CONFERENCE COMMITTEE REPORTS

Conf. Com. Rep. No. 1 on H.B. No. 544

The purpose of this bill is to amend Section 386-82 of the Hawaii Revised Statutes to provide that the time limitations on the filing of claims for workers' compensation benefits shall not apply to claims for injury or disease resulting from exposure to asbestos.

The harmful effects of exposure to asbestos and other minerals or substances in industrial use that can cause cancer or other injuries or diseases may not become manifest for many years. In some cases definitive diagnoses of actual harm may not be possible until more than a decade has elapsed. In other situations there are no simple means for identifying and measuring dangerous exposure levels. The common use of asbestos and other minerals or substances with carcinogenic properties in industry has subjected and will continue to subject many workers to possible injury or disease. Should they become victims of cancer or other injuries and diseases due to such exposure, their rights, as well as the rights of their dependents, to workers' compensation benefits must be protected.

The first paragraph of Section 386-82 presently requires that claims for compensation be filed within two years after the effects of an injury have become manifest, but in no event later than five years from the date of the accident or occurence causing the injury. The second paragraph thereof, however, provides that the foregoing limitations are inapplicable where claims are based on occupational exposure to certain minerals and substances listed herein or to radiation. Such claims may be filed within two years of the discovery of injury even though more than five years have elapsed since exposure. The paragraph does not cover exposure to asbestos and other substances recognized to be carcinogenic. H.B. 544, S.D. 1, proposes to cure this defect by making the limitations of the first paragraph inapplicable to all claims based on harmful exposure to asbestos.

Upon further consideration of the bill, your Committee is of the opinion that Section 386-82 of the Hawaii Revised Statutes should be amended to provide that claims premised on occupational exposure to recognized carcinogenic substances may be filed within two years after discovery of the injurious effects, even though more than five years have elapsed since exposure.

Your Committee has, therefore, amended H.B. No. 544, S.D. 1, by adding the phrase "or other mineral or substance with carcinogenic properties, as incorporated in the Hawaii Occupational Safety and Health Standards", as well as the term "asbestos", to the second paragraph of Section 386-82. We are thereby restricting the recognized carcinogenic minerals or substances in said paragraph to those established by the National Institute of Occupational Safety and Health (NIOSH) and incorporated into the Hawaii Occupational Safety and Health Standards as "carcinogens" but are nevertheless covering a wide range of harmful substances. This will also make it unnecessary to amend the section with each new finding related to cancer-causing substances.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 544, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 544, S.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 2 on S.B. No. 393

The purpose of this bill is to provide for uniform treatment of misdemeanor and felony offenders in obtaining expungement orders after obtaining dismissals of charges in deferred acceptance of guilty pleas (DAGP) cases.

Under the present wording of subsection (e), section 853-1, Hawaii Revised Statutes, a misdemeanor offender is treated less favorably than a felony offender in the relief he may obtain on dismissal of charges in a DAGP case. This results from the present language requiring retention of the misdemeanor records at the county police department. Accordingly, the misdemeanant cannot obtain records where entitled under section 831-3.2, Hawaii Revised Statutes, because the records are not forwarded to the attorney general as would be the case with a similarly situated felon. S.B. No. 393, S.D. 1, H.D. 1 will

eliminate this illogical distinction and bring DAGP dismissal cases into conformity with the relief given all other nonconviction cases under section 831-3.2, Hawaii Revised Statutes.

S.B. No. 393, S.D. 1, H.D. 1 also provides for retroactive relief for those DAGP misdemeanor cases granted expungement orders under the present wording of subsection (e). Pursuant to section 3 of the bill, records in those cases must be transmitted to the attorney general. The attorney general will, on receipt of the records, return all fingerprints and photographs to entitled persons granted expungement orders.

Your Committee, upon further consideration, has amended S.B. No. 393, S.D. 1, H.D. 1 to state that the defendant may apply for expungement not less than one year following discharge. Your Committee felt that this change would have the same effect as the language of S.B. No. 393, S.D. 1, H.D. 1; that the one-year retention of records would limit those frequent offenders who abuse the DAG plea by continually clearing their records, thus appearing as first-time offenders in court. This abuse is strictly contrary to the original intent of the DAG plea. The amendment, however, would place greater responsibility on the defendant to track the length of the one-year period.

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

Representatives D. Yamada, Honda, Aki, Nakamura, Shito and Medeiros,
Managers on the part of the House.

Senators O'Connor, Ushijima and Carroll,
Managers on the part of the Senate.

Conf. Com. Rep. No. 3 on S.B. No. 86

The purpose of this bill is to permit the writing of and to make available package or multi-peril insurance policies covering commercial risks.

Permitting the purchase of multi-peril policies will simplify the writing of commercial insurance, lower the cost of policy writing, accounting and premium collection, and simplify the purchase of such insurance. This bill will also provide for a reduction in the cost of premiums to policy subscribers because of the streamlining of the writing process.

Your Committee conferees have agreed to amend this bill by adding a new section providing for the division of premiums, and for the preparation of rating sheets and selection of rating factors including classifications, premium basis and rates used in premium computation by the insurance commissioner. It is the intention of the conferees that the insurance forms showing how the ratings are computed be clearly and simply stated, for the benefit of the purchasers of such coverage.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 86, 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. 86, S.D. 1, H.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 4 on H.B. No. 1647

The purpose of this bill is to raise the maximum limit for the University of Hawaii research and training fund and to allow expenditures from the fund for indirect costs connected with research and training contracts and grants.

Section 304-8.1, Hawaii Revised Statutes, establishes a research and training revolving fund into which is deposited ten percent of all income up to a maximum of $200,000 annually from all University held federal and other research and training grants and contracts. The application of these moneys is restricted by Section 304-8.1 only for use as seed grants to stimulate further research.

Each time the University of Hawaii accepts an extramural grant or contract, the University

agrees to pay a portion of the research costs for research-related support services called "indirect overhead costs" which are then reimbursed to the State by the federal government. Presently, these "indirect overhead costs" is 48.5% of every salary dollar in each research grant. In 1978 alone, indirect cost funds amounted to over three and one half million dollars. Of this, only a portion was returned into the research and training revolving fund for two reasons. First, the law currently places a $200,000 ceiling on the amount of this revolving fund and second, restricts the use of these moneys to stimulating further research.

House Bill 1647, H.D. 2, S.D. 1 raises the maximum ceiling to fifty percent of all income up to a maximum of $600,000 and expands on the use of these moneys to allow payment for indirect overhead cost.

At a Conference Committee hearing held on H.B. 1647, H.D. 2, S.D. 1 on April 12, 1979, the University substantiated that the complexity of the reimbursement process compounded by the lack of adequate support funds was compelling justification for a thorough assessment and analysis of research overhead support. This study would require the combined expertise of the Department of Budget and Finance and the University of Hawaii.

Your Committee concurs with the University of the need for this review and views passage of this bill as a first step.

Upon further consideration, your Committee has amended H.B. No. 1647, H.D. 2, S.D. 1 by deleting the percentage requirement on page 1, line 6 to better accomplish the purposes set forth in this bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1647, 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. 1647, H.D. 2, S.D. 1, C.D. 1.

Representatives Ushijima, Kawakami, Machida, Say, Takitani and Anderson, Managers on the part of the House.

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

Conf. Com. Rep. No. 5 on H.B. No. 181

The purpose of this bill is to establish statutory guidelines aimed at simplifying the procedure for reconsideration or rehearing of a Public Utilities Commission (PUC) decision and order in a motor carrier matter.

Present law provides for reconsideration of a PUC decision but retains certain cumbersome procedures. Your Committee is in agreement with the testimony received that a simple procedure that can dispose of a motion for reconsideration or rehearing is desirable and essential. Your Committee finds that this bill effectively simplifies the reconsideration of PUC decisions by deleting unnecessary provisions of the present statute and by providing a procedure whereby a motion can be made for reconsideration or rehearing within ten days of the PUC's decision and order. Parties have been limited by subsection (a) to one motion for reconsideration each to prevent frivolous claims intended to delay the contested rate change from taking effect.

Your Committee finds, however, that certain amendments are necessary to preserve the intent and purpose of this bill:

1. Upon filing of the motion, the PUC's order shall be stayed for a maximum of twenty days, at which time said motion will be deemed denied.

2. A subsection 271-32(b)(2) has been added to clarify the interface of the automatic twenty day stay provision with the five month suspension period of section 271-20(e). This new subsection provides that a change in rate, fare or charge which would otherwise go into effect by operation of section 271-20(e) relating to unconcluded proceedings, shall not be effective if a motion for reconsideration is pending. If said motion is not determined within twenty days, the commission's final decision and order that was moved on will be effective.

3. The conditions required before an appeal can be taken noted in subsection (a) of H.B. No. 181 are clarified in a new subsection (e) whereby the circumstances under which an appeal to the State Supreme Court can be taken are denoted.

Your Committee has made technical, non-substantive changes for purposes of clarity.

Your Committee on Conference is in accord with the intent and purpose of H.B. 181, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. 181, H.D. 1, S.D. 1, C.D. 1.

Representatives Blair, Dods, Garcia, Masutani, Nakamura and Ikeda,
Managers on the part of the House.

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

Conf. Com. Rep. No. 6 on H.B. No. 748

The purpose of this bill is to amend the definition of "apartment owner" within the meaning of the Horizontal Property Regime to mean the lessee of an apartment whose lease is registered or recorded.

Present law provides that an apartment lessee is considered to be the owner thereof for purposes such as voting rights and other privileges of ownership if the lease has been filed with the board of directors. This bill would require that an apartment lease be registered with the Land Court under Chapter 501 or recorded at the Bureau of Conveyances under Chapter 502, Hawaii Revised Statutes, in order that the lessee be considered the owner for purposes of the Horizontal Property Regime.

Your Committee is in accord with the policy of this bill that all documents pertaining to the conveyance of real property interests should be registered with the Land Court or recorded with the Bureau of Conveyances. Your Committees feel that this bill will clarify the definition and prevent the anomaly of the landowner of leasehold apartments claiming to be the apartment owner for voting purposes under the Horizontal Property Regime Act.

Your Committee has, however, made a minor amendment to the bill to reflect the addition of the registration and recording requirement.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 748, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 748, S.D. 1, C.D. 1.

Representatives Blair, Aki, Baker, Lee, Shito and Ikeda,
Managers on the part of the House.

Senators Young, Hara and Soares,
Managers on the part of the Senate.

Conf. Com. Rep. No. 7 on H.B. No. 1341

The purpose of this bill is to amend Section 516-1(5), Hawaii Revised Statutes to amend the definition of "lease".

This bill would reduce the term of a lease from thirty-five to twenty years from the initial date of conveyance. This reduction in the length of the term of the lease will permit a greater number of lessees to enjoy the rights and privileges of Chapter 516, especially the right to petition for condemnation and acquisition of the fee title.

While in accord with the intent of the bill, your Committee has deleted Section 2 dealing with further purchase of lots in designated tracts. Your Committee feels that this issue should be examined in more detail and requires the opportunity for public input to be presented to both Houses. Your Committee, therefore does not oppose the concept of Section 2, but instead would like to further deliberate on the merits of such an addition.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1341, S.D. 1, as amended herein and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1341, S.D. 1, C.D. 1.

Representatives Blair, Aki, Baker, Lee, Shito and Ikeda,
Managers on the part of the House.

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

Conf. Com. Rep. No. 8 on H.B. No. 1588

The purpose of this bill is to extend the life of Chapter 446D, Hawaii Revised Statutes, relating to degree granting institutions and to require unaccredited degree granting institutions to disclose their unaccredited status.

Upon review of the bill and reconsisderation of the function of Chapter 446D, your Committee has amended the bill to repeal said chapter. Your Committee feels that the continued existence of Chapter 446D does not bear a sufficiently compelling relation to the protection of that part of the public that may deal with degree granting institutions. Instead, your Committee has adopted a disclosure requirement fo degree granting institutions that would inform the general public and potential students of the institution's accreditation status. Appropriate sanctions for failure to comply are also provided.

Your Committee feels that this bill as amended will better protect the interests of the public and will permit potential students to make their own informed decision as to their education.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1588, S.D. 2, as amended herein and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1588, S.D. 2, C.D. 1.

Representatives Blair, Aki, Garcia, Machida, Ushijima and Ikeda,
Managers on the part of the House.

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

Conf. Com. Rep. No. 9 on H.B. No. 1140

The purpose of this bill is to correct errors, clarify language, correct references and delete obsolete or unnecessary provisions by amending or repealing various portions of the Hawaii Revised Statutes (H.R.S.).

Your Committee has reviewed the bill and emphasizes that it contains no substantive amendments or changes to the statutes. All of the changes listed in the memorandum used in the explanation in House Standing Committee Report No. 628 are purely technical and clerical.

Your Committee has consulted with the Office of the Legislative Reference Bureau and has made the following technical, nonsubstantive amendment:

On page 13, line 16, the reference to section 84-17(g) which is to be removed is now bracketed, and the new reference to section 84-17(d) is underscored. This is to reflect the style used throughout the Hawaii Revised Statutes when an incorrect reference to a subsection is corrected. The reference to section 84-17(g) was due to a clerical error made when section 84-31.5 was enacted and the correction was corrected by the revisor without the identifying brackets.

Your Committee wishes to commend the revisor of statutes for his meticulous work on this bill which bill corrects many of the misleading errors in the Hawaii Revised Statutes.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1140, 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. 1140, H.D. 1, S.D. 1, C.D. 1.

Representatives D. Yamada, Blair, Honda, Lee, Uechi and Medeiros,
Managers on the part of the House.

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

Conf. Com. Rep. No. 10 on S.B. No. 182

The purpose of S.B. No. 182, S.D. 1, H.D. 1 is to make revisions to sections 706-606.5, Hawaii Revised Statutes, dealing with sentencing of repeat offenders. Your Committee upon further consideration amended this bill to return substantially to the form of S.B. No. 182, S.D. 1.

This bill now provides that subsequent convictions for any of the types of crimes enumerated would make a person a repeat offender, subject to a mandatory minimum sentence. However, the subsequent offense must have occurred within the time of the maximum sentence of the prior conviction. For example, if the first offense was assault in the first degree, a class B felony under section 707-710, Hawaii Revised Statutes, the maximum sentence is 10 years (section 706-660, Hawaii Revised Statutes). If, within this ten year period, (measured from the time of sentencing), a second of the enumerated offenses is committed, the person would be subject to the mandatory minimum sentence of five years.

Your Committee feels that S.B. No. 182, S.D. 1, H.D. 1, C.D. 1 will best alleviate those concerns that the repeat offender problem must be seriously dealt with. It also provides a practical use for maximum sentences.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 182, 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. 182, S.D. 1, H.D. 1, C.D. 1.

Representatives D. Yamada, Blair, Dods, Honda, Lee and Medeiros,
Managers on the part of the House.

Senators O'Connor, Cobb and Carroll,
Managers on the part of the Senate.

Conf. Com. Rep. No. 11 on H.B. No. 438

The purpose of this bill is to neutralize the present rape laws by substituting the word "person" wherever words making a sexual distinction appear.

A recent state circuit court decision, State vs. Sasahara, (Criminal No. 51251, July 14, 1978), held that the provision relating to statutory rape was unconstitutional because there was no reasonable basis for the distinction between male and female, thus, recognizing the fact that a female, as well as a male, can commit the instant offense.

Your Committee, while in agreement with the provisions of this bill, has amended it to retain the word "he" rather than "person", when such term makes reference to the person committing the offense of rape because when used as such, the term is already neutral. Under Section 701-118 of the Hawaii Revised Statutes relating to general definitions of the terms used in the Penal Code, "he" is defined as including any natural person, i.e. male or female, unless a different meaning is plainly required.

Moreover, in accordance with Section 701-118, the entire Code is written in terms of "he" where not inappropriate; thus, using the word "person" in this particular section to refer to the person committing the offense of rape, would be inconsistent with the rest of the Code.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 438, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 438, S.D. 1, C.D. 1.

Representatives D. Yamada, Garcia, Honda, Larsen, Lee and Medeiros,
Managers on the part of the House.

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

Conf. Com. Rep. No. 12 on S.B. No. 919

The purpose of this bill is to allow the Criminal Injuries Compensation Commission Annual Report and its annual budgetary bill to be prepared and submitted without listing the names of the awardees.

Your Committee appreciates that the mere spectre of the possibility of being subjected to the publicity involved in the listing of one's name could deter a victim from seeking rightful compensation for a criminal injury inflicted upon him. This is particularly true of a victim who may have been subjected to a very shameful ordeal, or one who may be of a timid nature.

It was never the intent of the legislature that criminal compensation would result in

an additional ordeal for a victim of crime or to expose such victim to unnecessary publicity.

However, we would caution the Criminal Injuries Compensation Commission that it is expected to retain a record of its awards and proceedings so that at any time the legislature may obtain a reasonably thorough record of its affairs for the purpose of public accounting.

S.B. No. 919 in the form of C.D. 1 reverts to the version of S.D. 1 except that a provision that the criminal injuries compensation commission shall provide relevant data, including names of the applicant, upon request by the governor, the director of finance, or the legislature has been added.

Your Committee realizes that an appropriate function of the reporting requirement under section 351-70 is to enable the public to acquire a reasonable and meaningful grasp of how the process of criminal injury compensation functions. Although the omission of the names of the injured awardees will preserve their privacy, a time may arrive when a more precise scrutiny of the compensation process will be warranted.

It is expected that the request for relevant data, particularly the names of applicants, will be judiciously made and handled so as to reasonably balance the need for pertinent scrutiny against the right to preservation of personal privacy.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 919, 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. 919, S.D. 1, H.D. 1, C.D. 1.

Representatives D. Yamada, Baker, Honda, Nakamura and Medeiros,
Managers on the part of the House.

Senators O'Connor, Cobb and Carroll,
Managers on the part of the Senate.

Conf. Com. Rep. No. 13 on S.B. No. 11

The purpose of this bill is to conform the Hawaii Revised Statutes to certain changes to the Hawaii State Constitution as amended by the voters at the general election of 1978. The specific language of Article II, section 8 to which conformance is addressed by this bill reads as follows:

"Special and primary elections may be held as provided by law; provided that in no case shall any primary election precede a general election by less than forty-five days."

Under the provisions of S.B. No. 11, H.D. 1, the date of the primary election shall be the second to the last Saturday in September in every even numbered year. Your Committee finds that this date will effectively implement Article II, section 8 by setting the date of each primary election exactly forty-five days prior to the general election.

To further ensure that the mandate of Article II, section 8 is properly complied with, however, your Committee has amended S.B. No. 11, H.D. 1, by adding of a proviso that no primary election shall precede a general election by less than forty-five days.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 11, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 11, H.D. 1, C.D. 1.

Representatives D. Yamada, Dods, Honda, Masutani, Uechi and Medeiros,
Managers on the part of the House.

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

Conf. Com. Rep. No. 14 on H.B. No. 424

The purpose of this bill is to make tampering with a motor vehicle without the consent of the owner or person in charge thereof, criminal tampering in the second degree, a petty misdemeanor.

This bill adds a new subsection to the criminal tampering in the second degree section,

including the tampering with a motor vehicle without the owner's consent as part of the behavior prohibited by that section. It also provides exceptions for police officers and tow wagon operators, and for persons who have to tamper with another's vehicle in order to extricate their own from a parking location.

Your Committee, while in basic agreement with the provisions of this bill, feels that an owner of or passenger in a motor vehicle should be permitted to release the brakes and move any unlocked, standing, unattended vehicle blocking or otherwise preventing both ingress as well as egress from a parking location and not just for the purpose of egress as presently stated in the bill. Accordingly, your Committee has amended this bill to effectuate this concern.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 424, 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. 424, H.D. 1, S.D. 1, C.D. 1.

Representatives D. Yamada, Aki, Garcia, Honda, Lee and Medeiros,
Managers on the part of the House.

Senators O'Connor, Cobb and Carroll,
Managers on the part of the Senate.

Conf. Com. Rep. No. 15 on H.B. No. 921

The purpose of this bill is to enable an abused spouse or any person residing with another to obtain a court order restraining that other person from contacting, threatening or physically abusing him or her. Under present law such a restraining order is normally granted only after an action for annulment, divorce, or separation has been commenced.

Your Committee has amended the bill to enable applicants for a temporary restraining order to apply for the order themselves, upon forms to be provided by the Family Court. The bill has also been amended to allow applicants and persons to whom a temporary restraining order is directed to represent themselves at the hearing which is required to be held after the issuance of the order. Your Committee feels that these changes will simplify the procedure for handling cases under this chapter.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 921, 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. 921, H.D. 1, S.D. 1, C.D. 1.

Representatives D. Yamada, Baker, Honda, Lee, Nakamura and Medeiros,
Managers on the part of the House.

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

Conf. Com. Rep. No. 16 on S.B. No. 9

The purpose of this bill is to conform the Hawaii Revised Statutes to certain changes to the Hawaii State Constitution effected by the Constitutional Convention of 1978 and ratified by the voters on November 7, 1978. The pertinent language of Article II, to which such conformance is addressed by this bill reads as follows:

"Section 4. The legislature shall provide for the registration of voters and for absentee voting and shall prescribe the method of voting at all elections. Secrecy of voting shall be preserved; provided that no person shall be required to declare a party preference or nonpartisanship as a condition of voting in any primary or special primary election. Secrecy of voting and choice of political party affiliation or nonpartisanship shall be preserved."

The primary concern of your Committee in conforming the Hawaii Revised Statutes, Chapters 11, 12 and 16, to changes in the Hawaii State Constitution has been to delete all references to party preference or nonpartisanship as a prerequisite to voting in a primary or special primary election.

In deleting such references, your Committee believes that S.B. No. 9, S.D. 1, H.D. 1 as amended, properly implements the mandate of Article II, Section 4, to "permit secrecy of voting and choice of party affiliation."

Initially, it should be made clear, that this bill has not changed our present election system to a pure "open" primary system as such concern is not addressed by the language of Article II, Section 4, and does not reflect the present or historical primary election system in Hawaii.

It should also be noted, that S.B. No. 9, S.D. 1, H.D. 1, as amended has retained the current status of the law by restricting the voter's choice to candidates of only one party or nonpartisan. It is again the concern of your Committee to fully implement Article II, Section 4, to allow for secrecy of voting, but within the confines of the present election system.

Your Committee considered as crucial to the proper examination of this bill, the determination of who shall decide the format of the primary election ballot. S.B. No. 9, S.D. 1 allowed the chief election officer the discretion to determine what format to use. S.B. No. 9, S.D. 1, H.D. 1 however, prescribed the format of the primary election ballot by law.

It was the decided opinion of your Committee that by requiring the chief election officer to have a separate ballot for each party and a separate ballot for all nonpartisan candidates, that the ballot would appear to be less confusing to the voter, thereby minimizing the number of "spoiled" ballots voted at each primary election.

As a further amendment to this bill, a provision has been added which restricts the placement of the names of all candidates from the same party seeking the same office to one side of the ballot. It is the intent of your Committee by this amendment, not only to further clarify the placement of names on the ballot, but also to prevent the splitting of names of candidates within the same category or office which might unduly penalize a candidate whose name is not placed with the rest of the candidates.

A housekeeping provision pertaining to section 16-42, Hawaii Revised Statutes, which was contained in S.B. No. 9, S.D. 1, and was deleted in S.B. No. 9, S.D. 1, H.D. 1 has been retained in this amended form of the bill to allow for deletion of the provision requiring tabulation of the board of education ballot at all primary and special primary elections. In view of Article X, Section 2 of the Hawaii State Constitution which requires that board members be elected in a nonpartisan manner, Section 10 of the bill pertaining to section 12-41 deletes reference to the board of education with regard to the result of a primary election. Thus, the amendments to section 16-42 have been made so as to conform the section to the changes made to section 12-41 in this bill.

Your Committee has also made several nonsubstantive word or style changes of a technical nature to this bill, and has corrected typographical errors both in the present law and the bill itself.

(1) In section 11-24 the word "country" has been deleted and replaced with the word "county" to correct a typographical error in the present law.

(2) The word "on" as it pertains to the closing of the general register on a Saturday, Sunday or holiday has been replaced with the word "a" to conform this phrase with the wording of paragraph (1) of this section.

(3) The word "subdivision" in section 11-72 has been replaced by the word "subparagraph" to clarify this particular reference.

(4) The use of the word "then" in section 11-72 for purposes of ranking various kinds of voter information has been replaced by the words " and second."

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 9, 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. 9, S.D. 1, H.D. 1, C.D. 1.

Representatives D. Yamada, Aki, Honda, Nakamura, Shito and Medeiros,
Managers on the part of the House.

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

Conf. Com. Rep. No. 17 on S.B. No. 1238

The purpose of this bill is to effect changes to Chapter 671, Hawaii Revised Statutes,

and to improve the hearings procedure of the Medical Claim Conciliation Panel (MCCP).

Your Committee finds that current law does not designate which party has the burden of going forward with evidence to substantiate its case. This has led to the untenable situation where parties appearing before the MCCP may both refuse to advance their cases, causing the hearing to become a travesty. This bill provides that the MCCP may designate the party that has the burden of going forward with the evidence and, unless otherwise designated by the Panel, if the claimant has received medical and hospital records for review, it places the initial burden of going forward upon him.

Your Committee also finds that present law requires the insurance company representative to attend a MCCP hearing, notwithstanding the fact that experience has shown that the representative is not really a necessary party for the purposes of the hearing. This bill eliminates the requirement that such representative attend the hearing.

Finally, your Committee finds that there is no present requirement that notice be given to all parties if a subpoena is used to require testimony of witnesses or the production of documentary evidence. By requiring such notice, this bill alleviates the present occasional practice of one party subpoenaing records without notice to the opposite party who may either be surprised at the introduction of the records or else be forced to go through the expense of subpoenaing the same records himself.

Your Committee, upon further consideration, has made non-substantive, stylistic amendments to S.B. No. 1238, S.D. 1, H.D. 1.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1238, 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. 1238, S.D. 1, H.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 18 on S.B. No. 1727

The purpose of this bill is to make assaults against a correctional officer while engaged in duty a class C felony; provided that the violator knows that the person he commits the assault against is a correctional officer.

Your Committee believes that this legislation is necessary to deter the rising number of assaults committed against correctional officers each year.

Your Committee further finds that due to the very nature of a corrections facility, i.e. that it is a secured place of detention, there is a high probability that a correctional worker while not on duty may be assaulted by an inmate within the facility itself.

As a means of deterring such assaults, your Committee has amended S.B. No. 1727, S.D. 1, H.D. 1 to provide that an assault on a correctional worker which occurs within a prison facility shall also be punishable as a class C felony.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1727, 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. 1727, S.D. 1, H.D. 1, C.D. 1.

Representatives D. Yamada, Baker, Honda, Masutani, Nakamura and Medeiros,
Managers on the part of the House.

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

Conf. Com. Rep. No. 19 on S.B. No. 42

The purpose of this bill is to conform the Hawaii Revised Statutes to certain changes to the Hawaii State Constitution effected by the Constitutional Convention of 1978 and ratified by the voters on November 7, 1978. The changes imposed by Article XIV pertinent to

the bill are addressed to the adoption of a code of ethics by the legislature and the administration by the state ethics commission of the code of ethics adopted by the Constitutional Convention.

Your Committee, upon analysis of Article XIV, notes that it requires:

(1) Prohibition of members of the state ethics commission from active participation in political management or campaigns.

(2) Selection of its members "in a manner which assures their independence and impartiality."

(3) "Provisions on gifts, confidential information, use of position, contracts and government agencies, post-employment, financial disclosures and lobbyist registration and restrictions."

S.B. No. 42, C.D. 1 is essentially in the form of S.D. 1, which accomplished the foregoing purpose as stated in Standing Committee Reports No. 37 and No. 949. S.B. No. 42 in the form of S.D. 1 had been amended by H.D. 1 only with respect to technical matters.

Your Committee in arriving at the version of C.D. 1 has amended the bill by making the following and additional technical changes:

(1) The replacement of the word "or" by "and" was made in subsection 84-17(d)(1) to correct a typographical error.

(2) The replacement of the word "or" by "of the" was made to subsection 84-31 (c) with respect to divulgence of contents of disclosures to conform to identical language found in subsection 84-17(e).

(3) A spelling change was made of the word "proceeding", found in section 84-32(b).

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 42, 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. 42, S.D. 1, H.D. 1, C.D. 1.

Representatives D. Yamada, Honda, Baker, Blair, Larsen and Medeiros,
Managers on the part of the House.

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

Conf. Com. Rep. No. 20 on H.B. No. 1

The purpose of this bill is to provide appropriations for the fiscal biennium, 1979 to 1981.

In deliberating on this bill and other bills which affect state finances, your Committee was faced with a number of major policy issues, some of which are the result of the constitutional amendments approved by the voters in the 1978 general election, others which have emerged in the light of new conditions and events, and still others which are essentially old issues but which have been given inadequate attention by the State. It would be instructive, therefore, to summarize these major policy issues so that the appropriation and program decisions made in this bill can be placed in their proper perspective and so that the next and ensuing sessions of the legislature and the state administration will have some guidelines as to the policies that must be developed and the issues that must be resolved.

This Committee report is in two parts. Part I summarizes the major policy issues which affect state finances. Part II is an overview of the budget and summarizes some of the specific program and appropriation decisions which have been made.

I. Major Policy Issues

A New Approach to Appropriations

For some years now, the legislature has been concerned with the usurpation of its legislative powers, particularly its traditional, constitutional power of the purse. This usurpation

of power has commonly taken the form of wholesale executive restrictions of legislative appropriations. In many instances, the administration has allotted funds for those appropriations which are requested through the executive budget but withheld funds for those appropriations which are made through legislative initiative. As a result, one of the basic tenets of representative government has been undermined: that it is the responsibility of the legislative branch to enact laws and make appropriations, and it is the responsibility of the executive branch to faithfully execute them.

For its part, the executive claims that the growing conflict over appropriations has come about only because the legislature has made appropriations which exceed the projected revenues of the State. But this is by no means clear since the executive can, throughout the budget execution process, adjust its revenue estimates to suit whatever funding actions it wishes to justify.

A 1978 constitutional amendment, which calls for the establishment of a council on revenues, provides a partial solution to the problem of executive-legislative conflict over appropriations. Beginning in fiscal year 1980-81, it will be the function of the council on revenues to make revenue estimates and to report them to the governor and the legislature. In the interim, the administration's revenue estimating committee will be responsible for making revenue estimates. It is constitutional intent that the revenue estimating committee, until replaced by the council on revenues, is to support at least three major actions by the governor and the legislature: (1) budget preparation by the governor; (2) appropriations by the legislature; and (3) budget execution by the governor.

It was the contention of the 1978 Constitutional Convention, and your Committee concurs, that revenue estimating is a function which should not be influenced by the politics of either the executive or legislative branches. Thus, the establishment of a council on revenues is intended to provide the formal means by which both the executive and legislative branches will be served and advised impartially. It is your Committee's intent that the council on revenues be established with due speed so that it can make its first revenue estimates in time to guide the executive branch in developing its expenditure plans and making initial allotments for the 1980-81 fiscal year. It is also your Committee's intent that the administration's revenue estimating committee be responsible for all revenue estimates until such time as the council on revenues is established by law, that revenue estimates be updated prior to each ensuing quarterly allotment period and that the executive branch be guided by the estimates in all of its periodic allotment actions.

The general fund appropriations provided for in this bill, plus the appropriations your Committee is considering in all other bills, are within the revenue estimates which have been made by the executive. Therefore, if the revenue estimating committee finds at the outset of the next fiscal year and prior to each quarterly allotment period that the revenues anticipated will be equal to or exceed the estimates originally made by the executive, there can be no justification for any unilateral restriction of appropriations on the part of the governor.

Because revenue estimates are just that -- estimates which may or may not turn out to be completely accurate -- there is, of course, always the possibility that revenues may not rise to the level originally projected. Indeed, even as the revenue performance in the current fiscal year has been much stronger than originally anticipated, there is a great deal of uncertainty surrounding the international and national economies, including the emerging, ominous energy crisis. Any kind of a fuel crunch which has an effect on airline economics and discretionary income spending patterns could have not just a ripple effect but result in a tidal wave engulfment of the islands' tourism economy. Thus, in making appropriations, the legislature must take into account the possibility of a revenue shortfall.

It is true that the administration and the legislature must always take a longer view in formulating the budget. Both branches need to assess how expenditures in the biennial period will affect expenditures in the future. However, immediate spending decisions must be made against the revenue outlook for the immediate budgeting period and not against guesses about revenues beyond the budgeting period. The system that is incorporated in this bill provides safeguards against revenue shortfalls. Moreover, revenue shortfalls relative to appropriations levels should not be a problem in the future. Any conjectural argument for current restrictions because of possible future revenue shortfalls will be obviated by the constitutional amendment related to general fund appropriation limitations and the fact that it is inherent in the tax structure that revenues will outstrip economic growth.

Heretofore, the executive has claimed that legislative programs have not been funded because it was not possible to discern legislative priorities. For example, the director

of finance, in discussing the restriction of appropriations before the 1978 Constitutional Convention's taxation and finance committee on August 9, posed the issue in this fashion:

> "...We have people that sit through the committee hearings and try to understand what their priorities are, and we try to accommodate. And we're successful and not successful, but for the legislature to say we don't consider their feelings and what their priorities are, tell me what those priorities are. Give me a consensus of 76 people, and we will follow those priorities."

If executive discernment of legislative priorities has been so difficult, the legislature must proceed to restructure the general appropriations bill to clearly identify legislative priorities and to advance both executive and legislative accountability. Therefore, in perhaps the most significant development since statehood as to how the legislature has handled appropriations, your Committee has formulated special provisions and restructured appropriations to accomplish the following:

First, appropriations for operating programs have been reviewed, analyzed, and assigned into one of two categories. Part A includes those programs which have been found to be urgent and indispensable to the economic well-being, health, safety, and welfare of the State. Part B includes those programs which, while important, are less urgent.

Second, if the director of finance determines prior to each allotment period that probable revenues and available resources for each fiscal year will equal or exceed the total of all program appropriations in Part A of this Act for each fiscal year and other general fund appropriation acts then the executive is to fully fund the programs identified in Part A, i.e., estimates made by departments or establishments of amounts from appropriations which are required to implement programs listed in Part A during an allotment period shall be fully allotted by the executive.

Third, the executive is also to fund the programs identified in Part B, but only if the director of finance determines prior to each allotment period that probable revenues and available resources for each fiscal year will equal or exceed the aggregate amount of program appropriations in Part A of this Act for that fiscal year and other general fund appropriation acts. The net result is that funds for program appropriations in Part B may be released, only if the executive first fully releases funds for those programs identified in Part A in accordance with the estimates submitted by the departments for program implementation during an allotment period.

Should there be a revenue shortfall, the amounts allotted or to be allotted must first be adjusted for those programs included in Part B before any adjustments may be made for those urgent programs identified in Part A. Such adjustments to allotments of appropriations in Part A, however, may only be made if the director of finance determines that probable revenues and available resources will be less than the total of all program appropriations in Part A of this Act for each fiscal year and for other general fund appropriation acts.

In effect and in a very large sense, the legislature is establishing a formal mechanism to declare its consensus priorities to the executive branch, and your Committee expects not less a response from the executive than that which was declared by the director of finance at the constitutional convention: "Give me a consensus. . .and we will follow those priorities."

General Fund Appropriations Limitation

One of the new requirements of the 1978 State Constitution is the establishment of a general fund appropriations limitation. No specific limitation is expressed in the Constitution itself. Rather, the Constitution requires the legislature to establish the limitation. Specifically, the legislature is required to establish a general fund appropriations ceiling which will limit the rate of growth of general fund appropriations to the estimated rate of growth of the State's economy. Therefore, it is ultimately the legislature's responsibility to determine what type of measure would reflect the rate of growth of the economy.

Because the economic measure selected will have far reaching effects on budgeting and appropriation policies for years to come, the issue has received your Committee's careful review. Some have suggested that general fund appropriations be limited by the rate of growth of total state personal income. Some have suggested that gross state product be used as the economic measure. Others have suggested that the State devise its own econometric model to measure growth. From all accounts, it appears to your Committee that the growth of total state personal income, averaged over the most recent

three years for which data is available, is the best measure at this time, not only because it is a reasonable measure of the State's economy but because it is available and verifiable from an independent source, the federal government.

It is your Committee's expectation that a general fund appropriations limitation will be formally enacted by law for it to apply to all phases of the very next executive budget and appropriations cycle. It should be noted that the general fund limitation applies not only to appropriations made by the legislature but to the budget and financial plan submitted by the governor. However, the constitutional amendment was ratified at a time when the legislature was not in session, and the result is that there was no means by which the executive budget submitted to this session of the legislature could have been constrained by any legislatively imposed limitation.

In the meanwhile, your Committee believes that there should be immediate compliance with the spirit of the Constitution and that some economic measure should be used to establish a ceiling for general fund appropriations made in this session of the legislature. In the expectation that total state personal income will be the measure which will utimately be enacted into statute, your Committee believes that particular index could well serve as the interim measure also. Therefore, averaged over the last three years for which data is available, the growth of total state personal income is calculated to be 9.4 percent for fiscal year 1979-80 and 9.0 percent for fiscal year 1980-81. These percentages will serve as the limit under which general fund appropriations in this bill, and all other bills providing for general fund appropriations, will be controlled in this session of the legislature.

Your Committee is aware that there is potentially a large loophole in the constitutional spending limitation. Because the Constitution applies the limitation only to general fund appropriations, there is the possibility that revenues could be earmarked for additional special funds and escape the limitation. However, your Committee is determined that the spending limitation not be circumvented and that, if any special funds are created in the future, they must be for a legitimate purpose and not for the purpose of undermining a policy approved by the people.

Debt Limitation

A change which has had an immediate impact on how your Committee has proceeded with capital improvement and appropriation decisions is the constitutional change which was made to the State's legal debt limit. Previously, the debt limit was based on a limitation on the amount of general obligation bonds which the legislature could authorize. It was based on a formula which limited the total amount of authorized bonds to a multiple of 3.5 times the average of the general fund revenues for the three preceding fiscal years. In terms of a dollar ceiling, this meant a legal debt limit of some $2.3 billion when the legislature met last session.

Instead of a limitation on total authorizations, the new debt limit places a limitation on annual debt service -- the amount required to pay principal and interest -- for general obligation bonds. There is a specific limitation which will govern the maximum amount for debt service up to June 30, 1982. There is another, lower limitation which will govern debt service after June 30, 1982. Until June 30, 1982, debt service in the current or any future year, calculated at the time the bonds are issued, cannot exceed 20 percent of the average of general fund revenues in the three preceding fiscal years. After June 30, 1982, the debt service limitation drops to 18.5 percent and will remain at that lower level.

In addition to the new debt service limitations, there are two other major considerations which affect debt policy. One consideration is the amount of bonds which the State can issue without adverse effects on either the marketability of the bonds or on the State's credit rating. The state administration has informed your Committee that the amount of bonds which the State can issue and plans to issue is $150 million annually, an amount which is expected to result in aggregate debt service costs which will be under the legal debt limit both before and after June 30, 1982.

The second major consideration is a constitutional requirement which is in addition to the basic limitation on the debt service of all bonds issued. While the new debt limit does not place a direct limitation on the amount of bonds which can be authorized, the legislature will be required after July 1, 1980 to include in every law authorizing the issuance of bonds a declaration of findings. The declaration must find that the debt service estimated for the bonds authorized in that law, plus the debt service estimated

for all bonds which have been previously authorized but are still unissued, plus the debt service calculated for all outstanding bonds, will not cause the constitutional debt limit to be exceeded at the time of issuance.

This means, in effect, that while the legislature is not restricted in the amount of bonds which it can legally authorize in this session or in the 1980 session, it will be faced with the problem of controlling authorizations in the 1981 legislative session. The policy issue that this additional provision raises is whether the legislature should begin controlling its authorizations now so that some kind of margin is available in the 1981 legislative session to make appropriations necessary to continue the capital improvements program. Your Committee believes that fiscal responsibility and a rational and realistic capital improvements program require that controls should immediately be exercised.

With respect to the capital improvements program embodied in the executive budget for the next biennium, it is apparent that the schedule for developing the capital budget was such that agencies did not fully take into account the constraining constitutional amendments ratified by the people in November. Thus, it appears to be a budget intended to add more projects on the books without considering that implementation emphasis must be given to prior appropriations because of the imminence of constitutional lapsing. The projects requested in the executive budget cannot be presumed to rank higher in priority than prior authorizations and, in actuality, they are not in the same state of implementation readiness as are some of the older projects.

With all of the foregoing considerations, your Committee recommends that legislative policy on appropriations for capital improvements should proceed as follows: First, it should appropriate in this bill capital improvement funds for only the first year of the next biennium. This is because there is great uncertainty of the status of previous capital improvement appropriations which have not yet been expended or encumbered. Some of these appropriations will be cancelled on June 30, 1980, an action required by the Constitution for all unencumbered appropriations. Other appropriations will have been expended or encumbered. However, of this backlog of some $1 billion in prior appropriations, the administration has provided no information as to how much will be expended and encumbered by June 30, 1980 and how much is expected to be lapsed. It is likely that some unencumbered appropriations will have to be reauthorized in the 1980 session to prevent their cancellation on June 30, 1980. All this must be taken into account in making capital improvement appropriations for the biennium, but the information is not available. The prudent course, then, is to make only those appropriations which are immediately required for fiscal year 1979-80 and to defer to the 1980 session the decision as to which new additional appropriations are required along with which prior appropriations need to be reauthorized.

Second, in making new capital improvement appropriations requiring general obligation bond financing, the legislature should limit its aggregate appropriations to below the level requested in the executive budget.

Third, a limitation must be placed on the amount of appropriations which the administration can encumber as of June 30, 1980, in order to ensure that a margin will be available in the 1981 session for additional appropriations necessary for continuity of the capital improvements program. This is to ensure that executive agencies do not engage in imprudent, accelerated obligation of funds merely to escape the automatic constitutional lapsing on June 30, 1980. An encumbrance ceiling equal to the average year-end encumbrances for the past four years appears to be a resonable ceiling, and your Committee has provided for such a ceiling in a special provision.

The three elements identified above have been incorporated in this bill and should provide the controls necessary to begin redeveloping the capital improvements budgeting, appropriations, and implementation process along the lines intended by the Constitution.

However, in order for the legislature to develop its debt policy beyond the policy incorporated in this bill, it needs to have information by the 1980 session which only the executive agencies can provide. Therefore, the director of finance is directed to coordinate the preparation of a report to be submitted to the 1980 session and which will include the following information: (1) As to appropriations made in prior legislative acts for which direct general obligation bonds are the source of financing and which are unencumbered or unexpended as of July 1, 1979, (a) the amount of such appropriations; (b) the amount estimated to be expended by June 30, 1980; (c) the amount estimated to be encumbered as of June 30, 1980; (d) the amount estimated to be lapsed on June 30, 1980; (e) the aggregate amount which will be requested to be reauthorized by the 1980 legislative session and a listing of individual projects and specific appropriations supporting that amount; (2) As to appropriations made by the 1979 session of the legislature for which direct general

obligation bonds are the source of funding, (a) the amount estimated to be expended by June 30, 1980; (b) the amount established to be encumbered as of June 30, 1980; and (c) the amount estimated to be unencumbered and unexpended as of June 30, 1980.

With the foregoing information and together with the requests for new appropriations for fiscal year 1980-81, the legislature will be in a better position to determine the level and kinds of capital improvement decisions to be made in the 1980 legislative session and whether it can safely do so without jeopardizing authorizations which may be required in the 1981 session.

It is necessary in this session, and it will be necessary in the sessions ahead, to move cautiously in the authorization of general obligation bond financing and to conserve general obligation credit, not only because of the effect on the legal debt limit but because of the administration's $150 million limitation on annual issuance. Your Committee has taken the position that, where self-sustaining enterprises are in sound financial condition and have a proven record of being able to market revenue bonds, such bonds should be authorized and issued.

For this reason, with respect to the state airports system, where the administration has proposed that general obligation reimbursable bonds be used to finance certain projects, your Committee has changed the source of funding to revenue bond financing.

As a matter for future action, those enterprises which are not self-sustaining but which should be are expected to be reviewed by the director of finance and the responsible agency to determine what changes in the financial structure of the enterprise will need to be made in order to qualify for revenue bond financing.

Other Constitutional Considerations

Standards for grants to private organizations. The legislature has been aware of the growing number of requests for public financial support of the programs conducted by private organizations. Many of these programs are worthwhile, but there have been no standards by which these programs can be assessed. In response to this problem which was presented to the 1978 constitutional convention by legislative leaders, the Constitution now reads: "No grant of public money or property shall be made except pursuant to standards provided by law."

The required standards have been established in a proviso in this bill. Each appropriation intended for a private organization to carry out a program, which is finally agreed to by both houses, will have been reviewed pursuant to those standards. It is your Committee's belief that the standards included in the bill will adequately serve as transitional standards until the matter can be studied by an appropriate interim committee and more definitive standards are formulated and enacted to bring all aspects of the budgeting, appropriations, and budget implementation process under the controls required by the Constitution.

Transfer of mandated programs to the counties. The Constitution now provides that, if any new program or increase in the level of service under an existing program shall be mandated to any of the political subdivisions by the legislature, it shall provide that the State share in the cost. Your Committee does not find that any legislation needs to be provided for this particular requirement at this time, although the implications of the amendment need to be analyzed against specific situations.

Statewide Accounting System

The problem of a statewide accounting system is as old as statehood and, although it has been studied and restudied at least since 1963, its development has been imperceptible. Once again, a state administration has indicated that it wishes to proceed with developing a statewide accounting system and, while your Committee agrees that such a system is badly needed and long overdue, it is determined that the latest effort, for which the administration has requested close to $1 million over the next two years, will not go by the wayside as did previous ill-fated, aborted projects.

With the establishment of state government following the Reorganization Act of 1959, it was evident that the accounting system inherited from territorial days needed a total overhaul. Duplicate records were being kept in the individual agencies as well as in the department of accounting and general services, even though the latter had been established to serve as the central accounting agency for the State. Moreover, the system was

incapable of producing timely financial information necessary for the efficient management of the agencies and the State. This condition prompted the first of several consultant studies.

In 1963, the firm of Cresap, McCormick and Padget recommended the establishment of a uniform accounting system and a central accounting service which would maintain and produce the accounting reports for all departments and agencies in sufficient detail so that duplicate accounting systems at the departmental levels would be unnecessary. The central accounting agency would also interpret, analyze, and report financial status in detail for all departments of the state government.

The recommendations were soundly conceived but nothing happened. Development of a new accounting system soon got bogged down in an internecine struggle between the department of accounting and general services and the then developing statewide information system (SWIS) as to which agency had primary jurisdiction over designing the new system. A 1969 audit found the accounting system in pretty much the same state as the Cresap study had found it.

In the early 1970's, the administration commissioned another study to be done by IBM Corporation. However, this project never got much beyond the stage of surveying the accounting and financial information needs of the various agencies. In the meanwhile, it became apparent that conflict continued between the systems accounting division of DAGS and the EDP division of B&F, the successor agency to SWIS. There the matter stood until last year when still another study was commissioned, this time by the CPA firm of Peat, Marwick, Mitchell & Company.

The firm has completed a systems requirements analysis, and the system design, development, and implementation phases are to follow. Generally, it can be said that the development of the statewide accounting system is now at the comparable stage following the IBM's information needs survey in the early 1970's. The next phase, system design, is where interagency conflict previously emerged, and it is less than certain, given the experience of the previous 16 years, that whatever system is designed will be agreed to by the principal agencies involved and be accepted for implementation.

The investment that the State will be making and the urgency for the project to be carried out through fruition require that extraordinary project policy direction be provided and project management controls be exercised. Therefore, your Committee has included a special provision that, in addition to whatever technical group is assigned to work on the project, a high-level steering committee, composed of officials at the cabinet or sub-cabinet level, be appointed by the governor. The steering committee is to monitor all phases of the project through implementation, provide policy direction, and settle any disputes which might arise.

Your Committee is recommending that appropriations be included for the development of the statewide accounting system but only with the understanding that the project will be under close project direction and project controls. The steering committee is to submit a report to the 1980 session of the legislature on the status of the project, the work required to complete its remaining phases, and an updated timetable for the project.

Consultant Services

The experience with the development of the statewide accounting system illustrates still another problem: the use of consultant services by state agencies. The issue of improving the system for the contracting of consultants for architectural and engineering services has received attention in this session of the legislature. The issue of the use of consultants for special studies, systems analysis, master plans, and the like is of a somewhat different order, but it deserves attention no less.

It has often happened that consultant studies go nowhere or that they badly miss the mark. When these situations occur, the primary responsibility rests with the government agency contracting for the study. Often, the agency itself is unclear as to what the study should be all about.

The starting point for the use of a consultant on a study should be the preparation of detailed and explicit project specifications. These specifications should include: the specific objectives of the project; the nature and scope of the project; the tasks to be performed; the specific concerns to be investigated; the facts to be gathered and the questions to be answered; the desired approach in performing the work; the practical,

legal, and political limitations or constraints, if any, on the work to be undertaken; the form in which a report on the project is to be submitted; and the form and content of the proposal to be submitted in response to the specifications. Specifications for studies should also include the dates of proposal submission, contract award, project commencement and termination; procedures for submission of work papers and progress reports; and requirements for a preliminary draft and final report.

Proposals in response to the specifications should be solicited from as many consultants as possible. The specifications should describe what the proposal should contain, including the consultant's description of the firm's qualifications; the approach, method, and procedure the consultant intends to take and the standards which will be used; the resources the consultant intends to commit, including name and qualification, scope of work, and the amount of time to be devoted by each member of the consultant's team; the estimate of the time to be required to complete the work; and the cost of the work by appropriate cost elements (e.g., salaries, rental of equipment, travel, printing).

Proposals received by the agency should be evaluated against specific criteria derived from such general standards as the following: the degree to which each proposal complies with the specifications; the qualification and competency of each prospective consultant as shown by its organization, its staff capabilities, its past experience, and its reputation; the competencies that each prospective consultant intends to commit to the work; the approach, methods, and procedures that each prospective consultant intends to follow; the depth to which each prospective consultant proposes to conduct the various phases of the study; the time within which the study will be completed; and the costs and anticipated benefits of each proposal. From the foregoing general standards, more specific criteria should be developed for each proposed study, and various elements of the proposal should be measured quantitatively against those criteria. The proposals should then be ranked before a final selection is made.

Consultant contracts should contain the provisions of the specifications and accepted proposal. Furthermore, the contract should contain provisions to safeguard against cost over-runs, such as specifying when periodic payments are to be made for the work performed or as costs are incurred, a ceiling as to the total amount to be paid, and the withholding of final payment until a report is submitted which is acceptable to the agency.

Finally, when consultant reports are published, executive agencies should ensure that the cost of the study be identified on the title page or on some other prominent page. This is to heighten public and legislative awareness of the cost of studies and to inject in agencies a cost consciousness concern which now appears to be lacking.

Your Committee believes that some uniform system for the selection and use of consultants on studies, along the lines suggested here, should be developed and enforced among the agencies. Therefore, your Committee recommends to the governor that he direct that an appropriate system for consultant studies be developed and implemented. If there is no action to establish a system administratively, a system will be mandated by appropriate legislation.

The Budgeting System

It is now nearly a decade since the Executive Budget Act of 1970 was enacted and, with it, the development and installation of planning-programming-budgeting. The fact that the budget documents, which should be the most important recurring documents of the state government, have been little used in recent years by the legislature and have little impact on appropriation decisions should be of some concern to the executive branch.

There are several reasons, some of which have been pointed out previously by the legislature, why the budget documents as submitted have sunk to such a low order of importance.

First, program cost data is sometimes incorrect and often suspect. Moreover, there is no way by which legislative committees can test the reasonableness of the cost data without asking for all the supporting cost details.

Second, program effectiveness measures are often irrelevant and, when relevant, their data appears to be artificial and inflated. Thus, what was to have been one of the key elements of the budgeting system -- the ability to determine whether a program was achieving its intended objectives -- is rendered meaningless.

Third, the program plans from one biennial budget to the next are often virtually carbon copies. Seldom are program issues discussed in any meaningful way. Summaries of analysis, when these are provided, often do not relate to actual analysis.

Fourth, even though there have been a number of new programs and significant changes to programs proposed over the years, there has been little evidence that program analysis has been conducted.

The department of budget and finance, as the agency responsible for preparing the executive budget, has made progress in developing its computer-based budget format, but it should be aware that other improvements must be made if the budget documents are not to fall into complete disuse.

Your Committee recommends to the director of finance the following:

(1) With respect to personnel service costs, there should be some supporting data in the program plan concerning such aspects as the titles, salary range, and number of positions in the program and their costs.

(2) Effectiveness measures and data prepared by the agencies should be reviewed for relevance and accuracy.

(3) Higher standards should be applied to the preparation of program plans.

(4) The agencies should be required to do program analysis before any resources are proposed for a new program or to increase the size of an ongoing program.

Employees' Retirement System

By its sheer size and importance to so many people, the State employees' retirement system, with over 50,000 active members and 13,000 retirees and with $1 billion in investments, should be periodically reviewed from a policy perspective.

A number of policy issues have emerged, which your Committee believes should be further examined by the board of trustees of the retirement system. These issues include the following:

(1) Whether the system should be redesigned around the principle that retirement benefits from the state retirement system added to the benefits of the social security system should be not more than 100 percent of the employee's final take-home pay.

(2) Whether the current rate of assumed earnings of the system should be raised to some higher rate.

(3) Whether the benefits for (a) ordinary disability and (b) service connected disability are adequate, inadequate, or more than adequate, taking into account other compensation systems.

(4) Whether state and employee contributions to the system should be reduced in view of rising and uncontrollable social security contributions.

Your Committee requests that the Board of Trustees submit a report to the 1980 session on the foregoing issues and other issues which the Board believes should be brought to the attention of the legislature. At the same time, the issues will be reviewed by a joint legislative committee during the next interim period.

Legislative Oversight of Executive Agencies

A basic function of state legislatures is to oversee the executive branch of government. The legislature has a responsibility to review and evaluate state government programs to see how they are being implemented and to assure that public resources are being conserved through efficient government operations.

Among the major ways that the Hawaii State Legislature has exercised oversight over the activities of the executive branch has been through: (1) review of executive programs and agencies through the appropriations process; (2) review of specific

concerns by standing and interim committees; and (3) financial, management, and program audits by the legislative auditor.

Recent responses by agencies to the audits conducted by the auditor require some comment. It is the practice of the auditor to transmit a copy of the preliminary report of the audit to the agencies affected by the examination. It is also the practice of the auditor to invite the agencies to comment on the recommendations made and to publish the responses of the agencies in their entirety as part of the audit report. In this way, the legislature as well as the public are informed as to which recommendations are agreed to by the agencies and which are not.

Such a written record as to how the agencies view the specific recommendations greatly facilitates identifying areas of agreement and areas of dispute. However, executive agencies have been responding in a very cursory way to audit recommendations as, for example, in the school bus transportation audit where, after seven weeks of review, three agency heads submitted a one-page response without commenting on the specific recommendations.

The audit of the Hawaii Foundation for History and the Humanities is another example where an executive agency has not seriously responded to the legislature's concern for more efficiency in the management and operation of state government.

The audit, completed in March 1976, generally found that the foundation had not effectively implemented the programs over which it had statutory responsibility and that progress has been extremely slow in meeting legislative expectations in virtually all areas. In reviewing the 1976 audit's findings and recommendations and as a result of public hearings held in 1977 on this matter, the legislature found that: a depository of funds and gifts to the State had not been established; a plan for a state trust for historic preservation in cooperation with the State Foundation on Culture and Arts has not been developed; a comprehensive museum and museum activities support program has seen minimal efforts and the centralized repository and information resource center and clearinghouse has not been fully realized.

Given the non-responsiveness and inattention to these matters, your Committee has recommended transferring some of the program appropriations originally scheduled for the Hawaii Foundation for History and the Humanities to other agencies that undertake similar programs.

In the future, agencies which are audited and have the opportunity to comment on the audit recommendations will be expected to provide specific responses on their agreements and disagreements, and where they disagree, an explanation for the disagreement. And where the agencies do not take the audit recommendations seriously, the legislature will take stronger steps to ensure that its concern for more efficient government operations is not ignored.

II. Budget Overview

The general fund appropriations provided for in this bill, as well as appropriations for which general obligation bonds are the source of financing, are under executive budget levels. Your Committee's general approach to the making of program appropriations has been to review the recommendations of the subject matter committees, to assess the accuracy of the cost estimates for the various programs, to consider alternative means of funding certain programs, and, in some cases, to hold appropriations to a lower level than that requested by the executive. In addition, where your Committee is not satisfied that program direction is clear and where uncertainties exist, funding has been provided only for the first year of the fiscal biennium with the expectation that the responsible executive agencies will provide a firmer justification for the content, design, and direction of the programs or risk their curtailment. The programs for which only one-year funding has been provided include the appropriations for intake service centers. Another area of concern is the Hawaii Community Development Authority's role in the redevelopment of Kakaako because of its potential impact on limited state financial resources.

Other specific decisions made by your Committee include the following:

Hawaii Visitors Bureau. While recognizing the importance of tourism to the state economy, your Committee believes that the time is overdue for a return to a 50-50 parity of public support with the private sector. Even as the travel industry economy has expanded exponentially since statehood, state appropriations have accounted for an

inordinately high burden in support of the Hawaii Visitors Bureau while private subscriptions have accounted for a disproportionately lower level of support.

In 1959, the year of statehood, state appropriations amounted to $441,628 or 49 percent of the HVB budget, while private subscriptions amounted to $459,999 (51 percent). In the current fiscal year, $2,167,624 is budgeted from general fund appropriations, an increase of nearly five times what it was in 1959, while private subscriptions amount to $750,000, an increase of only 1.63 times. Tourism is no longer a fledgling industry incapable of carrying its own weight. Therefore, your Committee is providing for a more equitable burden to be shared by the public and private sectors beginning in fiscal year 1980-81.

Product promotion. The State's program for product promotion is intended to assist associations of producers or distributors of Hawaiian products to introduce their products to consumers. Your Committee finds that the program has been oriented for many years to the support of established and viable industries which are less in need of support than newer industries striving for an expanded market. Therefore, your Committee expects the department of planning and economic development to redirect the program towards the support of newer industries and enterprises.

International Trade Center. The governor had requested an appropriation of some $8.5 million for the first increment development of an international trade center within the Aloha Tower complex. Your Committee is not satisfied that proper analysis of this project has been conducted. The program objectives are unclear, and there has been a lack of consideration of alternative means of development, including development by the private sector. The entire project, which is destined to cost many times the cost of the initial increment, is fraught with uncertainties. Therefore, prudence dictates that the bulk of the appropriations for this project be deferred, and only design funds be provided at this time. However, some basic answers are still needed from the administration before design funds can be allotted and before further commitments are made. Therefore, the Legislative Auditor is directed to examine the administration's analysis and need contentions for the International Trade Center and to report its findings and recommendations to the legislature twenty (20) days prior to the convening of the 1980 legislative session.

University of Hawaii. It is evident to your Committee that the University of Hawaii lacks the kinds of management and operational control systems necessary for the efficient conduct of any large organization. The disparate and, in some cases, inordinately high administrative salaries identified by your Committee is sympotomatic of a larger problem: that the University apparently lacks a sound personnel classification and compensation plan, and little has been done about it over the years. In order to provide the University with direction it must move to improve its management systems. Your Committee is requesting that the Legislative Auditor commence a management audit of the University, the first phase of which is to be an audit of personnel management and administration.

School Counselors. Your Committee decided to provide additional counselor positions so that each school will have at least one counselor or half-time counselor position. However, it does not believe that counselor positions should be increased to the extent requested by the department. The DOE should instead develop a program whereby teachers can be first-line counselors, a proposal made years ago in DOE's master plan but never executed. Your Committee expects such a program to be developed and that it be done in consultation with the collective bargaining unit.

Other changes involve changes in programming, such as deferring the appropriations for the Barbers Point deep draft harbor. In addition, some sources of financing have been changed, as in the case of the State Capitol, where major repairs to the roof and reflecting pool were intended to be funded through the general fund but are determined by your Committee to be more appropriately funded through general obligation bond financing. Your Committee is familiar with the issue of cash vs. bond financing but believes that extensive repair work costing in excess of $1 million that would enhance the life of a capital facility ought to be funded by the bond fund.

The priorities of the governor as presented in the executive budget have been carefully reviewed and your Committee agrees that certain appropriations should be made to those areas of concern and emphasis expressed by the governor. These appropriations include the following:

	Fiscal Year 1979-80	1980-81
Improve the quality of lower education by upgrading the skills of teachers; providing additional teachers and assistants for special education and bilingual students; providing speech and hearing therapists for all eligible students; testing a teacher evaluation system; and increasing the staff to diagnose handicapping conditions.	$ 3,463,336	$ 4,664,782
Improve the environment of schools by providing staff for safety and security purposes.	$ 710,256	$ 834,000
Modernize existing hospital facilities, and improve medical services by increasing the nursing staff and other related activities.	$ 1,475,289	$ 1,737,401
Improve the mental health program by increasing the staff at the Community Health Centers on the neighbor islands and for the diagnosis, treatment, and consultation of children with emotional problems.	$ 1,900,000	$ 2,000,000
Additional occupational and physical therapists to assist special education students through the sensory deficiency program.	$ 350,897	$ 337,290
Emergency medical services for Kauai, Hawaii, Maui and Oahu.	$ 5,143,014	$ 5,696,895
Funds to the DOH for continuing the EMS instructional training and re-training programs throughout the State.	$ 302,769	
Provide a new Hilo hospital.	$15,000,000	
Agriculture, home loans and residential subdivisions for the Hawaiians.	$ 7,680,000	
Acquisition of park lands at Makena La Perouse, Maui, and Kaena Point, Oahu.	$ 1,450,000	
Development of agricultural parks on Hawaii at Lalamilo, Panaewa, and Ke-ahole, and on Oahu at Kahuku, Waimanalo, and Waianae and developing better production forecasting for agricultural products.	$ 4,100,000	
Kakaako District development.	$ 2,062,143	$ 204,324

	Fiscal Year 1979-80	1980-81
Alleviation of traffic congestion on Oahu by improving Puuloa Road, Liliha Street, Kalanianaole Highway, and Ft. Weaver Road.	$ 1,973,000	
Implementation of the state general plan.	$ 353,000	$ 307,000
Fully fund the Medicaid Fraud Unit.	$ 74,904	$ 75,644
Additional correctional personnel for Oahu Community Correctional Center.	$ 929,099	$ 1,041,365

In addition to those executive priorities of the governor for which appropriations have been provided, your Committee has determined that there are a number of legislative priorities for which appropriations should also be made. These include the following:

Additional student textbooks.	$ 252,259	$ 278,429
Implementation of the Secondary English Program in grades 9 to 10.	$ 217,407	$ 221,860
Funds for individual schools, based on a formula of $2,000 per school and $3.50 per student, to be expended for the special needs of each school.	$ 1,035,918	$ 1,031,022
School bus aides to assist special education students.	$ 33,809	$ 82,717
Tuition waivers for those summer school students who are economically disadvantaged.	$ 115,200	$ 115,661
Half-time student activities coordinators for each high school.	$ 217,227	$ 256,158
Additional funds to strengthen after-hours security and student safety for the UH system.	$ 134,872	$ 134,872
Continuation for another year of the State Comprehensive Employment and Training Program.	$ 3,700,000	
Additional funds for the agricultural loan program.	$ 775,000	
Loan funds for sugar growers and processors.	$ 3,200,000	
Marketing program to promote Hawaii as a site for regional headquarters for multinational corporations.	$ 100,000	
Fund a prawn marketing program.	$ 130,000	

	Fiscal Year 1979-80	1980-81
Fully fund research, demonstration and capital improvement projects on natural energy.	$ 5,235,520	$ 245,825

There are a number of uncertainties that might have some impact on the budget. In the area of education, while your Committee believes that special education is being funded at the appropriate level, it is uncertain how the federal government might view the matter in the context of the requirements of Public Law 94-142. In addition, recent airline strikes are predicted to have severe impact on the tourist industry and shortfalls in general fund tax revenues are being predicted. These conditions have not yet been fully validated or clarified.

In summary, in spite of several uncertainties, your Committee believes that the budget recommended by this bill as well as the appropriations recommended in other separate bills are within the revenue resources of the State as currently estimated and are within the fiscal capacity of the State to undertake over the next fiscal biennium.

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

Representatives Suwa, Morioka, Crozier, de Heer, Fukunaga, Hashimoto, Holt, Ige, Inaba, Kobayashi, Kunimura, Sakamoto, Takitani, Lacy, Narvaes and Sutton,
Managers on the part of the House.

Senators Cayetano, Kawasaki, Abercrombie, Carpenter, Chong, Hara, Toyofuku, Yamasaki, Yim, Young, Ajifu, Anderson, Soares and Yee,
Managers on the part of the Senate.

Conf. Com. Rep. No. 21 on H.B. No. 2

The purpose of this bill is to appropriate funds to the Judiciary for the fiscal biennium July 1, 1979 to June 30, 1981.

The bill represents the proposed budget of the Judiciary adjusted for salary turnover savings, deletion of non-essential positions, and other minor adjustments. Some of the more significant items are centered around the recent amendments to the State Constitution which mandated the establishment of an Intermediate Appellate Court; Judicial Selection Commission; Grand Jury Counsels; and Judicial Discipline Commission. Another significant item is the funding of the Criminal Justice Information System Data Center.

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

Representatives Suwa, Morioka, Crozier, de Heer, Fukunaga, Hashimoto, Holt, Ige, Inaba, Kobayashi, Kunimura, Sakamoto, Takitani, Lacy, Narvaes and Sutton,
Managers on the part of the House.

Senators Cayetano, Kawasaki, Abercrombie, Chong, O'Connor, Anderson and Soares,
Managers on the part of the Senate.

Conf. Com. Rep. No. 22 on H.B. No. 1686

The purpose of this bill is to authorize the Hawaii Housing Authority (HHA) to raise funds from private investors through the sale of tax-exempt revenue bonds, and to make these funds available at affordable interest rates through mortgage lenders to persons and families of lower and moderate income to enable them to purchase a new or existing home. The funds will be allocated by the HHA for use in four housing programs as follows:

1. The making of loans to mortgage lenders who will in turn make loans to persons of lower and moderate income (eligible loans);

2. The purchase of existing loans or mortgages from mortgage lenders who will then make eligible loans;

3. The making of advance commitments to purchase eligible loans from mortgage lenders;

4. The funding of eligible loans to be made through mortgage lenders.

Similar programs are operating through over forty other State and municipal housing agencies across the nation. The State Constitution allows Hawaii to take advantage of the favorable federal tax treatment on the investment income of such revenue bond issuances. The market for such offerings is envisioned as being primarily comprised of out-of-state investors who have previously not participated in providing mortgage funding for residential development in Hawaii. Thus, this program effectively allows us to import new investment capital for housing at below market rates. Additionally, these bond issuances will not affect the State's power to issue general obligation bonds.

Your Committee finds that a major cause of the continuing housing problem in Hawaii is the lack of long term financing at affordable interest rates which hinders the purchase of residences particularly for first-time buyers, younger families, and persons and families of lower and moderate income.

Your Committee further finds that existing loan programs will not provide sufficient resources to meet the future demand for affordable financing of residential mortgage loans for persons and families of lower and moderate income, especially younger families.

Your Committee recognizes that one of the primary determinants of homeownership is the potential homeowner's ability to qualify for a mortgage loan based on the size of the monthly mortgage payment. Since the monthly mortgage payment is determined by the principal amount, the interest rate, and the length of the loan, it is important that these factors be addressed in offering home mortgage loans that are affordable to potential owner-occupant homeowners.

Your Committee has found that the "average" loan made by one of Hawaii's larger mortgage lenders in 1978 was approximately $60,000. At the present market rate and term, the annual qualifying income would be approximately $28,000. It has been estimated that loans made under this bill could be made at approximately two percentage points below the market rate. Thus, under this bill, a person or family making almost $5,000 less per year would qualify for the same principal loan amount.

In legislative public hearings on this bill, virtually all the trade associations representing the major private lending institutions and the construction industry strongly emphasized their support of this measure and of the importance of providing affordable mortgage financing for Hawaii's residents.

The bill has been designed to provide for the implementation of these housing loan programs through local financial institutions, rather than to require the State government to model or muddle the private sector's activities. The representatives of the private lending community are fully cognizant of the importance of their role in assisting in the implementation of these loan programs, and have expressed their interest in actively participating in the formulation of the policies and procedures governing the programs. The bill provides a council comprised of representatives of the public and of the major trade associations of the financial institutions to assist in the implementation and operation of the housing loan programs.

This Act has been designated as the Housing Loan and Mortgage Act. Like the Federal National Mortgage Association (FNMA) and the Goverment National Mortgage Association (GNMA) which have fostered the appealing nicknames "Fannie Mae" and "Ginnie Mae", your Committee hopes that securities issued under this Act will be affectionately referred to as "Hula Mae" bonds.

Your Committee upon further consideration has made the following amendments to H.B. No. 1686, H.D. 2, S.D. 3:

1. Reworded the Legislative findings describing the need for the Hawaii Housing Authority to be granted comprehensive housing loan program powers. The language is designed to accurately describe the types of powers needed by the Hawaii Housing

Authority to undertake the housing loan program provided in this bill.

2. Amended Section 3 by including the definition of "mortgage lender" in the general definition section of Part II, Housing Loan and Mortgage Program, rather than by including it in Section 356-2, Hawaii Revised Statutes.

3. Revised the adjusted household income of an eligible borrower under Section 356-206, from 150 per cent of the median income for households in the State as published by the Department of Planning and Economic Development, to 115 per cent of the median income for households as published by the United States Department of Health, Education and Welfare.

The figures published by HEW are determined annually based on data developed by the United States Bureau of Census and appear to be more current than the DPED figures. The HEW figures are also used for Title XX social service programs.

The use of the lower percentage rate and the HEW figures has the effect of lowering the adjusted household income requirements for an eligible borrower. Based on the most recent figures published by the DPED, the statewide median household income for families in Hawaii is approximately $17,770. 150% of the DPED figure results in an adjusted household income of $26,655. Using the HEW figure and 115 per cent, the result is $24,976. Your Committee believes that the modification resulting in a lower adjusted household income requirement more adequately accomplishes the purpose of assisting persons of lower and moderate income in the purchase of a home. Since the purpose of this bill is to assist persons of lower and moderate income in the purchase of a home, this downward modification of income is necessary to accomplish this goal.

4. Deleted provisions requiring mortgage lenders to allocate loans to eligible borrowers at various income levels and at different interest rates because of the difficulty in administering such a provision within the limits of the federal arbitrage requirements.

5. Amended Section 356-207(b) relating to the restrictions on the eligible loans which are to be established by the authority. The language provided that the "fair market value" of the property to be purchased shall not exceed 125% of the principal amount of the loan. The provisions cause problems when applied to the sale of "traditionally" sponsored government housing. The provision was intended to prohibit the purchase of a "luxury" type home; however, it did not take into account the use of government construction subsidies which reduces the purchase price of the home below the fair market value of the property. Because the purchase price is reduced, the principal loan amount needed to purchase the property is reduced. The result of multiplying the principal loan amount by 125% is an amount which will be well below the fair market value of the property. The loan may thus be disqualified because the fair market value of the property will exceed 125% of the principal loan amount.

Your Committee has amended the provision by limiting the amount of down payment on the purchase of the property that can be made on property securing an eligible loan to no more than 20% of the fair market value of the property. The amendment is intended to prohibit an individual from purchasing a very expensive home by depositing a large down payment and utilizing the eligible loan to finance the balance of the purchase price. Your Committee notes that purchase of luxury type homes by an eligible borrower is intended to also be prohibited by limitations in the bill on income and assets of borrowers, on loan qualification practices and on the eligible loan amount.

6. Amended Section 356-211 to remove from the enabling provisions of the housing loan and mortgage program the amount of the revenue bonds that may be authorized in this legislature. Your Committee believes that the amount of the bonds authorized should not be within the enabling provisions of the bill but should be in a separate section. Accordingly, your Committee has removed the amount of revenue bonds authorized from the permanent statutory provisions and established a new section in the bill entitled "Issuance of revenue bonds; amount authorized".

7. Amended the amount of the revenue bonds which the legislature is authorizing from $75,000,000 to $125,000,000. Based on a mortgage loan of $60,000, the $125,000,000 should provide at least 1,804 eligible homeowners with an eligible loan for a home.

8. Inserted the provisions in Section 356-281(b) and 356-282 into Section 356-242. These provisions generally pertained to the filing of a statement involving the collateral security with the Bureau of Conveyances and were accordingly placed in a single subsection in the bill.

9. Deleted Sections 356-271(b) pertaining to collateral security because this provision is not applicable to the eligible loan funding program.

10. Deleted Section 356-291. This section was intended to restrict the transfer of a housing unit which has been financed by an eligible loan made under this part. The restriction was imposed for a two year period with payments to the authority being required if the housing unit is transferred within the two year period.

Your Committee has been advised that the restriction on transfer is a provision unique to Hawaii and the revenue bond issue will be a hybrid in the bond market. Two general problems may result from the restrictions on transfer. The restriction may be deemed to be an unreasonable restraint on the free alienation of property and may also violate the Due Process Clause of the State and Federal Constitutions. In addition the required payment to the authority, if such a transfer takes place within two years of the purchase, may trigger the arbitrage provisions of the U.S. Internal Revenue Code. In the latter case, the tax exempt status of the revenue bonds may be impaired. In the case of the possible violation of the free alienation of property and the Constitution, the marketing of the bonds may be adversely affected. Your Committee has been advised generally that the more unusual a revenue bond issue program, the more difficult it is to market the bonds.

11. Added a new section 356-291, entitled "Arbitrage provisions" to expressly prohibit the authority from making or causing loans to be made from the proceeds of the revenue bond on terms or conditions which would make the revenue bond an arbitrage bond.

12. Revised the membership of the Advisory Council to six members, consisting of the Executive Director of the Hawaii Housing Authority, two members of the public, and one member each from the Hawaii League of Savings Associations, the Mortgage Bankers Association, and the Hawaii Bankers Association. The appointees shall serve for a two year term.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1686, H.D. 2, S.D. 3, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1686, H.D. 2, S.D. 3, C.D. 1.

Representatives Shito, Aki, Ige, Lee, Ushijima and Lacy,
Managers on the part of the House.

Senators Young, Carpenter, Cayetano, Hara, O'Connor and Anderson,
Managers on the part of the Senate.

Conf. Com. Rep. No. 23 on H.B. No. 82

The purpose of this bill is to maximize the effectiveness and efficiency of the Hawaii Regulatory Licensing Reform Act.

Under present law the task of preparing the regulatory impact statement falls on the board or commission which is being reviewed for sunset purposes. This bill would retain that procedure with the addition of the Office of Consumer Protection into the review and recommendation phase.

While in agreement with the intent of the bill, your Committee has made substantial changes to the review procedure. Pursuant to consultation with and input from the Legislative Auditor, your Committee has designated the Auditor as the primary reviewer and both the regulatory impact statement and the need for a joint legislative committee has been done away with in Section 1.

Section 2 creates a new two step process whereby the Legislative Auditor first evaluates each board, commission or regulatory program to be reviewed under section 26H-4, Hawaii Revised Statutes, and determines whether the regulatory program established by the chapter is in compliance with the sunset policy of section 26H-2. Should the Legislative Auditor find that the public interest requires continued regulation under the chapter, he shall evaluate the effectiveness of the existing regulatory program and shall submit his recommendations to the legislature for final review. If the Auditor finds that the chapter should be allowed to expire, he is required to submit his recommendations regarding further regulation, if he finds such remedial regulation necessary. Your Committee feels that this is the most logical approach to review for sunset purposes.

Section 3 provides a new procedure for review of measures proposed to regulate a previously unregulated activity whereby the Director of the Department of Regulatory Agencies shall perform an analysis of each measure, and submit each report of analysis to the Legislature for final action.

Your Committee feels that this bill as amended will better provide for consumer interests to be represented in the aforementioned evaluation and will provide for a more objective viewpoint in assessing the value of the particular regulation under review.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 82, 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. 82, H.D. 1, S.D. 1, C.D. 1.

Representatives Blair, Honda, Larsen, Masutani, D. Yamada and Ikeda,
Managers on the part of the House.

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

Conf. Com. Rep. No. 24 on S.B. No. 694

The purpose of this bill is to allow the Collection Agency Board to expire on December 31, 1979, under Hawaii's Sunset Law (Chapter 26H, H.R.S.). This bill also provides for a new statutory chapter which will regulate collection agencies when the Board expires.

Your Committee on Conference has amended the bill by extending the repeal date of the Collection Agency Board to December 31, 1980 and by changing the effective date of this bill to December 31, 1980. The effective date of this bill has been changed so that the new chapter will automatically go into effect upon the repeal date of the board. Your Committee on Conference is also of the opinion that the Legislative Auditor be allowed to assess this board under the new provisions of chapter 26H, Hawaii Revised Statutes.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 694, H.D. 1, as amended herein and recommends that it pass Final Reading in the form attached hereto as S.B. No. 694, H.D. 1, C.D. 1.

Representatives Blair, Baker, Larsen, Nakamura, Uechi and Ikeda,
Managers on the part of the House.

Senators Cobb, Yim and Saiki,
Managers on the part of the Senate.

Conf. Com. Rep. No. 25 on S.B. No. 77

The purpose of this bill is to authorize the department of agriculture to manage, operate, and coordinate the agricultural parks program and to establish a revolving fund for purposes directly related to the operation of the agricultural parks system.

The bill provides for an "Agricultural Park Revolving Fund" to be established for "purposes directly related to the management, operation, and coordination of agricultural parks, and into which fund shall be deposited all receipts and revenues available for purposes directly relating to the provisions of this section."

Presently, there is only one agricultural park in operation. It is located in Pahoa, on the Big Island. The park is 600 acres in size and used primarily for ornamental flower production. Parks which are expected to be developed by the end of the biennium include one at Ke-ahole, on the Big Island and one in Kahuku, on Oahu. The Kahuku agricultural park, though not yet developed, presently does have some farming activity being engaged upon the site.

It is expected that during the 1980 fiscal year, only the Pahoa park will be in operation. The Kahuku park will require immediate servicing once it is established in 1980 or 1981 since it presently has some farmers farming the land. The Ke-ahole park is not operational and will not be requiring immediate servicing since no farmers presently utilize the site.

The department of agriculture has indicated that in fiscal 1980 it will require about $20,000 for one employee to provide management services to the Pahoa park and to arrange leases on the Kahuku park. The $20,000 would include salary, supplies, and travel expenses. (The employee would be based in Honolulu.) In fiscal 1981, the department anticipates a need for $40,000 for two employees to provide management services since the Pahoa park, the Kahuku park, and possibly the Ke-ahole park will be in operation. Senate Draft 3 of the bill appropriated $50,000 and House Draft 1 appropriated $100,000.

Your Committee has amended section 3 of the bill by appropriating $60,000 for the Agricultural Park Revolving Fund.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 77, S.D. 3, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 77, S.D. 3, H.D. 1, C.D. 1.

Representatives Uechi, Inaba, Kawakami, Sakamoto, Takitani and Anderson,
Managers on the part of the House.

Senators Cayetano, Hara, Takitani, Yim and Ajifu,
Managers on the part of the Senate.

Conf. Com. Rep. No. 26 on S.B. No. 1634

The purpose of this bill is to amend Chapter 328, part III, Hawaii Revised Statutes, by adding a new section defining the term "thawed food". The bill further deletes the exemption from the requirement of notification presently allowed to food products which are canned, pickled or preserved and to food products shipped outside of the State for sale which have been previously frozen and then thawed out. The bill exempts thawed foods processed by grinding, heating to alter the physical condition, or by dehydrating, and requires labels to be of a size easily seen under customary conditions of purchase.

Your Committee upon further consideration has made the following amendment to S.B. No. 1634, S.D. 2, H.D. 1:

(1) The word "throughout" has been added to the definition of thawed food. This addition exempts those foods, such as beef, which has been partially frozen to facilitate specialty cutting. Such a process is not for the preservation of the product, but merely to aid in the slicing process.

(2) Section 2 of this bill has been reworded to simplify the language without changing the intent of the bill.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1634, 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. 1634, S.D. 2, H.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 27 on S.B. No. 692

The purpose of this bill is to extend the repeal date for the Board of Massage to December 31, 1980, under Hawaii's Sunset Law (Chapter 26H, H.R.S.).

Your Committee on Conference has amended this bill by extending the repeal date of this board to December 31, 1981. Since the composition of this board has been changed and assurances have been made that proper regulation of the profession will be provided in the future, the conferees have agreed to review this board again in two years. Your Committee on Conference notes that under a new provision in Chapter 26H, H.R.S., the Legislative Auditor is given the responsibility of preparing the impact statements for each board or commission. In that connection, the conferees have agreed not to require the Legislative Auditor to review more than eight boards or commissions in any one year.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 692, H.D. 1, as amended herein and recommends that it pass Final Reading in the form attached hereto as S.B. No. 692, H.D. 1, C.D. 1.

Representatives Blair, Garcia, Lee, Masutani, Nakamura and Ikeda,
Managers on the part of the House.

Senators Cobb, Campbell and Saiki,
Managers on the part of the Senate.

Conf. Com. Rep. No. 28 on S.B. No. 1373

The purpose of this bill is to appropriate additional moneys to the department of education thereby allowing the department of education to balance its operating budget for fiscal year 1978-79.

The department of education reported that there are insufficient funds to pay for all the positions authorized and needed to provide basic services. They indicated that the salary shortage is due to (1) shortage in the amounts appropriated for pay raises, (2) special education enrollment exceeding their budgeted projection, and (3) difficulty of generating sufficient salary savings to cover the turnover savings deducted in advance. Their projected shortage is $1.5 million.

Your Committee has amended the bill by increasing the nominal $8 appropriated in House Draft 1 of the bill to the $1.5 million projected by the department of education.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1373, 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. 1373, S.D. 1, H.D. 1, C.D. 1.

Representatives Lunasco, Suwa, Inaba, Morioka, Say and Marumoto,
Managers on the part of the House.

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

Conf. Com. Rep. No. 29 on H.B. No. 1459

The purpose of this bill is to provide notification to registered and legal owners of towed vehicles and vehicles left for repair of the location of their vehicles and to prevent the accumulation and assessment of excessive storage fees by towing companies and repair businesses.

Your Committee finds from the testimony presented that towing companies and repair businesses have been able to accumulate and assess large storage fees by not notifying the vehicle owners of the location of their vehicles. Your Committee is in accord with the intent of this bill to prevent this practice by requiring notification to be made within a specified time period. Failure of the owner to act after receiving notice will result in fees being accumulated as usual.

While in agreement with the intent of this bill, your Committee has amended the time requirements for owner notification. In order to provide uniformity and simplicity, your Committee has reorganized the bill and changed the maximum time periods allowed prior to notification to five days for registered owners and fifteen days for legal owners, for each of the situations denoted in the bill. Your Committee feels that these amendments will make it simpler to implement the provisions of the bill and will provide for greater compliance.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1459, 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. 1459, H.D. 1, S.D. 1, C.D. 1.

Representatives Blair, Baker, Dods, Lee, Masutani and Ikeda,
Managers on the part of the House.

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

Conf. Com. Rep. No. 30 on S.B. No. 1703

The purpose of this bill is to specify procedures to be followed upon submission of proposed constitutional amendments or revisions to the public for voter ratification.

Of primary concern to your Committee in considering this bill was the importance of educating the public of the pros and cons of each amendment or revision prior to its submission at an election.

This bill, as amended, provides that each proposed constitutional amendment will be submitted to the voters in the form of a question embracing a single subject which will require a "yes" or "no" vote for ratification.

The manner of voter education has also been specified to require the Constitutional Convention to make available for public inspection the full text of any proposed amendment or revision at every public library, office of the county clerk, and the office of the chief election officer, as well as at every polling place on election day.

The Constitutional Convention shall also provide for a program of voter education to include, but not be limited to, an informational booklet prepared by the Legislative Reference Bureau of the pros and cons of each amendment and its known fiscal impact. At least thirty days prior to the submission of a proposed amendment or revision, each registered voter shall be provided such an informational booklet.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1703, 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. 1703, S.D. 1, H.D. 1, C.D. 1.

Representatives D. Yamada, Dods, Honda, Larsen, Masutani and Medeiros,
Managers on the part of the House.

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

Conf. Com. Rep. No. 31 on H.B. No. 1216

The purpose of this bill is to clarify provisions relating to the scope of Article 9 of the Uniform Commercial Code, Chapter 490, Hawaii Revised Statutes, and the refiling and re-recording requirements of Article 11 when the perfection of a security interest lapses by operation of law.

Under present law, deposit accounts are included under Article 9 by Act 155, Session Laws 1978, and the concurrent addition of new provisions, section 490:9-105(e), Hawaii Revised Statutes, defining "deposit account" and section 490:9-302(h) stating how a security interest in a deposit account is to be perfected.

Your Committee finds that the intent of the Legislature in 1978 was to include deposit accounts within the coverage of Article 9 for purposes of security interest perfection. Your Committee also feels that exclusion of deposit accounts from Article 9 in light of the above mentioned concurrent provisions would create an apparent contradiction and uncertainty in the status of security interests in such accounts.

Therefore, the bill has been amended by deleting Section 1, thereby including deposit accounts within the scope of Article 9, and eliminating any uncertainty. Corresponding technical changes have also been made.

Your Committee finds that Section 2 of H.B. No. 1216, H.D. 1, S.D. 1, would correct what appears to be a drafting error in Act 155, Session Laws of Hawaii 1978, relating to the refiling requirements of Article 11. Your Committee is aware of the intent of Article 11 to provide transitions necessitated by the various amendments made to the Code by Act 155 for existing perfected interests. Your Committee is in agreement with the intent of this bill to correct those apparent inadvertent mistakes.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1216, 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. 1216, H.D. 1, S.D. 1, C.D. 1.

Representatives Blair, Garcia, Lee, Nakamura, Uechi and Ikeda,
Managers on the part of the House.

Senators O'Connor, Takitani and Carroll,
Managers on the part of the Senate.

Conf. Com. Rep. No. 32 on S.B. No. 695

The purpose of this bill is to extend the repeal date for the Elevator Mechanics Licensing Board to December 31, 1980, under Hawaii's Sunset Law (Chapter 26H, H.R.S.). This bill will increase the membership of the board from five to seven members, and will change the composition of the board by adding one lay member, not connected with or associated with the elevator or building industry and the branch manager of the Technical Inspection Branch, Division of Occupational Safety and Health, Department of Labor and Industrial Relations. The bill also increases the quorum requirement from three to five and requires that the board receive, investigate, and take appropriate action with respect to all complaints regarding job peformance by elevator mechanics.

The conferees are in agreement that in the past the Elevator Mechanics Licensing Board has been relatively inactive in its regulatory function and its own review. However, the conferees have decided to extend the board for three years to December 31, 1982, and to conduct another review at that time. Your Committee on Conference notes that under a new provision in Chapter 26H, H.R.S., the Legislative Auditor is given the responsibility of preparing the impact statements for each board or commission. In that connection, the conferees have agreed not to require the Legislative Auditor to review more than eight boards or commissions in any one year.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 695, 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. 695, S.D. 1, H.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 33 on H.B. No. 1627

The purpose of this bill is to amend section 349-4, Hawaii Revised Statutes, to state more clearly the role and duty of the policy advisory board for elderly affairs, and to permit the board to determine whether or not to allow its ex officio members voting privileges at board meetings by deleting the provision that they shall be nonvoting members; to increase the number of ex officio board members from twenty-seven to twenty-nine; and to amend section 349-9, Hawaii Revised Statutes, to allow each county to establish a county office on aging and a county council on aging pursuant to the Older American Act of 1965, as amended.

Your Committee has amended the bill by adding underlining to the words "level agencies and organizations for the elderly." in Section 2 of the bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1627, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1627, S.D. 1, C.D. 1.

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

Senators Cayetano, Hara, Kawasaki, Toyofuku and Soares,
Managers on the part of the Senate.

Conf. Com. Rep. No. 34 on H.B. No. 531

The purpose of this bill is to increase the maximum estimated cost currently allowed of a building that is planned and allowed to be constructed without first obtaining the certification of an architect or engineer.

Present law provides that a stamp of certification is required on the plans for a proposed building if it is estimated to cost $35,000 or more for a single-story building and $30,000 or more for a two-story building. This bill would raise these exemption thresholds to $50,000 and $45,000, respectively, for privately owned buildings used for residential purposes.

Your Committee finds that the increased limits reflect the higher costs of construction that currently prevail as compared to the costs of construction at the time the present limits were set. Raising the limits will preserve the original intent of the exemption, that structures of a certain size and cost do not require certification. Your Committee also finds that the safety aspects of uncertified buildings will be adequately regulated by the building codes of the various counties.

While in agreement with the intent of the bill, your Committee has amended the dollar amount exemptions of subsection (a) to $40,000 and $35,000, respectively, to reflect both the policy that greater protection should be provided in terms of structural integrity for commercial structures, and the increased cost of construction.

Your Committee has also amended subsection (c) to require the recording at the Bureau of Conveyances of new structures only, which are exempt by subsection (b), based on the belief that an inadvertent failure to record a particular piece of work done to an existing structure, such as a minor improvement, may result in major consequences for the owner with regard to his recorded title. However, the original intent of the subsection, to provide subsequent buyers of exempted buildings the information that the building plans were not approved by an architect or engineer, is preserved.

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

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 531, S.D. 1, as amended herein and recommends that it pass Final Reading in the form attached hereto as H.B. No. 531, S.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 35 on H.B. No. 80

The purpose of this bill is to confer upon the Executive Office on Aging the general responsibilities of representing the interests of residents of long-term care facilities and promoting the quality of care received by and quality of life of these residents; require long-term care facilities which receive public funds to permit access to the facilities by the Executive Office on Aging; and prohibit retaliatory actions by the facilities or their employees upon residents who seek the advocacy assistance of the Executive Office on Aging.

This advocacy function for institutionalized elderly persons is now a mandate on the State under the federal Older Americans Act, as amended in 1978.

Your Committee has amended H.B. No. 80, H.D. 2, S.D. 1 by amending Section 2 of the bill which adds a new Section to Chapter 349, Hawaii Revised Statutes, so that paragraph (8) of the new Section 349- reads as follows (underlining omitted in this report):

"(8) Establish procedures for appropriate access to files maintained by the executive office on aging, except that the identity of any complainant or resident of a long-term care facility shall not be disclosed unless:

Your Committee has amended the bill to insure that any elderly person seeking advocacy assistance from any available source shall be protected from retaliatory action.

S.D. 1 of H.B. No. 80 used the word "complaint" in place of "complainant" and the word "facilities" in place of "facility".

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 80, 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. 80, H.D. 2, S.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 36 on H.B. No. 1473

The purpose of this bill is to increase the annual grant to the Hawaii Wing, Civil Air Patrol, from $75,000 to $100,000, and provides further that not less than $3,000 be allocated to each Civil Air Patrol unit in the State.

Presently, only units outside the city and county of Honolulu are assured of a full $3,000 allocation. There are 10 units on Oahu that do not receive any allocation and the intent of this bill is to provide for $3,000 to each of these Oahu units, treating all units alike throughout the State. However, your Committee agrees that all units receiving this full allotment should meet minimum requirements established by national headquarters of the Civil Air Patrol and this bill accordingly so provides. General conditions for this grant and provisions governing procedures for allotment, monitoring and evaluation are included.

Your Committee agrees that the review procedure set forth in H.B. No. 1473, H.D. 1, S.D. 1, is not necessary and therefore the required review provisions have been deleted.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1473, 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. 1473, H.D. 1., S.D. 1, C.D. 1.

Representatives Suwa, Morioka, Crozier, de Heer, Fukunaga, Hashimoto, Holt, Ige, Inaba, Kobayashi, Kunimura, Sakamoto, Takitani, Lacy, Narvaes and Sutton,
Managers on the part of the House.

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

Conf. Com. Rep. No. 37 on H.B. No. 1322 (Majority)

The purpose of this bill is to allow the State Health Planning and Development Agency to establish criteria to exempt from the certificate of need requirement, certain proposed expenditures or changes by organized ambulatory health care facilities.

The definition of organized ambulatory health care facilities was written with the intent of including major medical groups under the statute which requires a certificate of need when they establish new facilities. The definition includes however, some 70 or 80 health care providers which are small medical groups, and even some one or two person operations. Because of the definition, these providers require a certificate of need before they can establish a new office or move to a new location.

Your Committee finds that the requirement of the certificate of need for these smaller ambulatory health care facilities is beyond the intent of the law.

Your Committee has amended the bill such that the State Health Planning and Development Agency may adopt rules to "establish criteria" for certain exemptions from the certificate of need requirement.

The words "substantial effect" in Sec. 323D-54(b) have been amended to read "significant impact".

Your Committee has further amended the bill by making a grammatical correction.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1322, 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. 1322, H.D. 1, S.D. 1, C.D. 1.

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

Senators Carpenter, Abercrombie and Yee,
Managers on the part of the Senate.
(Senator Abercrombie did not concur.)

Conf. Com. Rep. No. 38 on H.B. No. 421

The purposes of this bill are to make a motion for the deferred acceptance of a guilty (DAG) plea allowable only prior to trial and to permit a defendant to whom a DAG plea has been granted to apply for expungement of his official criminal records which action shall be taken one year after the request is made.

To effectuate the purposes of this bill, amendments to subsections (a) and (e) of section 853-1 were instituted. However, inasmuch as your Committee has acted upon both this bill and S.B. No. 393, S.D. 1, H.D. 1, and the latter provides for the procedure for the application for expungement and actual expungement, i.e. the amendment to subsection (e), your Committee has amended this bill by deleting any reference to subsections (b) through (e) of section 853-1, to avoid repetition of identical legislative proposals.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 421, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. 421, H.D. 1, S.D. 1, C.D. 1.

Representatives D. Yamada, Aki, Honda, Nakamura, Shito and Medeiros,
Managers on the part of the House.

Senators O'Connor, Ushijima and Carroll,
Managers on the part of the Senate.

Conf. Com. Rep. No. 39 on H.B. No. 451

The purpose of this bill is to close the legal loopholes that presently exist in the drug statutes by adding a definition for "dosage unit" in Sec. 712-1240 and also including in the definitions of a "practitioner" and "to distribute", the act of prescribing a controlled substance.

Your Committee finds that drugs such as LSD, cocaine and heroin are commonly sold in tablets or capsules that contain the average amount of the drug that is necessary for the user to obtain a "high". Although this finding applies in most instances, it is not true in all because drugs are also distributed and sold in various other forms that are not covered under the present drug laws. Because of this, law enforcement agents are faced with an almost impossible task of apprehending individuals dealing in the area of illegal drug distribution. Therefore, the broad term "dosage unit" was introduced to alleviate the problem encountered in the arrest and eventual prosecution of drug offenders.

However, after reviewing the definition of "dosage unit" as currently stated in this bill, your Committee feels that it does not completely rectify the aforementioned dilemma because the definition may be too specific, creating the possibility of yet another loophole being found in the law. Therefore, your Committee has amended this bill by further generalizing the definition of "dosage unit" to include any entity designed and intended for singular consumption or administration believing that this action will lessen the promotion of dangerous drugs within this State.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 451, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 451, S.D. 1, C.D. 1.

Representatives D. Yamada, Aki, Honda, Larsen, Shito and Medeiros,
Managers on the part of the House.

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

Conf. Com. Rep. No. 40 on H.B. No. 1386

The purpose of this bill is to effectuate comprehensive improvement of Hawaii's laws pertaining to theft by extortion and criminal coercion in order to unify the criminal provisions associated with these offenses, making unavailable the "claim of right" defense under certain defined situations, and expanding Hawaii's extortion laws to prohibit extortionate credit transactions.

Your Committee finds that this bill consolidates present Hawaii law dealing with extortion, i.e. theft by extortion and criminal coercion, and Federal law, the Extortionate Credit Transaction statutes, making such law simpler and more comprehensive.

However, your Committee has amended this bill by deleting paragraph (b) of Sec. 707- , Extortion in the first degree, which provides that a person commits the offense of extortion in the first degree if he commits extortion that results in great mental anguish to the victim. Your Committee is of the opinion that defining extortion in the first degree in terms of the great mental anguish of the victim is too subjective a definition for so serious an offense, extortion in the first degree being a class B felony. That is, inasmuch as the thresholds for great mental anguish differ with the individual involved, inconsistent, at best, or unjust, at worst, results would occur from making the person who causes such anguish guilty of a class B felony.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1386, 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. 1386, H.D. 1, S.D. 1, C.D. 1.

Representatives D. Yamada, Baker, Honda, Masutani, Nakamura and Medeiros,
Managers on the part of the House.

Senators O'Connor, Ushijima and Carroll,
Managers on the part of the Senate.

Conf. Com. Rep. No. 41 on S.B. No. 1091

The purpose of this bill is to lapse certain capital improvement appropriations which are unencumbered or which have not yet been lapsed by law.

Your Committee finds that in prior acts of the legislature, appropriations have been made for a number of capital improvement projects for which there remain appropriations and appropriation balances which are unencumbered. The existence of these inactive appropriations, with the corresponding authorization to finance the appropriations through the issuance of bonds, represents potential additional debt service to be counted against the debt limit as defined by the State Constitution.

Recent amendments to the State Constitution recognize the potential problem by having more than one billion dollars of authorized but unissued bonds. A lapsing provision has been established which would cause all general obligation bond funded appropriations which are unencumbered as of June 30, 1980 to lapse on that date unless otherwise earlier lapsed by law. The intent being that lapsing of inactive appropriations will facilitate accountability for capital improvement projects and will encourage a more rational development of capital improvement programs, requiring executive agencies to conduct on-going reviews of capital improvement programs.

Your Committee has considered the Senate and House versions of this bill and has accepted the House version, except section 6 of that version has been amended to reduce the appropriation for the mass transit system for Oahu from $6,000,000 to $3,300,000 and to include the extension of the lapsing date to June 30, 1980. It is the intent of your Committee to make the legislature's intention clear that further appropriations for this project will be considered as they arise so that the legislature will be enabled to continue supervision in this area. Your Committee notes that the City and County of Honolulu has to this date failed to make the matching commitment required by this appropriation.

Your Committee has added a new section 9 indicating the effect of underscoring and bracketing in the bill and renumbered section 9 as section 10.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1091, 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. 1091, S.D. 1, H.D. 1, C.D. 1.

Representatives Suwa, Morioka, Crozier, de Heer, Fukunaga, Hashimoto, Holt, Ige, Inaba, Kobayashi, Kunimura, Sakamoto, Takitani, Lacy, Narvaes and Sutton,
Managers on the part of the House.

Senators Cayetano, Kawasaki, Abercrombie, Carpenter, Chong, Hara, Mizuguchi, Toyofuku, Yamasaki, Yim, Young, Ajifu, Anderson, Soares and Yee,
Managers on the part of the Senate.

Conf. Com. Rep. No. 42 on H.B. No. 1646

The purpose of this bill is to broaden drivers' license exemptions to include persons holding valid licenses from the District of Columbia, the Commonwealth of Puerto Rico, Panama Canal Zone, U.S. Virgin Islands, American Samoa and Guam.

This bill will provide guidance to drivers' license examiners and end the present discrimination against U.S. citizens caused by the omission of certain jurisdictions in Section 286-105, H.R.S.

Your Committee, upon further consideration, has amended H.B. No. 1646, H.D. 1, S.D. 1, by deleting the exemption for persons with drivers' licenses from the Panama Canal Zone. Your Committee feels that, since the United States is relinquishing its control over the Panama Canal Zone, the driving license standards may not meet the standards of the State of Hawaii. Your Committee believes that, in the best interest and safety of the motoring public, these persons should be licensed with a State of Hawaii driver's license before being permitted to operate a motor vehicle in the state.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1646, 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. 1646, H.D. 1, S.D. 1, C.D. 1.

Representatives D. Yamada, Baker, Blair, Honda, Larsen and Medeiros,
Managers on the part of the House.

Senators Mizuguchi, O'Connor, Ushijima and Soares,
Managers on the part of the Senate.

Conf. Com. Rep. No. 43 on H.B. No. 643

The purpose of this bill is to make numerous housekeeping amendments to the provisions of Chapters 11, 12, and 15, Hawaii Revised Statutes, relating to elections.

As received by your Committee, this bill (1) increases the compensation for members of the Board of Registration from $35 to $45 a day; (2) requires that political parties submit the names of precinct officials no later than ninety days prior to the close of filing for any primary, special primary, or special election; (3) deletes the use of the primary registration list to verify the party affiliation of a precinct official; (4) provides that instruction of precinct officials be conducted no later than 4:30 p.m. on the day prior to an election; (5) provides that voting units be designated by a uniform identification system; (6) deletes the requirement that each county clerk certify to the chief election officer the number of absentee ballots delivered or mailed to voters; (7) eliminates the need to amend the election laws pertaining to election contests each time court filing fees are changed; (8) specifies the date on which nomination papers shall be made available; and (9) eliminates the requirement that absentee ballots found to be invalid prior to election day be rechecked on election day.

Your Committee has amended this bill by deleting Section 2 of the bill which contained amendments to Section 11-72 pertaining to precinct officials. The provisions of this section are included in S.B. No. 9, S.D. 1, H.D. 1, relating to primary elections.

The provisions of the bill relating to the instruction of precinct officials have been amended by deleting reference to a specific time and date by which such instruction is required to be conducted. As amended, the bill simply provides that the training of precinct officials be conducted prior to any election.

Your Committee has amended this bill further, by amending the provisions contained in Section 6 and 7 of the bill relating to court filing fees for election contests. The Senate version establishes the filing fee for election contests at the prevailing rate; however, your Committee believes that the Supreme Court should determine the appropriate fee in such cases. Accordingly, the bill has been amended to provide for costs of court as established by rules of the Supreme Court.

Your Committee has also made clarifying amendments to the provisions pertaining to availability of nomination papers, and technical amendments to correct typographical errors and to renumber sections of the bill, none of which affect its substance.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 643, 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. 643, H.D. 1, S.D. 2, C.D. 1.

Representatives D. Yamada, Aki, Honda, Nakamura, Shito and Medeiros, Managers on the part of the House.

Senators O'Connor, Cayetano, Kuroda, Mizuguchi, George and Saiki, Managers on the part of the Senate.

Conf. Com. Rep. No. 44 on H.B. No. 98

The purpose of this bill is to implement the constitutional amendment relating to the Judicial Salary Commission, which provides that there shall be a salary commission to review and recommend salaries for justices and judges of all State courts.

Your Committee feels that the ability of the judicial system to attract able judges is directly related to judicial salaries, and that inasmuch as judges are full-time employees, their salaries should be adjusted as other salaries and wages change.

However, your Committee has amended this bill to provide for a five-member salary commission whose members shall all be appointed by the Governor, subject to confirmation by the State Senate. Your Committee feels that as amended, this bill provides for a commission better able to perform its functions effectively and efficiently.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 98, 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. 98, H.D. 2, S.D. 2, C.D. 1.

Representatives D. Yamada, Honda, Masutani, Morioka, Uechi and Medeiros, Managers on the part of the House.

Senators O'Connor, Cayetano, Ushijima, Takitani and Carroll, Managers on the part of the Senate.

Conf. Com. Rep. No. 45 on H.B. No. 520

The purposes of this bill are to add family planning services to the medical care and services for which a minor may validly consent, remove the references to abortion in the definition of medical care and services, and require a minor's consent prior to the treating physician's approval of the release of, or his actual release of, information about medical services provided the minor except where the minor is diagnosed as being pregnant or as having venereal disease. In these latter cases, the physician would have discretion to release information to a minor's spouse, parent, custodian, or guardian after consultation with the minor.

Twenty-six states and the District of Columbia already have laws similar to H.B. No. 520 allowing minors to go to professional medical practitioners for counseling and medical care related to family planning without the prior consent of their spouses, parents, custodians, or guardians. The intent of these laws is to check the heavy incidence of teen-age pregnancies and teen-age venereal disease.

This bill has been amended to leave the treating physician complete discretion over releasing information about medical counsel or care provided a minor to the minor's spouse, parent, custodian, or guardian.

Your Committee has amended the bill to correct certain typographical matters, to

add the Ramseyer clause as Section 2 of the bill, and to renumber Section 2 as Section 3.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 520, 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. 520, H.D. 1, S.D. 2, C.D. 1.

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

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

Conf. Com. Rep. No. 46 on H.B. No. 99

The purpose of this bill is to establish a Commission on Judicial Discipline which shall investigate and conduct hearings regarding allegations of judicial misconduct and make recommendations to the Supreme Court concerning reprisal, discipline, suspension, retirement, or removal of any justice or judge.

Your Committee supports the concept of a Commission on Judicial Discipline, but being of the opinion that the fifteen members provided for in the Senate draft is too unwieldy and may be counterproductive, has amended the bill to provide for a commission of not less than three members.

Further, your Committee notes that Section 604-2 of the Hawaii Revised Statutes empowers the Supreme Court to summarily remove a District judge when it deems such removal necessary for the public good. Inasmuch as this provision is in conflict with the intent and purpose of this bill, your Committee has added a new Section 4 to the bill conforming Section 604-2 of the Hawaii Revised Statutes by deleting that portion thereof which so empowers the Supreme Court to summarily remove a District Court judge.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 99, 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. 99, H.D. 1, S.D. 2, C.D. 1.

Representatives D. Yamada, Hashimoto, Honda, Masutani, Uechi and Medeiros,
Managers on the part of the House.

Senators O'Connor, Cayetano, Ushijima, Takitani and Carroll,
Managers on the part of the Senate.

Conf. Com. Rep. No. 47 on H.B. No. 1232

The purpose of this bill is to streamline the land use regulatory process by amending section 205-6, Hawaii Revised Statutes to provide that only those Special Use Permit requests involving lands with an area greater than fifteen acres shall be subject to approval by the Land Use Commission. All other Special Use Permits would be subject to approval by the appropriate county planning commission.

At present, the Land Use Commission is responsible for reviewing all special permits within the States. However, approximately 75 percent of those permits involve uses which have only local impacts. This bill would service to streamline the land use regulatory system by requiring the Land Use Commission to review only those permits involving land areas of more than fifteen acres. All other special permits would be subject to approval by the appropriate county planning commission. This would thus, enable the Land Use Commission to focus its efforts on those special permits which would have larger impacts of a statewide nature.

Your Committee has amended this bill by deleting the proposed sub-section (c) of Sec. 205-6, Hawaii Revised Statutes. Your committee believes that this sub-section is not necessary.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1232, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1232, S.D. 1, C.D. 1.

Representatives Kiyabu, Kawakami, Machida, Stanley and Medeiros,
Managers on the part of the House.

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

Conf. Com. Rep. No. 48 on H.B. No. 479

The purpose of this bill is to repeal the statutory provisions of sections 459-9(4)(A) and 459-9(11), Hawaii Revised Statutes, which prohibit advertising by optometrists in the public media.

Your Committee finds that in July of 1978, the Federal Trade Commission adopted a trade regulation which preempts state and local laws and mandates the removal of prohibitions on advertising by dispensing opticians, optometrists, and ophthalmologists of their prices or availability of their services. Your Committee is therefore in accord with the intent of this bill to comply with this regulation. Your Committee further feels that allowing advertising will permit the consumer to make informed optical purchase decisions and may lower the price of optometric services and products by providing previously undisclosable price information.

Your Committee has amended the bill by placing the advertising disclosure requirements of section 459-9(3)(A) in a separate section. Your Committee feels that these requirements should apply not only to relicensing standards but to the practice of optometry in general.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 479, 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. 479, H.D. 1, S.D. 1, C.D. 1.

Representatives Blair, Garcia, Honda, Larsen, Uechi and Ikeda,
Managers on the part of the House.

Senators Cobb, Yim and Saiki,
Managers on the part of the Senate.

Conf. Com. Rep. No. 49 on H.B. No. 1557

The purpose of this bill is to amend the structure of the county committees on the status of women by expanding the scope of their duties and responsibilities, making them more responsive to the mayor and the council of their respective counties.

Your Committee finds that Act 207, Session Laws of Hawaii 1976, repealed the Hawaii State Commission on Children and Youth and created the Office of Children and Youth. Accordingly, your Committee has amended this bill to clarify and conform Sec. 367-4, H.R.S., to Act 207 and has also made various minor typographical changes.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1557, 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. 1557, H.D. 1, S.D. 1, C.D. 1.

Representatives D. Yamada, Honda, Garcia, Lee, Uechi and Medeiros,
Managers on the part of the House.

Senators Ushijima, Abercrombie, Kuroda, O'Connor, Yamasaki,
George and Yee,
Managers on the part of the Senate.

Conf. Com. Rep. No. 50 on H.B. No. 173

The purpose of this bill is to provide that consumer retail liquor prices not be statutorily set at a minimum level.

Under present law, a schedule of minimum consumer resale prices must be filed with the liquor commission by a manufacturer or wholesaler. Such prices are mandated to be uniform throughout the State and retail sellers are prohibited from selling liquor at prices below said minimum.

Your Committee feels that the present law results in higher prices for consumers by eliminating price competition among retailers. Additionally, your Committee feels that the anti-competitive and antitrust implications of the present law may detract from Hawaii's antitrust law policy.

Your Committee notes that this bill will retain the requirement of wholesale price posting for one year. While agreeable to this extension, your Committee feels that the present language of this bill which would grant said extension may be interpreted to require either the creation of exclusive distributorships in order to sell liquor at wholesale, which is anti-competitive in nature, or would require only those wholesalers who are express distributors to post their prices, a potential violation of equal protection rights. For these reasons, your Committee has amended the language of this bill dealing with section 281-43(a), Hawaii Revised Statutes, to eliminate the distinctions between those sellers required to file a schedule of prices with the liquor commission.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 173, 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. 173, H.D. 1, S.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 51 on H.B. No. 166

The purpose of this bill is to provide to consumers the opportunity to obtain prescription drugs at a cost savings by requiring dispensing pharmacists to substitute generic drugs for brand name drugs when filling prescriptions.

Under present law, the dispensing of a different drug or brand of drug in place of the drug or brand prescribed or ordered without express permission from the prescriber or orderer is prohibited.

Your Committee feels that requiring generic drug substitution unless expressly prohibited by the prescriber or refused by the consumer, will function to the benefit of consumers and that resultant cost savings will be realized. Your Committee finds that generic drugs are measurably less expensive at retail than their brand name counterparts in this State and that consumers can benefit from this price differential. It is anticipated that the Board of Pharmacy will respond to the intent of the bill by amending its rules to require dispensers of drugs to disclose, pursuant to request by telephone, the price of the lowest cost equivalent drug product corresponding to the drug prescribed.

While strongly in agreement with the intent of this bill, your Committee has made several amendments to facilitate implementation. First, all prescriptions will be presumed substitutable unless the prescriber handwrites the words, "do not substitute" on the face of the prescription form. Your Committee feels that this requirement will encourage the prescriber to make a conscious decision to not permit a lower cost substitution when in his or her professional judgment, a specifically named drug is necessary for the patient's health. Your Committee finds that other prescription form requirements used in other jurisdictions have not successfully accomplished this.

Your Committee has also revised the section creating the generic substitution board to clearly specify its composition. Members shall include one representative from the Department of Health, one representative from either the University of Hawaii School of Medicine or School of Public Health, two practicing physicians, and two practicing pharmacists, all of whom shall be appointed by the Governor, who shall also designate the board's chairman. The seventh member shall be the director of the Department of Health.

Your Committee has also deleted the detailed price posting requirement of Section 3 of H.B. No. 166, H.D. 1, S.D. 2, in the belief that the projected amount of benefit to the consumer does not warrant the additional burden placed on pharmacists and other dispensers. Your Committee also feels that the posting requirement contained in the bill as amended is sufficient to inform consumers of their options regarding substitution.

Your Committee has also made organizational changes to the bill and other minor language changes to simplify and clarify its provisions.

Your Committee feels that this bill is the simplest and most efficient means of implementing the cost saving intent of drug substitution and will provide a workable model upon which to monitor and evaluate the program's costs and effects.

Your Committee anticipates that the Legislature will review this Act, not later than the 1981 session, to determine its effectiveness. To that end, the Department is required to monitor the effects of the Act. The Board is expected to cooperate in that effort.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 166, 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. 166, H.D. 1, S.D. 2, C.D. 1.

Representatives Blair, Aki, Kobayashi, Segawa, Shito and Ikeda,
Managers on the part of the House.

Senators Carpenter, Campbell, Chong, Cobb and Saiki,
Managers on the part of the Senate.

Conf. Com. Rep. No. 52 on H.B. No. 102

The purpose of this bill is to conform the Hawaii Revised Statutes to section 12 of Article XVI of the Hawaii Constitution.

Your Committee observes that conformity of the Hawaii Revised Statutes requires amendment to two separate areas. One is the "adverse possession" provisions of Part II of Chapter 657 and the other is the "quiet title" provisions of Chapter 669.

H.B. No. 102, H.D. 1, S.D. 1 creates a new section which eliminates obtaining title to land by "adverse possession" for land parcels of more than five acres, but preserves the same for land parcels of five acres and less. In other words, title to land may still be obtained by adverse possession for land parcels of five acres and less.

As for land parcels of more than five acres, the bill is drafted to apply prospectively. Accordingly, where adverse possession of twenty years had matured previous to the voters' ratification of section 12 of Article XVI on November 9, 1978, such claim could still be enforceable under this bill.

The time period of adverse possession also includes those who had a claim based on ten years possession prior to May 4, 1973. This was done to accommodate those with claims prior to revisions of the law in 1973.

Your Committee, upon further consideration, has amended this bill to include broader language to cover adverse possession claims prior to 1978. It is the intent of your Committee that in all adverse possession claims, the property right shall vest at the conclusion of the applicable time period.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 102, 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. 102, H.D. 1, S.D. 1, C.D. 1.

Representatives D. Yamada, Dods, Honda, Larsen, Lee and Medeiros,
Managers on the part of the House.

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

Conf. Com. Rep. No. 53 on H.B. No. 14

The purpose of this bill is to implement the provisions of Article VII, Section 3, of the State Constitution to provide for a tax review commission.

Specifically, the constitutional provision reads as follows:

"There shall be a tax review commission, which shall be appointed as provided by law on or before July 1, 1980, and every five years thereafter. The commission shall submit to the legislature an evaluation of the State's tax structure, recommend revenue and tax policy and then dissolve."

This bill provides that the commission shall be appointed by the governor with the advice and consent of the senate and authorizes the commission to enter into contracts with consultants, and to report its findings 120 days prior to the convening of the second regular session of the legislature after the members have been appointed.

As amended by your Committee, this bill proposes that the commission shall consist of seven members and the first commission shall be appointed on or before July 1, 1980.

The appropriation of $40,000 for the commission remains unchanged but will be subject to lapsing into the general fund on June 30, 1981.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 14, H.D. 1, S.D. 1, as amended herein and recommends that it pass Final Reading in the form attached hereto as H.B. No. 14, H.D. 1. S.D. 1, C.D. 1.

Representatives Suwa, Morioka, Crozier, de Heer, Fukunaga, Hashimoto, Holt, Ige, Inaba, Kobayashi, Kunimura, Sakamoto, Takitani, Lacy, Narvaes and Sutton,
Managers on the part of the House.

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

Conf. Com. Rep. No. 54 on S.B. No. 581

The purpose of this bill is to require projects involving existing structures being converted to condominium status to meet applicable county requirements including county building, zoning, and subdivision rules, codes, ordinances, and regulations.

Present law does not require the compliance with county building and zoning codes and the various ordinances and regulations of existing structures being converted to condominiums. The Senate draft would require such projects and structures to comply with the applicable county codes, ordinances, and regulations and will require disclosure of any variance from county codes, ordinances, and regulations at the time of the original construction as well as any current variances.

Under the House of Representatives' draft, the disclosure requirements of sections 514A-40 and 514A-61, Hawaii Revised Statutes, were amended to include provisions describing the legal and physical condition of the building as well as its conformance with the various county building codes and rules. Developers of converted condominiums will be required to disclose the condition of structural components and mechanical and electrical installations to prospective buyers.

In addition, the House draft amended section 514A-20, Hawaii Revised Statutes, to require that all horizontal property regimes conform at the time of creation to all applicable lot and structure zoning requirements.

Your Committee on Conference, after due deliberations, has agreed to retain the Senate draft version amending sections 514A-11 and 514A-40, Hawaii Revised Statutes. In so doing, your Committee has reworded the language for purposes of clarity. Your Committee has also agreed to incorporate the House draft version amending sections 514A-40 and 514A-61, Hawaii Revised Statutes.

Your Committee has decided, however, that the House draft amendment to section 514A-20, Hawaii Revised Statutes, relating to nonconforming uses and structures, is not necessary or proper at this time. Your Committee has, therefore, eliminated that amendment.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 581, 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. 581, S.D. 1, H.D. 1, C.D. 1.

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

Senators Ushijima, Abercrombie, Cobb, Kuroda, O'Connor, Yamasaki, Yee and George,
Managers on the part of the Senate.

Conf. Com. Rep. No. 55 on S.B. No. 181

The purpose of this bill is to support increased efforts by prosecuting attorneys' offices to prosecute career criminals through organizational and operational techniques that have proven effective in selected counties in other states.

Your Committee finds that a substantial amount of serious crime is committed by a relatively small number of multiple and repeat felony offenders, commonly known as career criminals.

This bill represents an attempt to alleviate this ever increasing problem by providing for the establishment of a Career Criminal Prosecution program to be administered by the Office of the Attorney General. It requires the Office of the Attorney General to direct the program and gives it the discretion to allocate and award funds to counties in which career criminal prosecution units are established in substantial compliance with the policies and criteria which the Attorney General establishes with respect thereto. The establishment of such policies and criteria is not subject to Chapter 91 of the Hawaii Revised Statutes.

Your Committee upon further consideration has amended S.B. No. 181, S.D. 2, H.D. 1, to include a general definition of persons subject to career criminal prosecution efforts, which the Attorney General shall use as a basis for establishing prosecution within the counties.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 181, 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. 181, S.D. 2, H.D. 1, C.D. 1.

Representatives D. Yamada, Aki, Garcia, Honda, Shito and Medeiros,
Managers on the part of the House.

Senators O'Connor, Cobb and Carroll,
Managers on the part of the Senate.

Conf. Com. Rep. No. 56 on S.B. No. 1657

The purpose of this bill is to prevent the abandonment of sugarcane farms and to assist certain independent sugar growers in dire need because their costs of production continue to exceed their returns.

Your Committee finds that an emergency situation continues to exist on the island of Hawaii and the financial assistance to certain sugar growers on that island is justified to prevent the abandonment of sugar cane farms that are most vital to the economy of that island and ultimately to the economic well-being of the State. Since the termination of the United States Sugar Act in 1974, virtually all sugar cane producers in Hawaii and in the continental United States have sustained continuing financial setbacks. The sugar industry, however, remains important to the economy of the State and your Committee finds that support of the industry is most essential and therefore your committee approves the intent and purpose of this bill

Your Committee upon further consideration has made the following amendments to S.B. No. 1657, S.D. 2, H.D. 1.

(1) The first sentence of the new section 3.7 is revised to change the appropriation to $3,200,000 subject to the proviso that no less than $1,200,000 shall be loaned to growers whose sugar production is less than 4,000 tons per year and that no more than $2,000,000 shall be loaned to growers whose sugar production exceeds 4,000 tons per year.

(2) The second sentence of the new section 3.7 provide for repayment loans to growers whose production exceed 4,000 tons per year.

(a) Term of loan not to exceed three years.

(b) Waiver of principal repayment by installment with entire loan due and payable at the end of three years.

(c) Requiring annual payments of interest.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1657, 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. 1657, S.D. 2, H.D. 1, C.D. 1.

Representatives Uechi, Anderson, Crozier, Inaba, Sakamoto, Suwa and Takitani,
Managers on the part of the House.

Senators Cayetano, Ajifu, Hara, Takitani and Yim,
Managers on the part of the Senate.

Conf. Com. Rep. No. 57 on H.B. No. 48

The purpose of this bill is to extend the State Comprehensive Employment and Training (SCET) and State Loans for Employment components of the State Program for the Unemployed (SPU).

To avoid any forced lay-offs, your committee upon further consideration amended H.B. No. 48, H.D. 2, S.D. 2 by increasing the appropriation for SCET by $350,000 to bring the total appropriation for SCET to $3,550,000. It is the intent of your committee that these funds will be used to finance existing program projects. However, due to budgeting restraints, funding for Parts III and IV have been deleted.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 48, 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. 48, H.D. 2, S.D. 2, C.D. 1.

Representatives Takamine, de Heer, Kiyabu, Machida and Marumoto,
Managers on the part of the House.

Senators Cayetano, Abercrombie, Hara, Toyofuku, Young, Ajifu and Anderson,
Managers on the part of the Senate.

Conf. Com. Rep. No. 58 on H.B. No. 1252

The purpose of this bill is to strengthen the State's agriculture loan program. Included are clarification of the purpose and intent of the program, addition of the farm credit banks and private lenders from whom loans must be rejected before state loans are authorized, establishment of $10,000,000 as the aggregate ceiling for the State's contingent liability for insurance of private lenders' loans, changing of interest rates, raising of the loan limit for operating loans, and providing funds for consultative services from the agricultural loan reserve fund. The bill provides for funds for the new farmer program and the regular loan program.

Your Committee upon further consideration has made the following amendments to H.B. No. 1252, H.D. 2, S.D. 1:

(1) Interest rate for emergency loans has been set at three per cent per annum.

(2) Appropriation of $750,000 to the Agricultural Loan Revolving Fund, $500,000 of which shall be for the new farmer program.

(3) Appropriation of $25,000 for consultative services.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1252, 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. 1252, H.D. 2, S.D. 1, C.D. 1.

Representatives Uechi, Holt, Morioka, Narvaes, Suwa, Toguchi and Uwaine,
Managers on the part of the House.

Senators Cayetano, Ajifu, Hara, Takitani and Yim,
Managers on the part of the Senate.

Conf. Com. Rep. No. 59 on H.B. No. 923

The purpose of this bill is to reduce the increasing number of books and other library materials that are being lost by State libraries through the failure of borrowers to return them.

Sanctions against persons who wilfully detained books and other library materials were repealed when the Penal Code was enacted in 1973. While the Penal Code of 1973 addressed the problem of unlawful removal of books and other library materials, it did not cover wilful detention.

Your Committee finds that the volume dollar loss faced by our State libraries due to irresponsible borrowers is reaching serious proportions. However, your Committee feels that this act does not constitute a criminal offense and therefore, the penalties for the wilful detention of books and other library materials should be established by the agency or department that administers State libraries, which could best determine the appropriate civil penalties commensurate with wilful detention.

Furthermore, due to the escalating inflation trends, the replacement value of the lost books or materials will also increase proportionately to the inflation rate. Accordingly, your Committee has amended this bill by making the penalty charge for lost or detained books which have not been returned 30 days after written notice, commensurate with the replacement value of such materials.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 923, 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. 923, H.D. 1, S.D. 1, C.D. 1.

Representatives D. Yamada, Baker, Dods, Garcia, Honda and Medeiros,
Managers on the part of the House.

Senators Campbell, O'Connor, Young and Ajifu,
Managers on the part of the Senate.

Conf. Com. Rep. No. 60 on H.B. No. 1634

The purposes of H.B. No. 1634, H.D. 1, S.D. 1, are to open the State Tort Liability Act to trial by jury and to disallow the court from awarding attorney's fees against the State in addition to the judgment.

Your Committee notes that the State Tort Liability Act was originally modeled after the Federal Tort Liability Act. The latter was drafted specifically to disallow jury trials on the theory that a governmental defendant, by virtue of its impersonal posture and seemingly limitless financial resources, may be vulnerable to manipulation of the passions of juries by skillful counsel for claimants. The testimony of the Attorney General indicates that the experience of its office suggests that a jury's judgment is preferred over that of our judges.

Your Committee feels that it would be grave error to open the floodgates of jury passion to all cases under the State Tort Liability Act. Recognizing that claims under that Act are essentially allowed as sovereign dispensation, we conclude that jury trials should be availed only when all of the parties in the case agree to a trial by jury.

Your Committee has amended H.B. No. 1634, H.D. 1, S.D. 1, to make attorney's fees payable out of judgments awarded to plaintiffs, thus treating the problem more directly. However, such limitation is not applicable to attorney's fees and costs that the court may allow as sanctions against the Attorney General. We would observe in that regard that the Office of the Attorney General should treat everyone fairly even when they are opposing litigants. Public confidence in the integrity of that office is paramount to our democratic process and prompts that posture. Thus, your Committee concludes that it is necessary that the authority of the court to award sanctions against the Attorney General and his staff should not be negated by implication. Such sanctions are to be allowed similarly as against all other party litigants whenever unreasonable conduct by the Attorney General or his staff is deemed by the court to have unfairly required accrual of attorney's fees and costs by the opposing party.

Your Committee has amended H.B. No. 1634, H.D. 1, S.D. 1, to conform the State Tort Liability Act to the Federal Tort Liability Act by raising the maximum allowable attorney's fees (excepting sanctions) from twenty percent to twenty-five percent.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1634, 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. 1634, H.D. 1, S.D. 1, C.D. 1.

Representatives D. Yamada, Aki, Honda, Nakamura, Shito and Medeiros,
Managers on the part of the House.

Senators O'Connor, Takitani, Ushijima, Carroll and Saiki,
Managers on the part of the Senate.

Conf. Com. Rep. No. 61 on S.B. No. 1682

The purpose of this bill is to better define the properties that may be forfeited when used in illegal gambling, and to allow the trial judge at the criminal trial to order forfeiture of such properties at his discretion if he is satisfied that the preponderance of evidence indicates that the owner had allowed its use.

This bill establishes the quantum of evidence required for forfeiture as the preponderance of evidence as against the criterion of "beyond a reasonable doubt."

It should be noted in this regard that an owner who may feel he has a good claim to the property in question is allowed to intervene under the provisions of section 701-119. In such intervention, the property is returned to him if he proves by the preponderance of evidence that he was not in complicity in the illegal use of the property.

Your Committee amended the H.D. 1 version of the bill to designate only paraphernalia used in fighting animals and birds to be susceptible to its forfeiture requirements as distinguished from the animals or birds themselves which will not come within the ambit of the forfeiture.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1682, 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. 1682, S.D. 1, H.D. 1, C.D. 1.

Representatives D. Yamada, Dods, Garcia, Honda, Larsen and Medeiros,
Managers on the part of the House.

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

Conf. Com. Rep. No. 62 on S.B. No. 1049

The purpose of this bill is to clarify the offense of unreasonable noise.

Your Committee finds that under current statutes, in order to convict a person under the disorderly conduct statute for making unreasonable noise, one must prove that such person's actions involved a gross deviation from the standard of conduct of a law-abiding citizen. Prosecution has been difficult using this broad, if not vague, definition. This bill authorizes any police officer to make a determination of what is unreasonable noise and makes the failure of a person to heed his warning a punishable offense.

Your Committee, upon further consideration, has amended S.B. No. 1049, S.D. 1, H.D. 1 to hold the renter, resident, or owner-occupant of the premises guilty of a noise violation if he knowingly or negligently consents to unreasonable noise on his premises.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1049, 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. 1049, S.D. 1, H.D. 1, C.D. 1.

Representatives D. Yamada, Baker, Blair, Honda and Medeiros,
Managers on the part of the House.

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

Conf. Com. Rep. No. 63 on H.B. No. 732

The purpose of this bill is to increase the maximum capital loan limit from $50,000 to $100,000. This increase would be in line with the increase in the cost of doing business in Hawaii and would provide the necessary flexibility to the program in assisting small business concerns.

The bill also provides that loans are to bear simple interest at a rate of no less than two per cent below the average prime interest rate as determined by the board of governors of the Federal Reserve System at the time the loan is made rather than at the seven and one-half per cent a year rate currently established by statutes.

The bill also reduces from five to two years the time period that the director may defer the first installment in the principal of a loan.

Your Committee upon further consideration has made the following amendments to H.B. No. 732, S.D. 2:

(1) The interest rate is being limited to seven and one-half percent a year, simple interest. Your Committee believes that a fluctuating interest rate will make administration of the bill very cumbersome. A set, specific interest rate will streamline administration. Another reason for the change made by your Committee is that banks, rather than the board of governors, set the prime rate. Thus the prime rate varies from bank to bank. The prime rate is also not the best basis for determining the interest rate on capital loans.

(2) The time limit for the commencement date for the repayment of the first installment on the principal of each loan has been increased from two to five years, subject to deferral by the director. Similarly, Act 190, Session Laws of Hawaii 1978, increased the deferral of principal payments for agricultural loans from two to five years at the lender's discretion. It takes approximately five years for a new business to get on its feet, and thus any decrease in the deferral time works contrary to the intent of the law in aiding fledgling businesses.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 732, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 732, S.D. 2, C.D. 1.

Representatives Kawakami, Hashimoto, Holt, Morioka and Narvaes,
Managers on the part of the House.

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

Conf. Com. Rep. No. 64 on S.B. No. 1539

The purpose of this bill is to clarify the "Good Samaritan Law" by adding basic and life support personnel to the definition of "rescue team", and defining "good faith".

Presently, there appears to be some confusion as to whether life support personnel are included in the provisions of the "Good Samaritan Law" which protects persons who respond to emergency situations. This bill clarifies this by specifically including life support personnel under the present law.

Your Committee upon further consideration has made the following amendments to S.B. No. 1539, S.D. 1, H.D. 1:

(1) Added a purpose paragraph in section 1 to clarify the bill's intent.

(2) Amended subsection (b) to include physicians working in direct communication with a rescue team, in the provisions of the "Good Samaritan Law".

(3) Added a new subsection (c) to specify, under the law, a physician who renders emergency medical care in a hospital to a person, who is in immediate danger of losing his life, shall not be liable for any civil damages, if the physician exercises a standard of care expected of similar physicians under similar circumstances.

Your Committee finds that situations exist on the neighbor islands, where adequate personnel may not always be available in certain hospitals. Consequently, cases

may arise where the first physician able to render emergency medical care may not be the physician on duty. It is the intent of your Committee to accommodate these situations involving situations involving a physician, who does not receive remuneration or has no expectation of such, and who renders emergency medical care in a hospital.

(4) Added section 3 which states:

"Section 663-1.5(c) of section 2 of this Act does not affect penalties that were incurred, and proceedings that were begun before its effective date."

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1539, 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. 1539, S.D. 1, H.D. 1, C.D. 1.

Representatives D. Yamada, Honda, Lee, Masutani, Uechi and Medeiros,
Managers on the part of the House.

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

Conf. Com. Rep. No. 65 on H.B. No. 1215

The purpose of this bill is to amend Section 46-6, Hawaii Revised Statutes, regarding current park dedication legislation.

The bill serves to provide the counties with increased flexibility in the enactment of park dedication procedures. The bill would allow the counties the option of adopting a park dedication ordinance and provide them with more flexibility in setting park dedication fees and establishing by ordinance a time limit within which they must spend the park dedication fees they have collected.

Your Committee upon further consideration has amended the language of subsection (a) to make mandatory the option of counties with populations less than 200,000 to adopt park dedication ordinances.

Additionally, your Committee has amended this bill to make non-substantive technical and grammatical changes which do not affect the intent, purpose, or content of this bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1215, 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. 1215, H.D. 1, S.D. 3, C.D. 1.

Representatives Kawakami, Holt, Segawa, Shito and Lacy,
Managers on the part of the House.

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

Conf. Com. Rep. No. 66 on S.B. No. 1043

The purpose of this bill is to more clearly define the trial judge's descretion in awarding interest in civil cases.

Your Committee understands that at the present time interest is generally awarded commencing on the day the judgment is rendered. Where the issuance of a judgment is greatly delayed for any reason, such fixed commencement date can result in substantial injustice. Allowing the trial judge to designate the commencement date will permit more equitable results. Also, it is expected that party litigants will give serious regard to this discretion on the part of the trial judge so that those who may have had an unfair leverage by the arbitrariness of the prior rule will arrive at the realization that recalcitrance or unwarranted delays in cases which should be more speedily resolved will not enhance their position or assure them of a favorable award.

S.B. No. 1043, S.D. 1, H.D. 1, has been amended to clarify its language without effecting any changes of substance.

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

1043, 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. 1043, S.D. 1, H.D. 1, C.D. 1.

Representatives D. Yamada, Baker, Blair, Honda and Medeiros,
Managers on the part of the House.

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

Conf. Com. Rep. No. 67 on S.B. No. 1230

The purpose of this bill is to help curtail the increasing rate of shoplifting by adding a new section to the penal code relating to shoplifting.

Your Committee upon further consideration has amended this bill to return substantially to the form of S.B. No. 1230, providing for minimum mandatory fines for shoplifting offenses.

However, your Committee, concerned with the possibility of the creation of a "debtor's prison", has retained the alternative of public service as a means of working off the fine. Thus, in the court's discretion, the defendant found not to be in contumacious default in the payment may be ordered to report to either the Department of Accounting and General Services, the Department of Transportation, the Department of Land and Natural Resources or perform a certain number of hours of community service as the court shall provide.

Your Committee refers to section 706-605(1)(f), Hawaii Revised Statutes, relating to authorized disposition of convicted defendants, and the ongoing program of the district court counselors. In this program, the defendant who has been sentenced reports to the court counselor, who assigns him to a specific department for work and supervision. The department responsible will report back to the court upon completion of the sentence. If the sentence was not completed, or completed unsatisfactorily, the court may impose a new sentence.

Your Committee finds that the public service alternative has become increasingly popular as a sentencing alternative, also used in other misdemeanors, traffic and litter violations. However, more legislation is necessary in this area, to delineate the relative number of hours of service for specific crimes, and other criteria for using this sentencing alternative.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1230, H.D. 1, as amended herein and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1230, H.D. 1, C.D. 1.

Representatives D. Yamada, Aki, Honda, Larsen, Shito and Medeiros,
Managers on the part of the House.

Senators O'Connor, Cobb and Carroll,
Managers on the part of the Senate.

Conf. Com. Rep. No. 68 on H.B. No. 95

The purpose of this bill is to implement Article I, section 11 of the Constitution of the State of Hawaii, as amended by the voters at the general election of 1978 and pertaining to grand jury counsel, and to provide a statutory framework for grand jury proceedings.

The specific language of the Constitution with respect to grand jury counsel to which such conformance is addressed reads:

"Whenever a grand jury is impaneled, there shall be an independent counsel appointed as provided by law to advise the members of the grand jury regarding matters brought before it. Independent counsel shall be selected from among those persons licensed to practice law by the supreme court of the State and shall not be a public employee. The term and compensation for independent counsel shall be as provided by law."

Your Committee advises that, as amended, this bill also encompasses provisions of S.B. No. 168, S.D. 1, H.D. 1 relating to grand jury proceedings. We are advised that such topic may be appropriately brought within the broad ambit of the title of H.B.

No. 95, "grand jury." It is your Committee's opinion that a unified treatment of the provisions of both bills provides a more orderly and simplified process for appropriate legislative consideration of these topics. We note that public hearings have been appropriately held in the course of prior deliberations on both bills.

H.B. No. 95, H.D. 2, S.D. 2, C.D. 1 conforms generally to the version of the Senate draft insofar as the provisions addressed to the grand jury counsel are concerned. The amendments made by your Committee in that regard are as follows:

1. While S.D. 1 sought to provide its principal provisions in a new chapter to the Hawaii Revised Statutes, C.D. 1 addresses the same by way of amendments to chapter 612. As H.B. No. 95 seeks to resolve the problems raised by the separate bills, H.B. No. 95 and S.B. No. 168, it was deemed that convenient public access to information relating to the grand jury and all allied matters should have a single statutory reference. In this regard, the grand jury is already treated under chapter 612, and it was concluded that chapter 612 was the more appropriate statutory reference.

2. C.D. 1 also provides that whenever practicable, the term of the grand jury counsel should be such that it will not be co-terminous with the term of the grand jury. This provision was taken from H.B. No. 95, H.D. 2, and the purpose is to provide by the staggered terms between the grand jury and its counsel, that the relationship between them will not become one of such intimacy that dominance by the grand jury counsel or loss of such counsel's independence will result.

H.B. No. 95, H.D. 2, S.D. 2, C.D. 1 also conforms generally to the version of the House draft of S.B. No. 168 insofar as the provisions addressed to grand jury deliberations are concerned. The amendments made by your Committee in that regard are as follows:

1. The grand jury deliberations are required to be private.

2. The grand jury is allowed to make inquiries of its counsel.

3. All inquiries made by the grand jury of its counsel are required to be verbatim and made part of the record.

4. Grand jury proceedings conducted in violation of the statutory restrictions governing its deliberations are made subject to dismissal by the court without prejudice.

Your Committee's staff consulted the representative from the prosecutor's office, City and County of Honolulu, who was in attendance observing the conference, and was assured that matters pertaining to grand jury proceedings are handled by the courts as matters required to be addressed as pre-trial issues, and that as such, there would be no danger of violations of such provisions resulting in dismissal of an otherwise valid indictment which would be barred from re-indictment by the theory of "double jeopardy." Nonetheless, in abundance of caution, your Committee amended the former draft to require that such dismissal shall be "without prejudice."

Further in that regard, the former draft was amended to allow dismissals of indictments for violations of grand jury proceedings to be brought by either party or the court. Although almost invariably such motion would be brought by the defense, your Committee envisioned the possibility of the prosecution or the court discovering grand jury irregularity and bringing such motion.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 95, 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. 95, H.D. 2, S.D. 2, C.D. 1.

Representatives D. Yamada, Garcia, Honda, Masutani, Uechi and Sutton,
Managers on the part of the House.

Senators O'Connor, Cayetano, Takitani, Ushijima and Carroll,
Managers on the part of the Senate.

Conf. Com. Rep. No. 69 on H.B. No. 1716

The purpose of this bill is to designate the humpback whale as the official marine mammal of the State of Hawaii.

Your Committee finds that Hawaii is the only state privileged to welcome and shelter an entire herd of humpback whales each year as they migrate to their traditional calving grounds off the island of Maui and we alone can provide the opportunity for the scientific world to study these whales on such an intensive scale. Therefore, it would be a most appropriate emblem of this State because of its integral role in the modern history of Hawaii.

Your Committee is in agreement with the intent and purpose of H.D. No. 1716, S.D. 1, but has made a technical nonsubstantive amendment to this bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1716, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1716, S.D. 1, C.D. 1.

Representatives D. Yamada, Dods, Garcia, Honda, Lee and Medeiros,
Managers on the part of the House.

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

Conf. Com. Rep. No. 70 on H.B. No. 92

The purpose of this bill is to conform the Hawaii Revised Statutes to certain changes to the Hawaii State Constitution effected by the voters at the general election of 1978. The specific language of Article VI to which conformance is addressed by this bill reads as follows:

"ARTICLE VI

THE JUDICIARY

JUDICIAL POWER

Section 1. The Judicial power of the State shall be vested in one supreme court, one intermediate appellate court, circuit courts, district courts and in such other courts as the Legislature may from time to time establish. The several courts shall have original and appellate jurisdiction as provided by law and shall establish time limits for disposition of cases in accordance with their rules.

SUPREME COURT; INTERMEDIATE APPELLATE COURT: CIRCUIT COURTS

Section 2. The Supreme Court shall consist of a chief justice and four associate justices. The Chief Justice may assign a judge or judges of the Intermediate Appellate Court or a circuit court to serve temporarily on the Supreme Court, a judge of the Circuit Court to serve temporarily on the Intermediate Appellate Court and a judge of the District Court to serve temporarily on the Circuit Court. As provided by law, retired justices of the Supreme Court also may serve temporarily on the Supreme Court at the request of the Chief Justice. In case of a vacancy in the office of the Chief Justice, or if the Chief Justice is ill, absent or otherwise unable to serve, an associate justice designated in accordance with the rules of the Supreme Court shall serve temporarily in place of the Chief Justice."

(1) The legislative task regarding H.B. No. 92, H.D. 2, S.D. 2. The task presented by Article VI, Sections 1 and 2, pertaining to H.B. No. 92, H.D. 2, S.D. 2, is to establish "one Intermediate Appellate Court." The express language mandates no specific make-up of the structure of that court, other than that it shall be a single court contrasted against the geographical distribution of several intermediate courts found in many states.

Central to that task is the delineation of the jurisdiction and powers of the Intermediate Appellate Court and its coordination with that of the Supreme Court and that of other courts and sources of appeal. There was serious discussion on the subject by the delegates to the Constitutional Convention, and we now turn our attention in that direction:

First of all, and most significantly, the delegates to the Constitutional Convention set out their basic concern for the establishment of the Intermediate Appellate Court to be the urgent need to relieve the extreme congestion of cases presently in the Supreme Court and the inordinate delay of appellate disposition that has resulted. Standing

Committee Report No. 52 of the Constitutional Convention indicated at page 3 its "basic concern over the evergrowing congestion of cases at the appellate level of our judicial system and the concurrent increase in the length of time it takes for both civil and criminal cases to reach a conclusion."

Your Committtee recognizes that implicit in this concern is the need to fashion a jurisdictional structure for the Intermediate Appellate Court that will, by the challenge and scope of its responsibility, be able to attract the best and most qualified men to its bench, and which will address the problems of appellate congestion by effectuating smooth coordination among the different courts and effective distribution of workload for the appellate process.

The delegates to the Constitutional Convention also addressed themselves to a brief discussion of the many objectives the Intermediate Appellate Court should achieve in addition to the relief of appellate congestion. Standing Committee Report No. 52 states on pages 3 and 4:

"Your Committee, after careful consideration of all the proposed solutions to the problem of appellate congestion, recommends the establishment of an intermediate appellate court as the best, most effective and permanent solution to the problem. It is intended that the major duty of the intermediate appellate court will be to handle the more routine appellate cases of reviewing trial court determinations for errors and correcting such errors. This function is presently performed by the Supreme Court. By relieving the Supreme Court from this necessary but time consuming function, the Supreme Court can devote more time to its principal duty of selective review and formulation of decisional law. It is intended, however, that both the supreme court and intermediate appellate court have jurisdiction to hear all types of cases. A unitary filing system would be instituted by which all cases on appeal would be filed with one clerk's office and would require only one filing fee regardless of which or if both appellate courts review the case. The Supreme Court could use a bypass mechanism to immediately hear, in its discretion, special types of appeals. Although all double appeals could not be avoided, this mechanism would keep those to a minimum. It is intended, however, that in most instances, appellate review would be terminated at the intermediate appellate level. This two-tiered appellate system would preserve the vital law-shaping function of the Supreme Court and also insure a litigant's right to a meaningful appeal by affording a review on the merits without unnecessary delay."

Your Committee notes that the foregoing discussion recognizes the many and serious problems involved in fashioning the structure of the Intermediate Appellate Court. Upon analysis, the language of Standing Committee Report No. 52 suggests a structure that should broadly:

(a) require the Intermediate Appellate Court to handle the "more routine appellate cases;"

(b) allow such court, together with the Supreme Court, to hear "all types of cases;"

(c) allow the Supreme Court a "by-pass" in the hearing of "special types of appeals;"

(d) afford the desired result of minimizing "double appeals;" and

(e) preserve the "vital law-shaping function of the Supreme Court."

Additionally, Standing Committee Report No. 52 suggests a unitary filing system and imposition of a provision to ensure "a review on the merits without unnecessary delay."

The foregoing enumeration and terse discussion of the various objectives sought to be achieved indicates to your Committee that the delegates to the Constitutional Convention intended that the Legislature should act affirmatively to explore these separate objectives, weigh their interrelationship and obtain a rational balance among them in fashioning the ultimate structure for the Intermediate Appellate Court.

Finally in this regard, although your Committee has not considered the discussions in the Committee reports of the delegates to the Constitutional Convention to be mandatory, we have given such discussion serious consideration, and would note, at this time, that we have found them to be comprehensive and thoughtful. This is not to imply that all of the members of your Committee agreed with the delegates that the establishment of an Intermediate Appellate Court was the best solution to the problem at hand. Every

member, however, recognized that the policy to establish such court is imposed upon the Legislature by the voters as a constitutional mandate. Within that posture, we have found the delegates' discussions to be very helpful, and proceeded to fulfill our legislative task.

(2) Structure for judicial review. Your Committee upon careful scrutiny of the earlier drafts of the bill, arrived at the decision to amend Chapter 602 of the Hawaii Revised Statutes by changing the title to "Court of Appeals" and to divide it into two parts--the first part devoted to the Supreme Court and the other, to the Intermediate Appellate Court. A description of the structure of judicial review constructed by our amendments to Chapter 602 is as follows:

(a) Concurrent jurisdiction. The starting point of the jurisdictional structure is the establishment of concurrent jurisdiction between the Supreme Court and the Intermediate Appellate Court. This is dictated by the unique role the Intermediate Appellate Court is expected to play. The essence of its establishment is not the construction of an additional layer of appeal. Rather, its function is to alleviate appellate congestion by relieving the Supreme Court of its appellate load in the more routine and minor decisions in all types of cases.

It should also be noted that the establishment of concurrent jurisdiction fulfills the constitutional mandate that the jurisdiction of the Intermediate Appellate Court be "provided by law."

(b) Unitary filing. The structure of concurrent jurisdiction conveniently accommodates the establishment of a unitary filing system, which was thought by the delegates to be desirable. All appeals addressed to either court--Supreme Court and Intermediate Appellate Court--will be filed with the Supreme Court and there will be one filing fee.

(c) Assignment of cases. The Chief Justice or his designee from among the Supreme Court justices or Intermediate Appellate judges, is given the task, statutorily, to assign the cases filed under the unitary filing system, and to route them according to the magnitude of their importance. It should be observed that concurrent jurisdiction allows for such assignment to reach all such types of cases, and avoids the arbitrary routing of cases to either court which would have resulted if the jurisdiction of these courts had been categorized by types of cases.

(d) Criteria for assignment. A case is to be assigned to the Supreme Court if it "involves a question of . . . importance." By shunting lesser cases to the Intermediate Appellate Court, we preserve "the vital law-shaping function of the Supreme Court" by allowing it to spend less time on routine cases.

The language routing cases involving questions of importance to the Supreme Court was adopted from similar language appearing in the laws of the State of Illinois. Realizing its breadth, it was thought desirable that such language be supplemented by more specific criteria.

Your Committee owes much for the following criteria to former Justice of the Supreme Court, Bert T. Kobayashi. Such criteria are:

(1) Whether the case involves a question of first impression or presents a novel legal question; or

(2) Whether the case involves a question of State or Federal constitutional interpretation; or

(3) Whether the case raises a substantial question of law regarding the validity of a State statute, County ordinance, or agency regulation; or

(4) Whether the case involves issues upon which there is an inconsistency in the decision of the Intermediate Appellate Court or of the Supreme Court; or

(5) Whether, in a criminal case, the sentence involved is life imprisonment without the possibility of parole.

It should be emphatically noted that the foregoing criteria is not intended to exclude the consideration of other criteria which may be relevant upon the general consideration of the "importance" of a particular case.

It should also be noted that the existence or absence of any among the listed criteria is not to be determinative of the question of assignment exclusive of other considerations. Rather, it is specifically provided that the assigning justice or judge is allowed to consider the substantiality of the applicable criteria in each case.

It is also expected that adequate consideration will be given to the workloads of both courts in determining case assignment.

It is very important to observe that the criteria to be used in assignment of cases are set out in the Hawaii Revised Statutes. Your Committee considered that where the jurisdictions of the two courts are concurrent as in this case, it is important that criteria for assignment be provided statutorily, so that appellants and other potential parties in appeal should have easy access to such criteria and thereby afford a measure of certainty as to which court their appeal is likely to be assigned.

(e) Motion for reassignment. Your Committee considered the possibilities that the assignment justice may err or that intervening changes of circumstances occuring after the original assignment may warrant a reassignment of the case from the Intermediate Appellate Court to the Supreme Court.

We expect that the original assignment will need to be changed only infrequently at best. However, flexibility is the key to remedy, and we have provided that a party may, at any time before the issuance of a decision by the Intermediate Appellate Court, move that the case be reassigned to the Supreme Court.

The movant is required to indicate the precise grounds which indicate that "the case on appeal involves a question of such importance as to warrant a direct appeal." Although we have not provided specific statutory criteria as in the case of the original assignment of cases, it is our intent that similar criteria be used with the additional requirement of establishing either the assigning justice's error or intervening change of circumstances.

The motion for reassignment is discretionary upon both courts. First, it is discretionary upon the Intermediate Appellate Court whether to join in such motion by its certification. Failure of such court to certify defeats the motion.

Secondly, even when so certified, the certification itself is made discretionary upon the Supreme Court as to whether it will accept such reassignment. The Supreme Court's refusal also defeats the motion and the case is required to proceed to decision by the Intermediate Appellate Court.

It should be noted that with respect to the motion for reassignment and elsewhere, the bill leaves much unsaid with respect to specific details of its application. This is intentionally done to allow the Supreme Court to accomplish the same by rules as set out by Article VI of the Hawaii State Constitution.

For example, just how many Intermediate Appellate judges must join in the certifications for reassignment and how many justices must join to accept such certifications is specifically left to be handled through Supreme Court rules. Similarly, the transmittal of briefs and records is also left to be provided by rule.

(f) Reassignment by Supreme Court order. Your Committee also considered the possibility that the circumstances of a given case may require a more expeditious handling of a reassignment than that provided by way of motion for reassignment. In that regard, it is observed that the motion for reassignment would normally originate from among the litigants, and it is required to pass through the process of deliberation by both courts before reassignment is effected. This is a rather comprehensive procedure designed to allow only the most serious cases to obtain reassignment.

However, it was considered that emergency situations might arise in which the procedure by way of motion for reassignment might prove too cumbersome, with justice being prevented by the very comprehensiveness of the procedure. Accordingly, your Committee devised a method whereby reassignment may be summarily obtained through a procedure to be initiated by the Supreme Court.

It should be observed that this would provide the "bypass mechanism to immediately hear, in its discretion, special types of appeals," as suggested by the delegates. It should be emphasized that this procedure is expected to be exercised only in the rarest instance and when "the case concerns an issue of imperative or of fundamental public importance." That is to say, it is either the immediacy of the required remedy or the magnitude of public importance that will determine the Supreme Court's exercise of this power.

(g) Appeal from the Intermediate Appellate Court. Every final decision of the Intermediate Appellate Court is subject to further appeal to the Supreme Court, but only by certiorari, which the Supreme Court may, in its discretion, refuse. Upon such refusal, or upon failure of the parties to apply for certiorari within ten days from the issuance of the decision of the Intermediate Appellate Court, that decision becomes final.

The allowance of the Supreme Court to deny certiorari is intended to minimize "double appeals." Your Committee notes that the delegates to the Constitutional Convention did not express the desire that all double appeals should be avoided, but only that they be minimized.

The system of discretionary certiorari will preserve the right to Supreme Court determination to all cases, even those of the simplest factual and legal context. However, such right to appeal is subject in all cases to the right of the Supreme Court to refuse it. Thus, the final arbiter as to whether any case has such social significance as to warrant a "double appeal" will rest with the Supreme Court. In this manner appellate review would be terminated in most instances at the intermediate appellate level.

Moreover, the application for writ of certiorari must state "errors of law or fact" or "inconsistencies in the decision of the Intermediate Appellate Court with that of the Supreme Court, Federal decisions or its own decisions, and the magnitude of such errors or inconsistencies dictating the need for further appeal." It must be observed, that such requirement is directed only to the application for the writ. It is not descriptive of the scope of review determinative of the Supreme Court's decision to grant or deny certiorari. The Supreme Court's power in that regard is intended simply to be discretionary.

(3) Consideration of case assignment pending appointment of judges. H.B. No. 92, H.D. 2, S.D. 2, C.D. 1, also provides specifically for assignment of cases presently pending before the Supreme Court for decision by the Intermediate Appellate Court. Such case assignment is intended to allow some measure of immediate relief to the Supreme Court's congested calendar.

More particularly, until appropriate appointment of the Intermediate Appellate judges, all appeals filed on and after the day after the effective date of this bill are subject to review by the Supreme Court conditioned upon consequent assignment to the Intermediate Appellate Court.

Additionally, such Supreme Court assignment of appeals to the Intermediate Appellate Court applies to appeals filed previous to the day after the effective date of this bill; provided that all such cases involving questions of State or Federal constitutional interpretation or involving criminal sentence of life imprisonment without possibility of parole shall be reviewed by the Supreme Court.

In such selection of cases for assignment to the Intermediate Appellate Court, it is expected that the Supreme Court will give appropriate consideration to the criteria for case assignment between those courts as established by this bill. Additionally, such case assignment must be viewed in the light of the basic concern of the delegates to the Constitutional Convention over the need for immediate relief to the present congestion of the Supreme Court caseload.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 92, 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. 92, H.D. 2, S.D. 2, C.D. 1.

Representatives D. Yamada, Blair, Honda, Sakamoto, Uechi and Medeiros,
Managers on the part of the House.

Senators O'Connor, Cayetano, Takitani and Carroll,
Managers on the part of the Senate.

Conf. Com. Rep. No. 71 on H.B. No. 282

The purpose of this bill is to establish a Hawaii criminal justice information data center to be responsible for the collection, storage, dissemination, and analysis of all pertinent criminal history record information from all criminal justice agencies and to provide for the collection, storage, and dissemination of criminal history record information by criminal justice agencies in such a manner as to balance the right of the public and press to be informed, the right of privacy of individual citizens, and the necessity for law enforcement agencies to utilize the tools needed to prevent crimes and detect criminals in support of the right of the public to be free from crime and the fear of crime.

This legislation will bring the State of Hawaii into compliance with federal regulations, specifically section 524(b) of the Crime Control Act of 1973. This section requires the Law Enforcement Assistance Administration (LEAA) to take steps to insure that agencies which collect, store, or disseminate criminal history record information with LEAA funds will (1) obtain disposition; (2) keep information current; (3) maintain security; (4) restrict use to legitimate purposes; and (5) allow inspection by the record subject. Federal regulations implemented by the LEAA and the Department of Justice pursuant to this mandate urge states to establish central record repositories for maintenance of comprehensive statewide criminal history record information files. The intended effect of these regulations is that each state receiving LEAA funds is expected to statutorily incorporate its data center. In Hawaii's case, all functions currently being performed by the Hawaii Criminal Justice Statistical Analysis Center (SAC) will be incorporated into the data center established under H.B. No. 282, H.D. 1, S.D. 1, C.D. 1.

Section 3 of the bill, as provided herein, contains a clause to invalidate any provision of this bill which is held to be a state mandate within the meaning of Article VIII, section 5, of the Constitution of the State of Hawaii. Under this Constitutional amendment, the State is required to share in the cost to the counties of any additional services required of the counties by legislative action. Based on the fact that H.B. No. 282 (companion bill to S.B. No. 392) was originally requested by the counties to prevent the loss of LEAA funding, it is the finding of the Committee that this legislation does not fall within the ambit of Article VIII, Section 5. However, if the opposite is found to be true then, under this bill such a provision shall be invalid.

Your Committee upon further consideration has made the following amendments to H.B. No. 282, H.D. 1, S.D. 2:

(1) The authorizaton of dissemination of criminal history record information for research, evaluative, or statistical activities under section -7(3) has been deleted. This change to the original bill was made to conform to federal law. However, it was erroneously based on an outdated and subsequently amended version of the Crime Control Act of 1973. The authorization for dissemination of this type of information is already provided in the section entitled "Limitations on dissemination." (Section 6 in H.B. No. 282 H.D. 1, S.D. 1; Section 9 in H.B. No. 282, H.D. 1, S.D. 1, C.D. 1).

(2) Section -2 (Establishment of the data center) of H.B. No. 282, H.D. 1 has been reinserted in an amended form. It provides that the governor, and not the chief justice, shall appoint the director of the data center. Further, the director shall serve in an interim capacity. The section establishing the data center has been added because the bill makes no sense without it. Appointment of the director by the governor on an interim basis is necessary until a more extensive examination of where the data center should permanently be located can be made.

(3) Section -3 (Reporting to data center) and Section -4 (Query of data center) of H.B. No. 282, H.D. 1 have been reinserted. These additions naturally follow from the addition of Section -2.

(4) H.B. No. 282, H.D. 1, S.D. 2, has been amended by reinserting section -11 (Office of correctional information and statistics) of H.B. No. 282, H.D. 1, S.D. 1. This new section mandates coordination of the SAC with the computer center under the jurisdiction of the Intake Service Centers. The Committee made this change because of its concern for the potential overlapping activities and functions of these two bodies, the duplication of personnel and the large amount of money being spent. The Committee intends by addition of this section to eliminate such duplication of effort.

As a final note, the Committee wishes to make clear that there are unresolved questions related to the data center concerning (1) the relationship of the center with other state and county law enforcement agencies, (2) the permanent location of the center for adminis-

trative purposes, (3) whether there should be and who should appoint an advisory committee, and (4) whether the director of the center should be appointive and if so by whom. It is the intent of the Committee in recommending passage of this bill that these questions will be more permanently resolved following study during the interim prior to the Regular Session of 1980.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 282, 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. 282, H.D. 1, S.D. 2, C.D. 1.

Representatives D. Yamada, Holt, Honda, Nakamura, Shito and Medeiros, Managers on the part of the House.

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

Conf. Com. Rep. No. 72 on H.B. No. 723

The purpose of this bill is to revise section 661-7, Hawaii Revised Statutes, which provides for the forfeiture of a fraudulent claim made against the State.

Your Committee upon further consideration has made the following amendments to H.B. No. 723, H.D. 1, S.D. 1.

(1) Inserted a provision for civil penalties that will allow specific civil penalties to be assessed including payment of interest on excess payments received, payment of an amount not to exceed double the amount of the excess payment, and a penalty in the sum of $1,000 for each fraudulent claim made against the State.

These remedies will only apply to a claim for under $5,000. If the claim is for $5,000 or more, the case is not covered by section 661-7(b) of H.B. No. 723, H.D. 1, S.D. 1, as amended herein. In such a case, the forfeiture provision, section 661-7(a), as provided in H.B. No. 723, H.D. 1, S.D. 1, C.D. 1, applies. The $5,000 ceiling has been inserted because the Committee finds the multiple penalty provision is inappropriate for large claims against the State. In such a case, forfeiture by itself is a sufficiently severe penalty. The figure $5,000 was recommended by the Welfare Fraud, Medical Fraud and Unemployment Insurance Units of the Office of the Attorney General.

These remedies will be cumulative so the State will have the flexibility to obtain the maximum deterrent effect when it is demonstrated that a fraudulent claim has been submitted. Interest will be allowed on any amount that is actually paid. It is only fair that the government be allowed to collect interest when it has been deprived of the use of its money. Allowing the penalty to be set at an amount not to exceed double the amount of the excess benefits or payments serves as a deterrent for the individual or business that submits one or two larger (though under $5,000) fraudulent claims. The proposed amendment which allows the assessment of $1,000 for each fraudulent claim made against the State will be utilized in the event many fraudulent claims are filed by one person but the dollar amount of each claim is small.

(2) The interest and penalties provided for in subsection (b) of section 661-7, Hawaii Revised Statutes, as amended in H.B. No. 723, H.D. 1, S.D. 1, C.D. 1, may be determined and collected pursuant to an administrative hearing conducted by the department to which the claim was submitted. However, in the event that a department does not have the capability to create an administrative hearing procedure, it may use the option of bringing a civil action for recovery of the penalties and interest.

(3) Subsection 661-7(b) of H.B. No. 723, H.D. 1, S.D. 1 which provided that fraud or attempted fraud shall be a complete and affirmative defense has been deleted. It is the finding of the Committee that this will not change the law on this point since substantially the same language was adopted by the Hawaii State Supreme Court in interpreting section 661-7, Hawaii Revised Statutes. (Associated Engineers and Contractors, Inc., and Chris Berg, Inc. v. State of Hawaii, 58 Haw. 187, 567 P.2d 399 (1977).

(4) Various corresponding clerical and technical changes have been made throughout the bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 723, 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. 723, H.D. 1, S.D. 1, C.D. 1.

Representatives D. Yamada, Garcia, Honda, Larsen, Masutani and Medeiros,
Managers on the part of the House.

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

Conf. Com. Rep. No. 73 on H.B. No. 1432

The purpose of this bill is to clarify requirements for motor vehicle safety and for the issuance of moped operator licenses.

Your Committee notes that in present statutes no person shall drive a moped unless he has a valid drivers license as listed in Sections 236-102 and 286-105 (3), Hawaii Revised Statutes. There are a number of individuals who desire to use a moped but have no need to obtain a drivers license to operate a motor vehicle. Your Committee finds that requiring these individuals to obtain a motor vehicle license is considered to be unrealistic.

Your Committee has amended this bill to state that anyone applying for a driver's license solely to operate a moped, may use a moped to meet the licensing requirements in Section 286-102 and shall be licensed the same as motor scooters.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1432, H.D. 1, S.D. 1, as amended herein, and recommends it pass Final Reading in the form attached hereto as H.B. No. 1432, H.D. 1, S.D. 1, C.D. 1.

Representatives Blair, Dods, de Heer, Honda, Aki and Ikeda,
Managers on the part of the House.

Senators Mizuguchi, Takitani and George,
Managers on the part of the Senate.

Conf. Com. Rep. No. 74 on H.B. No. 1667

The purpose of this bill is to modify the definition of "motor carrier" to include certain private carriers of passengers, and to provide the Department of Transportation with a means to enforce compliance with the motor carrier safety law and rules and regulations adopted as authorized.

There are certain passenger carrying activities being conducted by motor vehicle in furtherance of commercial enterprises which cannot be classified as common carrier or contract carrier operations and, therefore, are without supervision with respect to the safety of this type of operation. The enactment of this bill would insure that this type of passenger carrying activity would be subject to the same safety criteria as common and contract passenger carriers by motor vehicle.

Your Committee has amended Section 288-201, Hawaii Revised Statutes, by amending the definition of "motor carrier" to read:

"(4) "Motor Carrier" as used in this part means a common carrier by motor vehicle, a contract carrier by motor vehicle, or a private carrier by motor vehicle, all as defined in section 271-4. any person who owns a motor vehicle used in, or who engages in the transportation of persons or property by motor vehicle on the public highways in the furtherance of any commercial, industrial or educational enterprise."

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1667, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1667, S.D. 1, C.D. 1.

Representatives Blair, Dods, Say, Larsen, Nakamura and Ikeda,
Managers on the part of the House.

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

Conf. Com. Rep. No. 75 on H.B. No. 38

The purpose of this bill is to implement the provisions of Article X, Section 2, of the Hawaii State Constitution. Those provisions were proposed by the Constitutional Convention of 1978 and ratified by the electorate on November 7, 1978.

Article X, Section 2, relating to the board of education, provides in pertinent part as follows:

1. There shall be a board of education composed of members who shall be elected in a nonpartisan manner by qualified voters, as provided by law, from two at-large school board districts: the first school board district comprised of the island of Oahu and the second school board district comprised of the islands of Hawaii, Maui, Lanai, Molokai, Kahoolawe, Kauai, and Niihau.

2. Each at-large school board district shall be divided into departmental school districts, as may be provided by law, with at least one board member residing in each departmental school district.

Accordingly, Article X, Section 2, as amended, requires the Legislature to: (1) fix the number of members on the Board of Education; (2) apportion the number of members between the two at-large districts; (3) establish and designate departmental school districts within the two at-large districts; (4) ensure that at least one board member resides in each departmental school district; and (5) provide for the election of board members in a nonpartisan manner.

Under H.B. No. 38, H.D. 2, S.D. 3, the members of the board of education are to be elected from two at-large school board districts. The first school board district is comprised of the island of Oahu, while the second school board district is comprised of the islands of Maui, Molokai, Kahoolawe, Lanai, Kauai, Niihau and Hawaii.

The board is to be composed of thirteen members, ten of whom will represent the island of Oahu and three of whom will represent the other islands within the State. Your Committee believes that such an apportionment plan is consistent with the principle of "one man, one vote" as first enunciated in Baker v. Carr, 369 U.S. 186 (1961) which requires that voting districts be apportioned to permit equal representation by elected officials. See also, Wesberry v. Saunders, 376 U.S. 1 (1964); Hadley v. Junior College District, 397 U.S. 50 (1969).

Taking into account the population of Oahu as compared to the other islands, the 10-3 ratio as proposed by this bill falls within an acceptable range of deviation from exact mathematical precision following Wesberry v. Saunders, 376 U.S. 1 (1964), and Reynolds v. Sims, 377 U.S. 533 (1964).

"Whatever the means of accomplishment, the overriding objective must be substantial equality of population among various districts so that the vote of any citizen is approximately equal in weight to any other citizen." 377 U.S. at 579.

Furthermore, while a board composed of seventeen members with 13 members from Oahu and 4 from the other islands would result in a smaller deviation, Board of Education testimony on this matter favored a thirteen member board as the larger number was thought to be cumbersome and therefore less efficient than a smaller representative board. Relatedly, the 1978 Constitutional Convention's Standing Committee Report No. 39 expressed "the need for a relatively small board which would be able to act quickly and decisively."

Article X, Section 2 also provides that each at-large school board district shall be divided into departmental school districts and that at least one board member shall reside in each departmental school district. To implement this requirement, H.B. No. 38, H.D. 2, S.D. 3 establishes and designates seven departmental school districts. S.D. 3 also provides that while all candidates seeking election to any of the thirteen seats on the board must run at-large from their respective school board districts, seven of the thirteen board members must respectively be residents of the seven designated departmental school districts.

This additional provision in Article X, Section 2 ensures that not only is each voter equally represented on the board, but also that the individual or local concerns of each community, whether urban or rural or otherwise categorized, will be heard or represented on the board. Such a provision has been found to be constitutionally valid

under Dusch v. Davis, 387 U.S. 112 (1967), where the Supreme Court upheld a residency requirement that was not for voting or representation purposes. Here, as in Dusch, each board member is elected at-large and represents the whole at-large district which elected him and not merely the district in which he resides even if the seat the candidate sought was one with a residency requirement. See also, Fortson v. Dorsey, 379 U.S. 433 (1964).

Your Committee has amended the bill in the following major respects:

(1) Section 1(1) of the bill, which amends Section 13-1 of the Hawaii Revised Statutes, in part establishes and designates or describes the two "at-large school board districts" mandated by the Constitution. The designation or description of the at-large school board districts in terms of islands has been amended by adding references to the State representative districts which are to comprise the respective at-large school board districts.

Your Committee believes that this amendment is advisable because the seven departmental districts, into which the two at-large school board districts are divided, are also designated or described in terms of State representative districts.

(2) Provisions in Section 1(1), relating to the district boundaries of the third and fourth departmental school districts, were amended by removing the seventeenth and eighteenth representative districts from the fourth departmental school district (Central Oahu) and transferring these two representative districts to the third departmental school district (Honolulu).

(3) Provisions in Section 1(2), relating to the qualifications for Board of Education members, has been amended by adding references to the appointment of board members so that (1) qualified persons may become members of the board not only by election but through gubernatorial appointment as well, and (2) both appointed as well as elected board members must meet the same statutory qualifications.

(4) Section 1(3), which amends HRS, section 13-3, relating to board of education elections, has been amended by deleting the reference to the nomination of board of education candidates. The reason for the deletion is that board members, per constitutional mandate, must be elected in a nonpartisan manner, and under this bill will be elected at a special election held in conjunction with the general election. Thus, board of education candidates are no longer nominated through a party primary election.

(5) Section 4 of the bill has been amended by repealing HRS, section 12-23, relating to board of education ballots, because that section is contained in the chapter relating to primary elections and was intended to cover primary election ballots for the board.

(6) Provisions in Section 2, relating to vacancies on the board of education, have been amended by adding more detailed provisions to provide that depending on when the vacancy occurs, vacancies may be filled by gubernatorial appointment rather than only by election at the next general election.

An amendment has also been made to specifically provide that with respect to gubernatorial appointments, the appointee's party affiliation, as well as an appointee's party preference or nonpartisanship, will not be considered by the Governor.

(7) Section 7 of the bill, which specifies the effective date of the Act, has been amended by substituting the effective date of January 1, 1980 with an effective date that would make the Act take effect upon its approval, but with the proviso that the amendments to HRS, sections 13-1 and 13-2, shall take effect on November 4, 1980.

Your Committee believes that this proviso is necessary to ensure that any person elected or appointed to any board of education vacancy prior to November 4, 1980 -- which vacancy may occur (e.g., through the death or resignation of a board member) prior to the election of a new board of education in November, 1980 pursuant to the new apportionment/representation plan established by this bill--will be required: (1) to represent the same geographic area or district which was represented by the board member he is replacing (rather than to seek election or appointment under the new apportionment/ representation plan), and (2) to possess or meet existing qualifications or eligibility requirements for election or appointment to the board rather than to meet the amended qualifications of HRS, section 13-2, continued in this bill.

An additional proviso has been added to the effective date section of the bill. That

proviso reads: "provided further, however, that the four-year term of office specified in section 13-5 shall apply to members of the board of education elected at the general election of November, 1980, and thereafter." This proviso has been added to ensure that board members elected at the general election of November, 1978, will be limited to two-year terms in accordance with Article XVIII, Section 7, of the Hawaii State Constitution relating to the 1978 board of education elections.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 38, H.D. 2, S.D. 3, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 38, H.D. 2, S.D. 3, C.D. 1.

Representatives Lunasco, Say, Segawa, D. Yamada and Anderson,
Managers on the part of the House.

Senators Campbell, Cayetano, O'Connor, Young and Ajifu,
Managers on the part of the Senate.

Conf. Com. Rep. No. 76 on H.B. No. 890 (Majority)

The purpose of this bill is to implement Article XII, Sections 4, 5, and 6 of the Constitution of the State of Hawaii as amended by the Hawaii Constitutional Convention of 1978, ratified by the electorate, and pertaining to Hawaiian Affairs. The pertinent language of Article XII reads as follows:

ARTICLE XII

HAWAIIAN AFFAIRS

PUBLIC TRUST

Section 4. The lands granted to the State of Hawaii by Section 5(b) of the Admission Act and pursuant to Article XVI, Section 7, of the State Constitution, excluding therefrom lands defined as "available lands" by Section 203 of the Hawaiian Homes Commission Act, 1920, as amended, shall be held by the State as a public trust for native Hawaiians and the general public.

OFFICE OF HAWAIIAN AFFAIRS:
ESTABLISHMENT OF BOARD OF TRUSTEES

Section 5. There is hereby established an Office of Hawaiian Affairs. The Office of Hawaiian Affairs shall hold title to all the real and personal property now or hereafter set aside or conveyed to it which shall be held in trust for native Hawaiians and Hawaiians. There shall be a board of trustees for the Office of Hawaiian Affairs elected by qualified voters who are Hawaiians, as provided by law. The board members shall be Hawaiians. There shall be not less than nine members of the board of trustees; provided that each of the following Islands have one representative: Oahu, Kauai, Maui, Molokai and Hawaii. The board shall select a chairperson from its members.

POWERS OF BOARD OF TRUSTEES

Section 6. The board of trustees of the Office of Hawaiian Affairs shall exercise power as provided by law: to manage and administer the proceeds from the sale or other disposition of the lands, natural resources, minerals and income derived from whatever sources for native Hawaiians and Hawaiians, including all income and proceeds from that pro rata portion of the trust referred to in Section 4 of this article for native Hawaiians; to formulate policy relating to affairs of native Hawaiians and Hawaiians; and to exercise control over real and personal property set aside by state, federal or private sources and transferred to the board for native Hawaiians and Hawaiians. The board shall have the power to exercise control over the Office of Hawaiian Affairs through its executive officer, the administrator of the Office of Hawaiian Affairs, who shall be appointed by the board.

Additionally, language in Article XVIII, Section 8, provides for implementation of the amendments to Article XII in Sections 5 and 6 on or before the first general election following ratification of the amendments to Article XII; thus implementation of the amendments must be completed before the general election in 1980.

Article XII, Section 4, is a key section to understanding the Constitutional mandate imposed upon the legislature. This section establishes that the lands granted to the State of Hawaii by Section 5(b) of the Admission Act and pursuant to Article XVI, Section 7, of the State Constitution (excluding therefrom lands defined as "available lands" by Section 203 of the Hawaiian Homes Commission Act, 1920, as amended) shall be held by the State as a public trust for native Hawaiians and the general public.

The Admission Act, among other things, granted to the State of Hawaii, effective upon its admission to the Union, the United States' title to all of the public lands granted at the time of the Act or later conveyed to the State, and provided that such lands be held as a public trust. Congress named five purposes for which the public trust was to be held by the State. They are:

(1) Support of the public schools and other public educational institutions;

(2) The betterment of the conditions of native Hawaiians, as defined in the Hawaiian Homes Commission Act, 1920, as amended;

(3) The development of farm and home ownership on as widespread a basis as possible;

(4) The making of public improvements; and

(5) The provision of lands for public use.

Section 5(f) of the Admission Act further stated that: "such lands, proceeds, and income shall be managed and disposed of for one or more of the foregoing purposes in such manner as the constitution and laws of said State may provide.."

There are several ways of interpreting the "public trust" required by the Admission Act. The first is that such public trust is fulfilled with respect to the betterment of conditions of native Hawaiians" by virtue of the "available lands" of the Hawaiian Homes Commission Act being held and used in the interest of "native Hawaiians" as there provided. By this interpretation, all of the income from public lands transferred to Hawaii other than "available lands" could be utilized without a portion thereof being used specifically for native Hawaiians.

Another interpretation is that part of the income from public lands other than "available lands" was intended for the "betterment of the conditions of native Hawaiians" in addition to the "available lands" under the Hawaiian Homes Commission Act. By this interpretation, native Hawaiians have not received direct beneficial interest from the public lands (other than "available lands") as had been intended by the Admission Act.

Another interpretation is that the five purposes were satisfied by the moneys going to the Department of Education, as native Hawaiians, as well as the general public, benefit by education.

The State's practice prior to the constitutional amendment of 1978 had been to channel the benefits of the public land trust, by and large, to the Department of Education. The Constitutional Convention adopted a more restrictive view of the Admission Act public trust in Section 4 of Article XII by specifying that the public trust lands be held by the State as a public trust for native Hawaiians and the general public.

The Admission Act requires that the lands and proceeds derived therefrom "shall be held by such State as a public trust." The requirement that the ultimate accountability for the trust must be to all the people of the State -- albeit that the beneficiaries of a portion of that trust res may consist of only one segment or category from among all of the varied peoples of Hawaii -- is obvious by the language imposing the trust.

Your Committee is aware that the efforts of the Constitutional Convention and certainly the will of the voters at the General Election of 1978 was that these amendments addressed to Hawaiian Affairs are ultimately tied to the Hope of all Hawaii -- that all persons shall be "equal in their inherent and inalienable rights." This is a reflection of the all essential "Rights of Man."

Accordingly, it is the intent of your Committee that by the creation of the Office of Hawaiian Affairs, equal participation of Hawaiians in the ultimate homogeneous society that we seek to achieve for Hawaii, will become eventual reality. The hope of this bill lies in the vehicle it presents to the long neglected Hawaiian people by way of imaginative affirmative action programs to better their condition.

Your Committee upon further consideration has made the following amendments to H.B. No. 890, H.D. 1, S.D. 3:

(1) Section -2, Definitions. The definitions of "native Hawaiian" and "Hawaiian" are changed to substitute "peoples" for "races". Your Committee wishes to stress that this change is non-substantive, and that "peoples" does mean "races". A new definition has been added to the section, "beneficiary of the public trust entrusted upon the office", to clarify other sections of the bill.

(2) Section -3, Purposes of the Office. The words "appropriated biennially" have been deleted from page 3, line 14, and "funded" has been substituted. Your Committee feels that further consideration should be given to any funding mechanism for the office, and that it is unwise at this time to commit to any one method.

(3) Paragraph (2) of Section -3 has been amended to place parentheses around references to "available lands" of the Hawaiian Homes Commission, to emphasize that the Hawaiian Homes lands are under a jurisdiction separate from this office.

(4) Section -5, Board of trustees; powers and duties. The board's powers have been broadened to include the power to invest, as well as to manage and administer proceeds from the sale or other disposition of lands, natural resources, minerals, and income derived from whatever sources for native Hawaiians and Hawaiians.

(5) Section -6, General duties of the board, has been rewritten for purposes of clarity.

(6) Sections 7, 8, 9, 10, and 11 of S.D. 3 have been deleted from this SECTION of the bill, and placed in a later SECTION 8, which establishes a new chapter under Title 2, Elections, to provide for the election of the board of trustees. A reference to this change has been placed in Section -7 of Conference Draft 1.

(7) Section -12, Organization; quorum; meeting. This section has been renumbered as section -8. Additionally, the section has been amended by providing that the terms of officers of the board shall be two years, and that officers shall be elected by the board at its first meeting after an election. A new sentence has been added to provide that the board shall meet at least once annually on each of the islands of Hawaii, Maui, Molokai, Lanai, Kauai, and Oahu.

(8) Section -13, Compensation; expense. This section has been renumbered as section -9, and minor changes made for purposes of clarity.

(9) Section -14, Administrator; appointment, tenure, removal. This section has been renumbered as section -10. Additionally, the section has been amended by providing that the administrator shall serve for a term to be determined by the board, and shall serve without regard to the provisions of chapters 76 and 77.

(10) Section -15, Salary of the administrator, has been renumbered as section -11. The Administrator's salary has been increased from $20,000 a year to $30,000 a year. Your Committee feels that this salary will enable the office to attract qualified applicants, for the position.

(11) Section -16, Assistant; staff. This section has been renumbered as section -12, and two amendments have been made. The first provides that officers and employees shall serve at the pleasure of the administrator, rather than that of the board, as S.D. 3 provided. The second change is that a new sentence has been added to provide that these officers and employees are to be included in any benefit plan generally applicable to officers and employees of the State.

(12) Section -17, Appropriations; accounts; reports, has been renumbered as section -13.

(13) Section -18, Budget, auditing, has been renumbered as section -14. Additionally, the section has been amended to provide that the board is to submit a proposed budget annually to the legislature, and that the Office of Hawaiian Affairs shall be subject to annual government audit.

(14) Section -19, Annual report. Aside from renumbering the section as section -15, no other amendments were made.

(15) Section -20, Suits. This section has been renumbered as section -16. Additionally,

a new sentence has been added to subsection (a), which reads as follows: "The State shall not be liable for any acts or omissions of the office, its officers, employees, and the members of the board of trustees, except as provided under subsection (b)." The purpose of this amendment is to clarify the liability of the State. Other changes have been made for purposes of clarity.

(16) SECTION 3. The definition of "native Hawaiian" has been deleted from the definitions to be added to Section 11-1, Hawaii Revised Statutes, and the word "peoples" has been substituted for "races" in the definition of "Hawaiian". Again, your Committee wishes to emphasize that this substitution is merely technical, and that "peoples" does mean "races". For purposes of voting, "Hawaiian" is a definition that includes "native Hawaiian".

(17) SECTION 4. The title of Section 11-15 has been amended to reflect existing statutory language. Additionally, subsection (b) has been deleted and a new subsection (b) added. The new subsection deletes the provision that a Hawaiian desiring to vote or to be a candidate for the board must be a qualified voter of the State and a registered voter of the county in which he resides.

(18) SECTION 6. The amendment to this section provides that nomination papers for candidates for members of the board of trustees of the Office of Hawaiian Affairs are to be signed by not less than twenty-five persons registered to vote as prescribed under section 11-15 (b).

(19) SECTION 8. This Section of the bill has been changed to Section -9 of Conference Draft 1. In its place, a new chapter is to be added to Title 2 of the Hawaii Revised Statutes. This new chapter includes parts of Section -7, and Sections -8, -9, -10, and -11 from H.B. No. 890, H.D. 1, S.D. 3. Section -1 (formerly Section -7) has been amended to provide for the number of island seats provided by the Constitution; that is, Hawaii, Maui, Molokai, Kauai, and Oahu. Lanai and Niihau have been omitted. Your Committee notes that the Constitution has made no provision for the islands of Lanai and Niihau, and that, in a sense, residents of these islands have been disenfranchised. However, problems may well arise when, for example, a representative from Lanai (if Lanai and Maui were counted together) wins more votes than a resident of Maui. If the seat from Maui is designated a Maui-Lanai seat, the practical implications are to deny that Maui resident his constitutionally mandated seat. Your Committee notes that there are four at-large seats, and that residents of the islands of Niihau and Lanai may run for those seats.

(20) Section -2, Qualifications of board members. There has been an addition to the first sentence of this section, stating that "where residency on a particular island is a requirement, a resident on the island for which seat he is seeking election or appointment." This amendment serves to implement the requirement that at least one member of the board reside on each of the islands of Hawaii, Maui, Molokai, Kauai, and Oahu.

(21) Section -3, Qualification of voters; registration. A new subsection (b) has been added, and the other subsections renumbered. The new subsection sets forth eligibility requirements for persons registering for the election of board members. To be eligible, a person must be Hawaiian, must have attained the age of eighteen years or will have attained such age within one year of the date of the next election of board members, and must be otherwise qualified to register to vote in the State.

(22) Section -4, Election of board members. This section has been amended to provide that members of the board of trustees are to be elected in a special, rather than a non-partisan, election held in conjunction with the general election in every even numbered year, rather than every four years. The subsection regarding nomination papers has been amended to provide that a candidate desiring to file for election shall be able to specify either that he is seeking a seat requiring residency on a particular island or a seat without a residency requirement. The subsection regarding the ballot format has been amended to provide that the names of candidates seeking seats requiring residency on a particular island shall be grouped by island of residency. The provision for a double count of the ballot which was included in S.D. 3 has been deleted, as it is no longer necessary when the ballot is printed as provided in C.D. 1.

(23) Section -5, Term of office; vacancies. This section provides for staggered terms for board members. The four board members elected with the highest number of votes shall serve four years and the remaining five members elected shall serve two years. This provision applies only to board members elected in 1980. In succeeding elections, members shall be elected for four year terms. By staggering the terms, your Committee feels that there will be some continuity on the board, and by having

the five to four elections, your Committee feels that the island of Oahu, with its large population of Hawaiians, will not be able to dominate the board to the detriment of the neighbor islands.

Vacancies are to be filled in accordance with a new section added to chapter 17, Hawaii Revised Statutes.

(24) SECTION 9. This Section was Section 8 in H.B. No. 890, H.D. 1, S.D. 3. It has been amended to change the provisions for filling vacancies in the membership of the board of trustees. There are two classifications of vacancies: those which involve terms which end at the next succeeding election, and those which involve terms which do not end at the next succeeding general election. In the first instance, your Committee has amended the bill to provide that a vacancy is to be filled by a two-thirds vote of the remaining members of the board. If the board fails to fill the vacancy within 60 days after it occurs, the governor is to fill the vacancy within 90 days after it occures. The provision regarding the governor has been added by your Committee to prevent possible deadlocks in the filling of vacancies.

In the second instance, there are also two sub-categories. The first provides for vacancies occurring not later than on the tenth day prior to the next succeeding general election. Here, either the board or the governor shall make a temporary appointment in the manner of subsection (a) and the person appointed shall serve until the election of a board member at the next general election. In the second, where the vacancy occurs after the tenth day prior to the next succeeding general election, the board or the governor is to make an appointment to fill the vacancy in the manner prescribed under subsection (a) and the person appointed shall serve for the duration of the unexpired term.

(25) SECTION 10. The appropriations section has been amended to provide that $125,000, rather than $100,000, is to be expended in the fiscal year 1980-81 for the purposes of this Act by the office of Hawaiian affairs. Your Committee researched the amounts expended by the Board of Regents of the University of Hawaii to determine this figure.

Additionally, appropriations for election expenses have been amended as follows: $105,000, or so much thereof as may be necessary, is to be expended in fiscal year 1979-80, and $65,000, or so much thereof as may be necessary, is to be expended in fiscal year 1980-81. An amendment was also made to provide that these sums are to be expended by the office of the lieutenant governor to conduct the election of board members in 1980, and to reimburse the counties for the work of the clerks under section 8 of this Act. S.D. 3 provided that the counties were to submit requests for reimbursement from the State to the state director of finance, and that the legislature was to appropriate moneys for that purpose from time to time.

Additional technical, non-substantive amendments have been made throughout the bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 890, 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. 890, H.D. 1, S.D. 3, C.D. 1.

Representatives Kawakami, Fukunaga, Holt, Stanley, D. Yamada and Anderson,
Managers on the part of the House.
(Representative Fukunaga did not concur.)

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

Conf. Com. Rep. No. 77 on H.B. No. 1642

The purpose of this bill is to amend Chapter 205A in order to update and refine the State's Coastal Zone Management Law by acknowledging the coastal zone management area currently included in the Hawaii CZM Program document and by clarifying the procedures relating to special management area controls.

Present law is unclear regarding the final coastal zone management area and provides for certain cumbersome procedures in the implementation of Part II dealing with special management area permits. Your Committee is in agreement with the testimony received that the clarification and resolution of the CZM boundary issue is essential and that the simplification of SMA permit procedures is desirable. In keeping with the above, your Committee has made the following substantive amendments:

The definition of "coastal zone management area" in Section 205A-1(2) has been expanded to include State waters to the limit of the State's jurisdiction, the special management areas as amended, and any other area which the lead agency may designate for the purposes of administering the coastal zone management program. The amendment effectively separates the boundaries of the SMA area from the boundaries of the CZM area and allows the Lead Agency to designate the interim administrative area presently contained in the Hawaii CZM Program document as the coastal zone management area.

The definition of "coastal zone management program" in Section 205A-1(3) has been amended to acknowledge the Hawaii CZM Program approved by the U.S. Department of Commerce in September 1979.

The Lead Agency section, 205A-3, has been amended to make the submission of guidelines an on-going function by the Lead Agency as necessary to further specify and clarify the objectives and policies of the Chapter.

The cause-of-action, Section 205A-6, has been amended to limit coverage regarding agency compliance with the objectives and policies to the special management area and to the waters to the limit of the State's jurisdiction.

Section 205A-33, paragraph B, lists those activities which are exempted from restrictions on development. Your Committee feels that the construction of roads and highways (ii) and the installation of underground utility lines (v) constitute actions which could have significant impact on the coastal zone and which should, therefore, be deleted from the exemption list. Your Committee has also deleted reference to agency action appearing on an environmental statement exemption list (iv), inasmuch as changes could be made to such lists inappropriate to the Hawaii CZM Program. Aquaculture and mariculture are added to (ix) because of their importance in the State's economy. To protect the coastal zone from possible abuses regarding unwarranted interpretations regarding the extent of this exclusion, however, your Committee has specifically mandated that such exclusions be reviewed by the authority in accordance with paragraph "C", which allows the authority to disallow an exclusion if it is or may become part of a larger project, the cumulative impact of which may have a significant environmental or ecological effect on the SMA.

Section 205A-23 has been amended to impose a deadline of December 31, 1979 for amending SMA boundaries in furtherance of the objectives and policies of the chapter. It also provides for Lead Agency review and determination of any contractions of existing SMA boundaries as to compliance with the objectives and policies of the chapter and any guidelines enacted by the Legislature. Finally, it permits each county to adjust its SMA boundaries over time so long as any such adjustments are within the coastal zone management area.

Your Committee believes that a six month extension to settle the location of the SMA boundaries in compliance with the objectives and policies of the chapter is reasonable. Your Committee's decision to limit the Lead Agency's review and approval of SMA boundary amendments to contractions only is based upon the assumption that any contraction of an SMA boundary could threaten the efficacy of this most important intensive management tool and should, therefore, be subject to lead agency scrutiny and approval. Expansion of the existing SMA boundaries, on the other hand, would necessarily be consistent or in compliance with the statute's objectives and policies, since it imposes a more stringent management regime in an area covered by the objectives and policies and the network of existing State-County laws.

Section 205A-29 insures adequate notice of Special Management Permit hearings to concerned persons. Your Committee feels that to assure that there is ample opportunity for the public to participate in the permit process, notification of permit applications should be included.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1642, 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. 1642, H.D. 1, S.D. 1, C.D. 1.

Representatives Larsen, Kawakami, Sakamoto, Toguchi and Anderson,
Managers on the part of the House.

Senators Hara, Abercrombie, Toyofuku and Yee,
Managers on the part of the Senate.

Conf. Com. Rep. No. 78 on H.B. No. 1671

The purpose of this bill is to conform the Hawaii Revised Statutes to certain changes to Article II, sections 5 and 6 of the Hawaii State Constitution effected by the Constitutional Convention of 1978 and ratified by the voters on November 7, 1978. The pertinent language of Article II to which such conformance is addressed by this bill reads as follows:

"CAMPAIGN FUND, SPENDING LIMIT

Section 5. The legislature shall establish a campaign fund to be used for partial public financing of campaigns for public offices of the State and its political subdivisions, as provided by law. The legislature shall provide a limit on the campaign spending of candidates.

CAMPAIGN CONTRIBUTIONS LIMITS

Section 6. Limitations on campaign contributions to any political candidate, or authorized political campaign organization for such candidate, for any elective office within the State shall be provided by law."

1. Background Considerations. Preliminarily, a brief overview of the history of legislation on the subject matter of campaign spending, contribution and disclosure is in order. First of all, comprehensive legislation over campaign spending and disclosure was enacted by the 1973 Legislature by Act 185, SLH 1973, which placed expenditure limits differentiated by schedule among different elective offices based on number of voters that must be reached; and which required disclosure on spending and contribution, but which did not place limits on contribution.

Second, the Supreme Court of the United States issued its decision in Buckley, et al. v. Valeo, et al., 424 U.S. 1 (1976) by which it ruled that the spending limits imposed by the federal law were invalid, but it validated the contribution and disclosure requirements of that law.

Third, the 1977 legislature amended the law to delete the spending limits by Act 127, SLH 1977, thereby conforming to Buckley.

Finally, the Constitutional Convention of 1978 amended Article II of the Hawaii State Constitution requiring (1) the establishment of partial public financing, (2) the provision of a limit on campaign spending of candidates, and (3) enactment of limitations on campaign contributions.

Crucial to your Committee's initial consideration of this bill was the apparent conflict between the proscription in Buckley against expenditure limits and the Constitutional Amendment's mandate to establish expenditure limits. Accordingly, we now address ourselves to an analysis of this problem.

We note for informational purposes only that the delegates to the Constitutional Convention expressed great concern in the depletion and damage of public confidence in our political process by its domination by money. It indicated its concern that the high cost of running for office generates pressures to raise inordinate sums and that such pressure has caused widespread public belief that public officials once elected cannot have "the flexibility to act in a manner detrimental to the interest of their powerful backers." It indicated its concern that high cost of campaigns also effectively discourages individuals from participating as candidates because it engenders the belief that "the political process is the exclusive domain of the rich."

The delegates summarized their concern most eloquently with the statement, "representative democracy works best when people have trust in the process and in their representatives, and their representatives are free to inform themselves intelligently and vote according to their perception of the public interest rather than by their need to gather funds for the campaign."

Your Committee echoes that concern, and would state emphatically that genuine concern for the future of the elective process in Hawaii requires personal commitment to de-escalation in campaign expenditure levels. We would accordingly urge the voters to evaluate the merits of future candidates for political office by their respective degrees of devotion to that commitment.

The delegates to the Constitutional Convention believed in the prospect of Constitutional

litigation. Your Committee however, feels that a more responsible and, definitely less costly, avenue would be first to exhaust methods that would not be vulnerable to Constitutional challenge. In that posture, your Committee has fashioned at the core of its legislative strategy, the adoption of voluntary public financing of political campaigns.

2. Structural Changes to Present Law. In keeping with the mandate of Article II, Sections 5 and 6 of the Hawaii Constitution, this bill is comprised of three major sections: contribution limits, expenditure limits, and partial public financing of campaigns. Briefly, these provisions under this bill are as follows:

A. Contribution Limits.

(1) Campaign contributions from a person have been limited to $2,000 for a primary, special primary, or general election.

(2) Campaign contributions from political parties have been limited to the following percentages of the expenditure limit for each elective office:

20% for the offices of governor, lieutenant governor and mayor;

30% for the offices of state senator and county council member; and

40% for the offices of state representative and the board of education.

(3) A candidate and his immediate family may not contribute in the aggregate more than $50,000 in any election year to the candidate's campaign.

B. Expenditure Limits.

(1) Voluntary expenditure limits have been set for each statewide and county office based on the total number of registered voters for the last preceding general election for a particular race multiplied by the following amounts for a primary, special primary and general election:

for the office of governor -- 1 dollar and 25 cents;

for the office of lieutenant governor -- 70 cents;

for the office of mayor -- 1 dollar;

for the offices of state senator, state representative, county council member, and prosecuting attorney -- 70 cents; and

for the office of the board of education and all other offices -- 10 cents.

(2) As a measure to offset the inflation rate, an increase of five percent per year from 1979 and every year thereafter will be added to the base amounts as set forth above.

C. Public Funding.

(1) A candidate for governor, lieutenant governor, or mayor will be eligible to receive up to twenty per cent of the expenditure limit set for his respective office. Such candidate must, however, reach a qualifying sum of private contributions. After such qualifying sum is reached, the candidate will be allowed public funding, dollar for dollar, until the ten per cent maximum has been received by him in the primary, and a like dollar-for-dollar matching procedure is imposed for the other ten per cent to be allowed him in the general election.

(2) In all other races, H.B. No. 1671, C.D. 1, tentatively allows $50 in the primary and $50 in the general election. It should be understood that this nominal partial public financing is intended only as a stop-gap measure, with more substantial partial funding expected to be provided when in the course of subsequent legislative sessions, more concrete financial expectations can be achieved by the tax "check-off" procedure.

(3) All eligible candidates for a primary, special primary, or general election shall be entitled to partial public funds from the Hawaii election campaign fund. The fund shall be generated primarily by an optional tax check-off of $2 for each individual with a state tax liability of $2 or more in any tax year, and an appropriation from general fund revenues if the amount collected by the voluntary check-off is insufficient to partially finance all races. All fines collected pursuant to violations of the campaign spending law and all

public moneys returned shall also be deposited in the fund.

3. Spending Limit. Your Committee is aware of the severe impact of Buckley with regard to spending limits. We are aware that many are demoralized by the notion that Buckley will permit absolutely no limitation to spending, and that by such construction, the entire nation must, in the name of free speech, allow an eventual and total commercialization of our political process. We do not subscribe to such pessimism, and believe that as with everything else campaign spending must admit of limitations that reflect responsible respect for the rights of others. However, we take, by this bill, the limited measure of imposing spending limits tied to voluntary acceptance of public financing.

Your Committee has labored many hours over the spending limits concerned particularly that such limits should allow abundance of opportunity to communicate fettered only in reasonable protection of public confidence. In our deliberations we considered, among other things:

(1) The nature and make-up of the respective voting population;

(2) Information from past elections;

(3) Cost data of the various media of communication and modes of campaigning;

(4) The probable effect of the level of expenditures in obtaining the willingness of individuals to lend themselves to candidacy;

(5) The probable effect in maintaining a level of public confidence in our political process necessary to retain a believable democracy; and

(6) The preservation of each candidate's full and reasonable exercise of his right of expression, reflecting abundance by way of allowing a generous quantity of ideas, and the size of the audience to be reached in each voting district.

Upon such labor, your Committee specifically finds that each of the respective spending limits would be in reasonable balance for the election of 1980 so as to afford protection to public confidence without placing undue burden on each candidate's right of free and adequate expression. Additionally, we have allowed a five per cent annual increase over the limit so provided so that such limits should in actuality be greater than our projections in 1980. We have done this so that any error in our projection should fall toward allowing a more generous limit than otherwise, and to offset the rate of inflation each year.

Our review of the spending pattern for the election years commencing 1974 reveals that the candidates in 1974 were able to readily comply with the spending limits established by the 1973 legislation, and that no complaint was made under that law by any candidate that he had been in any way burdened in his right of expression.

Such review also shows that for all offices other than governor and mayor, the spending pattern of the candidates had by and large closely reflected the 1973 limitation figures in the elections of 1976 and 1978. If the gubernatorial and mayoral races veered from the norm, it is precisely in these races that public confidence has suffered grave demoralization because "money" has obtained apparent reign over our democratic process.

4. Contribution Limits. The United States Supreme Court in Buckley found the $1,000 contribution limitation upon individuals and groups to candidates and authorized campaign committees imposed by the federal law to be valid. The $1,000 contribution limitation was found valid because it served the purpose of limiting "the actuality and appearance of corruption resulting from large individual financial contributions." The Court also noted very gravely that "[t]o the extent that large contributions are given to secure a political quid pro quo from current and potential office holders, the integrity of our system of representative democracy is undermined. Although the scope of such pernicious practices can never be reliably ascertained, the deeply disturbing examples surfacing after the 1972 election demonstrate that the problem is not an illusory one."

Your Committee has deliberated upon the contribution limits along lines of analysis similar to that followed in our establishment of the spending limit, with the additional concern that these contribution limits should prevent corruption while at the same time allowing candidates reasonably adequate exercise of political expression.

We have also reviewed contribution limits in two other respects. First is the concern that political parties, whose raison d'etre is the election of party candidates should be allowed to contribute to candidates of its own affiliation in excess of the individual limits. In this regard,

we heed the need for healthy party affiliation if new ideas and candidates are to be encouraged to participate in our political process. H.B. No. 1671, C.D. 1, will allow a political party to contribute up to given percentages of candidates' respective spending limits.

Second, your Committee has also considered that contributions made by the candidate himself and immediate family members of a candidate should also be regulated. We have imposed an aggregate limit of $50,000.

5. Disclosure Requirements. Buckley acknowledged that "there are governmental interests sufficiently important to outweigh the possibility of the infringement (of First Amendment rights)" in campaign reporting and disclosure requirements because the "free functioning of our national institutions is involved."

Sufficient magnitude of governmental interest was involved in the reporting and disclosure requirements of the federal law in Buckley because of (1) its informational value, with the "sources of a candidate's financial support" alerting the voters "to the interests to which the candidate is most likely to be responsive," (2) its deterrence of corruption "by exposing large contributions and expenditures to the light of publicity", and (3) its value as "an essential means of gathering data necessary to detect violations..."

In that regard, H.B. No. 1671, C.D. 1 provides for comprehensive disclosure and reporting requirements and empowers the commission with audit and subpoena responsibilities in order that public scrutiny and enforcement of spending and contribution limits are adequately enhanced.

6. Disclosure Requirements and Ballot Issues. The attention of your Committee has been brought to page 6 of Attorney General's Opinion No. 76-2 which states:

"We are of the opinion, however, that (disclosure and reporting) provision cannot be applied to committees not controlled by a candidate and which merely support a ballot issue." (Parentheses added.)

Your Committee has reviewed Buckley in this regard and is of a different interpretation.

We are mindful of the strict test applied by the courts in determining the validity of governmentally compelled disclosure requirements. We are also mindful that in Buckley, the U.S. Supreme Court narrowly construed the operation of the federal spending and contribution disclosure requirements on individuals and groups that are not candidates or political committees, and said that the statutory language in that regard governed only "contributions earmarked for political purposes" and expenditure "for communications that expressly advocate the election or defeat of a clearly identified candidate."

However, nowhere in that decision did the U.S. Supreme Court specifically prohibit contribution disclosure requirements imposed upon ballot issues. We think that to construe Buckley as prohibiting such requirements constitutes overbreadth in the interpretation of that decision.

The reason for our view is that the U.S. Supreme Court validated disclosure requirements in Buckley as bearing "sufficient relationship to a substantial governmental interest" because such requirements served "informational interest" and imposed "a reasonable and minimally restrictive method of furthering First Amendment values by opening the basic processes of our federal election system to public view." 424 U.S. 81-83.

We deem it similarly important to bring information of contributional support of ballot issues in our election system to public view so that the electorate may have full opportunity to exercise its right to know. Certainly, where particular ballot issues may be advantageous to specific private interest groups, the electorate must be able to exercise its right of franchise with the full opportunity to be informed of the extent of financial support being heaped in favor, or in opposition, of such ballot issues. We think that the public's right to be properly informed is a substantial governmental interest and reasonable requirements for disclosure in that regard are not prohibited as impermissible violations of the First Amendment by the Buckley decision.

Accordingly, we have retained the disclosure requirements pertaining to ballot issues in the present law.

7. Enforcement. H.B. No. 1671, C.D. 1, provides a penalty provision which makes violation of the provisions punishable as a petty misdemeanor in the case of individuals, and by fine not to exceed $1,000 in the case of corporations, organizations, associations and labor unions.

In conjunction with the penalty provision, any person is empowered to "sue for injunctive relief to compel compliance..."

Also, the penalty provision does not exclude prosecution under appropriate provisions of the Hawaii Penal Code. For instance, if a candidate misuses public funds, he would also be subject to prosecution under section 708-874 governing "misapplication of entrusted property."

8. Methods of Obtaining Voluntary Compliance. H.B. No. 1671, C.D. 1, also provides four methods of obtaining compliance. The first is the differentiated filing fee, whereby the candidate who agrees to abide by the spending limit is afforded a discounted filing fee.

The second is the process of income tax deduction whereby a contribution is allowed to take a maximum of $500 as a deduction from his income tax. It should be observed that the $500 is addressed as an aggregate of the contributor's total contributions and only $100 contributed to each candidate is deductible.

Most importantly, the tax deduction is available only when the contribution is made to a candidate who has agreed to abide by the spending limit.

The third method of obtaining compliance is entrusted to the commission by way of bringing public notice to (1) a candidate's failure to file an affidavit agreeing to voluntarily limit his expenditures, (2) his exceeding the spending limit, (3) his failure to file a report, and (4) other flagrant violations of the campaign spending law.

To provide protection against abuse of the public notice function, the commission is required to act reasonably in bringing fair public notice to the incident or violation involved.

The fourth and last method of obtaining voluntary compliance is the availability of partial public funding to those candidates who agree to comply as previously discussed.

9. Severability. H.B. No. 1671, C.D. 1, finally contains a severability clause, the purpose of which is to protect against invalidation of the provisions of the bill in their entirety should one or several separate provisions be ruled invalid.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1671, 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. 1671, H.D. 1, S.D. 2, C.D. 1.

Representatives D. Yamada, Aki, Baker, Honda, Shito and Medeiros,
Managers on the part of the House.

Senators O'Connor, Cayetano, Kuroda, Mizuguchi, George and Saiki,
Managers on the part of the Senate.

Conf. Com. Rep. No. 79 on S.B. No. 1680

The purpose of S.B. No. 1680, S.D. 1, H.D. 1, on which the Committee conferenced was "to revise Chapter 843, Hawaii Revised Statutes, so as to (1) establish a privilege from civil liability for the Crime Commission and its staff for actions done or statements made in the course of their duties; (2) allow the Commission to manage reward money; and (3) enable it to obtain appropriate information from governmental agencies." (House Standing Committee Report No. 946-79)

Your Committee upon further consideration has agreed to the following disposition of the three issues raised by S.B. No. 1680, S.D. 1, H.D. 1.

(1) Immunity. Your Committee concurs with the written opinion dated December 21, 1977, of the Attorney General to then Lieutenant Governor and Chairman of the Crime Commission Nelson Doi.

The opinion states that nonjudicial officers such as the members of the Crime Commission have limited liability protection from defamation, libel or slander suits which covers all those actions except those motivated by malice or not otherwise for a proper purpose. The opinion cites the case of Medeiros v. Kondo, 55 Haw. 499, 522 P.2d 1269 (1974), to demonstrate this protection. Your Committee believes this is appropriate and sufficient protection for the Crime Commission.

As to commission staff members the opinion further states that:

"a qualified privilege generally exists where the publication is fairly made by a person in the discharge of some public or private duty, whether legal or moral. Prosser, The Laws of Torts, 786 (4th ed., 1971). The immunity conferred is not absolute, 'but is conditioned upon publication in a reasonable manner and for a proper purpose.'

* * *

Under the principle of qualified privilege, a staff member would not be liable for publishing a defamatory statement if (1) he/she reasonably acts to discharge some public or private duty; (2) the publication concerns a matter in which he/she has an interest; (3) the recipient of the publication has a corresponding interest. Where, however, the privilege is abused, the privilege would be forfeited, thereby subjecting the staff member to liability."

Your Committee is in agreement with the statement of the present law of qualified privilege and its application to the Hawaii Crime Commission and its staff as provided in the Attorney General's Opinion. Therefore, the Committee has not included a provision on civil immunity in S.B. No. 1680, S.D. 1, H.D. 1, C.D. 1.

(2) Reward Money. The Committee has retained the new provision allowing the commission to receive and manage reward money. However, the new provision has been removed from subsection 843-5(1) which deals with educational programs and been made a separate subsection.

(3) Communications. The Committee expects thorough and fluid communication and cooperation among all pertinent governmental agencies in the war against crime. For any agency to do less would constitute a shameful dereliction of duty. It is obvious that the crime commission can only be as successful as the information it obtains.

Your Committee expects that all of the governmental agencies will work harmoniously across inter-governmental boundaries in the war against crime. To accomplish these purposes the law presently contains subsection 843-6(d):

"Agencies of the state and county governments shall cooperate with the commission to the extent necessary for the commission to perform its duties."

The Committee finds this provision sufficiently broad to cover information gathering and sharing. It has therefore, not included an additional provision on the subject to avoid confusion.

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

Representatives D. Yamada, Baker, Blair, Dods, Honda and Medeiros,
Managers on the part of the House.

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

SPECIAL COMMITTEE REPORT

Spec. Com. Rep. No. 1

Your Committee on Credentials begs leave to report that it has thoroughly considered the matter of the seating of the members of the House of Representatives of the Tenth Legislature of the State of Hawaii, Regular Session of 1979, and finds that the following members are duly qualified to sit as members of the House of Representatives, to wit:

First District:	Jack K. Suwa
Second District:	Herbert A. Segawa Katsuya Yamada
Third District:	Yoshito Takamine
Fourth District:	Minoru Inaba
Fifth District:	Christopher A. Crozier Gerald K. Machida
Sixth District:	Herbert J. Honda Anthony P. Takitani
Seventh District:	Robert D. Dods Donna R. Ikeda
Eighth District:	Jack Larsen Barbara Marumoto
Ninth District:	Ted T. Morioka Calvin K.Y. Say
Tenth District:	Ken Kiyabu Bertrand Kobayashi
Eleventh District:	Kinau Boyd Kamalii Paul L. Lacy, Jr.
Twelfth District:	David Hagino Clifford T. Uwaine
Thirteenth District:	Gerald de Heer Carol Fukunaga Charles T. Ushijima
Fourteenth District:	Russell Blair Kathleen Stanley
Fifteenth District:	Bryon W. Baker Richard Ike Sutton

Sixteenth District:	Milton Holt Tony Narvaes
Seventeenth District:	Richard Garcia Kenneth Lee
Eighteenth District:	Mitsuo Uechi James H. Wakatsuki
Nineteenth District:	Clarice Y. Hashimoto Donald T. Masutani, Jr.
Twentieth District:	Daniel J. Kihano Mitsuo Shito
Twenty-First District:	James Aki Henry Haalilio Peters
Twenty-Second District:	Oliver Lunasco Yoshiro Nakamura
Twenty-Third District:	Charles T. Toguchi
Twenty-Fourth District:	Faith P. Evans Marshall K. Ige
Twenty-Fifth District:	Whitney T. Anderson John J. Medeiros
Twenty-Seventh District:	Richard A. Kawakami Tony T. Kunimura Dennis R. Yamada

Signed by Representatives D. Yamada, Blair, Dods, Kawakami, Kiyabu, Lunasco, Morioka and Sutton.