its failure to remedy the deficiencies cited in the earlier report made by the federal survey team.

In view of the situation at Waimano, the House Committee on Health held a hearing at the facility on October 3, 1975, for the purpose of monitoring the progress of the institution in rectifying inadequate conditions. Discussions were held with parents of residents, staff and administrative personnel. A tour of the facility was also conducted. Your Committee subsequently requested certain data and information from the Department of Health in regard to its implementation of measures toward the improvement of conditions at the hospital, including a position chart of all hospital personnel.

BACKGROUND

The State's mental retardation program, authorized under Chapter 333, Hawaii Revised Statutes, consists of community clinics and the Waimano Training School and Hospital. These facilities provide services ranging from early identification to residential treatment of the severely retarded.

As with the state's mental health program, the mental retardation program has experienced a changing philosophy. The emphasis treatment is shifting from a centralized institutionalization to decentralized in-community treatment. Today, it is generally accepted that a retarded child is best served in a day care center or at home, as long as constant medical attention is not required.

This approach to deinstitutionalization in the state mental retardation program was partly a result of Waimano's loss of accreditation. The most recent plan to improve Waimano calls for the correction of structural deficiencies in four residential buildings with renovations in five others; the provision of quality care; and the implementation of a deinstitutionalization policy through placement of residents in the community. The department's view of deinstitutionalization is to change the nature of care provided from heavily custodial to rehabilitation and preparation for community life. It is also seen as one of the ways in which physical and medical standards can be improved to regain accreditation.

FINDINGS

Your Committee, upon its review of programs and facilities at Waimano, finds that operations at this facility have suffered from staffing inadequacies, program deficiencies, limitations in facilities, federal reimbursements, confusion over jurisdictional responsibilities, lack of in-service training and community services development.

Staffing. Operations at the Waimano School and Training Hospital has been hampered by the lack of adequate staff. A 1973 report submitted by the U. S. Department of

Health, Education and Welfare noted that the facility lacked a large number of professional staff including therapists, social workers, speech pathologists and pharmacists. To compound this manpower problem with the first phase of deinstitutionalization, the first group of patients were returned to the community, thereby lowering the in-resident population and resulting in a cutback in staff personnel. However, a recent census at the facility reveals an increase in Waimano's resident population without restoration of the initially lost positions or personnel. Waimano has also suffered from the fiscal constraints imposed by the state administration and the statewide hiring freeze.

Program Deficiencies. As a result of staffing shortages, your Committee found that the quality of services at Waimano have deteriorated. Patients are often left unattended, and some of less seriously retarded who are ambulatory are without physical or recreational therapy. Other programs found to be affected by staffing shortages include community placement. This program is part of the deinstitutionalization plan and is understaffed and ill equipped. Monitoring of the medical needs for patients who have been returned to the community stands at a ratio of 2 persons to 400 patients. Outreach services have also been curtailed because of lack of transportation.

The Department of Health has reported that, in addition to Waimano's current 576 positions, another 102 positions for the institution and another 44 for the community services program for FY 1976-77 is needed. Of this total amount, 100 positions are immediately needed for medicaid certification and 32 positions for the immediate needs of community-based services. These priority requests are expected to be included in the department's supplemental budget request at the 1976 legislative session. According to the department, these position requests are based on immediate program requirements, such as an individualized plan for treatment or training of residents, which is a part of its general improvement plans.

Physical Facilities. Your Committee found that Waimano's physical plant had become outmoded and inappropriate for its intended purposes. Most of the buildings promoted an atmosphere of institutionalization which seemed contrary to rehabilitative principles. Only three buildings have been fully renovated to meet medicare and medicaid standards. Your Committee also found that buildings which had been built for one purpose were often being used for another.

Parents were particularly concerned about the second floor of the hospital section which contains approximately 80 beds and is deficient in such aspects as water sprinklers and fire doors. The department reported that the fire marshal had recently inspected the facility and is presently preparing a report.

According to the Department of Health, its plans for upgrading the institution's physical facilities calls for renovating six buildings during the coming year. However, the department reported that it is faced with transition problems which have developed out of a changing program emphasis. In a 1970 report, the department recognized that, while it is necessary to plan facilities and staffing patterns to fit future needs, present level of services must also be accommodated. The report concluded that, while the mental retardation program was moving toward deinstitutionalization, efforts to maintain standards at Waimano must also be undertaken.

Federal Reimbursement. Your Committee found that the substandard physical facility and programs at the hospital has had serious financial consequences. Because of the loss of medicare and medicaid funding, the Waimano facility is almost entirely state supported, costing the State some $6 million annually. With additional budget requirements, the total should reach some $7.2 million. If all those in the institution qualified for medicare or medicaid reimbursements in additional $1 million in federal funds could be obtained.

In addition, your Committee found that there are a number of children who do not qualify for reimbursements because of family income being in excess of the established ceiling. Your Committee feels that a fee system should be instituted so that partial payments for services provided can be recovered. Such a fee scale could be based on an ability to pay.

Jurisdictional Responsibilities. Your Committee found that, in the area of education, there seems to be confusion between the Department of Education and the Department of Health as to which agency is responsible for the education of the mentally retarded. Where the children are able to leave the institution and attend Pohukaina School, the Department of Education provides educational services. Where the children are unable to leave the institution, personnel hired by the Department of Health provide

educational services. The standards of hiring by each department are different. Department of Health teachers are not required to meet certification standards whereas Department of Education teachers do. Your Committee feels that one agency should be responsible for the education of the mentally retarded, both within and without the institution in order to maintain a uniform and quality standard of education.

In-Service Training. Your Committee found that the in-service training activities under the mental retardation program were very weak. The 1973 health education and welfare report noted that no training for paramedics was available. In addition, with the deinstitutionalization program being implemented, persons testifying before the Committee cited the need for those providing community services to be trained. It was especially noted that, in adult family boarding home settings, where mentally retarded persons have been placed, such care home personnel should also receive training in the proper care of mentally retarded persons.

Community Services Development. Your Committee found that more attention needs to be placed on the development of a network of community services. It deinstitutionalization is to be accomplished, services within the community need to be developed to accommodate those being released from Waimano. The community placement program then becomes the crucial link between the institution and the community.

RECOMMENDATIONS

From its review of the operations of the Waimano Training School and Hospital, and the steps being taken to improve program and facility deficiencies, your Committee submits the following recommendations:

(1) Evaluation of the community placement program to determine its needs for staff and program support, since community placement is viewed as one of the key elements in the community mental retardation program.

(2) Development of training and educational programs for adult family care home personnel and owners so that proper support is provided to the mentally retarded in their return to the community. Consideration should be given to certificating and approving these homes before actual placement occurs.

(3) Development of halfway homes for the mentally retarded.

(4) Continued support of the foster grandparents program, since this program could supplement the facility's staffing needs. Foster grandparents could fulfill some of the basic patient needs which do not require specialized skills.

(5) Support for the hospital's transportation services on a full-time contractual basis.

(6) Continued CIP support for the upgrading of facilities to meet federal standards, to receive more revenue from federal and other sources, and to reduce the total reliance on state general funds.

(7) Continued support for increase in staffing to bring the facility up to standards necessary for accreditation.

(8) Review and study the developmental disabilities plan to determine where future planning emphasis should be, and careful monitoring of implementation of said plan if adopted to avoid lengthy and detrimental periods of transition.

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

Spec. Com. Rep. 13

Your Interim Committee appointed pursuant to House Resolution No. 127, adopted by the Regular Session of 1975 and directed to study and review the Hawaii State Hospital in terms of the needs of the State in programs related to the treatment of mental illness begs leave to report as follows:

BACKGROUND

The State Comprehensive Mental Health Plan as developed in 1965 by the Department of Health and the State Planning Committee was adopted by the Legislature in 1967, becoming Chapter 334, Hawaii Revised Statutes. Under the broadly stated language in Section 334-2, Hawaii Revised Statutes, the purpose of the state mental health program is "to promote, protect, preserve, care for and improve the mental health of the people."

The Comprehensive Mental Health plan reflected a changing concept of a community mental health program which provided treatment within a community context and de-emphasized isolated hospital treatment. With this changing approach to mental health treatment, the Department of Health modified its mental health service delivery system and reorganized its mental health division, the Hawaii State Hospital and the Community Mental Health Program. The primary focus of treatment shifted from the Hawaii State Hospital to community mental health centers and the county general hospitals.

The department's 1974 proposed organization plan of the Mental Health Division states: "(t)he Centers are the focus of service delivery and for the systematic development of a comprehensive network of community-based mental health services within each catchment area. The centers are...backed up by centralized, highly specialized clinical services." Such specialized clinical services are provided by the county hospitals and the Hawaii State Hospital. These community mental health centers, the county hospitals and the Hawaii State Hospital then constitute the combined mental health services facilities for the State.

In addition to providing specialized clinical services to the community-based centers, the State Hospital provides intensive and highly specialized psychiatric services and serves as a backup to the general hospitals. According to Dr. Audrey Mertz, deputy director of the Department of Health, patients too hard to handle in general hospitals or in need of longer periods of inpatient care or more specialized services than acute-care hospitals can provide are accommodated at the State Hospital. These specialized services include: (1) management of patients sent by the circuit courts and the family courts; (2) provision of care to physically impaired mentally ill patients, many of whom are elderly; (3) provision of specialized diagnostic and rehabilitative services for brain-damaged patients; and (4) support of an alcoholism treatment program.

In 1974 the Joint Commission on Accreditation of Hospitals recommended withdrawal of accreditation of the Hawaii State Hospital. The commission cited deficiencies of the hospital which included overcrowded and poorly furnished wards, poor medical recordkeeping, inadequate fire safety measures, poor in-service training and inadequate program and personnel evaluations.

At the same time, the hospital also faced decertification under medicare.

The deficiencies cited in the accreditation report on the Hawaii State Hospital are not new to the hospital's history. A 1967 departmental report, in response to Senate Resolution No. 88-66, which had requested a review and evaluation of the statewide mental health plan, noted that the hospital had certain deficiencies which needed to be remedied. Among the deficiencies cited were the lack of integration between the hospital and other units of the Mental Health Division and other agencies in the community, the need for better staff orientation and training programs and more research and evaluation of current future treatment programs.

With the loss of accreditation and the threat of decertification, the 1975 Legislature focused its attention on upgrading the hospital's physical and personnel inadequacies. Twenty-four new positions for Hawaii State Hospital were authorized in the state budget to meet accreditation and certification requirements, and $1 million for the construction of a Closed Intensive Supervision Unit (CISU) was provided. The conference committee report on the budget further requested "the department of health, in consultation with the department of budget and finance, to conduct an evaluation of program effectiveness of the mental health centers for both children and adults and effectiveness of the treatment program at Hawaii State Hospital."

APPROACH TAKEN

On August 15, 1975 your Committee held a hearing at the Hawaii State Hospital. Testimony was received from patients and other interested persons on the conditions

of the hospital and treatment services. Your Committee also met with hospital staff to discuss personnel problems and operations and toured the hospital facilities. At these discussions, your Committee focused on three areas of concern: (1) personnel and staffing; (2) treatment programs for inpatient care; and (3) hospital management and operations.

PERSONNEL AND STAFFING

Four issues surfaced as a result of discussion with the hospital staff: (1) staffing needs; (2) salaries; (3) in-service training; and (4) hospital policies.

Your Committee found that staffing at the hospital was inadequate at all levels and that much of the staffing shortage is a result of the changing role of the Hawaii State Hospital within the total mental health program. With the conversion of the Hawaii State Hospital under the 1967 Comprehensive Mental Health Plan to an intensive treatment facility for those persons who could not receive more effective treatment elsewhere, a reduction in patient population was forecast.

While the initial impact of the community mental health program did effect a reduction in patient population at the hospital, a long-range steady increase in in-patient admissions has resulted, partly because of readmissions and returns from conditional discharges and increased admissions resulting from changing attitudes of the courts.

When the initial decrease in patient population occurred, personnel assigned to the hospital were reassigned from the hospital to community mental health centers with the intention that a longitudinal treatment program be established to provide treatment continuity for the patient. Such longitudinal treatment program required psychiatrists and other community mental health center personnel to follow a patient's progress from the time of entry into the system at the community mental health center level through the treatment at the State Hospital, and finally to the out-patient treatment level.

According to staff reports, this longitudinal treatment system has not been working. Many of the staff reassigned to the community mental health centers concentrated on services in the catchment area and did not necessarily follow through on patients sent to the Hawaii State Hospital. Consequently, although patient admissions increased, the hospital staff remained limited in anticipation of predicted patient census decreases and the longitudinal treatment program. Your Committee was informed that, on the night shift, the patient-to-staff ratio is 12 patients for each staff member.

According to the Department of Health, 52 hospital positions are vacant out of a total of 331 authorized positions. This includes the 20 positions for the Closed Intensive Supervision Unit. As shown in Attachment 1, the greatest number of deficiencies in staffing occurs in areas of direct patient services.

SALARIES

Administrative and staff personnel cited low salaries as the reason for the high number of vacancies. In private hospitals with psychiatric units, paramedic assistants start at a monthly salary of $620 and even as high as $700, while PMA I's and II's at the State Hospital start at $509 and $562, respectively. Kaiser Hospital pays licensed practical nurses $610 a month, and St. Francis pays $595 per month for comparable personnel, while the State Hospital starts a LPNI at $525 a month. Queen's Medical Center pays registered nurses $903 per month, while the comparable state RN III starts at $869 a month. It was also noted that employee benefits between private hospitals and the State for these positions are comparable. The problem of low salaries is not new. Your Committee notes that a 1966 departmental report reported that one of the most urgent needs at the hospital is a necessity to increase salaries of staff to make them commensurate with those paid to people for similar positions to remain competitive. In addition to the low pay, staff also commented that the possible risks of dealing with mentally ill persons added to the difficulty of filling vacancies.

Another issue raised in discussions with State Hospital staff of in-service training. The training and career development staff within the department's mental health division provides centralized services for the division's career development needs and establishes priorities for staff in-service training. The hospital itself has a policy and procedures relating to staff development and evaluation programs. Its policies and procedures manual reads in part:

> "(e)ach discipline, program, or service at Hawaii State Hospital is expected to develop an in-service orientation and staff development program for the fiscal year."

A proposed training program is required to be submitted at the beginning of each fiscal year, with the training and staff development staff responsible for coordinating such programs. Your Committee found that in-service training has been minimal. The number of in-service training personnel was inadequate, scheduling of in-service training classes was poor and appropriateness of course content could be improved.

Your Committee further found that, although the Hawaii State Hospital has a "Hawaii State Hospital Policy and Procedure Manual," there is still much uncertainty among the staff in the performance of their duties. The manual covers general provisions including organization and position charts; admissions policies, management of patients policies; medical and ancillary services; safety, security and miscellaneous policies. These policies act as guidelines for all staff and administrative actions in the hospital. However, your Committee found that the interpretation of policies within the hospital were in continual flux, particularly in view of the high turnover of new administrators. The State Hospital has had three administrators in the last three years. Strong policy direction has been lacking, leaving staff to make discretionary decisions on procedural matters which were not always consistent with the practices on other wards of the hospital.

TREATMENT PROGRAMS FOR INPATIENT CARE

According to the Department of Health, the treatment program at Hawaii State Hospital can be described as follows:

> The vast majority of adult hospital patients are receiving various types of medication, mostly drugs and anti-psychotic properties.
>
> Treatment programs not involving drug therapy are carried out by the following disciplines of the hospital staff:
>
> 1. Two hospital-based psychiatrists on the adult ward; and
>
> 2. Part-time employed psychiatrists.
>
> The above mentioned psychiatrists engaged in brief supportive psychotherapy with needy and suitable patients. The number of hours thus spent is very hard to quantify but is limited in scope.

This statement was confirmed in the discussions held by your Committee with patients. Patients reported receiving only drug treatment or no treatment at all. One patient, who had been committed to the hospital through the Circuit Court, stated that since being committed he had seen a doctor for a total of two hours which were for purposes of getting information for the completion of medical record forms. Your Committee also found that patients were acutely aware of staff indifference and suggested a screening process be established for potential employees as a possible remedy. Staff shortages were also underscored by the patients' hospital schedule requiring awakening at 5 a.m. for a 7 a.m. breakfast, because of overcrowded conditions on the wards and bathrooms. Staff personnel concurred with this observation. In addition, your Committee is aware that, since the last formal reorganization of the Mental Health Division in 1972, the hospital ward units at Hawaii State Hospital has decreased from seven to four.

Of the several therapy programs and activities available, your Committee found the industrial therapy program to be particularly popular among patients, but limited to 50-60 persons monthly (1400 - 1500 patient hours). Patients are referred to the program by the ward treatment team as part of the patient's treatment plan and the patient must meet certain general criteria. Your Committee found that those patients in the program requested more hours of work, and those not in the program requested to be included. The therapy coordinator reported that the program's budget request for 1974-75 was $30,800 but $24,000 was actually received for operations. In order to increase work hours or accommodate more patients, a $65,000 cost was estimated.

In addition, the coordinator noted that the farm production unit which was part of the industrial therapy program was phased out. Many patients suggested that the program be reinstituted.

HOSPITAL MANAGEMENT AND OPERATIONS

The 1974 reorganization of the Mental Health Division in the Department of Health resulted in a centralized administrative services division, which required certain sections of the State Hospital's staff to assume divisional roles and responsibilities in addition to providing ongoing hospital services. The hospital's business office, medical records staff and the volunteer services staff carried these added divisional responsibilities without any physical relocation from the hospital. The effect of this centralization, although intended to achieve efficiency in departmental operations, resulted in a deficiency of services to the hospital and community mental health centers. Delays occurred in personnel hiring , and personnel matters competed with other sections and branches being served by the Central Administrative Services.

Your Committee recognizes that, while the Hawaii State Hospital did not benefit from the centralization of functions under the Central Administrative Services, the other branches and sections of the division also could not be accommodated. To remedy this problem, the Department of Health has a pending request with the Department of Budget and Finance and the governor to reorganize the Central Administrative Services. As proposed, four out of the nine positions in the hospital's business office will be assigned directly to the hospital, and the medical records staff will return to providing full-time services for the hospital.

Problems relating to hospital personnel planning focused on the recent hiring of personnel for the new Closed Intensive Supervision Unit (CISU) which is presently inoperative, while positions on existing wards remain vacant. Until the CISU is completed and operating, new CISU staff are assigned to regular ward duty. The problem of hiring for an inoperative ward is compounded by the fact that the CISU employees are being paid at a rate higher than other employees doing the same work.

PROGRAM EVALUATION AND EFFECTIVENESS

In the area of community mental health program effectiveness, your Committee found that appropriate evaluation of the program is lacking. In reviewing budget documents submitted by the Department of Health, your Committee found that community mental health centers account for over 90% of the resources of the Mental Health Division and that the inability of these centers to collect, process and retrieve data in a routine and timely fashion has been the major obstacle to effectiveness in evaluation.

RECOMMENDATIONS

As a result of this review of the Hawaii State Hospital, your Committee recommends that:

1. A study be conducted of the pay scale for personnel at Hawaii State Hospital and those employed at psychiatric units in county/state hospitals. Such a review should include considerations for a pay differential in view of the risks involved in such employment, as well as pay for personnel at the Hawaii State Hospital being brought to a competitive level with similar work in the job market, particularly other institutions.

2. A stronger in-service and career development program be established at the hospital to ensure continuing standards of treatment, through information on changing approaches to mental health treatment. Your Committee feels that in-service training will contribute to the reduction of patient complaints about the indifference of staff personnel and provide a sense of reward and incentive to the staff. Standard interpretations of hospital policies and procedures be instituted so that changes in administrative personnel will only minimally affect operations.

3. Alternative treatment programs be developed and that anti-psychotic drug treatment be viewed as only one approach to psychiatric treatment. The development of alternative treatment programs should include the University of Hawaii School of Medicine and, whenever possible, the encouragement of volunteer services by medical students interested in psychiatry.

4. As part of a manpower training program to meet the personnel needs of Hawaii State Hospital and the psychiatric units in the county/state hospitals,

the Department of Health and the community college system of the University of Hawaii consult and develop a specialized psychiatric services program for licensed practical nurses and paramedics.

5. The House Committee on Health review the findings of a study being conducted jointly by the Department of Budget and Finance and the Department of Health on the effectiveness of the mental health program in Hawaii and the progress reports submitted by the Mental Health Division on Hawaii State Hospital, particularly in regard to its efforts in reorganization to effect a more effective and efficient system of mental health services.

CONCLUSION

Your Committee has found the Hawaii State Hospital to be moving in a positive direction and making every reasonable effort to gain back its accreditation.

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

Spec. Com. Rep. 14

Your House Committee on Health appointed pursuant to House Resolution No. 816 adopted by the Regular Session of 1975 and directed to review the implementation of mental health services for children and youth program established under Act 211, Session Laws of Hawaii 1974, begs leave to report as follows:

COMMITTEE APPROACH

A subcommittee of the Committee on Health was formed to review the children's mental health program consisting of Representative Norman Mizuguchi, chairman, Representative Kathleen Stanley, member, and Representative George Clarke, member.

In undertaking the examination, the subcommittee analyzed the existing statewide plan, called for and reviewed additional implementation reports from the department, met with department officials to discuss overall program direction, and made field visits to eight mental health centers, the Children's Day Treatment Center, the Adolescent Unit at Hawaii State Hospital, and the Hawaii Youth Correctional Facility.

BACKGROUND

Act 211 was enacted during the 1974 legislative session to provide for a comprehensive statewide program for the development and delivery of mental health services for children and youth. The legislature acted because it found that children's mental health services had been badly neglected, and the evidence was persuasive that much was needed to be done quickly in order to prevent an already bad condition from deteriorating further. It was estimated that among all children in Hawaii, 12 percent or about 32,000 children suffered from mental and emotional disturbances and were in need of professional help. Yet from all agencies and institutions, public and private, it was estimated that perhaps only about 5000 children were receiving mental health services.

The legislature sought to correct this condition by providing both the framework and the resources through which a comprehensive statewide mental health program would be designed and implemented. The key components of the legislation were the following:

- The assignment of responsibility to the Department of Health to provide preventative health services, diagnostic and treatment services for the emotionally disturbed, and treatment and rehabilitative services for the mentally ill.

- The establishment of a children's mental health services branch within the mental health division of the department of health to provide centralized and specialized services. Within the branch, there was to be established a preschool section to provide services for children from birth to four years;

an elementary section for children between five and eleven; an intermediate section for children twelve and thirteen; and an adolescent section for highly disturbed adolescents.

- The establishment of a children's mental health services team within each community mental health center in the State to provide general, preventative treatment and rehabilitative services for children and youth based on the needs of each geographic region in which the community health center is located. Where treatment would require services more specialized or intensive than the mental health team could provide, the child would be referred to the children's mental health services branch.

- Coordination by the mental health teams with the schools in their service area by accepting referrals from school counselors and diagnostic teams and providing consultation services to teachers and other school personnel in identifying and screening children in need of professional mental health services.

- Development of a statewide children's mental health services plan which would include a census of the children and youth in need of community health services showing the total number of such children and youth and their geographic distribution; an inventory of the personnel and facilities available to provide mental health services; identification of the criteria for determining how emotionally disturbed or mentally ill children are to be treated; standards for treatment; recruitment, preparation, and inservice training of personnel; and provision for early identification, diagnosis, screening and treatment of children and youth in need of mental health services. Annually thereafter, the department of health would submit detailed accounts of progress toward fulfilling the statewide plan.

From the foregoing requirements established by Act 211, it would appear that a fairly sound foundation has been laid from which a comprehensive program could be designed and established. To implement the act, the administration proceeded with the development of "A Statewide Mental Health Services Plan for the Children and Youth of the State of Hawaii." It subsequently presented a progress report to the 1975 session of the legislature showing the program to have been hampered by the lack of personnel. In January 1975, only seven positions (of 60 authorized by the legislature) had been filled. Subsequently, in March of 1975, the director of health notified the Committee on Health that implementation of the program had been delayed due to a combination of factors, including the need to secure approval of the statewide plan by the governor, and problems arising from manpower clearance and particularly from recruitment. The director concluded, "Apparently, there are many 'bottlenecks' contributing to delay in recruitment. Frankly, I don't have the answer at this time, but a thorough review of the entire procedural system may be in order. I understand delays in recruitment have persisted for many years. With respect to delays occurring within the Department of Health we will do everything to cut red tape and expedite matters."

It was these indicators of perhaps more substantive problems which gave rise to legislative concern that the program was not being implemented in the manner and pace intended by the legislature and which prompted the call for a special examination of the issue.

FINDINGS

Specifically, the subcommittee's findings are as follows:

Program direction and priorities. It is not possible to discern the direction in which this program is headed. This is due, in part, to the latitude given to the children's mental health teams in the various centers to respond to the needs of their respective communities. This, in itself, is not bad. There is, however, a common strand running through the problems of delivering mental health services to children which suggests that statewide priorities are not only desirable but absolutely necessary to the success of the program.

At the time Act 211 was being considered by the legislature, supporters of the program emphasized that there were thousands of children who were in need of professional mental health services and that the first necessary step is to identify the specific children in need of such services. It was for this reason that the legislature included

as a requirement, a census to be periodically updated of the children and youth in the State who are in need of community mental health services and where these children are located. Clearly, such a census requires some type of systematic screening program on a statewide basis. However, a program for the early identification of children in need of services has not been installed. The net result of this situation is that the 25,000 children estimated by the department to be in need of services are still largely unknown, except as ciphers. Unless the department treats this condition with the sense of urgency and priority it deserves, the program can hardly begin to meet Act 211's fundamental objectives of assuring that, "All eligible children and youth between the ages of birth and seventeen shall receive the necessary mental health services to insure their proper and full development," and that, "such services shall be delivered at the earliest possible moment after the need for such services is established."

Program design. An adequate program design would fully describe all of the component parts of the program and, additionally, an adequate programming plan would describe what parts of the program would be installed when, stretching as many years into the future as might be required for full implementation of the program. These are currently lacking.

What exists is the "Statewide Mental Health Services Plan for the Children and Youth of the State of Hawaii" prepared in 1974. That particular plan was useful in identifying, initially, what needed to be done, but it is not sufficient as a program design. An adequate program design goes beyond identifying what needs to be done and describes how things are to be done. For example, it is one thing for a plan to identify program evaluation to be a necessary component of the system (which the current statewide plan does), and it is quite another thing to describe how the program evaluation would actually operate in terms of the measures to be used and the procedures to be followed for statewide assessment as well as in the individual centers (which the current plan does not but which an adequate program design would). It is one thing to say that statewide priorities need to be developed (which the current plan does), but it takes an adequate program design to reveal what those priorities are (which the current plan does not).

Other design deficiencies were known even before the program was implemented. For example, the Hawaii Public Health Association's Task Force on Act 211, in commenting on the preliminary draft of the statewide plan, recommended to the department that a "standardized data gathering system be established which compiles data that may be used to determine the extent to which each center attains its objectives. None of the separate proposals, including the master branch plan, mentions the compiling of findings from children's programs." It went on to warn that "three quarters of a million children later, we may not know any more about the mental health/illness of children than we do now, unless we share results from a standardized system. Additionally, there is no mention (in the plan) of any information sharing between centers as the project moves from inception to operation phases." In spite of this timely warning and advice, there has been no design of system for information-gathering or information-sharing, and as a result, the program has no such systems in existence.

And, finally, what programming was done to identify the sequence of activities to be installed, and the resources required for those activities, was limited in the statewide plan to the short term, and those timetables have largely fallen by the wayside. It should be obvious that all things cannot be done at once, and that for a program to move from inception to full implementation requires programming which is realistic and which puts first things first. The absence of a systematic program for identifying children in need of services, referred to earlier, is the result of inadequate program design as well as inadequate programming. Without adequate design and programming of this key component, the program can be expected to merely hobble along. And without adequate programming generally, there is no way of telling when, and in what sequence, the overall program will be brought to full operational status.

Organizational responsibility. Act 211 created two new organizational components to deliver the program, the children's mental health branch in the division of mental health, and children's mental health teams in the community mental health centers. There is some confusion in the field as to who is responsible for overall direction and implementation of the program. Some believe that the children's mental health branch has the responsibility, as indeed, in many respects, the branch gives the appearance of having the responsibility when it engages in program planning and program coordination. However, the branch has no authority over the mental health teams, since these teams are lodged in the community mental health centers and are responsible to the center chiefs. Therefore, the confusion.

However, such confusion would not arise if the framework of Act 211 is strictly followed. The intent in establishing the children's mental health branch was to provide centralized and specialized services which might not be available in the children's teams in the community health centers. Nowhere in the act does it assign to the children's mental health branch any responsibility for direction or supervision of the program. In the absence of such assignment, primary responsibility for direction and supervision of the program rests with the next higher unit to which both the children's mental health branch and the community mental health centers are responsible--i.e., the chief of the mental health division of the department of health. This is not to say that there should not be any direct interface between the children's mental health teams and the children's mental health branch. Indeed, there should be, and the working arrangements laid down by the chief of the mental health division should not only permit this interface but encourage it.

If, however, a case can be made that a single organizational module focusing on children would make for more effective and efficient delivery of services, there is the alternative of giving the chief of the children's branch line authority over the mental health teams. Under this alternative, the children's mental health teams would be merely tenants in the community mental health centers, but the effects of such an arrangement are uncertain at this time.

Coordination with the department of education. A program which has children as its target group necessarily involves close coordination with other agencies, public and private, and particularly with the department of education. However, there are no formal, clear policies which have been agreed to by the department of health and the department of education as to how the program is to be delivered to public school children on a statewide basis and no policies which provide for the most efficient use of the resources of each department. In the absence of such formal policies, the children's mental health teams in the communities have been left pretty much on their own to fend for themselves and to work out arrangements with individual schools.

Neither the department of health nor the department of education has exercised much leadership in working out parameters of responsibility, let alone trying to make the program more effective with public school children. Indeed, in the entire development of the children's mental health program, little attention has been paid to the special education program of the department of education, which, among other activities, has diagnostic teams in the field identifying emotional and mental disturbances in the same target group covered by the Act 211 program. For its part, the department of education has proceeded with the implementation of the special education program almost as if Act 211 did not exist. Coordination policies at the highest levels are clearly overdue.

SUMMARY OF FINDINGS

Generally, the subcommittee found that while there has been some progress in implementation since the program was last reviewed a year ago, most notably in the filling of positions authorized for the children's mental health teams in the various centers, several problems are impeding the development of the program into the comprehensive system for delivery of services intended by the legislature. These problems include the lack of a strong sense of statewide program priorities and program direction; a program design which fully details all of the component parts of the program and identifies what is to be implemented when; clearly defined lines of organizational responsibility, particularly between the children's mental health teams and the children's mental health branch; and interagency coordination of this program with the department of education.

RECOMMENDATIONS

In the context of the findings, your Committee makes the following recommendations:

1. Program Direction and Priorities

The department of health, in the implementation of Act 211, should be required to establish statewide priorities which clearly reveal the direction in which the children's mental health program is headed. Under those statewide priorities, priorities should also be established for the communities served by the children's mental health teams. One priority which should be pursued with great urgency is the establishment of

a systematic program for identifying the specific children who are in need of mental health services.

2. Program Design

The department of health should be required to formulate, with the assistance of a consultant if necessary, a complete design for the program which details not only what components are required but how each component is to be implemented to bring the program to full operational status. Additionally, the department of health should develop a programming plan, which identifies the various activities to be implemented, when they are to be implemented, what resources will be required for each phase, and extend as many years into the future as may be necessary for full implementation of the program.

3. Organizational Responsibility

The legislature should clarify the organizational responsibility for direction and supervision of the program by pursuing either one of two alternatives: (1) Specifically assigning to the chief of the mental health division primary responsibility for the program; or (2) Assigning to the chief of the children's health branch primary responsibility for the program with line authority over the various children's mental health teams.

4. Coordination with the Department of Education

The department of health and the department of education should be required to improve the coordination required for the program and move with urgency to promulgate statewide policies which not only define the parameters of responsibility of each agency but policies which would promote more effective implementation of Act 211 as it affects public school children and which would assure the efficient deployment of the resources of each agency.

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

Spec. Com. Rep. 15

Your House Interim Committee on Tourism appointed in accordance with House Concurrent Resolution No. 55 and directed to review overbooking problems in the industry and the progress made by visitor industry associations in this respect, begs leave to report as follows:

COMMITTEE APPROACH

Your Interim Committee was composed of the House Committee on Tourism. On December 2, 1975, the Committee held a joint hearing with the Senate Committee on Consumer Protection to discuss overbooking problems and progress made by the visitor industry in averting future overbooking situations in the State. The Committee heard testimony from the Hawaii Hotel Association, the Department of Planning and Economic Development and other visitor industry associations.

BACKGROUND

Hotel overbooking received public attention as a result of an overbooking crisis during the winter of 1973 which required private citizens to open up their homes and accommodate visitors who found themselves without hotel rooms. The same overbooking situation occurred the following year between December 1974 and March 1975.

While the practice of overbooking on hotel accommodations has been a general market practice, the normal shrinkage between the reservations made and the actual number of persons showing up for such reservations had always been equivalent to the percentage by which a hotel overbooked its rooms. Shrinkage is the difference between the number of rooms reserved and the number of rooms actually used. However, during the winters of 1973, 1974 and 1975, the normal expected shrinkage on hotel reservations did not occur and hotels were faced with more guests than hotel rooms.

In response to the incidents of overbooking, the 1973 legislature introduced House

Bill 1025 and Senate Bill 367 designed to deal with the overbooking problem by imposing a penalty payment on hotels which denied accommodations to persons with confirmed reservations. The Legislature found that more information was needed in order to determine an appropriate method of approaching the overbooking problem. As a result, Senate Concurrent Resolution No. 34 established a temporary visitor industry council to study the problem and to recommend actions which would prevent or control overbooking.

In its report, the temporary visitor industry council outlines existing legal alternatives when a hotel does not furnish accommodations to a holder of a confirmed reservation because of overbooking: a suit based upon general contract law; the common law duty of innkeepers; and tort law. In addition, a hotel may face legal action under Chapter 480 and 481A, Hawaii Revised Statutes, relating to contracts and deceptive trade practices.

The council recommended, in view of new hotel reservation policies adopted by the Hawaii Hotel Association, greater awareness of potential civil or criminal action, and the adverse publicity of winter overbookings, that the Legislature continue to monitor the hotel industry. It further recommended that, if incidences of hotel overbookings continued in 1974, the Office of Consumer Protection should take action and place a notice in the trade journals of the visitor industry to inform the industry of the problem. In the event that overbookings persisted, the council recommended that in 1975 the Legislature should consider additional legislation to prevent overbooking.

COMMITTEE FINDINGS

Your Committee found that the overbooking problem is a function of the free market and that, without resorting to full regulation of the hotel reservations system, any legislative action could only provide punitive measures after the fact. However, your Committee feels that legislative action in certain areas is necessary to assist the hotel industry in preventing overbooking situations.

PRACTICE OF OVERBOOKING

The practice of overbooking is a result of the economic realities of the hotel industry. Hotels consider overbooking as a necessity in order to maintain full occupancy as much as possible. Estimates are made on the number of overbookings which would be required to compensate for the amount of shrinkage in hotel reservations. Under normal conditions the percentage of shrinkage equals the percentage of overbooking and the hotel is able to accommodate all reservations.

However, recent overbooking situations have shown that although hotel estimations of shrinkage are generally accurate, the system is not foolproof. Intervening factors such as visitors staying beyond the period for which they had reservations, inclement weather on the mainland, visitors coming without hotel reservations and additional members of tour groups have contributed to overbooking problems. Further, in Hawaii, some hotel managers experiencing a very low occupancy rate since 1969 booked in excess of the normal percent of shrinkage.

Hotel overbooking has multiple and negative effects on Hawaii's visitor industry. Visitors who are victims of an overbooking return home to tell relatives, friends and neighbors not to come to Hawaii. Ultimately, such negative publicity will affect the State's economy since the visitor industry is our largest industry.

Your Committee is particularly concerned about the negative effects of overbooking on the visitor industry. As noted, persons who come to Hawaii and are displaced by overbooking do go back to their hometowns with negative attitudes toward Hawaii as a vacation destination area. It is even more critical since your Committee notes that surveys have shown that "word of mouth" is the most effective form of advertising for Hawaii.

HOTEL RESERVATION POLICIES

In response to the overbooking problem, the Hawaii Hotel Association adopted a guideline deposit policy for its members. Among the recommendations it made were:

(1) A review date of 60 days prior to arrival date and a one night deposit on

every room for all conventions and one-time groups not doing regular business with a hotel. In addition, a rooming list and prepayment in full, 30 days before arrival.

(2) A review date of 45 days prior to arrival and a full-room guarantee 30 days prior to arrival for national wholesalers and large agencies with established credit.

(3) A one night deposit within 10 days of reservation confirmation for all independent travelers. If the reservation is made less than 10 days before arrival, the one night deposit must be received at least 24 hours prior to arrival.

According to the association, adherence to review date requirements and deposit guarantees should do much to alleviate the problem.

However, your Committee notes that, since the adoption of these policy guidelines by the members of the Hawaii Hotel Association, overbooking still continues to be a problem. During the winters of 1974 and 1975, overbooking incidents occured. Your Committee, therefore, feels that closer monitoring of the industry is necessary to minimize the occurrence of overbooking.

RECOMMENDATIONS

Your Committee is aware that the hotel overbooking problem is a complex issue involving several variables beyond the control of Hawaii's hotels. The reservation system begins with the mainland tour operator who markets the tours, then continues to the wholesaler who compiles the reservation information and makes the bookings with the hotels. Within this process there may be as many as five different parties each working with five sets of hotel reservation guidelines.

Your Committee recognizes the negative effects of overbooking on the visitor industry and on Hawaii as a vacation area.

Your Committee is further aware of the intricacies involved in imposing regulations in the hotel reservations area. On the one hand, too much regulation could adversely affect tour operators, causing them to send visitors to other resort areas. Yet, no regulation at all would work to the detriment of the image of Hawaii as a place to vacation.

Your Committee therefore feels that closer monitoring by a permanent body is necessary. It therefore recommends that:

(1) An informal joint government/private industry committee be formed to develop guidelines relating to practices and procedures for hotels in handling group travel reservations. The activities of the committee may include review of hotel room reservation procedures, review of liability of parties in cases of "no shows," and recommendation of an appropriate government body to oversee future overbooking incidents.

(2) A greater effort be made by the Hawaii Hotel Association members to minimize overbooking through adherence to policies and practices designed to accomplish this end.

(3) Informal communications be established between hotels for the purpose of having a clear picture of the status of available rooms throughout a given resort area. Your Committee feels that overall information on the status of hotel occupancy on any given day will greatly contribute to a hotel's estimates on the availability of alternative accommodations. Thus, if a hotel is aware that the room situation in the area is tight, it will be less likely to overschedule knowing that alternative accommodations do not exist.

Your Committee feels strongly that, if the self-policing approach does not accomplish the goal of preventing or minimizing overbooking incidents, legislation will be required which could include the establishment of a hotel reservations board, the enactment of uniform reservation practices and greater penalties for those who consistently cause overbooking situations.

Signed by Representatives Machida, Morioka, Abercrombie, Ho,

Inaba, Kawakami, Kihano, Lunasco, Uechi, Yap, Amaral, Ikeda, Kamalii, Medeiros and Santos. Representative Roehrig was excused.

Spec. Com. Rep. 16

Your Committee on Finance to which was assigned the task of conducting a review as to how real property tax relief may be afforded homeowners and renters who are burdened by high real property taxes, begs leave to report as follows:

BACKGROUND

During the past several years, the Legislature has viewed the soaring real property taxes on homes with increasing concern. Even in those cases where the counties have lowered the real property tax rate, homeowners and renters still find themselves paying more because of the higher and higher valuations which are assigned to residential property. The increased tax valuations have now reached a point where significant numbers of property owners find it difficult to meet property tax payments. This condition falls most heavily on the elderly and those on fixed and low incomes. It is even becoming an increasing burden on those in the middle-income brackets.

Up to now, efforts to grant relief to the homeowner have revolved around the home exemption, and in the case of special groups such as the elderly, the granting of multiple exemptions. Just so long as property valuations are relatively stable, the home exemption does provide some relief. However, conditions have changed. The level of home exemptions no longer provides real relief because of ever-increasing tax valuations.

APPROACH TAKEN

In reviewing the issue of property tax relief, your Committee sought an interim measure which would offset soaring property valuations and at the same time provide some relief to renters. While it was acknowledged that a comprehensive review of the entire real property tax system was in order and reforms should be developed from such a review, a more permanent solution must await a detailed examination. In the meanwhile, your Committee proposes to take steps in the direction of (1) increasing the basic home exemption, (2) reinstating the renter tax credit, and (3) liberalizing the real property tax law provisions relating to the dedication of land for residential use.

During the course of your Committee's deliberations, the circuit-breaker approach was also explored as a means of providing tax relief. In this regard, your Committee was fortunate to have John Shannon of the Advisory Commission on Intergovernmental Relations as a technical adviser. In Shannon's opinion, the circuit-breaker approach is perhaps potentially the most powerful tool for providing tax relief. However, under current economic conditions, circuit-breaker programs could have a serious impact on State budgets. Your Committee, therefore, feels that studies of long-term revenue impact must be undertaken before new tax relief programs such as the circuit-breaker are seriously considered.

HOME EXEMPTION

In 1962, the maximum home exemption was $3,250. Over the years, changes were made and effective January 1965, the maximum increased to $4,250. This was again increased in 1968 to $5,500. In 1970, the maximum was raised to its present $8,000. In addition to the home exemption, a provision was enacted in 1965 to allow homeowners who had attained the age of 60 or more to receive a multiple in addition to the basic exemption. Originally, the multiple was based on adjusted gross income and personal exemptions. In 1969, this was simplified to its present form which provides that homeowners who attain 60 years of age may claim a multiple two times the basic exemption and at age 70, they are entitled to a multiple two-and-a-half times the basic exemption.

The House proposed an increase in the home exemption during the 1975 legislative session which would have increased the basic amount to $12,000 with multiples increasing to $24,000 and $30,000, respectively. The impact of this proposal on net assessed valuations for tax rate purposes in each county is shown below.

(In Millions of Dollars)

	Oahu	Maui	Hawaii	Kauai	State
Actual Net Assessed Value for Tax Rate Purposes, 1974-75	$6,372.7	$693.9	$ 900.3	$349.5	$ 8,316.4
Est. Net Assessed Value for Tax Rate Purposes, 1975-76	$7,648.0	$884.7	$1,044.3	$435.1	$10,012.1
Amount of Increase	$1,275.3	$190.8	$ 144.0	$ 85.6	$ 1,695.7
Percent Increase	20.0%	27.5%	16.0%	24.5%	20.4%
Reduction Due to Home Exemption Proposal	$ 407.6	$ 40.0	$ 52.2	$ 21.2	$ 521.0
Adjusted Net Assessed Value for 1975-76	$7,240.4	$844.7	$ 992.1	$413.9	$ 9,491.1
Net Increase after Adjustment	$ 867.7	$150.8	$ 91.8	$ 64.4	$ 1,174.7
Percent Increase after Adjustment	13.6%	21.7%	10.2%	18.4%	14.1%

Your Committee reaffirms its support for this proposal. Net assessed valuations for tax rate purpose have been increasing dramatically in recent years. The statewide total as of July 1974 reached $8.32 billion as compared to $1.82 billion in 1960. The burdensome rise in assessed valuations has substantially increased the cost of home ownership to countless taxpayers who do not stand to benefit at all from the higher valuations unless they are willing to immediately sell their residential properties and can afford to acquire other suitable housing for their families.

Although this proposal will provide some relief, your Committee emphasizes that it is an interim measure designed to offset the dramatic increase in assessed valuations. A more permanent solution, one that might incorporate some circuit-breaker concepts, should follow a detailed examination of the entire tax relief issue.

RENTER TAX CREDIT

Act 180, Session Laws of Hawaii 1970, provided for a system of income tax credits for household renters with an annual adjusted gross income of $15,000 or less. The purpose of the tax credit was to reduce the higher tax burden of such renters as compared to homeowners due to the fact that renters receive no home exemption under the real property tax and the four percent general excise tax on rentals are normally passed on to renters by landlords.

In 1974, the Legislature repealed the renter tax credit along with all other income tax credits and replaced them with a single excise tax credit. The purpose of this action was to simplify the tax credit system, to eliminate confusion on the part of taxpayers, and to ease administration of the tax credit. However, the repeal of the renter tax credit and the enactment of a single excise tax credit did not ease the relative burden of renters.

On the assumption that landlords shift forward to their tenants the property taxes on renter-occupied dwellings, your Committee believes that renters should be granted some relief since such relief is available to owner occupants in the form of home exemptions. Whatever form the relief takes, the amount should be set at a level to ensure some equity between homeowners and renters.

DEDICATION OF LAND FOR RESIDENTIAL USE

Act 200, Session Laws of Hawaii 1971, provided that certain land parcels may be dedicated for residential use if the land is situated where the land use zoning has changed to a higher than residential use. The provision is restricted to a person sixty years of age or older who is a fee simple owner or who is a lessee of real

property where the lease term is ten years or more. The dedication is limited to a parcel of land not more than 10,000 square feet in area.

Persons affected by this provision are usually lifelong residents of the State who desire to continue to maintain their present single-family residences. The dedication provision ensures that their parcels of land will be assessed on the basis of actual use rather than at a possible higher value depending on the nature of surrounding parcels.

Although your Committee believes that the dedication provision is basically sound, your Committee favors liberalizing the dedication provision by eliminating the age restriction and by allowing parcels for single-family residential use, regardless of size, to be dedicated within hotel/apartment/resort or commercial zoned lands. On equity grounds, there seems to be no clear justification for limiting the dedication provision to persons on the basis of age. Also, persons owning or leasing parcels of land in excess of 10,000 square feet may be just as deserving of relief.

CIRCUIT-BREAKER CONCEPT

Property tax circuit-breakers are tax relief programs designed to protect family income from property tax overload the same way that an electrical circuit-breaker protects the family home from current overload. They serve as the primary means of tax relief or they can augment existing programs of home exemption. When the property tax bill exceeds an acceptable real property tax burden, the circuit-breaker goes into effect and relief is granted from the excess taxes. Relief usually takes the form of a direct reduction in the real property tax bill, a refundable credit against State income taxes, or a cash refund.

The circuit-breaker generally is part of the State income tax process although several states administer it separately. In the classic form, an applicant files a supplemental statement to his income tax return. Based upon his income category, the applicant is able to determine the excessive amount of property tax. The State income tax adminstrator then credits the amount of relief against the applicant's State income tax liability or sends a refund check to the applicant.

Many of the states that adopted circuit-breaker programs in the early years of this decade did so under conditions of large budget surplus. In the 1972-74 period, for example, most states enjoyed the combined benefits of federal revenue sharing along with sales and income tax yields that increased by more than $20 billion. At the same time, the national economic dislocations of the past two years have slowed this process. Maryland's property tax relief program, enacted in 1974, has yet to be funded; other states with programs already on the statute books--particularly in the Northeast and Great Lakes regions are reportedly concerned about their ability to meet these obligations with State budgets that are approaching deficit levels.

RECOMMENDATION

Your Committee sought an interim measure which would offset soaring property valuations and at the same time provide some relief to renters. Until a comprehensive review of the entire issue of tax relief can be conducted and long-term solutions can be developed from such a review, your Committee proposes to take steps in the direction of increasing the basic home exemption, reinstating the renter tax credit, and liberalizing the statutes governing the dedication of lands for residential purposes. Based upon the foregoing, your Committee recommends as follows:

1. That in the 1976 legislative session, the Legislature enact a bill increasing the basic home exemption to $12,000 and the multiple exemptions to $24,000 and $30,000;

2. That in the 1976 legislative session, the Legislature enact a bill either reinstating the renter tax credit or increasing the existing excise tax credits to ensure some equity between homeowners and renters;

3. That in the 1976 legislative session, the Legislature enact a bill extending the residential dedication to any fee simple owner, by eliminating the age restriction and by allowing parcels for single-family dwelling residential use, regardless of size to be so dedicated within hotel/apartment/resort or commercial zoned lands.

4. That in the interim between the 1976 and 1977 legislative sessions, a joint committee composed of members of the Senate and members of the House of Representatives be appointed to study the issue of providing some relief from all State and local taxes; and that technical assistance be provided to the joint committee by the Office of the Legislative Auditor; and

5. That the Department of Taxation conduct a review of alternative tax relief programs; and that the results of such review be submitted to the 1977 Legislature.

Signed by Representatives Suwa, Akizaki, Kiyabu, Kondo, Kunimura, Lunasco, Mizuguchi, Morioka, Peters, Ajifu, Amaral, Clarke, Hakoda, Inaba, Kamalii and Kihano.

Spec. Com. Rep. 17 (Majority)

Your House Committee on Agriculture, appointed pursuant to House Resolution No. 106 adopted by the Regular Session of 1976 and requested to conduct an investigation of the Kohala Task Force, begs leave to report as follows:

INTRODUCTION AND SOME BACKGROUND

The Kohala Task Force was created by gubernatorial executive order in June, 1971, in response to House Concurrent Resolution No. 60. In 1972, the Hawaii State Legislature appropriated $4,650,000 for economic development in the North Kohala District through Act 197. The County of Hawaii appropriated $1,800,000 to be expended by the Task Force.

Subsequently, the North Kohala Loan and Grant Program was established by the State Department of Agriculture. Under this program, loans have been approved and disbursed to Kohala Nursery, Inc., Hawaii Biogenics, Ltd., Orchids Pacifica, Inc., Kohala Plastics, Inc., and Pacific Hay, Inc.

Your Committee finds that with the exception of Kohala Nursery, the projects approved by the Task Force have yet to prove they are economically viable, have not received proper management, and have not been effectively monitored by either the Task Force or the State administration.

Consequently, the Task Force has not been successful in accomplishing its primary objective of creating employment opportunities for Kohala residents who lost their jobs with the closing of Kohala Sugar Co.

Your Committee further finds that the Task Force, particularly in its initial years of existence, approved projects without requiring proper security or proven business expertise and without adequate professional research into production problems and market potentials. Insufficient attention was given to potential transportation problems.

FINDINGS AND RECOMMENDATIONS RELATING TO TASK FORCE PROJECTS

A. Kohala Plastics, Inc.

Kohala Plastics, Inc., has been mismanaged since it began operations. Management from the beginning over estimated the market for its products, particularly for drip irrigation components.

Sugar industry officials estimate the total purchases in 1976 for drip irrigation components of the type manufactured by Kohala Plastics, Inc., will be approximately $180,000, while the firm projects possible sales at $200,000.

Gaspro, Inc., and Wisdom Rubber Co. also supply drip irrigation components to the Hawaii market.

Sugar companies purchase irrigation components on a competitive, low-bid basis. Therefore, Kohala Plastics, Inc., is not assured of meeting its projected sales.

Despite expenditures of $451,756, total sales as of December 31, 1975, were only

$26,309.

Your Committee finds that Kohala is perhaps one of the least ideal locations in the State for a plastic manufacturing plant. Raw materials must be imported and finished products shipped to other islands.

Therefore, your Committee recommends:

That the Kohala Task Force re-examine the operations and market potential of Kohala Plastics, Inc., before expending any additional State funds already approved.

B. Hawaii Biogenics, Ltd.

Hawaii Biogenics, Ltd., has been improperly managed since it began operations in April, 1973 with a resultant corporate debt of some $3,000,000.

Last year, the company ran out of funds to purchase livestock feed and meet its payroll. The firm was kept in operation through a series of emergency loans from the Kohala Task Force totaling $399,000.

Because the firm's management could not agree on a voluntary plan of reorganization, the State placed Hawaii Biogenics, Ltd., in involuntary bankruptcy on January 16, 1976, under Chapter 10 of the Federal Bankruptcy Act. A court-appointed received, Richard Frazier, has been mandated to present a reorganizational plan by March 31, 1976.

Individual Committee members expressed strong opinions that personnel responsible for past management decisions should be disassociated from the company when it is reorganized. In addition, some Committee members expressed strong opinions that shares held by the four initial major stockholders be repurchased by Hawaii Biogenics, Ltd., as part of the plan of reorganization.

The court-appointed receiver reported that when Hawaii Biogenics, Ltd. is reorganized, stock will be offered to Big Island ranchers and to creditors as a means of satisfying some of the firm's debts.

Your Committee concurs with the user-ownership concept and suggests that the Task Force and State administration encourage private investment, particularly by ranchers, in Hawaii Biogenics, Ltd.

It has not been proven that Hawaii Biogenics, Ltd. can grow grain corn for feed in Kohala that costs less than imported grain, nor has Hawaii Biogenics, Ltd. been able to determine its actual cost of feeding animals it has marketed.

Presently, Hawaii Biogenics, Ltd. is planting 60 acres of a mainland variety of corn, but the University of Hawaii, College of Tropical Agriculture, has thus far been frustrated in its efforts to determine if the mainland variety can be grown economically.

Under an agreement with Hawaii Biogenics, Ltd. and the Kohala Task Force, the College planted an experimental crop on 65 acres in Kohala and concurrently undertook a project to determine the most productive feedlot rations in terms of weight grain to animals. The contract was signed in May, 1975.

The results of these experiments were inconclusive because Hawaii Biogenics personnel contracted for field preparation work failed to follow the University's instructions when planting the corn. Also, the Governor's office did not release its two-thirds share of the $200,000 contract until January 26, 1976. The County of Hawaii to date has not released its one-third share.

Because Hawaii Biogenics, Ltd., ran out of funds to purchase feed, rations being fed the experimental animals were changed three times.

The College of Tropical Agriculture has proposed an experiment which by mid-1977 would determine the economics of growing the mainland corn variety in Kohala and proper feeding procedures for animals being finished for market.

The College proposes two additional plantings totaling 300 crop acres to determine field management procedures and yield. The College would also like to feed

120 animals for 240 days. Hawaii Biogenics, Ltd. would be required to allow the College to use its grain storage silos during the experiment.

While Hawaii Biogenics, Ltd. must depend upon a mainland variety of corn for the immediate future, the College through its on-going experiments has developed nine varieties adapted to tropical climatic conditions, three of which are expected to do well in Kohala.

Preliminary data indicate the Hawaiian varieties will have a yield of 30 to 40 percent greater than the mainland variety. However, the College does not have sufficient seed for large experimental plantings.

The College has contracted with a mainland seed production company to produce seed for the Hawaiian varieties, but the University of Hawaii is awaiting funding to implement the contract.

Hawaii Biogenics, Ltd. has requested a loan of $350,000 from the Task Force and plans to spend $200,000 to construct a second barn which will increase its feeding capacity to 4,000 head. The other $150,000 will be used to purchase feed through September.

According to projections presented by the court receiver, this additional funding should put Hawaii Biogenics, Ltd. on a pay-as-you-go basis by the fall of 1976. However, sufficient funds will not be generated thereby for the repayment of the firm's large debt.

The State administration is also requesting a legislative appropriation of $805,000 to expand the Hawaii Biogenics, Ltd. corn planting operations to 1,200 acres from the present 300 acres.

It is the opinion of your Committee that further expansion of the acreage planted be delayed until the completion of the College of Tropical Agriculture's experiment.

It is the conclusion of your Committee that if the basic economics for growing corn and feeding animals at Hawaii Biogenics, Ltd. can be determined, it is possible that Hawaii Biogenics, Ltd. may have a profitable future. This conclusion is reinforced by the knowledge that Hawaii Biogenics has a written commitment from Miko Meat Co. to purchase 100 head of finished cattle a week, and from Waimea Meat Market for another 50 head a week.

A successful feedlot operation on the Big Island would be a great asset to the overall agricultural program of the State.

Therefore, your Committee recommends:

1. That the Kohala Task Force, in approving additional funds for Hawaii Biogenics, Ltd. give serious consideration to the lack of economic data on growing grain corn in Kohala; and that the Task Force assist Hawaii Biogenics, Ltd. to develop a reasonable plan for expansion of present operations.

2. That the Kohala Task Force, in consultation with the College of Tropical Agriculture, develop with expediency, a plan to implement and fund without unreasonable delay, the $325,235, or as much as necessary, for the experimental program by the College and that (a) Hawaii Biogenics, Ltd. shall be directed to provide grain storage and contract labor necessary for the successful completion of the research project; and (b) Hawaii Biogenics, Ltd. personnel follow directions of the College of Tropical Agriculture scientists.

3. That the Kohala Task Force, in consultation with the College of Tropical Agriculture, assist in developing, implementing, and funding research programs to continue the development of Hawaiian strains of grain corn adaptable to the Kohala area.

4. That the Kohala Task Force and State administration encourage users of the reorganized Hawaii Biogenics, Ltd. to become owners and to share their expertise with the firm's management.

5. That the Kohala Task Force and the Office of the Governor and all agencies working with Kohala Task Force projects work in concert to assure the timely release of funds for Task Force projects.

C. Kohala Nursery, Inc.

Kohala Nursery, Inc. has demonstrated a potential to become an economically viable business and it is the only project funded by the Kohala Task Force which has maintained a favorable cash-flow and has begun to pay off part of its original debt.

The nursery has become the largest exporter of plants in the State, but faces difficulties in expanding its operations to a more profitable level because of the lack of available freight space to the mainland.

Since the nursery began operations, available air freight space from the Island of Hawaii to the mainland has declined, and there is no sign of improvement in the immediate future.

Kohala Nursery, Inc. has also experienced problems with distribution once plants arrive on the mainland. In some instances, plants arriving on a Thursday or Friday have been held at the freight terminal until Monday because a plant quarantine inspector was not available.

The company officials report they are not able to load containers at Kohala for shipment to Hilo and then to the West Coast because mainland terminals do not have proper holding facilities.

Your Committee finds the transportation problems facing Kohala Nursery, Inc. are not unique to this segment of the agricultural industry, and, therefore, recommends:

That the Governor of the State of Hawaii and appropriate departments within the State support and provide funds in a timely manner for those research projects appropriated by the Hawaii State Legislature should House Bill No. 3261-76, H.D. 1, be enacted to improve marketability, and air and surface transportation capabilities and crop desirability for the export market.

D. Orchids Pacifica, Inc.

Orchids Pacifica, Inc. has been one of the least successful Task Force projects because of inexperienced management. The firm has been reorganized under the direction of an unpaid consultant who has developed a marketing plan to produce income of $85,000 by the end of the firm's fiscal year.

Working with First Hawaiian Bank, the consultant has developed a pro-forma statement and the bank has conditionally agreed to release $298,000 in loan funds in monthly installments.

The Task Force has already given approval for an additional loan of $250,000 to the company; release of the loan is conditioned on financial participation by the bank.

Additional test marketing, especially on the mainland and in Canada, is necessary before Orchids Pacifica, Inc. can undergo any expansion.

Your Committee feels the reorganization of Orchids Pacifica, Inc. gives the company a "fighting chance" to succeed and urges the Task Force and State administration to retain the stringent reporting requirements for disbursements and for market survey and analysis.

Your Committee therefore recommends:

That the Kohala Task Force and State administration continue to closely monitor the operations of Orchids Pacifica, Inc. and to become familiar with potential problems which may interfere with the firm's financial recovery in the areas of transportation and marketing, and management.

E. Pacific Hay, Inc.

Pacific Hay, Inc. is the first project approved by the Kohala Task Force to which additional financial responsibility was imposed upon the organizers of the firm.

The Task Force has approved a $300,000 loan which is tied to a financial

package which includes a $175,000 cash loan and $50,000 line-of-credit from the Bank of Hawaii. The company has an equity of $50,000, which is cash put into the firm by the organizer. The organizer of the company has mortgaged real property, including a grain facility at Kawaihae valued at $100,000, to secure the loans.

The company has a contract with 50th State Dairy Farmers Cooperative for the purcahse of cubed hay at $80 a ton, plus freight, and production costs are estimated at $49 per ton.

The principals in Pacific Hay, Inc. have experienced in growing Guinea grass hay both in Ka'u and Kohala and the grass grows with a minimum of fertilization and irrigation in the Kohala area. Five hundred acres are now planted in Kohala and the company eventually hopes to plant 2,000 acres.

FINDING: Your Committee believes this operation has sufficient restrictions imposed to insure the responsible use of State funds, and that it has a good potential for success and expansion.

FINDINGS AND RECOMMENDATIONS RELATING TO MONITORING KOHALA TASK FORCE PROJECTS

Monitoring of Kohala Task Force projects has been after-the-fact based on disbursement of funds in accordance with the original budget proposals. Monitors are not fully qualified to detect managerial and technical defects. This, perhaps, has been one of the weakest aspects of the Task Force.

In the future, your Committee expects competent managerial experts to be employed to bring expertise and to provide sound recommendations for remedial and corrective action in the monitoring of Task Force projects.

Your Committee supports the establishment of a Statewide Coordinating Committee of Task Forces in the Office of the Governor, as proposed in House Bill No. 3333-76, H.D. 1, with proper staffing. A committee with the responsibility of overseeing all task force activities within the State could more easily justify the employment of staff or consultants to strengthen monitoring.

Therefore, your Committee makes the following recommendations:

1. That uncommitted funds appropriated by the Hawaii State Legislature through Act 197, Session Laws of Hawaii 1972, or appropriated by the County of Hawaii to the Kohala Task Force be expended for Hawaii Biogenics, Ltd. or its reorganized successor, and no other Task Force project.

2. That any subsequent funding for the Kohala Task Force be expended through the Statewide Coordinating Committee of Task Forces in the Office of the Governor.

3. That the Statewide Coordinating Committee of Task Forces in the Office of the Governor employ competent staff to monitor, develop, and coordinate plans for remedial actions as may be required for all Task Force projects.

Signed by Representatives Uechi, Inaba, Kawakami, Ho, Machida, Morioka, Roehrig, Yap, Lunasco, Abercrombie, Kihano, Oda, Clarke, Larsen and Lum. Representative Amaral was excused.

Representative Hakoda did not concur.

Spec. Com. Rep. 18

Your House Committee on Public Assistance and Human Services and your House Committee on Labor and Public Employment appointed pursuant to House Resolution No. 130, adopted by the Regular Session of 1975, and directed to conduct a review of the State's Manpower and Training Services Delivery System, beg leave to report as follows:

BACKGROUND

The Legislature has long been concerned that public assistance recipients lack proper employment skills which will enhance their opportunities in the labor market. It is estimated that for the first quarter of the FY 1975-76, more than 6,000 public assistance recipients were registered with the State Employment Services with another 6,000 food stamp recipients registered for the same quarter. Characteristically, the public assistance recipient population is largely female; and approximately 40 percent have less than 12 years of education. Insufficient work experience or inadequate educational advancements limit available job categories; and, consequently, recipients are usually classified for employment in clerical, sales and service fields. Because of such limits in marketable skills, additional training is needed for the public assistance recipient.

In the past, governmental agencies have attempted to respond to the needs of the unemployed, and there are currently available a number of training and employment programs which could also be of benefit to the public assistance recipient. However, many of these programs are scattered through a number of State and city agencies; and, therefore, your Committees were concerned that these programs may be under utilized by the public assistance recipient. No formal system of manpower training exists. As a result, there is no single entry point where the recipient can have his abilities assessed or be referred to the proper agency. H.R. No. 130 was adopted to examine the extent of participation of this public assistance recipient in these programs.

APPROACH TAKEN

In its deliberations, your Committees were greatly aided by the recent publication of a report prepared jointly by the Commission on Manpower and Full Employment and the State Manpower Services Council. The report includes an exhaustive inventory of major public manpower resources which may be available to the public assistance recipient. However, your Committee realized that these programs are also utilized by other groups and individuals who also face specific barriers in obtaining and retaining employment. The 1975 Manpower Planning Report of the Department of Labor and Industrial Relations estimates that, in fiscal year 1975-76, approximately 156,000 individuals in the State of Hawaii will need employment-related assistance such as counseling, training, placement and follow-up services when necessary. Of these, 19,900 are veterans, another 5,300 are potential high school dropouts and nearly half (122,900) are estimated to be non-whites.

As such, it would be difficult to insist that a stringent policy be established which would primarily address the needs of the public assistance recipient. Instead, your Committee felt it was necessary to examine the current level of participation in these programs by the recipient.

PUBLIC ASSISTANCE RECIPIENTS' PARTICIPATION IN EMPLOYMENT AND MANPOWER PROGRAMS

Comprehensive Employment and Training Act Program (CETA). P.L. 93-203 established the Comprehensive Employment and Training Act (CETA) program in 1973. The program was implemented in Hawaii in 1974. The purpose of this Act was to establish a comprehensive program of employment, training and related services for the unemployed, under employed and economically disadvantaged. Availability of federal funds vary according to Hawaii's eligibility under each of the act's seven titles.

Major sources of Hawaii's CETA funding come from three titles:

(1) Title I, Comprehensive Manpower Services. Enables provision of a comprehensive mix of manpower training, employment and related services to the unemployed, under employed and economically disadvantaged.

(2) Title II, Public Service Employment. Provides assistance to geographic areas facing high rates of unemployment. Funds for this title are allocated only to those areas with unemployment rates of 6.5 percent and above.

(3) Title VI, the Emergency Jobs Program. Provides additional funds for subsidized employment in the public and private nonprofit sectors for unemployed and under employed persons. It is used largely for public service employment activities and is similar to those provided under Title II.

More than $12.2 million was made available through these three titles in FY 1974-75

with an additional $1.7 million coming from other titles. Recruitment is primarily conducted by two agencies, the Hawaii State Employment Services and the Honolulu Job Resource Center, both of which coordinate their efforts with public- and community-based agencies to determine manpower needs.

In FY 1975, the CETA program's first year of operation, 8,277 were served. 1,999 were welfare recipients; 611 were receiving assistance from the Aid to Families with Dependent Children program (AFDC); and 1,388 received some other type of public assistance, mostly recipients of State General Assistance. A survey of persons served under the CETA program showed that 30 percent of the Title I participants were receiving public assistance; and 10 percent of Titles II and VI participants fell into this category.

The Job Corp Program. The Job Corp is a federally funded program which prepares economically disadvantaged youths from 16 to 21 years of age with skills necessary to find and maintain suitable employment. This is accomplished through an education and vocational training and work experience in a residential program. Job corp centers are located in Koko Head, Oahu and Hilo, Hawaii, and are administered by the Job Corp Division of the Department of Labor and Industrial Relations (DLIR). Funds received for FY 1974-75 total $1,467,750. In 1975, 439 individuals were served, of which 239 were placed in jobs, 68 entered some institute of formal learning, and 47 went to the Armed Forces. The Job Corp Division of the Department of Labor and Industrial Relations reports that, in calendar year 1975, there were 180 participants who were public assistance recipients.

Health Manpower Programs. The University of Hawaii School of Medicine administers three programs, made available through grants awarded by the National Public Health Services Act, which offer opportunities for careers in the health profession: The Haumana Biomedical Program; the Imi Ho'ola Program and the Kulia Program.

The Haumana Biomedical program assigns approximately 20 third and fourth year college students to a National Institute of Health certified researcher for a one-year period of orientation to research methods. Preference is given to those students whose ethnic backgrounds are underrepresented in the biological field.

The Imi Ho'ola program offers a one-year, premedical review program to 20 students who are economically and/or educationally disadvantaged or members of an ethnic group underrepresented in the health profession. Participants receive formal lectures in biology, chemistry, physics and mathematics, laboratory exercises and extensive counseling to encourage entrance into the health profession.

Each year in the Kulia program, ten individuals who are economically or educationally disadvantaged or members of an ethnic group underrepresented in the medical profession, receive tutorial assistance to enable completion of medical school on a decelerated and less intensive schedule.

According to the School of Medicine, while these programs are available to any recipient who meets educational requirements, no public assistance recipient is currently in any of these three programs.

Senior Community Service Employment Program (SCSEP). This program offers economically disadvantaged individuals who are 55 years or older and who have difficulty in securing party-time employment opportunities in community related jobs so that a sense of community involvement can be maintained. SCSEP is federally funded with a ten percent matching federal requirement and is implemented on Kauai by the Kauai Senior Citizens, Inc. and on Maui by the Maui Economic Opportunity, Inc. with the Office of Manpower Planning as the State administering agency. Thirty-nine individuals were served in FY 1974-75. For FY 1975, four of Kauai's participants and six from Maui were public assistance recipients.

Job Opportunity Programs. For fiscal year 1975-76, the City and County of Honolulu will implement two work programs available through Title X of the Public Works and Economic Development Act of 1965. The Road the Stream Beautification Program and the Beautification Task Force has the dual objectives of creating employment for economically disadvantaged persons and beautifying the city's roads, streams, public parks and other public facilities. Each program received a federal grant for one year of $300,000 for 39 positions. Participants in the program were formerly with the City and County's beautification task force. While one of the objectives of the two work programs is to provide jobs for persons receiving some form of public assistance, exact numbers are not available until these programs are fully implemented.

Work Incentive Program (WIN). Individuals who are recipients under the federal Aid to Families with Dependent Children (AFDC) program are required to register with the Work Incentive Program. WIN's objective is to help recipients obtain employment in the regular economy to enable them to be self-supporting and reduce participation on welfare roles. Federal requirements for the program designate the Department of Social Services and Housing (DSSH) to determine eligibility while the Department of Labor and Industrial Relations provides manpower services such as employment, counseling, training and job placement. Persons exempt from the WIN requirement include those under 16 years of age, the ill, recipients who are living beyond the commuting distance of a WIN Project, persons who care for incapacitated members of their household, mothers of children under six years of age, and mothers and caretakers of children of a father if he lives at home and is registered in the WIN program. In Fy 1974-75, 3,727 AFDC recipients registered with the WIN Program with 2,836 actual participants.

Vocational Rehabilitation Program. The purpose of this program is to provide rehabilitation services to disabled persons and enable preparation for and engagement in gainful employment. Those of working age and certified as having a physical or mental disability which acts as a handicap to employment but who, with rehabilitative services, have employment potential are eligible for training opportunities in vocational and sheltered workshops with public and private employers and in university or community college settings. A series of diagnostic and related services, physical and mental restorative services are available for those who need them. The Vocational Rehabilitation, and Services for the Blind Division of the Department of Social Services and Housing administer the program, which also offers job development and placement and is funded by federal grants with a 20 percent, non-federal matching requirement. In fiscal year 1974-75, 5,632 persons were served, with 541 being placed in employment situations. The Vocational Rehabilitation Division reports that, for the first six months of the current fiscal year, more than 4,390 cases were receiving public assistance payments of which 1,354 were new cases and the remaining were cases carried over from fiscal year 1974-75. 2,295 were identified as AFDC cases, 1,579 as Supplemental Security Income (SSI) recipients and 516 were on the State's General Assistance (GA) Program.

Vocational Education Programs. Vocational education programs are delivered through the Department of Education (high schools) and at the University of Hawaii (community college). Training activities include: agriculture; distributive; health; consumerism and homemaking; home economic occupational preparation; and office, technical, trade and industrial skills. All students enrolled in public secondary and post-secondary institutions are eligible to participate as well as students in private institutions under special conditions. Participants are also offered testing, counseling and labor market information. In fiscal year 1974-75, enrollment in the aforementioned vocational programs is 37,177. No information on public assistance recipients' participation in these programs is available.

Adult Education Program. The Department of Education's Adult Education Program offers adults 16 years or older who have less than 12th grade level competence or who do not have a high school certificate, education courses in computation and English communication. The program's basic education course offers instruction through the eighth grade level, and also a secondary program that offers classes in several high school subjects. Counseling, testing and other services are available to participants who may be referred to training programs, or employment service agencies for job placement. Federal funds are received for this program through a formula grant to states based on the ratio of adults without a secondary school certificate to the number of adults throughout the nation. 2,029 such classes were offered in fiscal year 1974-75 with 38,611 enrolled.

There is no available information on the number of public assistance recipients who are in this program.

Unemployment Insurance Program. Any unemployed person who has 14 weeks of covered employment and sufficient wages during the four calendar quarters preceding his application may receive temporary payments while seeking employment. The Unemployment Compensation Division of the Department of Labor and Industrial Relations administers this program which in fiscal year 1974-75 had 70,136 initial claims filed.

Under current statutory authorization, persons receiving unemployment compensation may still be eligible for public assistance if their unemployment benefits are lower than the Department of Social Services and Housing (DSSH) monthly standard requirement. However, information of the number of unemployment insurance claimants who receive public assistance is not readily available.

State Program for the Unemployed. Act 151, Session Laws of Hawaii 1975, established the State program for the unemployed. Its purpose was to help alleviate the effects of current high unemployment rates by providing additional, innovative and creative public service employment opportunities for the underemployed and unemployed.

Eligibility for the program is given to those who are unemployed, residing in the State when they register, and who are referred by the Department of Labor and Industrial Relations.

Act 151 establishes priorities in the referral and selection process so that unemployed heads of households who have exhausted or used 15 weeks of their unemployment insurance are given first priority. All other heads of households who are unemployment insurance claimants are given second priority while third priority is given to heads of households who are general assistance recipients. All other unemployed fall in the fourth and last priority.

According to the annual report to the Governor in 1975, prepared jointly by the Commission on Manpower and Full Employment and the State Manpower Services Council, it is expected that $10 million will be available for the program for an estimated 1,450 participants.

For the months of October, November and December, the Office of Manpower Planning has identified 71 public welfare recipient in this program.

State Apprenticeship Programs. The program's objective is to develop an organized training program to meet the demand and supply needs of apprenticeship occupations. The Apprenticeship Division of the Department of Labor and Industrial Relations develops apprenticeship programs; and provides technical assistance to employers and labor organizations to implement programs. To supplement the on-the-job training, classroom instruction is usually provided by the community colleges. There were 3,947 active registrants in this program as of June 30, 1975.

There is no available information on the number of public assistance recipients in this program.

Employment Service (ES). The Department of Labor and Industrial Relations administers the Employment Service Office which provides comprehensive manpower services to job seekers and employers. This office offers unemployed individuals testing, counseling, job information service and job placement. Persons receiving unemployment insurance, public assistance, and/or food stamps are required to register with this office. The ES Office makes regular contacts with employers in the public sector to solicit job openings and assist employers in obtaining workers. In addition, for special programs such as WIN, CETA and the State Program for the Unemployed, the ES Office offers subsidized training and employment.

92,008 individuals registered with the ES Office in 1974-75 and 14,493 were placed in jobs. As of December 31, 1975, there were 10,116 public assistance recipients registered. Of these, 3,817 were new applicants received in the first half of the 1975-76 fiscal year. During this same period, 820 were referred to jobs, though the office has no data on successful job obtainment.

Temporary Labor Force. Chapter 346, Hawaii Revised Statutes established the General Assistance (GA) program which provides assistance to those Hawaii residents who have demonstrated need but do not meet the specific requirements of federal funded assistance programs (AFDC and SSI).

Recipients who qualify for benefits must also participate in the department's Temporary Labor Force which assigns work on public work projects. The purpose of the TLF program is to utilize the abilities of recipients in useful public endeavors and to allow recipients an opportunity to work for their benefits. There were 2,389 individuals enrolled in the temporary labor force from January 1974-June 1975 and the value of work gained was equal to $203,520.

Conservation Corp. Chapter 1931, HRS, establishes a core of civilian workers to engage in a special program of forestry conservation whenever the unemployment level on an island reaches 6 percent of the total labor force of the island and remains at such a level or higher for three continuous months as certified by the State Department of Labor and Industrial Relations. The program shall be terminated when the level of unemployment remains below 4 percent for a period of three continuous months but

shall not terminate sooner than one year after its conception.

DLNR is required to defray all costs incurred by this program out of funds appropriated to the agency without regard to the original purpose of such appropriation. Section 112 of Act 219, SLH, 1974, also authorizes DLNR to use funds for projects authorized in the 1974 Supplemental Appropriations Act for the purpose of Act 74. The program was implemented once in the late 1960's, and recently again in November, 1974. A total of $507,948 has been released to defray the costs of the program for a period of one year as provided by law.

No data is available on the number of recipients in this program.

CONCLUSION

Your Committees believe that the public assistance recipient needs employment-related and support services in order to become an active participant in the labor market. The manpower programs previously described have the potential to fill the need for employment related services; however, more coordination between programs is necessary to assure that the scope and delivery of services is comprehensive.

Your Committees recommend that one of the first steps toward establishing a comprehensive service network is to assess the current manpower programs. Your Committee agrees with one of the principle recommendations of the report prepared jointly by the State Commission on Manpower and Full Employment and the State Manpower Services Council which was that major compenents of the current manpower system be reviewed and monitored. As an example, the State Program for the Unemployed, a major program in terms of funding and numbers served, has no provisions for formal evaluation by an independent, outside agency. Evaluation of this nature is a necessity for determining program effectiveness.

The joint report further recommends that efforts be made to assess the current manpower service delivery network. Special attention should be paid to establishing coordinating mechanisms and program linkage.

The State Commission on Manpower and Full Employment and the State Manpower Services Council, as advisory bodies established to evaluate manpower programs, are the appropriate agencies to carry out program reviews. Their responsibilities could be expanded to include coordination of these programs into a comprehensive statewide network.

Your Committees believe that further discussions on this subject can continue and that H.R. No. 66 and H.R. No. 67 introduced at the 1976 legislative session can accomplish these purposes.

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

Spec. Com. Rep. 19

Your Committee on Public Assistance and Human Services and your Committee on Labor and Public Employment, appointed pursuant to H.R. No. 134 to study Hawaii's income maintenance policies, beg leave to report as follows:

INTRODUCTION

In examining this issue, your Committees realized that development of a rational State income maintenance policy must first be preceded by revision of federal policy, which has as its philosophical basis, the Social Security Act enacted by Congress in 1935. The delivery of economic support to those persons whose earnings are periodically or chronically interrupted has remained unchanged since then; and the three basic components: work-related insurance, federal categorical assistance, and state-local supplements, set forth by the Act, have comprised the income maintenance system for the past 40 years.

The income maintenance system was designed to meet temporary hardships resulting from the Depression, and as such, was never intended to remain a permanent feature of

government services. It was felt that national employment rates would accelerate, limiting the need for income support programs. However, while full employment was and is a desired goal, it has never been fully realized; technological and social factors continue to adversely affect the economic security of certain segments of our nation's work force. Thus, the income maintenance programs have been retained, and continue to deliver assistance payments to eligible recipients.

The Social Security Act of 1935 established federal categorical assistance programs for dependent children, the unemployed, the aged, and the blind. These provisions, however, were not conceived as a comprehensive or integrated income maintenance system. While the basic structure of these programs has not changed since 1935, they have been continuously modified, and new programs with differing eligibility conditions and entitlement provisions have been added. In 1950, categorical assistance under Title XIV was extended to persons who were totally or permanently disabled, as was coverage to a needy parent or other relative caring for a dependent child through Title II; medical assistance to the aged was approved in 1960, and one year leter, the Social Security Act was amended to provide assistance to families with an unemployed father.

The proliferation of these programs with differences in eligibility, coverage, and implementation, has created confusion as to what our national policy is. The reform of income maintenance and related programs which comprise the social welfare system, has been and continues to be, an important domestic issue. A few programs such as unemployment insurance have been successful and are universally accepted, however, others have drawn much criticism.

Understandably, the complexity of the nation's income maintenance programs makes reform difficult. Discussion of reforms have included restructuring present programs, consolidation and integration of current federal programs and the development of guaranteed income through the Family Assistance Plan, or a negative income tax.

Your Committees fully recognized that federal reform is necessary, as many programs are federally initiated but State administered. Thus, the task of your Committees was to seek improvements to our existing programs.

APPROACH TAKEN

Your Committees acknowledge that the effectiveness of State income maintenance programs has been increased through legislative enactment of the flat grant system. The flat grant system: (1) provides for more equitable distribution of welfare benefits; (2) improves efficiency and effectiveness in program administration by making the eligibility process more simple and economical, thereby reducing errors; (3) provides a valid and reliable yardstick for measuring who is eligible for income maintenance; (4) promotes recipient's independence in budget planning and management, and respect for his dignity; and (5) provides for maximum allowances in order to exercise control over costs.

Your Committees reviewed income maintenance programs which are designed to maintain or supplement current personal living standards. While many other programs such as federal social security and prepaid health provide relief to segments of our society, your Committees limited its review to those programs either administered by State agencies or where indirect State supplements are given.

INCOME MAINTENANCE PROGRAMS IN HAWAII

In Hawaii, income maintenance programs are administered by two departments: social insurance programs are administered by the Department of Labor and Industrial Relations and public welfare programs, both federal and State, by the Department of Social Services and Housing. In 1974, these programs provided more than $175 million in earnings or income equivalents to eligible recipients. A brief description of each program is provided.

WORK RELATED PROGRAMS

Disability or unemployment can mean the interruption of income and impariment of a worker's ability to purchase goods and services. Income assistance programs emerged in the early 20th Century in recognition of the need to provide aid to workers for such work-related occurrences. The objective of these assistance programs is income replace-

ment: the supplementation of income at some fraction of active earnings during the period of low or new earnings due to disability or unemployment. In 1974, recipients filed claims for benefits totaling more than $77 million. Employers make ongoing payments toward employee coverage, and benefits from these social insurance programs should be exhausted before application is made for social welfare programs. The three work-related programs administered by the Department of Labor and Industrial Relations are temporary disability insurance, worker's compensation and unemployment insurance.

Temporary Disability Insurance. Chapter 392, Hawaii Revised Statutes, provides wage replacement to employees who suffer wage loss resulting from non-occupational related disability. In 1974, 44,110 claimants recieved more than $12 million in benefits.

Coverage is extended to all wage earners working for any portion of a day, with the exception of federal employees, workers of casual labor, certain domestic employees, regularly enrolled students who perform services for an educational institution, and insurance agents who work on a commission basis. Eligibility is based on disability incurred from non-work connected injury or illness certified by a physician. The recipient must be currently employed for 20 hours or more of paid work for each of at least 14 weeks during the first completed calendar quarters preceding the first day of disability. Under the provisions of the law, a recipient may receive up to 55 percent of his average weekly wages which are not in excess of the maximum weekly amount paid by unemployment insurance for a period of 26 weeks. The average payment is $102 a week for slightly less than three weeks. Private insurance carriers offer temporary disability insurance coverage which is paid for jointly by the employer and the employee, or entirely by the employer if he so chooses.

The Department of Labor and Industrial Relations received 23 positions and an appropriation of $386,538, $10,000 of which is special fund moneys, for operation of the temporary disability insurance (TDI) division in FY 1975-76. The TDI Division has primary responsibility for eligibility determination and determination of the timeliness of benefit payments. It also investigates reports of non-compliance of employers and conducts audits of payroll records to insure compliance with requirements of the law. Review of disability plans and registration of new employers are also conducted.

Worker's Compensation. Chapter 386, Hawaii Revised Statutes, establishes a workers' compensation program which provides compensation to workers for work-related injury without regard to assessment of fault. In the case of death, income indemnity payments are made to dependents. In 1974, the Department of Labor and Industrial Relations processed 39,140 claims for benefits totaling more than $18 million.

According to the December, 1974 multi-year and financial plan, an estimated 304,300 of Hawaii's labor force is covered by this program. Coverage is not extended to federal workers, certain domestic workers, casual laborers, self-employed persons, students working for an educational institution in return for room, board or tuition and in most cases, workers of charitable and religious institutions.

A worker is deemed eligible if he is injured in the course of employment. If injuries render the worker permanently disabiled, he can receive up to 66-2/3 percent of his average weekly wages, not to exceed $167.00 per week in 1976. Workers with temporary partial disabilities can receive up to 66-2/3 percent of the difference in wages before and after injuries.

The workers' compensation program provides medical coverage for as long as is necessary, and cash benefits for the duration of the disability. The employer bears the cost of such benefits by purchasing a policy through a private insurance carrier or, with approval from DLIR, through self-insuring.

The 1975 State Budget provides for 54 positions and $1,677,027, $818,000 of which is special fund moneys, in FY 1975-76 for the administration of the workers' compensation and prepaid health programs for the disability compensation division. The division is responsible for processing new and reopened industrial injury cases. The State's multi-year and financial plan estimates new and reopened claims to be at 46,295 for fiscal year 1975-76. Other responsibilities include overseeing employer compliance with the statutory insurance requirements; conducting investigations related to claims processing the employer insurance compliance; and administrative and adjudication operations.

Unemployment Insurance. Chapter 383, Hawaii Revised Statutes, establishes an unemployment insurance program to provide income to the eligible unemployed. It is estimated that 50-60 percent of the unemployed labor force, and more than 90 percent

of the total labor force are covered under all unemployment insurance programs. Those excluded from coverage include casual laborers, certain domestic workers, enrolled students, workers for non-profit organizations, ordained members of the church, insurance salesmen and real estate salesmen who are renumerated solely by commission, agricultural farmers on small farms and student nurses and interns.

A person is eligible for this program if he has worked at least 14 weeks in the four completed calendar quarters prior to date of filing claim, earned at least 30 times his weekly benefit, is able and available for work, registers for work at the nearest employment office, and files a claim. He is eligible to receive 1/25 of his total wages paid during the calendar quarter of his base period in which total wages were highest, for the equivalent of 26 weeks.

For FY 1974-75, 45,600 new and transitional claims were filed, and unemployment benefits totaling $48,404,275 were paid out. 214.40 positions are authorized in the State Budget for the administration of the program by the Unemployment Insurance Division of DLIR. The Division is responsible for collection of contributions from subject employers and payment of benefits to eligible persons.

PUBLIC ASSISTANCE PROGRAMS

If a person is ineligible for benefits from work-related assistance program, or when these benefits are exhausted, a number of public assistance programs are available to aid the needy. These programs offer aid to those segments of the population who, because of social or physical handicaps, are not able to generate a sufficient income to maintain a minimal standard of living. In 1974-75, more than $130 million was expended in Hawaii for income maintenance programs administered by the Department of Social Services and Housing. These include aid to families with dependent children, food stamps, supplemental security income, general assistance, and medicaid. Unlike the work-related programs, an individual may receive public assistance benefits for as long as he meets the categorical eligibility requirements.

Aid to Families with Dependent Children (AFDC). Aid to Families with Dependent Children, the largest categorical aid program, provides support to needy families in which one or both parents are absent, disabled, or dead. The Federal government provides 50 percent of the funding for this program. For children who live with adult relatives that do not receive AFDC, there is an AFDC-non-needy caretaker program. AFDC-UP, AFDC unemployed parent, is a category of aid for families headed by two able bodied adults with coverage limited to families with fathers working less than 100 hours per month. In the past, AFDC-UP benefits could be denied on the basis that a father had not applied for unemployment insurance benefits, a frequent occurrence when AFDC-UP aid is greater than UI benefits. In the case of Philbrook vs. Glodgett, however, the U.S. Supreme Court ruled that AFDC-UP benefits can only be denied on the basis that a father is actually receiving benefits. Income maintenance workers in Hawaii are instructed to inform the applicant that he has a choice of applying for UI benefits, but cannot deny financial assistance on the basis that the father refuses to apply.

AFDC recipients are required to register with the work incentive program (WIN), established to help them obtain regular employment and thereby lessen dependency on public assistance programs. Federal requirements for the program designate that the Department of Social Services and Housing shall be repsonsible for determining eligibility for the WIN program while the employment service of the Department of Labor and Industrial Relations would provide manpower services such as employment counseling, training, and job placement.

There are exemptions from the work requirement for those who are under sixteen years of age, ill or aged; recipients living beyond the commuting distance of a WIN project; a person who cares for incapacitated members of the household, and mothers of children under six years; and mothers and caretakers of children whose father is in the home and registered for work. In FY 1974-75, more than 3,727 recipients were registered in the program, with 2,836 actual participants.

The Department of Social Services and Housing reports that in the same FY, $50,973,852, was paid out to all AFDC recipients. It is estimated that the Department handled an average of 13,841 cases and paid $424,821 in benefits per month.

Food Stamp Program. The purpose of this program is to improve the diets of low-income households. Administered at the federal level by the Department of Agriculture, this

program is operated in Hawaii by the Public Welfare Division of the DSSH. During FY 1974-75, a total of $14,180,046 was paid out of which $8,603,696 was federal monies. The Department's Office of Research and Statistics estimates that an average of 10,372 households participate per month.

Supplemental Security Income (SSI). The supplementary security income program provides assistance to the aged, blind and disabled. It is almost totally federally funded, with the State contributing $3.5 million regardless of the number of SSI recipients. In FY 1974-75, total payments amounted to $14,182,796.

General Assistance Program (GA). The general assistance program is intended to help those needy Hawaii residents who are unable to meet the categorical eligibility requirements of the federally funded assistance program; i.e. AFDC, SSI, etc. Essentially, the GA program provides public assistance to needy individuals who are temporarily incapacitated; needy children not residing with "specific relatives"; and needy able-bodied individuals either recently discharged from public institutions, or unemployed through no fault of his own. In FY 1974-75, the program paid out $14,618,763 in benefits, and the Department handled an average of 5,860 per month.

Medicaid. The Medicaid program provides medical assistance to income maintenance recipients and to those persons judged to be medically indigent. Qualifications for any of the other income assistance programs qualifies an individual for medical assistance. The program was established under Title XIX of the Social Security Act by the Federal government. In 1974-75, more than $36 million were paid out and DSSH had an average monthly caseload of 27,375.

CONCLUSION

The current income maintenance system is composed of an array of programs, individually created and structured over a long period of time in response to a variety of problems. Although these programs are designed to meet separate needs, these needs are also evidence of a common problem--insufficient standards to meet certain consumption demands. Fiscal constraints and downturns in the general economy have focused even greater attention on how current resources can be utilized more efficiently.

Your Committees believe that there may be certain advantages to the administrative consolidation of all State programs which offer income relief. The overall benefit of such a consolidation of work-related programs could provide a systematic and calculated utilization of programs so that it would be administratively easier for the recipient. Although the creation of a single agency to administer these programs has been suggested, your Committees feel that such a proposal requires further public discussion.

Your Committees believe that a more responsible cause of action would be to promote public discussion of such an alternative in the Legislature, other governmental entities and in the community. Your Committees, therefore, recommend that:

(1) The Legislature continue to discuss the possibility of the administrative consolidation of income maintenance programs in a single agency;

(2) The Government Organization Commission examine the feasibility of creating a single State agency to administer income maintenance programs; and

(3) The Department of Budget and Finance develop a program structure called "economic security" in the State's PPB system so as to permit policy makers to see the appropriations being requested by income maintenance programs in its totality.

Appropriate legislation has been introduced which will accomplish the intent of this Committee Report.

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

Spec. Com. Rep. 20

Your House Committee on Public Assistance and Human Services and your House

Committee on Labor and Public Employment appointed pursuant to House Resolution No. 143, adopted by the Legislature in the Regular Session of 1975, which was directed to conduct a review of the State's general assistance program, begs leave to report as follows:

BACKGROUND

Chapter 346, Hawaii Revised Statutes, establishes the General Assistance (GA) Program which provides financial assistance to needy Hawaii residents. The General Assistance Program is totally State funded and is available to eligible recipients who do not qualify for federal categorical assistance programs. As a condition to receiving assistance, persons who are physically capable must participate in the Department's Temporary Labor Force (TLF), which utilizes their skills in public work projects throughout the State. The Department of Social Services and Housing carries the responsibility of administering the program within the intent established by the Legislature.

It has long been a concern of the Legislature that the State's General Assistance Program be offered to persons who have demonstrated a need for financial assistance. Yet, in its review of the program, legislative committees during the 1975 Legislature received reports that certain departmental regulations have impaired the effective administration of the GA Program. In particular, the Legislature found that the temporary labor force was not operating properly with the recipient exemptions to participation in the labor force being made with greater frequency. In light of these concerns, House Resolution 143 was adopted and your Committees were appointed to review program deficiencies during the 1975 interim.

APPROACH TAKEN

As an initial step, your Committees met with income maintenance workers of the Public Welfare Division of the Department of Social Services and Housing throughout the State to solicit their views on the effectiveness of the program. The comments received were especially helpful in identifying specific problems within the administration of the program. Your Committees then transmitted its concerns about the program to the Department of Social Services and Housing for further review and comment.

FINDINGS

Your Committees have found that, in general, the Department is attempting to meet the principle intent of the General Assistance Program: the provision of aid to persons who are willing to work but unable to find employment. However, your Committees have also found that particular areas of program weakness require the earnest the immediate attention of the Department.

Gainfully Seeking Employment Requirement. Section 346-71, Hawaii Revised Statutes, provides that, while receiving assistance, the recipient must actively and gainfully seek employment. This section establishes as a policy that a recipient is eligible for benefits so long as a continued effort is made to seek work alternatives which will decrease his dependency on public assistance. Your Committees have found two practices which seem to contradict the intent of this section.

First, income maintenance workers informed your Committees that college students are currently eligible for the General Assistance Program. Your Committees recognize that school attendance may constitute a condition which prevents a physically capable student recipient from accepting employment when offered. It is your Committees' view that any subsidy to college students should be viewed as a form of student financial aids rather than part of an economic relief to the need program. College financial aids are readily available to students through State higher education institutions as well as through Federal agencies and offered to students on a need basis. Your Committees believe legislative intent and student eligibility is one aspect of the General Assistance Program requiring further examination.

Secondly, the Department requires that GA recipients apply for work at three different places each week to demonstrate their desire to seek employment as an alternative to public assistance. The recipient is required to submit to his case worker written verification by an employer that he has inquired for work. Your Committees have found that, under this requirement, a recipient has been allowed the option of making such inquiries 12 times at the end of the month. Your Committees further found that, in

exercising this option, recipients will knowingly inquire at establishments which have no job openings. Such practices seem to only encourage the meeting of minimal requirement in order that GA benefits can be received and deters the seeking of serious and gainful employment. It is apparent that a departmental review of this problem is needed and corrective action taken which will provide for more stringent controls under this requirement.

THE TEMPORARY LABOR FORCE (TLF)

Refusal to participate in the Department's Temporary Labor Force (TLF) will result in automatic disqualification of a recipient from the General Assistance Program. The Temporary Labor Force, then, carries the potential of acting as an effective deterrent for those who have less than sincere intentions of seeking employment. Your Committees believe that the effective utilization of the Temporary Labor Force can help realize the GA objective of providing aid to only those who are willing but unable to find suitable employment.

Your Committees discovered, however, that in November, 1975, only one-fifth of the 6,184 GA cases were eligible or had participated in the Temporary Labor Force. While more than 5,000 are dependent GA children exempt from certification and participation in the Temporary Labor Force, only 270 actually participate in work projects and approximately an additional 615 are awaiting assignment to projects. The causes for an apparent under-utilization of the TLF Program reveal some of the TLF problem areas.

First, your Committees found that there is a shortage of adequate staff to operate the program. On Oahu, a TLF coordinator and four CETA workers are charged with the responsibilities of work assignments, acting as liaison with sponsor agencies and working with payment staff and determining recipient eligibility. In addition, the Oahu TLF coordinator must also develop work projects for presentation to sponsor agencies. On Maui and Kauai, a CETA worker assumes the responsibilities of the TLF coordinator. In Hilo, a payment worker of the DSSH Public Welfare Division allocates a specific portion of time to assume TLF responsibilities, while in Kohala, Hamakua, Ka'u and Kona, regular payment workers must assume these responsibilities in addition to their own work. While the staffing situation on Oahu may not be serious, effective utilization of the TLF Program is hampered by often becoming a secondary concern to other ongoing responsibilities. The Department of Social Services and Housing is currently attempting to correct these staffing deficiencies.

Another reason for the possible under-utilization of the TLF Program is a lack of suitable projects in which recipients can be placed. While the Director of the Department of Social Services and Housing has informed all other State departments of the availability of the TLF Program, a substantial effort to locate new programs must still be made by TLF staff.

Your Committees also received reports that medical exemptions for the Temporary Labor Force, both emotional and physical, have been occurring with greater frequency. One of the problems appears to be that a few members of the medical profession are known for regularly giving recipients medical exemptions. In order to minimize abuse of the medical exemptions policy, it is necessary that the Department develop controls which will closely monitor those who attempt to qualify for the exemption. Such controls could include a requirement for corrective medical treatment, in order to allow eventual participation in the Temporary Labor Force.

CONCLUSION

Only the more obvious problems revealed through your Committees' inquiry have been discussed in this report. In spite of these weaknesses, your Committees believe that the Department is making a sincere effort to administer the law within the intent established by the Legislature. Because effective utilization of the State's General Assistance Program has critical budgetary and policy implications, your Committees believe that continued legislative monitoring and review is necessary to encourage and promote corrective steps toward resolving the problems presented herein. Such review should include:

(1) Eligibility requirements for the General Assistance Program;

(2) Department fules and regulations regarding the "gainfully seeking employment" requirement;

(3) Staffing requirements for the Temporary Labor Force; and

(4) Medical exemptions from the Temporary Labor Force and departmental efforts to require corrective medical treatment.

Appropriate legislation has been introduced to provide for a continued review of the State General Assistance Program during the 1976 Legislature.

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

Spec. Com. Rep. 21

Your Committees on Youth and Elderly Affairs and Public Assistance and Human Services appointed pursuant to H.R. No. 12, adopted by the Regular Session of 1976, and directed to review the adequacy of the State's programs for protective services for children with particular attention to the adequacy of the program's goals, scope of coverage, sufficiency of professional staff resources, inter-agency coordination, and mechanisms for evaluating the effectiveness of existing programs, beg leave to report as follows:

BACKGROUND

The Department of Social Services and Housing Child Protective Services Center, established in 1969, receives reports of child abuse and neglect, conducts investigations, develops a dispositional plan and provides intervention services where necessary.

The Center is staffed by an MSW supervisor, eight social workers and two clerical workers. In addition, the Center contracts with Children's Hospital for the consulting services of a pediatrician, a pediatric nurse, a psychologist and a psychiatrist, and the Office of the Attorney General has made available the services of a deputy attorney general.

The social workers of the Child Protective Services Center, who rotate on intake and 24 hour on-call duty, receive all reports of abuse and neglect via the Children's Hospital 24-hour switchboard.

The State's child abuse and neglect reporting statute, Hawaii Revised Statutes Section 350-1, makes it mandatory for any "doctor, osteopath, dentist, or other person licensed by the State to render services in any healing art", to report to the Department of Social Services and Housing any suspected instance of abuse or neglect encountered in the course of carrying out their professional duties.

Any person who has reason to believe that a minor has had injury inflicted upon him as a result of abuse or neglect may report the matter orally to the Department of Social Services and Housing. On receiving such reports, the Department is mandated by Section 380-2 to "immediately take necessary action toward preventing further abuses, safeguarding and enhancing the welfare of such minor, and preserving the family life wherever possible." If the injury or abuse to the minor is so serious that criminal prosecution is indicated, the Department is to report its findings to the police or the office of the prosecuting attorney.

FINDINGS AND RECOMMENDATIONS

After conducting two public hearings concerning this resolution and reviewing the available materials, including the oral and written testimony of the Department of Social Services and Housing, Child Protective Services Advisory Committee representatives and others, and the 109-page Child Protective Services Evaluation Report published by the Hawaii Family Stress Center in 1975, your Committees have obtained an overview of the status of child protective services programs.

Your Committees find that although the goals set by the Department and Hawaii Revised Statutes Section 350 are adequate, there are a number of obstacles to meeting them as set out in a comprehensive status report submitted to your Committees by the Department of Social Services and Housing in connection with a public informational hearing held on March 25, 1976. This departmental report includes a chart of all recommendations made in the above-mentioned evaluation report, together with an explanation of the

Department's position regarding each recommendation, the steps being taken to implement each recommendation with which the department concurs, a determination of whose responsibility it is to take these steps, and the target dates for implementation or, where the necessary action has already been completed, the date of completion. Your Committees feel this is a strong positive step, and intend to schedule hearings throughout the interim, as needed, to keep abreast of the progress made in implementing each of these proposals.

The need for action in certain areas was particularly stressed in the hearings to which we previously referred. Among these is the urgent need for published statistics regarding the reporting of child abuse and neglect and action taken on these reports for the years from 1971 to the present. The department indicated that it would be unable to provide these statistics (particularly those from 1971-74, which cannot be computer-processed) with the present research staff. The Director's spokesperson and the Family and Children's Services Program Administrator concurred that it would be both possible and advisable to request additional researchers--possibly CEP or CETA workers--for this particular purpose, and agreed to do so as soon as possible.

Another of the Committees' concerns is reflected on page 20 of the evaluation report, which states that the system's main shortcoming may well be the distrust and friction between different disciplines and agencies". According to department spokespersons, such distrust and friction does exist, but is a direct result of inadequate staffing; because the department is understaffed, it is unable to adequately carry out its mandated tasks, which is an irritant to those who deal with the program. In order to remedy this problem the department has assured your Committees of its intention to give priority in the next legislative session to budget requests for protective services, and to include such requests in the primary budget. Additionally, however, your Committees feel that the matter of inter-agency and inter-disciplinary discord needs to be further explored--possibly through a series of meetings of all concerned agencies and individuals.

Related to this concern is the matter of coordinating workers from different agencies working on a single case. It has been brought to your Committees' attention that it is not uncommon for as many as six different workers from various agencies to be in contact with a single client. In such cases it has been suggested that coordination is in order, both to improve the quality of assistance given and to prevent the client from being overwhelmed or angered by unnecessarily redundant vists and/or questions.

Also mentioned was the particular difficulty experienced by the neighbor islands in providing adequate services with the minimal resources available to them, including consulting physicians, psychiatrists and attorneys. These problems appear to be compounded by the inadequate provision made for inter-island communication, which might be remedied by the creation of a statewide advisory committee as opposed to the present system of relatively isolated islandwide advisory committees.

CONCLUSION

The Family Stress Center's evaluation report, the Department of Social Services and Housing's status report and the public hearings held thus far have laid a foundation for future activities in this area by providing a detailed list of what things need to be done, who is responsible to undertake each task, and when each job can be expected to be completed. Your Committees anticipate that this list will grow as a result of the enhanced communication which it is believed has resulted from the work done thus far. Your Committees would like to emphasize the need for the Department of Social Services and Housing to actively work together with all concerned agency representatives, participating professionals and interested community members to assure continuing identification of problems and their prompt resolution.

It is the intent and purpose of your Committees on Youth and Elderly Affairs and Public Assistance and Human Services to keep informed of developments in this ongoing process to extend all possible and appropriate assistance to those participating in it.

Signed by Representatives Takamura, Stanley, Kunimura, Peters, Akizaki, Blair, Cayetano, Cobb, Kiyabu, Kondo, Shito, Suwa, Evans, Ikeda, Lum, Medeiros, Sutton, Lee, Machida, Mizuguchi, Naito, Sakima, Segawa, Takamine, Yamada, Yuen, Carroll, Clarke, Kamalii and Santos.

Spec. Com. Rep. 22

Your Committee on Health, appointed pursuant to H.R. No. 46, H.D.1, to study Hawaii's service delivery system for the developmentally disabled, submits the following report:

The Department of Health is in the process of revising its service delivery system for the developmentally disabled. This revision reflects changing attitude in the treatment and care of the developmentally disabled and involves organizational shifts within the department. The department has therefore proposed to establish a developmental disabilities division which will consist of programs providing a wide range of coordinated services to the developmentally disabled and their families which are accessible and meet the needs of the clients.

The proposed developmental disabilities division will have two branches: Community Services Branch and Waimano Training School and Hospital Branch. The community services branch will consist of all community service programs for the developmentally disabled, both children and adults, who live in the community including service to those Waimano residents who will be placed in the community under the deinstitutionalization plan.

Establishing this new division will involve the reorganization of existing divisons within the department. The Children's Health Services Division and the Waimano Training School and Hospital Division will be combined under the new developmental disabilities division.

COMMUNITY BASED SERVICES

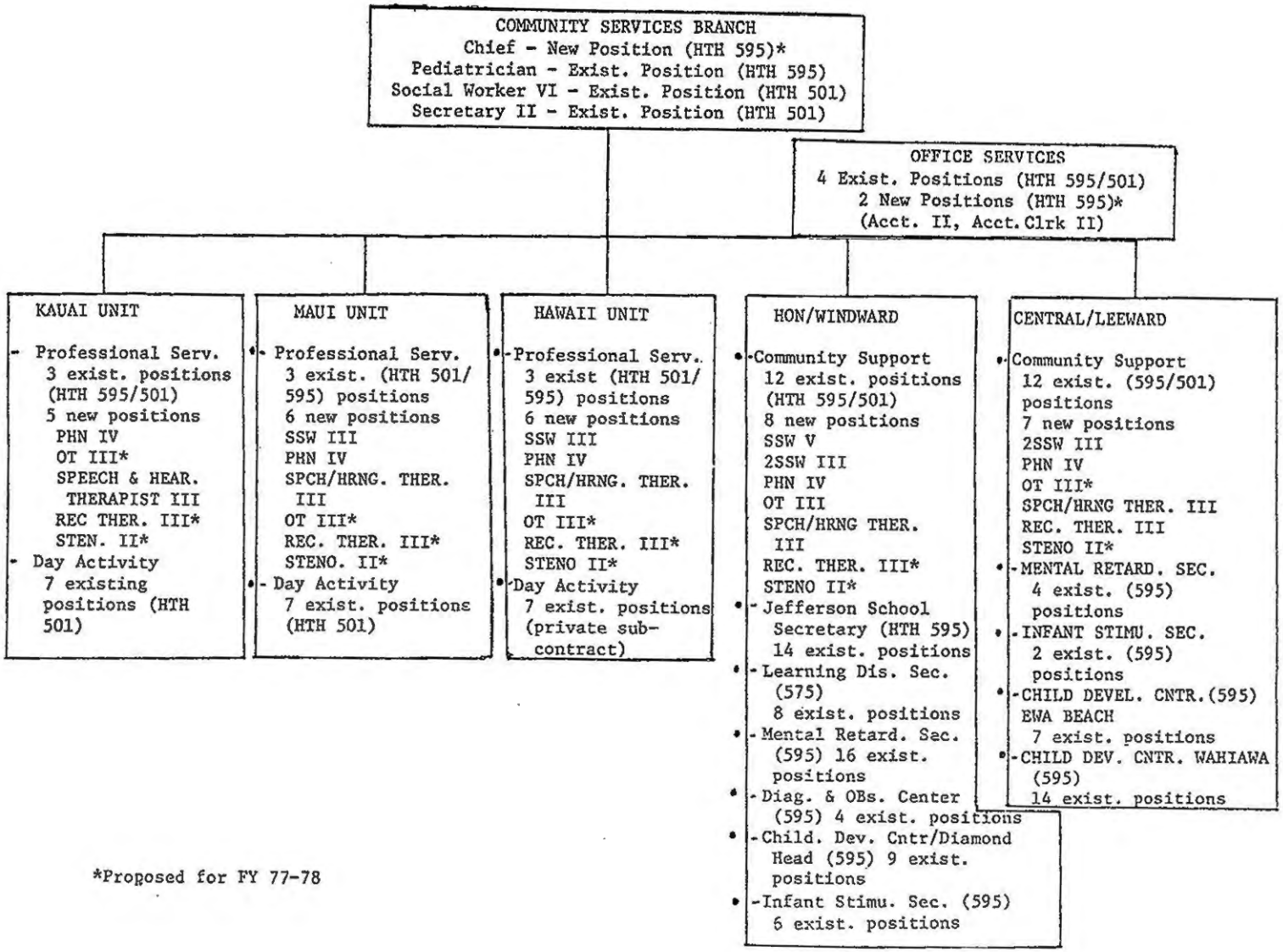
The community services branch under the new division of developmental disabilities will service developmentally disabled adults and children who live in the community. It will also provide services to the 75 residents of Waimano Training School and Hospital who will be placed in the community each year.

The significant features of community based programs will be as follows:

- Develop a Regional Network of Community Based Services to serve individuals close to their home.
- Make available all needed health or health related services, including but not limited to counseling and follow-along services, specialized therapeutic services such as speech, physical, occupational and recreational therapy, and nursing.
- Develop high quality alternative living situations for those individuals who cannot live in their own homes.
- Make available services designed to assist families in keeping persons with developmental disabilities at home, homemaker services and day and overnight respite care.
- Develop services for high-risk mothers including preventive health services; i.e., parental counseling, accident prevention, immunizations, and services designed to maximize development.
- Expand screening, diagnosis, and early management to mitigate the effects of handicaps on the child and to prevent the development of secondary handicaps; i.e., adjustment problems, contractures, etc.
- Support specialized medical diagnostic and treatment services accessible to families and persons with developmental disabilities.

In order to meet local needs, services will be provided through professional teams in five districts--two on Oahu, and one for each of the neighbor island counties. The service teams will formulate treatment and rehabilitative plans consisting of problem identification and resolutions which encompass the physical, medical, social and emotional needs of each developmentally disabled client.

Staffing of these teams will involve a combination of existing personnel in the Children's Health Services Program (HTH 595) and community based services at Waimano Training School and Hospital (HTH 501) and additional personnel. Overall, staffing will be as follows:



*Proposed for FY 77-78

The cost for implementing the community based services portion of the developmental disabilities program is shown in figure 1. Present appropriation levels show that Act 195-75 provided $2,431,359 for 138.25 existing positions.

For 1976-77, the Department of Health projected a need for 23 additional positions at a cost of $823,400. Of this, 7 positions were allowed in the Governor's Supplemental Budget for FY 1976-77. These positions are:

Supervising Social Worker V
Social Worker III (4) -- Oahu
Social Worker III -- Hawaii
Social Worker III -- Maui

The additional social worker positions for Oahu are to handle the anticipated increases in community placement from Waimano and assist with guardianship management of the 425 residents already living in the community, assist with the new group homes, and placements in the new day activity centers.

For the FY 1977-78, the department will require an additional 15 positions at a cost of $292,321. This additional 15 positions are based on the base of 23 new positions in 1976-77. The total cost of positions required to implement the community based services program is $1,115,721 over the next two fiscal years.

According to the Department of Health, the community based services branch will need at least 19 of the 32 proposed new positions in FY 1976-77 to provide minimal services. The balance of the positions will be required in FY 1977-78 for optimal service.

COMMUNITY BASED SERVICES AND WAIMANO TRAINING SCHOOL AND HOSPITAL

With the anticipated depopulation of Waimano, the community based services becomes a critical component since community based services will be responsible for providing these residents with appropriate services. Presently, there are approximately 425 persons who have been released from Waimano and are living in the community. In addition, Waimano plans to release 75 persons each year for the next three years to live within the community. These persons will all be directed into the community based services system.

During the next three years, most of the services provided by the professional teams in the district will be to Waimano patients. The teams will monitor the living arrangements made for these people and set up a treatment and rehabilitation regimen as well as monitor the progress of the client. At the same time, the teams will work with the care home, boarding home or foster home personnel to train them to care for the developmentally disabled.

COMMUNITY GROUP HOMES

Community group homes present one alternative living arrangement for the developmentally disabled within the community. According to the Department of Health, community group homes are training facilities for children and adults run by a professional, managed by a non-profit agency whose purpose is solely and only to provide a high quality habilitation program suited to the needs of the persons placed there. Departmental projections show a need for 8-10 group homes during FY 76-77 to accommodate 40 persons. Presently there are two group homes, one on Oahu and one on Maui operating at a cost of $60,000 per home.

Plans call for group homes development on a contractual basis with private agencies. However, it is possible that a State run group home system may eventually be developed.

Assuming that there is a negligible increase in the number of available spaces in other existing living arrangements, it is expected that the number of group homes will increase as the number of persons being released from Waimano Training School and Hospital increases.

DAY ACTIVITY CENTERS

In addition to increasing community placements, the day activity center programs will be expanded. All persons placed in community living arrangements or living at

DEPARTMENT OF HEALTH
BUDGETARY AND FINANCIAL PLAN
FOR
DEVELOPMENTAL DISABILITIES

Summary

	(A) Budget Appropriation Act 195/75 for FY 1976-77	(B) Governor's Supplemental Budget for FY 1976-77	(C) Additional Supplement for FY 1976-77	(D) Requirement FY 1976-77 (A)+(B)+(C)	(E) Additional Requirement FY 1977-78	Grand Total (D) + (E)
Community Services	(138.25) $2,431,359	(7.00) $407,902	(16.00) $415,498	(161.25) $3,254,759	(15.00) $292,321	(176.25) $3,547,080
Waimano	(505.00) $6,044,932	(70.00) $855,662	(36.00) $516,047	(611.00) $7,416,641	(37.00) $366,389	(648.00) $7,783,030
TOTAL	(643.25) $8,476,291*	(77.00 $1,263,564	(52.00) $931,545	(772.25) $10,671,400	(52.00) $658,710	(824.25) $11,330,110

* Means of Financing:

(547.35) $6,981,948	General Fund
(95.90) $1,494,343	Federal Fund

FIGURE 1

home will be supported by day activity programs.

According to the Department of Health, day activity programs for adults are urgently needed. Programs will have to be increased in FY 76-77 to accommodate 70 more clients in two centers on Oahu and 25 persons in one center on Maui.

Further, as residents are released from Waimano into the community, the day activity centers will experience an increased client load.

RESPITE CENTERS

For those families who care for the developmentally disabled in their home, respite centers will be established. The services offered may be for part of a day, short-term overnight care in time of family crisis, and vacation relief for parents who have cared for their developmentally disabled family members without any relief. The Department of Health estimates that there are 200 families who are in need of such services.

Cost estimates for respite centers for FY 1977-78 is $114,121. Services will be provided through contracts with private non-profit agencies.

TRAINING OF DEVELOPMENTALLY DISABLED CARETAKERS

An integral part of the community based services system is the training of developmentally disabled caretakers. According to the Department of Health, no services of this type are presently available.

Under Title XX of the Social Security Act, matching federal funds are available to an educational institution on a 3:1 federal/State match.

An amount of $10,000 is needed to match with federal funds and begin such a program.

FINDINGS AND RECOMMENDATIONS

In reviewing the plans of the Department of Health to reorganize its developmental disabilities program into a new division and to embark on a community based services concept, your Committee found a number of areas of concern. While the general concept is supported, the Committee is uncertain about its implementation plan. Although the department has developed a plan describing its intention to have a program for community based services by 1980, your Committee is concerned that the community group homes and the community based services will not be ready to support the numbers of Waimano residents who will be released to live in the community. This could result in disruptive services to the mentally retarded. Further, your Committee is concerned about the interfacing of services in the program. Specifically, the Committee requests a step-by-step implementation plan which would show when various components of the system will be phased in to meet the needs of the developmentally disabled as they progress through the system.

Secondly, your Committee is concerned about the quality of services. A system for evaluation, monitoring, and training of group home personnel is crucial to the success of the program. It is anticipated that licensing standards will be established for care homes which goes beyond the present licensing of family care homes. Establishing such standards will involve the Departments of Health and Social Services and Housing. It is your Committee's preference that such standards be developed immediately and that homes be licensed before persons are placed in them.

Your Committee on Health therefore recommends that close monitoring of the progress of implementing the community based services concept be continued. In addition, your Committee requests the Department of Health to submit a report on the planned implementation schedule of the developmental disabilities service program.

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

Spec. Com. Rep. 23

Your Interim Committee appointed pursuant to House Resolution No. 816, adopted by the Regular Session of 1975 and directed to review existing and projected community college programs under the University of Hawaii systems begs leave to report as follows:

A Subcommittee was formed to conduct the community college review. Members of the Subcommittee consisted of Representative Tony Kunimura, Chairperson; Representative Carl Takamura, Vice Chairperson; and Representatives Richard Ho, Gerald Machida, Donna Ikeda and Jack Larsen.

APPROACH TAKEN

Act 39, Session Laws of Hawaii 1964, established a system of community colleges under the University of Hawaii, as part of the legislature's strong commitment to make higher education opportunities more readily available to a greater number of Hawaii's people. The Act provides for "two-year college transfer and general education programs, semi-professional, technical, vocational and continuing education programs as are appropriate to such institutions."

Since 1964, the legislature has continued to monitor the development and growth of the community college system. Your Subcommittee acknowledges that in its more than 10 years of existence, Hawaii's community colleges have far surpassed the expectations of the legislature. Our community college system includes seven campuses throughout the State, offering 134 liberal arts and occupational training programs. Between 1965 and 1975, enrollment at the colleges have spiralled from 2,411 to 20,617 and serves as a testament to the wide acceptance of Hawaii's community colleges. Data presented to the legislature also show that more first-year students enter the UH system through our community colleges than through the four-year campuses.

Part of the success of our community colleges has been the result of large financial commitments made during a priod of economic prosperity. However, with the state's austerity program, community colleges, like all other government programs, were required to make more effective and efficient use of available funds. Additionally, in recent years, there has been legislative concern that each college was developing individually without proper coordination and overall direction at the systems level. Moreover legislative budget hearings revealed that many colleges were neglecting the development of vocational education programs.

Thus, it was your Subcommittee's primary purpose to assess the program direction being taken by individual campuses in the context of administrative policies and coordination, and to examine the utilization of available funds and resources by the community colleges as far as legislative appropriations and intent.

In its deliberations, your Subcommittee attempted to receive testimony from all segments of the community colleges. Each campus was visited and discussions held with the administrative staff, faculty, and students. Lengthy testimony was received from each college's provost, and vocational education programs and facilities were examined at each site.

A brief description of findings at each community college campus is provided, followed by general recommendations.

CAMPUS FINDINGS

HAWAII COMMUNITY COLLEGE. The placement of the Hawaii Community College under the governance of the chancellor of the University of Hawaii-Hilo continues to be a faculty concern, particularly as it affects the possible neglect of the college's needs over the further development of the University of Hawaii-Hilo. While your Subcommittee agrees that it is necessary for administrative purposes that the college remain under the direction of the University of Hawaii-Hilo campus, the chancellor of the community colleges should be responsible for program development and long-range planning. Steps should also be taken by the chancellors of the community colleges and the University of Hawaii-Hilo which will insure faculty input in the decision making process. Your Subcommittee was also disturbed to learn that the diesel program, a specialty that the college excelled in, has been neglected because of lack of new equipment as well as inadequate maintenance to existing equipment. A renewed effort should be made to upgrade and improve this program.

MAUI COMMUNITY COLLEGE. Maui Community College has, over the years, concentrated its efforts on a strong general liberal arts program. Your Subcommittee finds there have been student and community demands for more vocational education programs and that the college's previous administration had neglected the development of such programs. Your subcommittee is pleased to note that the new provost at Maui recognized and acknowledges this concern and that appropriate action is being considered to overcome this deficiency. Your Subcommittee recommends that as a first step, the provost of Maui Community College and the community college chancellor survey student and community needs and give special consideration to vocational education in the 1977-79 executive budget request.

KAUAI COMMUNITY COLLEGE. Your Subcommittee finds that difficulties in the selection of key personnel for administrative posts at Kauai Community College has promoted strained relations between the faculty and the provost. Your Subcommittee believes that uniform procedures in the selection process should be established by the university in order to minimize such problems. A review of Kauai Community College's new facilities proves it to be the best designed campus in the system. However, labor disputes have necessitated delays in construction, leaving the availability of the new campus facility for 1976 fall classes in question.

WINDWARD COMMUNITY COLLEGE. The last of the community colleges to open, Windward Community College, has emphasized a liberal arts program which your Subcommittee finds to be most successful in meeting the needs of the faculty and the students. The college is presently located in facilities that are part of the Hawaii State Hospital. Your Subcommittee is cognizant of the fact that any further expansion of the college site requires the concurrence of the Department of Health. It is your Subcommittee's recommendation that the University continue to negotiate a settlement which will afford the college the necessary lands and facilities to expand. Your Subcommittee is also aware that the college's six-year plan includes CIP requirements for $22 million and recommends that the chancellor review the college's enrollment trends and then re-evaluate future CIP requests after such a review.

HONOLULU COMMUNITY COLLEGE. The emphasis of Honolulu Community College's program offerings continue to be vocational and occupation oriented. Your Subcommittee was impressed with the manner in which the programs were administered and feels that a substantial effort is being made to address student and industry needs. This success is attributable to an educational development plan which clearly outlines the goals and objectives of all the programs that are offered and which was prepared with the assistance of maximum faculty and student input. Your Subcommittee found that to meet parking needs, the school's administration is in the process of negotiating the possible use of State lands in close proximity to the campus, leaving valuable campus land areas for future classroom uses. Your Subcommittee commends such actions on the part of the provost and his staff, as it will result in savings to the State by avoiding further land acquisition as well as maintaining the campus proper for educational purposes.

KAPIOLANI COMMUNITY COLLEGE. Act 195, SLH 1975, provided funds for a dual-campus operation for Kapiolani Community College to allow an orderly transition from the college's present site to the new Fort Ruger site. Your Subcommittee's review indicates that this dual operation has been accomplished with proper consideration to the needs of the students. However, the relocation of all operations to the Fort Ruger site, must be preceded by the completion of an environmental impact statement as well as the development of a facilities master plan. Legislative action on future capital improvement project requests cannot take place without the completion of these tasks. Your Subcommittee is pleased to report that the transition has not affected the delivery of vocational education programs. Our review finds that the Kapiolani Campus has been able to strike a proper balance between college transfer and vocational programs thereby producing a healthy educational atmosphere and a model community college program. This is particularly commendable since the college has always operated out of largely temporary facilities. Your Subcommittee finds that the quality of the Kapiolani program is a result of good management on the part of its administration and this is evident in the fact that program services have not been disrupted in the transition from one campus to another.

Your Subcommittee is concerned that such a balance not be disrupted by the transition from one campus to another, particularly in regard to the vocational programs. Therefore, the University is being requested to submit a plan on the future uses for the present Kapiolani Community College site to the 1977 legislative session, and include its plans

regarding the relocation of Kapiolani's vocational programs.

LEEWARD COMMUNITY COLLEGE. Of all the community college campuses, Leeward Community College is the largest and, at the same, is beset with the largest number of problems and serious setbacks in its operations. Your Subcommittee learned that several faculty members did not receive compensation until six weeks after the commencement of the 1975 fall semester. Your Subcommittee also learned that students feel that the college's emphasis seemed to be on its two-year liberal arts transfer program, to the neglect of vocational programs. Several vocational offerings were initiated as long as four years ago and have yet to receive adequate facilities or equipment. The lack of a facilities manager and the practice of assigning other administrative officers such responsibilities has further hurt the college's vocational education programs.

The neglect of vocational programs in favor of liberal arts offerings contradicts the basic philosophy of the community colleges which calls for a fair complement of both vocational and liberal arts programs. This purpose and philosophy clearly does not include the development of a two-year junior college, much less the de-emphasis or setting aside of vocational education interests and programs. While administrative requests have been submitted for proper facilities, your Subcommittee believes that much stronger efforts are required to shorten the length of time between initiation of such programs and the fulfillment of facilities requirements.

Your Subcommittee also believes that the recent Board of Regents action designating the Leeward Community College provost to also serve as the chancellor for West Oahu College severly damaged the credibility of Leeward Community College as a separate post-secondary institution. Both students and vaculty have expressed their belief that this daul function of the provost contributes seriously to morale problems at Leeward. It is your Subcommittee's hope that the Board of Regents will not find it necessary to again utilize such a joint appointment procedure.

Of all the community college campuses, your Subcommittee found Leeward to be most severely affected by a lack of administrative leadership and direction. Such a deficiency only leads to disputes over program priorities and faculty infighting. Your Subcommittee also found that despite the need for educational facilities and equipment, funds were expended on such non-program related campus features as expensive moss rock facings on concrete wall structures. While campus beautification is desirable, your Subcommittee seriously questions the propriety of such expenditures when educational program needs have not been first attended to.

RECOMMENDATIONS

Your Committee believes that the future growth of Hawaii's community colleges will depend heavily on efforts made to strengthen overall policies and procedures governing the community college system. Our review indicates that there has been little University of Hawaii system office coordination relating to the growth of community colleges.

In part, the weakness of administrative direction can be attributed to a vacancy in the administrative position responsible for the development of the system approach since 1973. As a result, planning has been left to the individual campuses without overall administrative review and coordination. The Board of Regents have recently established and appointed a chancellor for the community college system. Your Committee hopes that this new chancellor will institute needed policies which can govern all community college campuses. For example, the development of set standards relating to the selection of vocational education administrative positions are especially lacking. Your Committee also questions the lack of strength and background in vocational education, particularly trades, in any of the program specialists hired in the chancellor's office.

Your Committee further believes that the community colleges are especially in need of the following policies, and that it is the responsibility of the chancellor for the community colleges to initiate these policies:

SELECTIVE EMPHASIS. Your Committee believes that a policy must be established which will identify the vocational and occupational programs each college should emphasize. The high cost of equipment and training needed to operate an effective vocational program should not need to be duplicated at several campuses unnecessarily. Of the 127 vocational programs offered throughout the system, only 80 are uniquely different. Your Committee finds that such duplication is often in response to community needs and student interest, or because neighbor island students are not able to travel to other community college

campuses which offer a desired program. Your Committee, therefore, believes that a University policy on selective emphasis should include student housing efforts which can accommodate students who must travel to other islands to enroll in desired programs. At the same time, your Committee also believes that the University of Hawaii should continue to allocate places for neighbor island students who wish to receive specific training at any of the Oahu community colleges.

Your Committee further recommends an immediate evaluation of each program offered at the community colleges to determine which programs should continue at each campus. Your Committee believes that the chancellor must also develop stricter controls on new program development. During its review, your Subcommittee found that programs recently initiated did not have the necessary support facilities or equipment for proper implementation. For example, your Subcommittee was disturbed to learn that the recreational instructors program at Leeward Community College was initiated despite the lack of available land or necessary physical education facilities. Such inadequate efforts can only result in our students being ill-prepared in their chosen field of endeavor.

VOCATIONAL EDUCATION PLAN. At each campus, vocational education faculty voiced concern regarding the lack of commitment to students' vocational education needs. There is general agreement that the University of Hawaii's failure to establish systemwide goals and objectives for vocational education has hindered a stronger financial commitment to these programs. A 1975 Legislative Reference Bureau report was critical of the manner in which the university administered vocational education programs. One of its principle recommendations directed the completion of a vocational education plan for the community colleges, as well as a long-range, systemwide approach for post-secondary vocational education. Your Subcommittee's review confirms the necessity of this plan to insure better planning in the area of vocational education services. The University of Hawaii is expected to submit a report on this plan prior to the convening of the 1977 legislative session.

COURSE TRANSFERABILITY. A consistent complaint received by your Subcommittee was the lack of acceptance and agreement in community college coursework by the University of Hawaii-Manoa. Students and faculty report that many courses taken at the community colleges do not count towards satisfaction of requirements upon transfer to the University of Hawaii-Manoa, often forcing a student to retake the course and, in some instances, delay graduation. Community college faculty cited changes which were made in major requirements at the Manoa campus department level and which were not conveyed to the community colleges except through the issuance of a new course catalogue. Your Committee believes that the continuation of this practice can only have adverse effects on the development of a successful two-year liberal arts transfer program in our State higher education system. Your Committee believes that the University must accelerate and improve its efforts in this area.

CONCLUSION

In its review, your Committee has found that individual campuses in the community college system are operating at various levels of effectiveness. Some campuses had good management and were efficiently delivering program services to meet the needs of the students. Other campus operations were found to be deficient. The University of Hawaii is aware of these deficiencies and is expected to initiate necessary, corrective action during the 1976 interim. Many of these problems have financial implications and the University is expected to submit a progress report to the legislature prior to the convening of the 1977 legislative session. In view of the proposed actions on the part of the University in regard to the concerns cited herein, it is recommended that your Subcommittee on community colleges continue to review developments and activities in the administrative policies and program direction of the community colleges during the 1976 interim period.

Signed by Representatives Sakima, Takamura, Abercrombie, Blair, Ho, Kunimura, Machida, Oda, Segawa, Shito, Yuen, Evans, Hakoda, Ikeda, Larsen and Santos.