SPECIAL COMMITTEE REPORTS

Spec. Com. Rep. 1

Your Committee on Credentials begs leave to report that it has examined Governor's Messages Nos. 1 and 2 appointing Mark Andrews and Gillie C. Silva, Jr. to fill the vacancies created by the resignations of Representatives Gerald K. Machida and Jack K. Suwa and recommending that Mark Andrews and Gillie C. Silva, Jr. be seated as members of the House, and 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 1980, and finds that the following members are duly qualified to sit as members of the House of Representatives, to wit:

First District:	Gillie C. Silva, Jr.
Second District:	Herbert A. Segawa Katsuya Yamada
Third District:	Yoshito Takamine
Fourth District:	Minoru Inaba
Fifth District:	Mark Andrews Christopher A. Crozier
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 M. Hagino Clifford T. Uwaine
Thirteenth District:	Gerald de Heer Carol Fukunaga Charles T. Ushijima
Fourteenth District:	Russell Blair Kathleen Stanley
Fifteenth District:	Byron 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-Sixth District:	Russell J. Sakamoto
Twenty-Seventh District:	Richard A. Kawakami Tony T. Kunimura Dennis R. Yamada

Signed by Representatives D. Yamada, Blair, Dods, Kawakami, Kiyabu, Lunasco and Sutton.

Spec. Com. Rep. 2

Your House Committee on Finance, appointed pursuant to H.R. No. 844-79, adopted by the Regular Session of 1979 to review and evaluate Section 2 of Article VII of the State Constitution which allows the legislature to enact a state income tax law which would automatically conform to the federal Internal Revenue Code as it may be or become effective, begs leave to report as follows:

Committee Approach

The full membership of the House Finance Committee participated in the review and evaluation of the particular section of the State Constitution relating to the State income tax laws and the federal Internal Revenue Code. Staff research into the State constitutional provision and existing state and federal tax laws was conducted along with a public hearing on this matter on September 5, 1979, in Room 307 of the State Capitol.

Background

In 1957, the State of Hawaii adopted several provisions of the federal Internal Revenue Code (IRC) for the purpose of determining gross income, adjusted gross income, and taxable income in computing the state income tax. Since that time, the State has adopted some but not all of the amendments to the IRC on a periodic basis. Some of the amendments did not apply to the determination of income. Of the amendments that did apply, many were not adopted by the State. In not adopting all applicable income related amendments automatically, the legislature was exercising its power to enact tax laws as required by the State Constitution. Under the Constitution, the legislature could not surrender, suspend, or contract away the State's power to tax (Section 1 of Article VI of the 1968 State Constitution). Thus, the legislature was required to evaluate and review each federal amendment to ascertain its applicability and conformance with the policies then prevailing in the State. Consequently, some federal amendments were adopted, others have been further amended by the legislature before adoption and others simply not adopted. The result was a deviation over the years from the federal IRC. The State's income tax laws which was intended to be in conformance with the IRC to simplify the filing of tax returns and to minimize the taxpayers burden in complying with the income tax law (Section 235-3, HRS) was in fact quite dissimilar to the IRC. The differences created confusion in the application and enforcement of the income tax law by the State. The taxpayers were confused by the differences and found it difficult to comply with both the federal and the state tax laws, often choosing simply to comply with the federal laws and using the same computations for the State. This resulted in numerous errors in the state tax returns. Because of the differences, the state and the federal government could not coordinate their enforcement efforts as well as could be accomplished if the laws were very similar. The dissimilarity in tax laws reduced the ability to share enforcement responsibilities between the state and the federal government.

The taxpayers were often confused by the different requirements between the state and the federal tax laws. They had to prepare and file income tax returns which appeared to have the same requirements. In fact, the requirements differed in many areas.

Tax planning was complicated by the different requirements under the state and federal tax laws.

However, much progress has been made in recent years to bring the state laws in conformance with the IRC (Act 47, SLH 1977; Act 173, SLH 1978; and Act 62, SLH 1979). The present system of conforming to the IRC requires that each provision of the IRC be reviewed and evaluated to ascertain its impact on state revenues, before the provision is adopted by law. Despite progress made in this area, various proposals for automatic tax conformity continue to be raised as solutions to reducing the difficulty in conforming to the IRC while retaining control over the State's tax policies.

Until recently, however, the enactment of such provisions was prohibited by Section 1 of Article VI of the 1968 State Constitution which prohibited the surrendering, suspension, or contracting away of the State's power of taxation. In 1978, the State Constitution was amended to enable the State legislature at their discretion to adopt legislation providing for automatic conformity with the federal IRC. Section 2 of Article VII of the State Constitution reads:

"Section 2. In enacting any law imposing a tax on or measured by income, the legislature may define income by reference to provisions of the laws of the United States as they may be or become effective at any time or from time to time, whether retrospective or prospective in their operation. The legislature may provide that amendments to such laws of the United States shall become the law of the State upon their becoming the law of the United States. The legislature shall in any such law set the rate or rates of such tax. The legislature may in so defining income make exceptions, additions or modifications to any provisions of the laws of the United States so referred to and provide for retrospective exceptions or modifications to those provisions which are retrospective."

H.B. No. 13-79 relating to income tax was introduced during the 1979 Regular Session as a vehicle measure to generate discussion on this matter. The substance of the bill was never developed and the bill was held for further study during the 1979 legislative interim.

Findings and Recommendations

In testimony presented before your Finance Committee at a public hearing held on September 5, 1979 in Room 307 of the State Capitol on the concept of automatic conformity, the Legislative Reference Bureau (LRB) and the Tax Foundation of Hawaii cited several alternatives and considerations to implement the concept. In addition, the State Department of Taxation submitted additional information on this matter. The first alternative would permit the federal government to administer and collect state taxes. Commonly referred to as "piggybacking", the LRB states that the implementation of such an alternative would result in close conformance with the IRC. However, it would also mean the loss of the policy-making prerogatives of the State since federal policy would be used to determine state tax assessments. For example, it would result in the state taxation of items such as retirement benefits which the State does not tax at the present and exemption of federal employees' cost of living allowances which the State does tax.

A second alternative would set the state income tax as a percentage of the federal income tax. Under this alternative, 100% conformity with the federal code can be accomplished; however, the State could retain some policy-making ability by use of tax credits and exemptions, and by adding or subtracting items of income. This retention of policy-making ability is not available under piggybacking. Nevertheless, there is still some loss of policy-making ability and basing the state tax on a percentage of the federal income tax with no adjustments would subject the State to a gain or loss on revenue depending on amendments to the federal tax laws.

A third alternative would be to allow automatic conformity of state laws to amendments to the federal IRC but allow the legislature to retroactively void or cancel the adoption of federal amendments which conflict with state policy or which would result in excessive loss of revenues. This would thus allow the State to maintain much of their policy-making abilities; however, deviation from the IRC could again occur as the State begins to exercise its policy-making ability by retroactively cancelling or voiding conflicting federal amendments. However, there would appear to be a greater impetus for state and federal tax conformity than under the present system since the legislature is not required to act in order to amend state tax laws to bring them into conformity. Conformity

would automatically occur while the legislature's actions would be limited to a vetoing of conflicting policies.

The LRB stated that they are presently studying these three alternatives for automatic conformity in coordination with the State Department of Taxation. A report on their findings and recommendations is expected to be completed and submitted to the legislature during the 1980 Regular Session.

Your Committee after due consideration recommends that legislation to automatically conform state income tax laws to the federal income tax laws be deferred until the LRB in coordination with the Department of Taxation completes its report in early 1980. The recent progress made by the State Legislature to conform the state income tax laws to the federal income tax laws, should provide some relief to the State's taxpayers from the past differences between the state and federal income tax laws until automatic tax conformance legislation is enacted.

Further tax conformance legislation as necessary may be enacted during the 1980 Regular Session.

Signed by Representatives Morioka, de Heer, Hashimoto, Ige, Kobayashi, Sakamoto, Lacy, Sutton, Crozier, Fukunaga, Holt, Inaba, Kunimura, Takitani and Narvaes.

Spec. Com. Rep. 3

Your Committee on Health appointed pursuant to House Resolution No. 844, adopted by the Regular Session of 1979, to review the operations, programs, and activities of the Commission on the Handicapped, begs leave to report as follows:

APPROACH TAKEN

A Health interim subcommittee on the Commission on the Handicapped was appointed to undertake this review. The subcommittee consisted of members from the House Committee on Health which included: Representatives Bertrand Kobayashi, chairman; Byron Baker; Herbert Honda; Marshall Ige; and Paul Lacy, Jr.

In its review of the operations, programs, and activities of the Commission on the Handicapped, the subcommittee focused on the following areas of concern:

(1) the present powers, duties, and functions of the Commission on the Handicapped with a view towards amending the powers, duties, and functions of the Commission as statutorily defined in Chapter 348E, HRS;

(2) coordination and overlap in services and programs between the various public and private organizations and agencies dealing with persons with handicapping conditions; and

(3) program accomplishments and current problems of the Commission on the Handicapped.

The subcommittee held an informal public session to discuss these identified areas of concern with public and private agencies and organizations dealing with handicapping conditions in order to benefit from their assistance and expertise on this matter. Commissioners and staff of the Commission on the Handicapped also participated fully in these discussions and provided the subcommittee with valuable and necessary background on the matter.

BACKGROUND

The Commission on the Handicapped was created by Act 204, SLH 1977. The purpose of this law was to establish an agency whose function would be to comprehensively coordinate the delivery of services to the handicapped in the State of Hawaii. This legislative action was in response to a fragmentation in the delivery of services to the handicapped at that time, resulting from uneven efforts over the years previous to address the needs of the handicapped. A concerted effort to pull together these vital services was needed.

Prior to 1977, the State of Hawaii had a Governor's Committee on the Employment of the Handicapped. While this committee addressed a matter of crucial importance to the handicapped, its limited scope prevented a more comprehensive approach toward

the problems of the handicapped. There was no single agency responsible for the overall comprehensive planning, direction, monitoring, and evaluation of these services. This type of responsibility and information was necessary not only for the betterment of handicapped services throughout the State but also necessary to existing state agencies as well as to the Legislature for future direction, funding, and prioritization of individual programs.

With this in mind, the Legislature in 1977 dissolved the Governor's Committee on the Employment of the Handicapped and established the Commission on the Handicapped in order to better address the wide-ranging needs of handicapped persons and fulfill the other purposes mentioned above. In drafting the statutory powers, duties, and functions of the Commission on the Handicapped, now under Section 348E-3, HRS, the Legislature used language which was extremely broad in scope. Among other things, Act 204 grants the Commission a number of responsibilities including planning and research, serving as an informational clearinghouse providing public education, acting as public advocate for the handicapped, and making recommendations to the Legislature.

For its initial year of operation, the Commission's budget consisted of $36,000 for two positions, one professional and one clerical, and operating costs. Additional monies secured through the VISTA program as well as private monies from local foundations were used to establish three neighbor island offices, each with a neighbor island coordinator. In the subsequent and current biennium, the dollar appropriation increased to approximately $90,000 which was provided primarily to pay for additional consultant work but no additional staff. The Commission is currently supplementing this appropriation with federal monies to cover the cost of its neighbor island operations. These federal funds are expected to last approximately until the end of 1980, after which the Commission plans to either phase out the neighbor island offices or incorporate them into the state budget for their continued operation.

The initial two years of the Commission on the Handicapped were spent in internal organization and in conducting the following activities:

(1) public information and education (newsletter, public media awareness, radio show, conferences, award, and recognition);

(2) technical assistance to public and private agencies;

(3) advisory roles as a member of various task forces; and

(4) research projects (Maui transportation survey, "Aloha Guide" accessibility survey, accessibility slide show, federal legislation summary, and 1978 legislative digest).

For the current year, the Commission has set forth a more ambitious program, based primarily on the additional capability of consultants. At present, the numerous objectives of the Commission's current program have been placed in the general categories of barriers, health, transportation, employment, communication, public awareness and education, and formal education.

FINDINGS

(1) Chapter 348E, HRS, contains no definition of "handicapped" or "handicapped person." Therefore, it is not at all certain as to the precise population that the Commission on the Handicapped is to serve. It is not clear whether the term "handicapped" is to include all disability groups, i.e., mentally handicapped, physically handicapped, chronically ill, substance abusers, etc. It is also not clear whether the Commission's responsibilities should extend to those subpopulations who already have some other group performing statewide advocacy or planning for them, e.g., the developmentally disabled who are serviced by the federally funded Developmental Disabilities Council and by the Protection and Advocacy Agency for the Developmentally Disabled.

The Commission has, until recently, been functioning without any guides as to an accepted definition of a handicapped person, both for operational as well as statistical purposes. In light of this lack of statutory definition of "handicapped," the Commission, at its annual meeting in June, 1979, established and accepted a "working" definition of "handicapped person" based on a functional definition as provided in Section 504 of the federal Rehabilitation Act, to wit:

"'Handicapped person' means any person who (1) has a physical or mental impairment which substantially limits one or more major life activities and (2) has a record of such impairment."

Supportive definitions also accepted were:

"'Major life activities' means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working."

"'Has a record of such an impairment' means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more of life's major activities."

(2) Chapter 348E, HRS does not provide any delineation of authority between the various related agencies and the Commission. There is presently little enforceable authority which the Commission can use to carry out its statutorily prescribed responsibilities. Problems may become evident especially in an area where a particular Commission responsibility is not necessarily welcomed by another agency.

The Commission on the Handicapped also pointed out that Section 348E-3, HRS gives the Commission expansive and various powers, duties, and functions, at least theoretically. In actuality, however, it has been the Commission's experience that it has had to "work and mold itself" around other existing programs such as the Developmental Disabilities Council and the Protection and Advocacy Agency as well as some of the other existing state agencies such as the Affirmative Action Office and the Special Education Advisory Council. Operationally, the Commission has found it difficult ". . . to juggle the kinds of intents set up by many diverse programs with different definitions, different target populations, and different criteria for eligibility." As a consequence, the Commission is faced with the task of integrating the various activities relating to handicapped persons conducted by organizations over which the Commission lacks jurisdiction and of coordinating the wide range of handicapped related activities under the Commission's cloak of authority. From a practical standpoint, it has been exceedingly difficult for the Commission to function as the "umbrella" agency (said prescribed role as may be inferred from the intent and purpose section of Act 204, SLH 1977) for all organizations engaged in activities relating to the handicapped.

The Commission explained that as a consequence of (a) the lack of any delineation of authority between the Commission and other agencies, (b) the wide range of responsibilities statutorily given to the Commission, and (c) the limited resources provided to the Commission, the Commission has assumed a "band-aid" approach in providing an incomplete spectrum of indirect services to the handicapped. The Commission recognizes that there are other existing agencies which are currently performing functions designated within its statutory authority. Based on the premise that it would be both foolish and inefficient for the Commission to duplicate those functions, a working relationship has been established on an informal basis between the Commission staff and other agencies to identify and designate those functions and responsibilities covered within the Commission's purview of programs and operations.

The Commission further explained that because there are no mandated enforcement authority or accountability to the Commission, any interaction with a related agency must be based on voluntary cooperation on the part of the related agency. As one significant example, the Commission noted that during the 1979 legislative session the Commission sent out numerous invitations to community people and agencies asking for legislative proposals concerning substantive statutory matters for the Commission's review, critique, comment, and support. The Commission received only ten responses concerning substantive legislative proposals, although there were many more proposals submitted requesting funding. The Commission presently lacks any explicit statutory authority to coordinate legislative proposals on behalf of the handicapped, including requests for appropriations. Thus, despite the Commission's preference that the agencies inform the Commission of requests made to the Legislature, the Commission recognizes that there was no reason for related agencies to do so because responses were voluntary.

RECOMMENDATIONS

In light of your Committee's findings and its review of Chapter 348E, HRS, the following are the major recommendations submitted:

(1) Your Committee is in agreement that a meaningful and realistic definition is needed to accurately ascertain the precise population the Commission on the Handicapped is to serve. It would further assist the Commission in focusing its efforts and activities to more properly serve appropriate target groups in the community. Your Committee, however, feels that rather than providing for a statutory definition of "handicapped" within Chapter 348E, HRS, a flexible and inclusive definition should be adopted through the procedure of rule and regulation. The Commission presently lacks rule promulgating

authority. Your Committee therefore recommends that Section 348E-2, HRS, be amended to grant the Commission rule making authority. The primary purpose of this amendment is to permit the Commission to adopt by rule and regulation a precise yet flexible definition of "handicapped" or "handicapped person." Your Committee felt that because of the rapidly changing focus and terminology in the area of handicapped rehabilitative services, it would be more appropriate that such a definition be provided for by rule making rather than by statute.

(2) In addressing the issue of a lack of clear delineation of authority or relationship between the various governmental agencies servicing the handicapped and the Commission on the Handicapped, your Committee recommends that Chapter 348E, HRS, be amended by adding a new section to mandate every governmental agency servicing the handicapped to actively work towards goals and objectives established by the Commission to coordinate its programs with the Commission, and to provide information to the Commission as the Commission deems necessary.

This amendment is intended as a statement of legislative policy recognizing the Commission as having responsibility to shape activities and services for the handicapped by establishing clearly defined and achievable goals and objectives. It would be the Commission's role to review and assess the degree to which those goals and objectives are being fulfilled or not fulfilled, and to make appropriate recommendations to the Governor and the Legislature to address perceived problems and needs.

(3) That Section 348E-3, HRS, relating to the powers, duties and functions of the Commission be amended to give the Commission the function of coordinating and reviewing legislative proposals pertaining to the handicapped including funding requests and of offering comment to the Legislature regarding such legislative proposals.

It is intended that this amendment will provide the Legislature with a resource to which it can turn, if need be, for recommendations in its deliberations concerning the handicapped and especially in regard to private groups seeking state funds to serve the handicapped. It is expected that this amendment would be self-enforcing to the extent that the Commission can make judicious, carefully reasoned recommendations which are acted upon by the Legislature and to the extent that groups find it to their benefit to work with the Commission. It is recognized that the Commission today may not have staff resources to review and assess other agencies' legislative proposals as it would like to and that the Commission may initially serve largely as an information clearinghouse for various legislative proposals. Even this information clearinghouse function however would be of benefit to the Commission, for it will put the Commission into the communication "mainstream" so as to better guage the needs and problems of handicapped as expressed by various groups.

It is further emphasized that this proposed amendment is separate and distinct in concept and application from the new constitutional requirement commonly referred to as the "public purpose clause" of the State Constitution and is not intended to detract from policies which may be established by the Legislature to ensure that the State derives maximum public purpose benefits from monies appropriated to private organizations.

(4) That amendments be made to clarify who shall be members of the Commission and to differentiate voting from ex-officio nonvoting members.

(5) That several other miscellaneous amendments be made to Section 348E-3, HRS, in order to further clarify the powers, duties and functions of the Commission and to further define the Commission's scope of responsibility so that the Commission may carry out its operations in a more realistic manner in view of its present budgetary and personnel limitations.

Your Committee recommends the attached bill which incorporates the aforediscussed amendments to Chapter 348E, HRS.

Signed by Representatives Segawa, Kobayashi, Baker, Honda, Lee, Ushijima, Aki, Blair, Ige, Shito, D. Yamada, Lacy and Sutton.

Spec. Com. Rep. 4

Your Senate Committee on Judiciary and your House Committee on Judiciary, respectively directed to review, during the 1979 legislative interim (the Senate Committee on Judiciary was appointed and authorized to conduct such interim review pursuant to S.R. No. 509-79, adopted by the Regular Session of 1979, and the House Committee on Judiciary was appointed and so authorized pursuant to H.R. No. 844-79, adopted by the Regular Session

of 1979), the possible codification of the proposed Hawaii Rules of Evidence, beg leave to jointly report as follows:

COMMITTEE APPROACH

Your Senate and House standing Committees on Judiciary held eight joint work session meetings, during October, November, and December 1979, to analyze, consider, and draft legislation to codify the proposed Hawaii Rules of Evidence. These rules would generally apply in State courts in both civil and criminal proceedings except as otherwise provided in the rules.

During these meetings, your Committees closely reviewed the following:

(1) The proposed Hawaii Rules of Evidence drafted by the Judicial Council of Hawaii's Rules of Evidence Committee, chaired by retired Circuit Court Judge Masato Doi, and transmitted to the House and Senate Judiciary Committees during the 1979 Regular Session.

(2) Parts of the proposed but as yet unfinished commentary to the rules drafted by Professor Addison M. Bowman of the University of Hawaii School of Law who is serving as reporter to the Judicial Council's Rules of Evidence Committee.

(3) The Federal Rules of Evidence (Public Law 93-595; 88 STAT. 1926) on which the Judicial Council's Rules of Evidence Committee's draft of the proposed rules is based and patterned after.

(4) Pending legislation to codify the proposed Hawaii Rules of Evidence, especially H.B. No. 1009-79 which incorporates in bill form the Judicial Council's draft of the proposed rules.

During the interim work session meetings, your Committees were substantially and very ably assisted by Professor Bowman who served, without remuneration, as the reporter to your Committees in our joint endeavor to consider and draft legislation to codify the proposed Hawaii Rules of Evidence.

BACKGROUND

Unlike many other states, Hawaii has not yet codified the rules of evidence applicable in our State courts, depending instead upon rules of evidence developed in case law or established by numerous and disparate sections in statutory law.

The proposed Hawaii Rules of Evidence are based on the Federal Rules of Evidence which were adopted by Congress in 1974 (P.L. 93-595; 88 STAT. 1926) and took effect in the federal courts on July 1, 1975.

Rules of evidence, such as the proposed Hawaii Rules of Evidence, generally deal with such matters, among others, as rulings and admissibility of evidence; relevancy of evidence; the taking of judicial notice by the courts of certain kinds of facts and certain kinds of law; presumptions in civil and criminal proceedings; privileges to refuse to disclose confidential communications to a clergyman or between such persons as lawyer and client, physician and patient, and husband and wife; testimony by and the impeachment and cross-examination of witnesses; opinion testimony by lay and expert witnesses; the general rule as to non-admissibility of hearsay and exceptions to this general rule; authentication or identification of evidence as a condition to its admissibility; proving the contents of writings, recordings, and photographs, and the admissibility of duplicates.

FINDINGS AND RECOMMENDATIONS

Findings. Your Committees make the following findings:

(1) Rather than having to rely upon rules of evidence developed in various judicial decisions or established by numerous and disparate sections in Hawaii statutes, the codification of evidentiary rules to apply in our State courts, as one chapter of the Hawaii Revised Statutes, will be very helpful to, and mean less research time expended on evidence rules by, judges, lawyers, and legal researchers.

The codification of evidentiary rules will also benefit litigants, or clients of attorneys, because the less time an attorney has to spend in legal research as to applicable rules of evidence, the less time he will need to charge for such research.

(2) Codification of a uniformly worded set of rules of evidence (accompanied by explanatory commentary) should also help promote uniformity among judges in their rulings and decisions on evidentiary matters. The reason is that such codified or statutory rules should reduce the need for individual judges to interpret or construe various court decisions establishing, applying, or construing rules of evidence.

Moreover, where there is a void or hiatus in Hawaii case or common law as to particular evidentiary matters, statutory rules of evidence in those areas should greatly assist judges, lawyers, and litigants, and should also help promote uniformity of judicial rulings and decisions.

(3) The proposed Hawaii Rules of Evidence follows the format and to a great extent the substance of the Federal Rules of Evidence. Basing the Hawaii Rules of Evidence on the Federal Rules of Evidence has at least four major advantages:

(a) Members of the Hawaii bar who practice in both State and federal courts will need to learn, generally speaking, only one basic set of evidence rules (except in areas where the Hawaii and federal rules differ).

This means that Hawaii lawyers should be more proficient in serving their clients in whichever of these two systems of forums they may be litigating.

(b) A growing number of other states have either adopted or are in the process of adopting state evidence codes based on the Federal Rules of Evidence. Moreover, the 1974 Uniform Rules of Evidence (as approved by the National Conference of Commissioners on Uniform State Laws in August 1974, superseding the 1953 version) very closely tracks and is therefore substantially similar to the Federal Rules of Evidence.

This means that members of the Hawaii bar, who are also licensed to and who do practice in other states and their state courts, should find it very helpful and convenient if Hawaii adopts an evidence code which tracks the Federal Rules of Evidence.

(c) Both judges and attorneys, in construing and applying particular rules in the Hawaii Rules of Evidence which are identical or very similar to corresponding rules in the Federal Rules of Evidence, can look to and obtain valuable guidance from the fairly substantial body of federal case law, interpreting the federal rules, which has developed over the five-year period since the federal rules took effect in 1975.

Hawaii judges and attorneys can also look to the case law of other states which have adopted state evidence codes tracking the Federal Rules of Evidence.

(d) Substantial similarity between the Hawaii Rules of Evidence and the Federal Rules of Evidence should help promote uniformity in Hawaii federal district court and State court rulings or decisions relating to evidentiary rules and matters.

Such similarity in evidence rules and such uniformity in the construction and application of similar rules may in turn discourage forum shopping by litigants between State courts and the federal district court in cases where an action may be brought in either State court or the federal district court--the litigant understandably seeking the system of courts operating under evidence rules more favorable to his cause of action or defense.

(4) The various rules in the proposed Hawaii Rules of Evidence should be accompanied by explanatory commentary.

The commentaries are primarily designed to give the reader a better understanding of the various rules; to point out and explain differences between a particular rule and its counterpart in the Federal Rules of Evidence or whether a rule is identical with the parallel rule in the Federal Rules of Evidence; to indicate any significant similarities to other evidence codes, such as the California Evidence Code and Uniform Rules of Evidence; to cite relevant decisions of the Hawaii Supreme Court and the United States Supreme Court and, if necessary, of other courts; to indicate whether a particular rule modifies or restates and codifies existing Hawaii case law; to cite relevant provisions of the Hawaii Revised Statutes or provisions therein superseded by a particular rule; and to indicate relevant or parallel provisions in the Hawaii Rules of Civil Procedure and the Hawaii Rules of Penal Procedure.

As in the Hawaii Penal Code (see section 701-105, Hawaii Revised Statutes), the commentary will be published and may be used as an aid in understanding the rules,

but not as evidence of legislative intent.

Recommendation. Your Senate Committee on Judiciary and your House Committee on Judiciary recommend that the proposed Hawaii Rules of Evidence be enacted by the Legislature in the form either of S.B. No. 1827-80 or H.B. No. 1771-80 (companion bills), as may be appropriately amended during the legislative process.

The proposed Hawaii Rules of Evidence in the two companion bills substantially follow or track the Federal Rules of Evidence. Deviations from the federal rules will be noted or explained in the commentary to the rules. The commentary is expected to be completed and available for public inspection or study during the 1980 Regular Session.

Representatives D. Yamada, Honda, Aki, Baker, Blair, Dods, Garcia, Larsen, Lee, Masutani, Nakamura, Shito, Uechi, Ikeda and Medeiros,
Committee from the House.

Senators O'Connor, Cobb, Campbell, Chong, Kuroda, Machida, Mizuguchi, Ushijima, Saiki, George and Carroll,
Committee from the Senate.

Spec. Com. Rep. 5

Your House Committee on State General Planning and your House Committee on Finance appointed jointly pursuant to H.R. No. 844-79 adopted by the Regular Session of 1979 to review the State budgetary process to determine how it can best comply with the Hawaii State Planning Act, Chapter 226, HRS, as amended, beg leave to report as follows:

APPROACH

Your joint Interim Committee was comprised of the members of the Standing Committee on State General Planning, the Standing Committee on Finance, and the chairmen and vice-chairmen of standing committees directly affected by the Hawaii State Planning Act. The Committees included were the Committees on Agriculture; Housing; Transportation; Tourism; Water, Land Use, Development and Hawaiian Affairs; Energy; Higher Education; Health; Education; and Culture and Arts. A public hearing on the matter was held on September 6, 1979.

BACKGROUND

In 1978, the Hawaii State Legislature adopted the Hawaii State Planning Act, Chapter 226, HRS, as amended. Parts I and III of the omnibus planning act set forth broad goals, objectives, policies, and priority directions for the State. Part II of the act provides a framework to implement or carry-out the goals, objectives, policies, and priority directions, and includes a requirement that the budgetary processes of the State conform to the Plan. Section 226-52(b)(2), HRS, as amended, states:

". . . (2) The budgetary and land use decision-making processes. The budgetary and land use decision-making processes shall consist of:

(A) Program appropriations process. The appropriation of funds for major programs under the biennial and supplemental budgets, shall be in conformance with the overall theme, goals, objectives, policies, and priority directions contained within this chapter, and the state functional plans adopted pursuant to this chapter.

(B) Capital improvement project appropriations process. The appropriation of funds for major plans and projects under the capital improvements program shall be in conformance with the overall theme, goals, objectives, policies, and priority directions contained within this chapter, and the state functional plans adopted pursuant to this chapter.

(C) Budgetary review process of the department of budget and finance. The budgetary review and allocation process of the department of budget and finance shall be in conformance with the provisions of this chapter. . . ."

The State budget process is embodied in "The Executive Budget Act" under Part IV of Chapter 37, HRS. as amended. It sets forth the State's planning, programming, and budgetting (PPB) system which conceptually entails the setting of goals and objectives, the identification of programs to fulfill these objectives and the allocation of funds to support

these programs. Under this system, a six-year financial plan is prepared by executive departments and submitted to the legislature in December of even-numbered years which appropriates funds for the first two of the six years. Supplemental appropriation requests are submitted to the legislature in December of odd-numbered years.

FINDINGS AND RECOMMENDATIONS

The implementation of the State Plan will require that the State's financial resources is allocated according to the goals and objectives established under the State Plan. The present budgeting system must not conflict with the State Plan, but should in fact support it. As such, the State budgetary system should take a supportive role in the implementation of the goals and objectives of the State Plan instead of pursuing separate goals and objectives. While it may appear simple to integrate or conform the State budgetary system with the State Plan, the means to accomplish integration or conformity are decidely more complex.

It is your joint Committee's understanding that the Department of Planning and Economic Development (DPED) is developing administrative guidelines to recommend various ways in which the executive budget process could conform to the Hawaii State Plan. The draft State Plan Administrative Guidelines recommends on pages 13-15 of Section IV that:

"(a) PPBS program objectives, measures of program effectiveness, and if necessary, the program structure should be altered to reflect the Overall Theme, Goals, Objectives, Policies, and Priority Directions set forth in the State Plan. This would serve to make the PPBS program structure parallel to the policy structure of the State Plan and to provide ready evaluative information on the progress being made in achieving State Plan goals. The degree to which this is feasible must be assessed by DBF [Department of Budget and Finance] in consultation with DPED. Constraints exist in (1) the legislative directive that the PPBS program structure not include more than four program levels, thus limiting the specificity of the lowest level; and (2) in the law's provision that each program shall have a single objective, thus limiting the specificity of the objectives.

(b) The implementation priorities expressed in the State Functional Plans and in the Priority Directions should be incorporated in the setting of overall budget priorities and in the review of individual program plans and budget requests. Since, however, the State's resources will never be sufficient to provide for all implementation priorities, a further ordering of these priorities is necessary-with the result that some activities may be postponed. This is the proper function of the budgetary review process, as carried out by DBF in consultation with DPED.

(c) Allocations and the programming of allocations should be coordinated between and among programs. This activity complements (b) above by seeking to coordinate allocations made in various functional areas. This is particularly important since at present the PPBS program objectives generally do not reflect a program's relationship to programs in other, related areas; nor is there any accounting of the impact of programs upon State policies of broad scope, e.g., distribution of economic growth to the Neighbor Islands.

Within PPBS, implementation activities (b) and (c) may be addressed, at least in part, by augmentation of the 'program plan narrative.' The program plan narrative is a required document giving a brief description of the program. It could be augmented to include a section describing the significant relationships of the program to the State Plan, adopted State Functional Plans, and other State Programs.

(d) The allocation of State funds among the various programs should be analyzed to determine impacts upon the achievement of those State Plan Priority Directions which are more broad than any one program and which, in fact, may not be reflected in any program objective. (The Priority Direction encouraging the location of State and Federal agencies on the Neighbor Islands is an example.) Within PPBS, this implementation activity may be addressed by augmentation of Program Memoranda. Prepared biennially, the Program Memoranda provide an overview of the eleven major program areas and the changes being proposed within them. The Program Memoranda could be augmented to include: (1) description of how the major programs relate to the major themes of the Priority Directions; and (2) discussion of how program changes implement the Priority Directions and the adopted State Functional Plans."

Your joint Committees believe that the guidelines relating to the budgetary review process contained in the "Hawaii State Plan Administrative Guidelines" provide a satisfactory first step toward the integration of the State budgetary process with the State

Plan. In this regard, your joint Committees submit the following proposal in bill form to serve as a basis for discussion and as a basis for further action during the 1980 Regular Session. The attached bill would amend the Executive Budget Act, Part IV of Chapter 37, HRS, as amended, in the following manner:

1. It would require that the PPBS program objectives, measures of program effectiveness, and if necessary, the program structure be altered to reflect the overall theme, goals, objectives, policies, and priority directions set forth in the State Plan.

2. It would provide that the priorities reflected by the State functional plans and priority directions be incorporated as the overall budget priorities.

3. It would require that the program plan narrative of the budget documents address the relationships and inter-relationships to other program areas and to the State Plan.

4. It would provide that the program memoranda be augmented to include a description of how they relate to the Hawaii State Plan.

5. It would require the Department of Planning and Economic Development to review jointly with te Department of Budget and Finance the departmental budget requests for conformity to the Hawaii State Plan.

Representatives Kiyabu, de Heer, Fukunaga, Hashimoto, Ige, Kawakami, Kunimura, Lunasco, Nakamura, Say, Shito, Takamine, Uechi, Uwaine, Lacy, Medeiros and Sutton,
Members of the Committee on State General Planning.

Representatives Morioka, Crozier, Dods, Hagino, Holt, Inaba, Kobayashi, Lee, Masutani, Sakamoto, Segawa, Stanley, Takitani, Ushijima, Ikeda, Marumoto and Narvaes,
Members of the Committee on Finance.

Spec. Com. Rep. 6 (Majority)

Your Committee on Public Assistance and Human Services, appointed pursuant to H.R. No. 844, adopted by the Regular Session of 1979, to review the components of the costs of the State Medicaid Program, begs leave to report as follows:

An interim subcommittee on the costs of the State Medicaid Program was appointed to undertake this review. The subcommittee consisted of members from the House Committee on Public Assistance and Human Services as follows: Representatives Byron Baker, chairman; James Aki; Russell Blair; Herbert Honda; Marshall Ige; Bertrand Kobayashi; Kenneth Lee; Herbert Segawa; Mitsuo Shito; Charles Ushijima; Dennis Yamada; Paul Lacy, Jr.; and Richard Sutton.

The report of the subcommittee containing the aforesaid review was submitted to your Committee on Public Assistance and Human Services, a copy of which report is attached hereto.

Signed by Representatives Lee, Baker, Blair, Ige, Aki, Honda, Kobayashi, Segawa, Shito, Ushijima, D. Yamada, Lacy and Sutton.

SUBCOMMITTEE REPORT

Your Subcommittee appointed pursuant to H.R. No. 844, adopted by the Regular Session of 1979, to review the components of the costs of the State Medicaid Program, begs leave to report as follows:

BACKGROUND

The Medicaid Program is authorized under the provisions of Title XIX of the Social Security Act, as amended. The purpose of Title XIX was to enable states to provide medical services to individuals receiving public money payments, including families with dependent children, and the aged, blind and disabled, and to certain categories of persons with low income. By participating in the Medicaid Program, states are eligible to receive federal financial participation to complement state expenditures incurred in providing medical services to eligible recipients.

States participating in the program are required to provide medical services to all persons who meet eligibility criteria. There are two general groups of people who are eligible for medical assistance, the categorically-needy and the medically-needy. The categorically-needy are those persons eligible to receive State or federal cash income supplements and include persons in families receiving aid for dependent children (AFDC), and blind, disabled and aged persons receiving benefits under the Supplemental Security Income (SSI) program. The categorically-needy are eligible for Medicaid solely as a result of their eligibility for federal and State cash assistance. The medically-needy are eligible at the option of each state. Within this group are individuals whose income and/or resources are too high to qualify as categorically-needy, but who cannot afford to pay their medical bills, and would become eligible for cash assistance if they did. Hawaii provides Medicaid coverage for the medically-needy.

The Hawaii Medicaid Program is administered by the State Department of Social Services and Housing (DSSH). The Hawaii Medical Services Association (HMSA) is the fiscal administrator for the Hawaii Medicaid Program and, as such, operates as an agent for the State.

The Medicaid benefit coverage provided in Hawaii includes the minimum benefit coverage required by the federal government and an array of optional services, as shown in Exhibit 1.

Hawaii's Medicaid Program currently receives a federal matching grant of 50 percent, which is the minimum within the federal medical assistance percentage range of 50-83 percent of the State's local Medicaid expenditures.

The federal contribution rate for Hawaii is at the low end of the federal scale, because the rate is based inversely on state per capita income, and Hawaii consistently has been among the top 20 percent of states in personal income.

Hawaii has participated in the Medicaid Program since its inception in 1966. About 10 percent of Hawaii's total resident population is covered by Medicaid.

The unquestioned merit of the Medicaid Program notwithstanding, the Legislature observed during the 1979 Regular Session that the State's program costs are increasing at an alarming rate and determined that further examination of the components of these costs should be undertaken. It was felt that such an examination would help to identify the important factors affecting Medicaid costs and would provide a more accurate assessment of present and anticipated cost trends, as well as insights into means by which program cost increases could be restrained.

The basic facts of the dramatic increase in the Hawaii Medicaid Program costs are these:

The program claims payments have grown from $33.4 million in 1974 to $99 million in FY 1979--a near tripling in the last five years.

This stunning increase is all the more remarkable in view of the fact that the number of eligible recipients of Medicaid benefits has remained relatively stable, increasing overall from about 86,000 to about 92,000, or only 7 percent, during the five-year period. Thus, recipient load increases have contributed only modestly to the radical program cost increases.

EXHIBIT 1
HAWAII MEDICAID SERVICES

FEDERALLY REQUIRED SERVICES:

1. Inpatient hospital services (other than services in an institution for tuberculosis or mental diseases).

2. Outpatient hospital services.

3. Other laboratory and x-ray services.

4. Skilled nursing facility services (other than in an institution for tuberculosis or mental disease) for individuals 21 or older.

5. Early and periodic screening, diagnosis, and treatment of physical and mental defects for individuals under 21.

6. Family planning services and supplies.

7. Physicians' services rendered in the office, patient's home, hospital, skilled nursing home, or elsewhere.

8. Transportation of recipients to and from providers of services.

OPTIONAL SERVICES

9. Intermediate care facility services.

10. Home health services furnished by home health agency and supplies.

11. Other diagnostic, screening, preventive, and rehabilitative services.

12. Clinic services.

13. Dental services.

14. Prescribed drugs, dentures, and prosthetic devices; and eyeglasses prescribed by a physician skilled in diseases of the eye or an optometrist, whichever the patient may select.

15. Physical therapy and related services.

16. Podiatry services.

The major sources of the cost increases lie elsewhere: in jumps in the costs of the services provided, reflected in cost per claim--up 55 percent in five years; and in the number of medical treatments and other services provided to each recipient--up 78 percent. Exhibit 2 summarizes this Medicaid cost growth during the past five years.

Clearly more and costlier services are being provided through the Medicaid Program each year. Thus, the burgeoning Medicaid expenditure appears to be in the main a result of service providers running up the costs by giving more services and charging more for them--especially the former.

APPROACH TAKEN

Your Subcommittee on the Components of Medicaid Program was chaired by Representative Byron Baker and included the entire membership of the Committee on Public Assistance and Human Services.

Your Subcommittee requested DSSH to provide information on the various components of the costs of the Hawaii Medicaid Program including, but not limited to, the number of claims processed, average cost per service performed, and external factors affecting the cost of providing each service, and to recommend areas in which program costs may be alleviated. Your Subcommittee held a public hearing at which DSSH presented its testimony on the aforementioned matters.

A subsequent public hearing addressed the following additional areas of concern:

(1) Medicaid Fraud--through a briefing by Medicaid Fraud Unit of Attorney General's Office;

(2) Long-Term Health Care Problems in Hawaii--through a general discussion involving DSSH and the State Health Planning and Development Agency (SHPDA);

(3) Administration and Management of the Medicaid Program--through a presentation by DSSH on recommended areas for improvement; and

(4) The Use of Electronic Data Processing (EDP) in the Medicaid Program--Problems, Prospects, and Recommendations--through a presentation by the Department of Budget and Finance EDP Division.

EXHIBIT 2
SUMMARY OF MEDICAID COSTS AND CLAIMS
FISCAL YEARS 1974-1979

	FY 74	FY 75	FY 76	FY 77	FY 78	FY 79	FY 74-79 % INCREASE
Recipients[1]	85,699	109,069	114,448	102,268[2]	109,067[2]	91,736[2]	7.0%
Claims	820,276[3]	901,905	1,142,739	1,326,328	1,502,010	1,563,893	90.7%
Expenditures	33,432,657[3]	37,057,163	53,145,324	71,542,942	90,468,089	99,018,237	196.2%
$/Claim	40.76	41.09	46.51	53.94	60.23	63.32	55.3%
Claims/Recip.	9.57	8.27	9.98	12.97	13.77	17.05	78.2%

[1]The number of eligible recipients fluctuates from year to year because of changes in such factors as eligibility policy, shifts of General Assistance recipients to Federal programs, economic conditions, out-migration, and eligibility worker caseload (smaller caseloads permiting more thorough eligibility screenings). The decline in recipients from FY 78 to FY 79 is primarily attributable to a 25.7% decrease of recipients in the general assistance category, which is due in turn to a 25.7% decline in the number of GA recipients in the general population--a direct result of Act 103, SLH 1978 which tightened up GA eligibility standards.

[2]Federal Fiscal Year

[3]Estimated from CY 1973 and 1974 data.

In addition to the approaches outlined above, your Subcommittee staff did considerable research on Medicaid costs in their relationship to larger health services policy and cost issues.

FINDINGS

A. Analysis of Relevant Trends in Medicaid Program

A cost breakdown of Hawaii's Medicaid Program for Fiscal Years 1974 to 1979 is presented in Exhibit 3.

Exhibit 3, shows a remarkable increase in expenditures between FY 1977 to FY 1978 for the intermediate care facility component, from $5.6 million to $15.5 million. This increase is attributable to an additional $9 million in Medicaid payments made for patients in Waimano Training School and Hospital, which previously did not qualify as a Medicaid-reimbursable facility. Waimano is an intermediate care facility specializing in care of the mentally retarded. Inclusion of these patients in the Medicaid Program enabled the State to earn federal matching funds for the patients' care.

HMSA submitted selected statistical data to your Subcommittee which attempts to assist analysis of the causes of Medicaid Program cost increases.

Exhibit 4 compares statistics on service costs by category (institutional, physicians, dental, drug) for FY 1974 and FY 1979, showing changes in the percentage of total Medicaid payments and dollar amounts per recipient attributable to each of the four types of services.

HMSA offered the following breakdown of service costs:

The average amount paid per recipient for dental services was $101 in FY 1974 and $134 in FY 1976. This increase was due to an increase in services per recipient and the 20 percent fee increase for dentists that went into effect March 1, 1975. The average cost per recipient rose to $157 in FY 1979, a 17 percent increase which resulted from fee increases.

HMSA also noted that the 45 percent increase in the amount paid per recipient between FY 1974 and FY 1979 for drugs was the result of the increase of drug costs and an increase in number of prescriptions per patient.

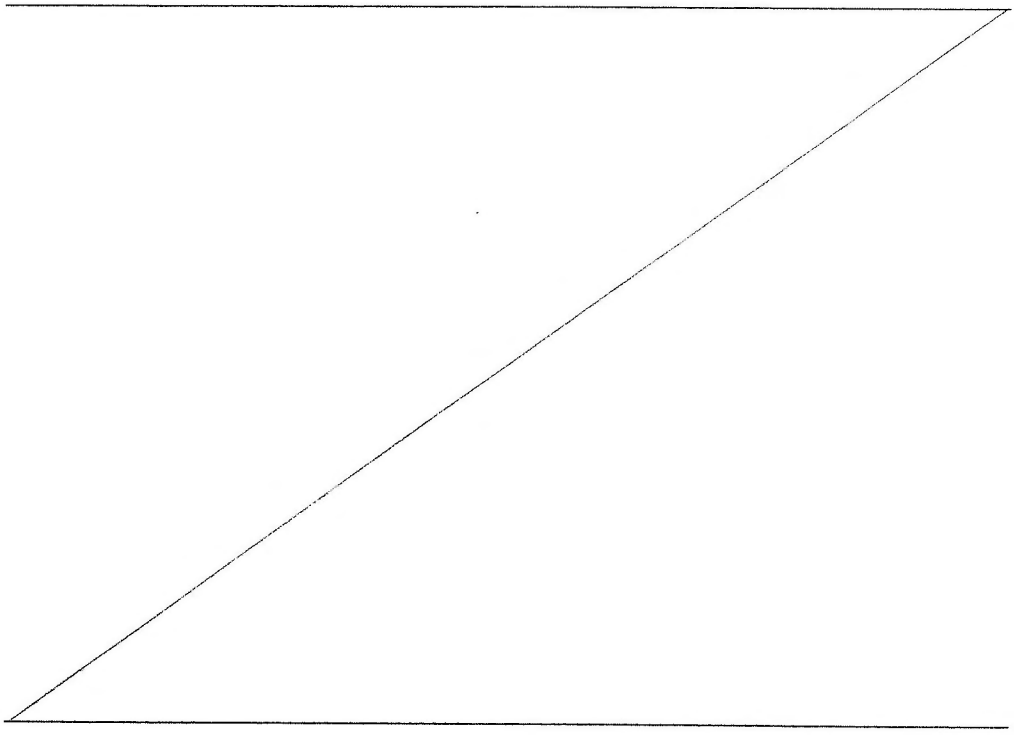

EXHIBIT 3
SUMMARY OF MEDICAID CLAIMS BY TYPE OF SERVICES, 1974-79

	FY 74	FY 75	FY 76	FY 77	FY 78	FY 79	FY 74-79 % INCREASE IN $ COSTS	FY 74-79 $ INCREASE
HOSPITAL INPATIENT								
$	8,290,157	8,395,586	12,115,590	16,107,702	18,433,030	21,760,830	162	13,470,673
Claims	19,228	19,441	22,703	24,624	25,900	26,076		
$/Claim	431.15	431.85	533.65	654.15	711.70	834.52		
% Change($/Claim)	--	0	24	23	9	17		
NURSING HOME CARE								
$	9,379,609	10,302,205	12,986,718	15,328,542	17,637,808	19,280,303	106	9,900,694
Claims	23,609	22,029	24,272	25,211	25,799	24,866		
$/Claim	397.29	467.67	535.05	608.01	683.66	775.37		
% Change($/Claim)	--	18	14	14	12	13		
INTERMEDIATE CARE FACILITY								
$	2,246,935	2,711,625	3,917,990	5,687,653	15,513,487	15,781,166	602	13,534,231
Claims	4,740	5,441	6,407	7,492	13,547	14,148		
$/Claim	474.04	498.37	611.52	759.16	1,145.16	1,115.43		
% Change($/Claim)	--	5	23	24	51	-3		
PHYSICIANS SERVICES								
$	5,766,692	5,934,544	9,179,729	14,298,031	16,597,651	17,580,575	205	11,813,883
Claims	337,528	354,415	455,476	537,818	582,903	605,118		
$/Claim	17.09	16.74	19.72	26.59	28.47	29.05		
% Change($/Claim)	--	2	18	35	7	2		
DENTAL SERVICES								
$	2,827,994	2,852,299	5,416,523	7,573,473	8,268,054	7,887,535	178	5,059,541
Claims	43,951	45,536	65,008	78,456	87,498	87,680		
$/Claim	64.34	62.64	83.32	96.53	94.49	89.96		
% Change($/Claim)	--	3	33	16	-2	-5		

	FY 74	FY 75	FY 76	FY 77	FY 78	FY 79	FY 74-79 % INCREASE IN $ COSTS	FY 74-79 $ INCREASE
HOSPITAL OUTPATIENT								
$	1,910,231	2,029,093	2,258,314	2,980,255	3,725,758	4,045,108	112	2,134,877
Claims	74,973	77,415	81,364	88,907	97,697	97,915		
$/Claim	25.48	26.21	27.76	33.52	38.14	41.31		
% Change($/Claim)	--	3	6	21	14	8		
LAB & X-RAY								
$	830,654	889,273	1,522,423	2,304,270	2,568,629	2,994,511	253	2,163,857
Claims	42,755	44,427	66,221	86,675	105,434	120,738		
$/Claim	19.43	20.02	22.99	26.59	24.36	24.80		
% Change($/Claim)	--	3	15	16	8	2		
HOME HEALTH								
$	104,953	120,767	157,417	216,768	275,036	363,997	247	259,044
Claims	1,145	1,211	1,761	1,915	2,017	2,246		
$/Claim	91.66	99.72	89.39	113.14	136.36	162.06		
% Change($/Claim)	--	9	10	27	21	19		
DRUG								
$	2,588,008	2,746,546	3,998,060	4,755,888	5,508,382	6,158,208	138	262,421
Claims	276,252	297,381	379,879	441,510	505,898	538,673		
$/Claim	9.37	9.24	10.52	10.77	10.89	11.43		
% Change($/Claim)	--	1	14	2	1	5		
OTHER CARE								
$	559,502	496,716	627,065	790,380	990,581	1,267,451	127	707,949
Claims	32,868	26,360	18,615	20,718	24,666	25,486		
$/Claim	17.02	18.84	33.68	38.15	40.16	49.73		
% Change($/Claim)	--	11	79	13	5	24		

	FY 74	FY 75	FY 76	FY 77	FY 78	FY 79	FY 74-79 % INCREASE IN $ COSTS	FY 74-79 $ INCREASE
FAMILY PLANNING								
$	415,133	474,312	797,419	1,299,772	752,459	547,764	32	132,631
Claims	3,571	3,720	4,975	5,804	3,057	2,294		
$/Claim	116.25	127.50	160.28	223.94	246.14	238.78		
% Change($/Claim)	--	10	26	40	10	3		
SCREENING SERVICES								
$	86,467	104,197	168,076	200,208	197,214	192,794	123	106,327
Claims	3,754	4,529	6,058	7,197	7,327	6,973		
$/Claim	23.03	23.00	27.74	27.82	26.92	28.00		
% Change($/Claim)	--	0	21	0	3	3		

EXHIBIT 4

COSTS BY SERVICE CATEGORY IN THE HAWAII MEDICAID PROGRAM, 1974-79

CATEGORY	FY 74	FY 79	$/RECIPIENT INCREASE, FY 74-79	$/RECIPIENT % INCREASE, FY 74-79	TOTAL PROGRAM INCREASE, FY 74-79
INSTITUTIONAL SERVICES					
% of all Medicaid Payments	65	57	$1,005**	70**	$36.9 million
$/Recipient	$1,438	$2,443*			
PHYSICIAN SERVICES					
% of all Medicaid Payments	18	21	$ 75**	70**	$11.8 million
$/Recipient	$ 107	$ 182*			
DENTAL SERVICES					
% of all Medicaid Payments	7	8	$ 56	55	$ 5.1 million
$/Recipient	$ 101	$ 157			
DRUGS					
% of all Medicaid Payments	6	6	$ 19	45	$ 0.3 million
$/Recipient	$ 42	$ 61			

*Data is for FY 1978. FY 1979 data not available.

**Data is for FY 1974-78. FY 1979 data not available.

HMSA noted that for FY 1979 six health care services account for a major portion of the total Medicaid Program expenditures. Inpatient institutional care provided in the hospitals, SNF's and ICF's accounted for 57.4 percent of all benefits paid in FY 1979. Physician services, dental services, and drugs accounted for 17.8 percent, 8.0 percent, and 6.2 percent of the total expenditures, respectively.

It is apparent that the bulk of service cost increases has taken place in the area of institutional services.

A further breakdown of institutional service costs, by levels of care (hospital, skilled nursing facility, and intermediate care facility) is presented in Exhibit 5.

EXHIBIT 5

AVERAGE AMOUNT PAID PER RECIPIENT
BY TYPE OF INSTITUTIONAL SERVICES

Service Type	FY 1974	FY 1979	FY 1974-1979 % Increase	FY 1974-1979 $ Increase
Hospital	$ 713	$1,298	82%	$ 585
Skilled Nursing Facility	5,171	7,525	46%	2,354
Intermediate Care Facility	2,450	8,762	258%	6,312

While the percentage of total Medicaid expenditures that are institutional services has remained constant from 1974 to 1979 (at 57 percent), the amount of institutional service expenditures has increased by nearly $37 million.

The dramatic increase shown for ICF payments was due to two factors: (1) changing the reimbursement method from a fixed rate per day to the reasonable cost method used for hospitals and SNF's as required by federal law and (2) the inclusion of Waimano into the ICF program.

Exhibit 6 indicates claims paid and dollar amounts spent for each category of recipient eligibility.

EXHIBIT 6

HAWAII MEDICAID PROGRAM
CLAIMS PAID BY CATEGORY OF ELIGIBILITY
JULY 1, 1978 TO JUNE 30, 1979 CASH PAYMENT

Category	Claims	% of Total	Benefits	% of Total
Aged	202,947	13.0%	$29,401,988	29.7%
Blind	2,330	0.1	124,247	0.1
Disabled	155,772	10.0	19,088,643	19.3
Families	844,610	54.0	32,000,522	32.3
Child Welfare	6,244	0.4	263,309	0.3
General Assistance	351,370	22.5	17,944,815	18.1
Pensioners	620	---	194,713	0.2
TOTAL	1,563,893	100.0%	$99,018,237	100.0%

Exhibit 6 shows that the aged category of eligibility represented about 30 percent of the total dollar benefits paid even though comprising only 13.0 percent of the total claims. As shown in Exhibit 3, the average dollar amount per claim for ICF services in FY 1979 was $1,115.43, which represented by far the greatest $/claim figure for all Medicaid services. Assuming that a significant proportion of ICF beds are occupied by aged persons, it can be reasonably concluded that a significant proportion of total Medicaid Program expenditures goes to aged persons in institutional care facilities.

An examination of the reasons for the burgeoning costs was undertaken by your Subcommittee and is reported in the following section.

B. Determinants of Cost Increases in the Medicaid Program

Your Subcommittee has identified nine major factors that are significant in pushing up the costs of the Medicaid Program. These factors are:

(1) The Method of Program Financing (Federal Matching-Grant Formula)

(2) The Recessionary Economy

(3) Inflation in Health Care Costs Generally

(4) Built-In Increases in Reimbursement Rates for Participating Practitioners

(5) The "Reasonable Cost" Formula for Institutional Provider Reimbursement

(6) Fraud and Abuse

(7) Eligibility Determination Errors

(8) Soaring Demand for Long-Term Care of the Elderly

(9) Long-Term Care Provision at Inappropriately Intensive Levels

Each of these elements is discussed below.

(1) Program Financing. Because the federal government matches states' contributions to Medicaid Programs on an open-ended basis, there is an inducement to earmark more and more funds to Medicaid. Not doing so is tantamount to turning down federal money that is there for the asking. An illusion of economy is generated since the State is in effect getting medical care at the cost to itself of only half the going rate. This open-ended spending process is of course limited in principle by the point at which the marginal State Medicaid dollar, (even with the companion federal dollar), is seen to obtain less value than the same dollar spent for other purposes. Still the federal/state cost sharing mechanism tends to encourage State spending.

(2) The Recessionary Economy. The number of eligible recipients in the Medicaid Program is sensitive to recessionary influences. Program demand is related to levels of unemployment and underemployment. As both increase, the accompanying decline in income ultimately qualifies more families for public assistance and as medically indigent. Depressed economic conditions also limit the opportunities of those already in the program, thereby reducing the "normal" rate of attrition. This effect mainly involves the program segment for persons receiving AFDC and medically-needy persons in AFDC families. The other categories of persons eligible for Medicaid--the aged, the blind, or the disabled--exhibit little cyclical variation because only small segments of these populations are labor force participants.

(3) Inflation in Health Care Costs Generally. The continuing inflation in health care costs is a problem for Medicaid since the services it delivers are purchased in the general market for health care. While Medicaid is a significant purchaser in that market, it accounts for only about 10 percent of all expenditures, not enough to make it a determinant of industry-wide activity.

(4) Built-In Increases in Reimbursement Rates for Participating Practitioners. The Hawaii Medicaid Program pays participant practitioners on the basis of "usual, customary, and reasonable charges" (UCR) with a maximum equal to the equivalent Medicare rate for the service. This is the result of Act 150, SLH 1976, which enlarged Hawaii's reimbursement methodology from a fixed fee schedule to the UCR basis. This has produced the previously noted increase in average cost per recipient for physician services from $126 in FY 1976 to $182 in FY 1978, a 44.4 percent increase.

UCR limits reimbursements to the lowest of: a physician's actual charge, his median charge in a recent prior period (the usual charge), or the 75th percentile of charges in that same period by physicians in the same specialty and geographic area (the customary charge).

There can be no doubt that fixed fee schedules can control the cost of physician services. Your Subcommittee, however, also notes that physicians may increase the frequency of treatments when fees are fixed.

(5) The "Reasonable Cost" Formula for Institutional Provider Reimbursement. Institutional provider (hospital, SNF, and ICF) reimbursement rates under Medicaid are based on "reasonable cost" or charges, whichever is lower. Federal law requires Medicaid to utilize the Medicare method of hospital reimbursement, a cost-based system developed jointly by the Social Security Administration and the American Hospital Association. In operational terms, reasonable cost is defined by auditing a hospital's books, identifying that fraction of total charges which are Medicaid charges, and multiplying that fraction times that total cost of operating the hospital.

Reasonable cost reimbursement has significantly contributed to the extraordinary inflationary trend of hospitals' prices and costs. While all other methods allow the State to shift some of the burden of the program onto the providers, reasonable cost reimbursement prohibits the application of such action to hospitals. The hospitals thus, lack a direct motive to control the costs of their provision of services to Medicaid recipients. This combines with the structured temptation (under the reasonable cost determination procedure) to shift non-Medicaid costs onto the Medicaid Program to stimulate the expansion and system-wide misallocation of hospital resources. The mode of reimbursement thus operates as an implicit, de facto health services planning instrument, in potential opposition to the State's health planning efforts.

(6) Fraud and Abuse. Fraud and abuse in the Medicaid Program has been a subject of considerable concern in recent years, both nationally and locally. Most of the attention has focused on the problem of ineligible recipients. However, fraudulent treatment and bribery practices are equally important. This type of fraud may assume one of two forms: the provision of services which the provider knows to be medically unnecessary and the billing for procedures not actually provided (or double billing for the same procedure). It is difficult to determine the extent of fraudulent utilization practices in any particular Medicaid Program, but the Federal Health Care Financing Administration estimates that it comprises about 8 percent of total program cost. This amply justifies rigorous fraud prosecution.

Accordingly, Act 106, SLH 1978, established the Medicaid Fraud Control Unit within the Department of the Attorney General. The Legislature found in enacting Act 106 that there existed an urgent need to establish an investigative and enforcement body to eliminate or minimize fraud.

The Medicaid Fraud Control Unit reported that from its inception in July, 1978 to October, 1979 it had initiated 31 investigations of Medicaid providers. Ten cases were closed with no action taken; in three other cases upon which action was taken, there were convictions of four persons on first-degree theft. In addition, the Unit has recovered approximately $40,000 of Medicaid Program funds through court-ordered restitution, and has also been responsible for the termination or suspension of several providers from participation in the program.

(7) Eligibility Determination Errors. Errors permitting overpayment of Medicaid claims and benefits paid for ineligible persons (and ineligible providers) have been a significant factor in rising program costs, both locally and nationally. The 1979 Study of Hawaii's Medicaid Claims Administration indicated that in recent years the error rate in eligibility determination has been as high as 35 percent. This same study estimated that in the 18 months between October, 1975 and March, 1977 such errors cost the State over $1.6 million.

Improvements in the eligibility verification process since that time have produced substantial savings. The Medicaid report for the 1978-79 fiscal year stated that $2.4 million was saved through computer checks of claims against the case information available on the eligibility file.

The magnitudes of the sums saved through the improved eligibility review procedures indicate the extent of the problem and suggest that further refinements in the review process may yield even greater savings. Possible measures to this end will be discussed in Section C of this report.

(8) Soaring Demand for Long-Term Care for the Elderly. A disproportionately large amount of Medicaid benefit payments are attributable to long-term care for elderly recipients. For FY 1979, approximately $29.4 million--almost 30 percent of all Medicaid payments--were made for services for recipients in the aged category, even though this group constituted only 10 percent of the total eligible Medicaid population. Further, for the same fiscal year, inpatient institutional care (hospital, SNF, and ICF) accounted for over 57 percent of all dollars paid in benefits, even though the number of claims under this category was only about 4 percent of the total claims.

Problems of institutional care costs for the elderly will be of even greater magnitude in the new future. The population 65 years of age and over is expected to double within the next 40 years. Between 1975 and the year 2000, the number of Americans in the 55-64 age group will have increased by 16 percent; in the 65-75 age group by 23 percent; and, most dramatically, in the over 75 age group by 57 percent. State Department of Planning and Economic Development projections indicate that by 1985, Hawaii's population will include about 93,000 persons over 65 years of age.

The increasing numbers of elderly people have created a demand for institutional care that is overwhelming existing facilities. This has resulted in institutional treatment of elderly Medicaid recipients at inappropriate levels.

(9) Long-Term Care Provision at Inappropriately High Levels. There is a shortage of beds in intermediate care facilities, forcing long-term patients who should be in ICF beds to occupy more expensive SNF and acute care (hospital) beds. Exhibit 7 shows the differences in costs per day for treatment at the acute, SNF, and ICF levels. Exhibit 8 shows the numbers of beds available statewide, by level of care, and the shortages of beds at the different levels.

EXHIBIT 7

COSTS VS. CHARGES IN STATE AND PRIVATE FACILITIES*
(FY 1977-1978)

	ACUTE	SNF	ICF
Private Beds	2,020	1,105	554
Cost/Day	$231	$55	$29
Charges/Day	$232	$59	$32
Medicaid Days	11%	72%	63%
State Beds	463	456	830
Cost/Day	$353	$91	$79
Charges/Day	$153	$58	$43
Medicaid Days	8%	71%	83%

Medicaid Days are presented as a percentage of all possible days.

i.e. $\frac{\text{Days paid for by Medicaid}}{\text{Total Beds x 365}}$ = % Medicaid Days

EXHIBIT 8

BEDS, MEDICAID/SSI POPULATION, AND APPROPRIATENESS OF LEVEL OF CARE

TYPE OF BED	ACUTE	SNF	ICF	BOARDING/CARE
Total Beds Available	2,483	1,561	1,384	2,168
Medicaid/SSI Population	262	1,116	1,035	1,500
Number Needing Lower (Higher) Level of Care	100	500	--	(150)
Over (Under) Supply of Medicaid/SSI Beds	--	400	(650)	--

C. Cost Containment Considerations Within the Medicaid Program

(1) Eligibility Restrictions as a Cost Containment Mechanism. This section analyzes the eligibility options of the State's Medicaid Program in terms of their cost containment possibilities.

By way of review, in addition to providing the federally required coverage to the categorically-needy. Hawaii's Medicaid Program also provides medical assistance to those persons whose incomes and/or resources are too high for them to qualify as categorically-needy, but who cannot afford to pay their medical bills.

(i) Restricting Eligibility Categories. In considering eligibility category constraints as cost containment strategies, each eligibility group will be discussed in turn.

Aid to Families with Dependent Children (AFDC). The options available to restrict this group are to (1) lower the need standard or (2) reduce the amount of protected assets.

The need standard could be restricted by an overt cut-back or by failing to increase the standard to keep pace with inflation. While this measure would remove from eligibility those whose income and resources are near the need standard threshold, it would also raise political and ethical issues concerning the validity of tightening eligibility criteria during periods of increased unemployment and economic displacement.

A more subtle approach would be to reduce the amount of protected assets and income disregards. In calculating AFDC payments, certain income is ignored and certain work-related and child care expenses are deducted. As a result, once a family becomes eligible, its total income, including AFDC payments and earnings, can increase to levels substantially above the standard. Eligibility of these families with earned incomes could be affected by a ceiling on income disregards for work-related or child care expenses. However, most AFDC recipient families have little or no earnings; as a result, the proportion of families actually affected by changes in income disregard standards is likely to be small.

SSI-Aged, Blind, Disabled. To restrict or eliminate the SSI categorically-needy population would result in losing federal funds for the support of the substantial portion of the SNF and ICF population in the State covered by Medicaid. This would throw the entire financial burden for the care of these people on the State and on other programs. It would therefore be counterproductive as a cost containment mechanism.

The Medically-Needy. The following eligibility restriction options exist for this group: (1) eliminate the medically-needy program, (2) reduce the protected income level to the permissible minimum, or (3) extend the time span over which family or individual income is compared to the financial eligibility screens used.

The option to eliminate the medically-needy is not feasible. A significant number of these people are elderly Medicaid nursing home patients whose displacement would require finding alternative living arrangements. Savings would not be realized, for the burden of support of these individuals would probably be shifted to the counties

which lack federal financial support. Further, to remove an impoverished elderly population from eligibility for institutional care they have heretofore been granted would neither be practical on political grounds nor humane.

The option to reduce the level of protected income and resources is based on the federal law which permits states to establish the medically-needy income screen below 133 percent of the AFDC standard. However, a reduction of the protected income level might not generate significant savings. In fact, it may cost more to implement than could be realized in program savings, for two reasons. First, the most costly portion of the medically-needy population are in long-term care facilities. Most of their income goes toward paying their medical expenses. Their eligibility is a function of the difference between their nursing home costs and their income. Since nursing homes generally charge more in a month than 133 percent of the AFDC income standard, a reduction in the standard will not affect this group. Second, indications are that the number of non-institutionalized medically-needy eligibles whose income exceeds the AFDC standard is so small that significant savings would not be realized if the level of projected income and other resources were reduced.

The third option--to increase the length of time used to compare income against financial eligibility standards--would be counter productive if, for example, a comparison on a six-month basis between income and medical expenses produced more eligible recipients than a comparison on a single month basis. This result is quite possible given the uneven and episodic pattern of marginally employed persons' incomes.

(2) Eliminating Errors in Case Eligibility Determinations as a Cost Containment Mechanism. A critical facet of the Medicaid Program is the determination of whether or not a particular applicant is eligible to receive Medicaid benefits. This determination is so complicated, it may be argued, that a disposition towards error is an inevitable result.

Administrative errors arising in the eligibility determination process are due to policy and procedures incorrectly applied, indicated actions not taken (e.g., client-reported income ignored), computational errors made by the caseworker, and data system inadequacies (see Exhibit 9).

Corrective measures suggested which can be employed to reduce administrative errors include:

(a) Hiring more case and eligibility determination workers to decrease the caseload per worker, enabling them to increase their monitoring of new and established cases.

(b) Holding caseworker seminars and training sessions designed to correct administrative errors.

(c) Simplifying forms and procedures.

(d) Selectively and intensively reviewing recipient subgroups with high error rate potentials.

The cost effectiveness of these measures is not well understood at present. The various corrective measures would not necessarily yield comparable net savings. Further, implementing the entire gamut of corrective measures may not be so effective as a more limited but more carefully designed strategy, e.g., simplification of either policy or procedures.

It should be noted that the 96th Congress, in its conference report on the FY 1979 supplemental budget, instructed HEW to issue regulations requiring all states to reduce their error rates for erroneous payments under AFDC and Medicaid to 4 percent by September 30, 1982, in equal amounts each year beginning in FY 1980, or face fiscal penalties.

While recognizing the fundamental goal of a quality control system for AFDC and Medicaid, it may be that the fiscal sanctions as part of such a system are not appropriate. Sufficient incentives to control error rates already exist, because states share almost equally with the federal government the financial losses incurred through over payments or ineligible payments.

A further argument may be made that Medicaid regulations are so complex, and the administrative tasks so involved, that in order to meet the quality control goals set by the federal government, a state would have to greatly increase the number of

EXHIBIT 9

THE POTENTIAL DOLLAR IMPACT IN THE MEDICAID PROGRAM OF ELIGIBILITY DETERMINATION ERRORS

Result of Error	Quality Control Report For Period:	Types of Claims: Institutional Error Rate	Institutional Dollar+ Value of Errors	Non-Institutional Error Rate	Non-Institutional Dollar+ Value of Errors	Total Estimated Impact on Program+
Benefits paid for ineligible persons	Oct. '75-Mar. '76	1.5%	$ 2,013	5.5%	$ 150	$ 437,300++
	Apr. '76-Sep. '76	2.0%	593	7.1%	96	153,000
	Oct. '76-Mar. '77	4.3%	2,843	5.5%	85	426,900
						$1,107,200
Overpayment of claims	Oct. '75-Mar. '76	19.5%	$ 1,096	3.9%	20	$ 162,200++
	Apr. '76-Sep. '76	20.1%	1,968	3.2%	103	316,700++
	Oct. '76-Mar. '77	19.4%	1,040	6.2%	71	200,600
						$ 679,700
		Estimated Gross Overpayment				$1,696,700
Underpayment of claims	Oct. '75-Mar. '76	14.1%	$(163)	-	$ -0-	$(20,600)++
	Apr. '76-Sep. '76	12.8%	(91)	.6%	(10)	(24,400)
	Oct. '76-Mar. '77	5.8%	(99)	.7%	(8)	(21,200)
						(66,200)
		Estimated Net Impact of Errors				$1,630,500

This exhibit describes the dollar impact upon the Medicaid program as a result of errors in the eligibility determination process. A complete discussion of the method used can be found in the DSSH quality control reports.

eligibility determination workers or, alternatively, would need to have existing caseworkers concentrate a disproportionate amount of time on the eligibility process.

The use of the eligibility determination process as a cost containment mechanism requires careful examination and cost-benefit analysis.

Finally, it may be that to focus on eligibility review as a cost containment strategy would be a mistake, since the major program goal is to reach citizens who qualify for services--not to deny assistance through administrative barriers to those qualified people who have sought help.

(3) Reimbursement Restrictions as a Cost Containment Mechanism. One important factor in Medicaid cost escalations has been a lack of restraints on fee payments to the providers of services--both institutional and professional practitioners. Institutional providers (hospitals, long-term care facilities, and home health agencies) must be reimbursed on the basis of "reasonable costs" or charges, whichever is lower. Practitioners (physicians, dentists, optometrists, etc.) may, on the other hand, be reimbursed by a fee schedule based on a profile of usual and customary fees funded by the Legislature. This profile is itself based on the average charges for services in the community for a given year.

This discrepancy in reimbursement methods means in practical terms that the Medicaid Program has few controls on payments for legitimate institutional services, while it can restrain payments to professional practitioners, by the Legislature simply not appropriating the funds which would allow the updating of the usual and customary fee profile. The current payment profile, for example is based on the going rates of 1975. This is a source of considerable ill-feeling on the part of many practitioner providers.

There are two problems with the current fee payment determination methods. First, there are no effective restraints on payments to institutional providers. Second, there is no mechanism for routinely adjusting payment rates to professional practitioners to reflect real changes in the costs of the services they provide.

In the first instance, then, there is no cost containment in the very program area that is increasing by the greatest amounts--i.e., institutional care. In the second instance, there is a cost containment mechanism but it is one that alienates the providers of services and invites abuses: It is likely that providers increase their provision of Medicaid services above the level that is medically necessary, in order to generate the income they would receive if the fee schedule was, in their view, fair and equitable. While this practice is an understandable (if not justifiable) result of a low fee schedule, it is at cross-purposes to cost containment goals.

This problem can be dealt with in two ways. First, there could be practitioner service reviews sufficient to catch (and to deter) instances of over provision or unnecessary provision of care. Second, a payment formula could be devised that is low enough to contain costs but yet not so low as to promote the provision of unnecessary services. This is a difficult matter, reflecting the tension between the providers' desire for what they consider to be fair compensation and the Medicaid Program's responsibility to operate within budget and resource limitations.

The dissatisfaction of professional practitioners with Medicaid fee schedules has not to date been reflected in significant withdrawls from participation in the program. On the contrary, the benefits paid per recipient for services from physicians and other practitioners increased over the last three years (see Exhibit 10), as did the numbers of participating physicians and dentists (Exhibit 11). The aggregate numbers of physicians and dentists in the market increased during this time, by 24 percent and 9 percent, respectively. Only the percentage of participating physicians is down, from 97 percent in FY 1976 to 90 percent in FY 1979. The percentage of participating dentists, on the other hand, is up--from 82 percent to 85 percent in the same three-year period.

(4) Computer Systems Usage as a Cost Containment Mechanism. The sheer magnitude of Medicaid services in Hawaii requires a computer-based system for provider payments and for checks on claims processing to insure that all transactions occur within the program's guidelines and requirements. The system used for Hawaii's Medicaid Program is known as the Medicaid Management Information System, or MMIS.

The Hawaii MMIS, which is administered by the Medicaid fiscal intermediary, HMSA, consists of five integrated subsystems whose basic functions are to process Medicaid claims and provide management with the necessary reports to manage and control the program. Briefly, these subsystems include the following functions:

EXHIBIT 10

HAWAII MEDICAID PROGRAM
COMPARISON OF AVERAGE BENEFITS PAID PER RECIPIENT (1)

Service Category	Amount Paid FY 77	Amount Paid FY 78	Percent Increase (Decrease)	Amount Paid FY 79	Percent Increase (Decrease)
Hospital Inpatient	$ 994	$ 1,086	9.3%	$1,298	19.5%
Nursing Home Care	5,546	6,829	23.1	7,525	10.2
Intermediate Care Facility	6,157	10,006	62.5	8,762	(12.4)
Physician Services	131	141	7.6	158	12.1
Other Practitioners*	71	84	18.3	105	25.0
Dental Services	163	163	---	157	(3.7)
Hospital Outpatient**	78	89	14.1	98	10.1
Lab and X-ray	40	41	2.5	44	7.3
Home Health	329	417	26.7	483	15.8
Drug	52	55	5.8	61	10.9
Other Care***	68	78	14.7	98	25.6
Family Planning	436	422	(3.2)	420	(.5)
Screening Services	30	28	(6.7)	29	3.6
AVERAGE BENEFITS PAID PER RECIPIENT	$ 537	$ 643	19.7%	$ 703	9.3%

(1) Eligible recipient utilizing services in specified category of service.

* Includes Services Provided by Optometrists, Podiatrists, Psychologists
** Includes Hospital Clinic Services
*** Includes Vision Care, Transportation, Medical Supplies, etc.

EXHIBIT 11

HAWAII MEDICAID PROGRAM PHYSICIAN AND DENTIST
PARTICIPATION BY AMOUNT OF PAYMENT RECEIVED
FISCAL YEARS 1976 THROUGH 1979

(1)

* * * * * * * * * * * * * * * * * * * P H Y S I C I A N S * * * * * * * * * * * * * * * * * *

Payment Received for Medicaid Services	FY 1976	FY 1977	% Increase (Decrease)	FY 1978	% Increase (Decrease)	FY 1979	% Increase (Decrease)
$50,000 and over	23	53	130.4%	53	---	66	24.5%
$25,000 - $49,999	66	119	80.3	154	29.4%	171	11.0
$10,000 - $24,999	204	285	39.7	319	11.9	397	24.5
$5,000 - $9,999	206	226	9.7	214	(5.3)	216	.9
Under $5,000	693	515	(26.0)	514	---	531	3.3
TOTAL	1,195	1,198	.3%	1,254	4.7%	1,381	10.1%
Total Number Eligible During Fiscal Year	1,237	1,299	5.0%	1,360	4.7%	1,539	13.2%
ercent Participation	96.6%	92.2%		92.2%		89.7%	

(1) Physicians includes all M.D.'s and D.O.'s excluding pathologists.

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Payment Received for Medicaid Services	FY 1976	FY 1977	% Increase (Decrease)	FY 1978	% Increase (Decrease)	FY 1979	% Increase (Decrease)
$50,000 and over	15	36	140.0%	39	8.3%	31	(20.5%)
$25,000 - $49,999	39	43	10.3	60	39.5	61	1.7
$10,000 - $24,999	92	115	25.0	115	---	129	12.2
$5,000 - $9,999	82	82	---	84	2.4	84	---
Under $5,000	225	205	(8.9)	192	(6.3)	204	6.3
TOTAL	453	481	6.2%	490	1.3%	509	3.9%
Total Number Eligible During Fiscal Year	550	580	5.5%	600	3.5%	597	(.5%)
Percent Participation	82.4%	82.9%		81.7%		85.3%	

Recipient Subsystem - Maintains the master file of eligible recipients and produces various reports on recipients.

Provider Subsystem - Maintains the master file of all program providers and professional participants and produces various reports.

Claims Processing Subsystem - Processes the submitted claims by checking them against information in other subsystems, performing, at a minimum, recipient eligiblity verification, provider verification, rate or price verification, and duplicate payment cross-checking.

Surveillance and Utilization Review Subsystem (SURS) - Aggregates claims processing information and generates integrated statistical profiles of utilization of services.

Management and Administrative Reporting Subsystem (MARS) - Generates key reports of program operations and status.

SURS is the focal point for monitoring and controlling the delivery of services. It is the nucleus of all review activities pertaining to the three major elements of health care services, namely, medical care practitioners, institutions, and patients. SURS can identify practitioners who exceed the applied norm for each service category. During FY 1977 and FY 1978, HMSA reviewed approximately 800 medical providers and referred 70 to DSSH for follow-up action. During FY 1979, 29 providers were identified as displaying potentially significant problems and were referred to DSSH.

SURS also produces listings to identify patients exceeding selected exception levels by service category (i.e., office visits, lab/x-ray and by total dollar allowances), and patients utilizing more drugs than a predetermined amount per month. Additional computer-generated reports present a detailed claims history of identified patients. As possible problems of fraud and abuse are identified, retrieval and analysis of claim history follow, resulting in case development for referral to DSSH. Identification of aberrant patient utilization patterns may also initiate a focused review of providers whose overall practice modes are unexceptional. In 1977 and 1978, approximately 1,300 patients were reviewed with 126 patients identified as problem utilizers and referred to DSSH for follow-up action. In FY 1979, 79 recipients were identified as potentially significant problems and were referred to DSSH.

The State of Hawaii's MMIS as operated by HMSA is basically good. One significant weakness, however, in Hawaii's MMIS is the inability of DSSH to properly review and analyze data reflected in reports produced by HMSA. As a consequence, DSSH must rely on HMSA for the analysis of data from SURS and MARS reports. There is no independent procedure for routinely checking HMSA's performance in monitoring Medicaid data and in identifying potential provider or recipient abuses of the program.

Yet a recent HEW review found numerous failures in the HMSA edits, and DSSH officials have found evidence of exceptions not being referred by HMSA.

(5) The Professional Standards Review Organization as a Cost Containment Mechanism. The 1972 amendments to the Social Security Act required the states to establish procedures to review the utilization of the services provided in their Medicaid Programs. The same amendments also established the Professional Standards Review Organization (PSRO) program to provide professional peer review for both the Medicare and Medicaid programs. The PSRO program is based upon two underlying concepts, i.e., (1) that physicians should be responsible for reviewing the quality of medical care provided to Medicaid recipients and (2) that reviews by local medical professionals will provide the most effective and efficient means of utilization control. A non-profit organization has been formed locally for the purpose of carrying out the PSRO functions. In Hawaii, the Pacific PSRO, Inc. is responsible for the PSRO functions in Hawaii, Guam, and American Samoa.

The 1972 Social Security amendments clearly establish Congressional intent that the PSRO's will eventually provide the medical utilization review function to all of the states' Medicaid Programs. However, since the 1972 amendments, PSRO activity in Hawaii for Medicaid has made little progress; the State did not even have a memorandum of understanding (MOU) or monitoring plan with the one statewide PSRO (Pacific PSRO). DSSH recently reported, however, that such a memorandum with Pacific PSRO was signed effective May 1, 1979.

How effective the PSRO can be in holding down Medicaid costs remains to be seen. The assumption that representatives from the medical industry are capable

of restraining payments to the industry for services rendered is at best a debatable one.

(6) Other Possible Cost Containment Mechanisms. DSSH presented to your Subcommittee a list of cost containment strategies. They emphasized that the list represented only a range of possibilities for action, not necessarily recommendations or even suggestions for policy in some cases. This DSSH "shopping list" is presented below. It attempts, in rather abbreviated form, to outline the rationale and anticipated outcomes for each respective strategy.

(i) Leave the Medicaid Program. DSSH feels that this is presently not a functionally or fiscally viable alternative and that any savings to the State would be offset by increased costs to the Department of Health. Further, the loss of approximately $42 million in federal funds could be disastrous to the State's medical care system. Your Subcommittee observes that this strategy is so implausible as to raise the question of why it was offered.

(ii) Provide the Required Basic Services Only. DSSH estimates a savings to the State of approximately $34 million, but reiterates the previously mentioned negative impacts as being too great to offset the savings.

Your Subcommittee observes that limitations on covered Medicaid benefits may (1) result in the substitution of other services, thereby limiting savings and, perhaps, increasing program expenditures; (2) create large administrative costs, relative to the savings generated; (3) have undesirable effects on client health and welfare; or (4) shift costs to other federal or state programs.

(iii) Reinstitution of Relative Responsibility. Act 169, SLH 1969, repealed the law which required adult children to support indigent parents to the extent of their financial ability. DSSH estimates, however, that reinstitution of the relative responsibility law would result in a recovery rate for support of the indigent elderly of only about one percent.

(iv) Increase Enrollment in Health Maintenance Organizations (HMO). Currently, Hawaii has two HMO's in operation. One of these, the Kaiser Foundation Health Plan, is currently working with DSSH in applying to the Health Care Financing Administration (HCFA) of HEW for a grant which will allow different techniques to be tried for increasing HMO enrollment. DSSH estimates that, compared to the open market purchase of services, HMO enrollment would save the Department about $10-$20 per recipient per month.

Your Subcommittee endorses the strategy of increased enrollment of Medicaid recipients in HMO's. The HMO concept represents an economical alternative because persons served by an HMO pay a fixed monthly premium which covers all services rendered regardless of complexity or cost. The HMO receives no additional reimbursement for excess services rendered. Thus, unlike programs which pay for episodic care under insurance programs, HMO's have incentives to hold down costs, for example by providing preventative care services to keep program members healthy.

(v) Co-Insurance Program. Under Hawaii's prepaid health insurance law a number of working welfare recipients would qualify for group insurance under their employer's prepaid health care plan. DSSH estimates that if all working welfare recipients were indeed signed up for group insurance under employers' plans, with Medicaid used only as the payer of last resort, a savings of at least 50 percent of the medical bills of the families involved would result to the Medicaid Program. However, it is not clear how the details of this proposal would be worked out, and it may be subject to legal challenge.

(vi) Eliminate General Assistance (GA) Recipients Over Age 21. DSSH estimates that this would result in savings to the Medicaid Program of $10-$15 million per year.

Your Subcommittee observes that this strategy may be contrary to the social and political function of welfare, i.e., the extension of aid to those in need and the stabilization of the community during periods of increased unemployment. This strategy also is politically unpalatable and untenable.

(vii) Eliminate the Medically-Needy Category. DSSH estimates that this strategy would save $12 million per year in Medicaid expenditures.

Your Subcommittee notes that this strategy could precipitate a strong public reaction to "putting the aged out in the streets" and therefore, makes the option

extremely unattractive and impractical.

(viii) Eliminate Dental Benefits. DSSH estimates that this strategy would result in a savings of $9.1 million per year in Medicaid expenditures.

Your Subcommittee raises the question of the efficiency and equity of this benefit limitation strategy and cautions that blind concern with limiting Medicaid expenditures can eventually lead to a greater state burden for health problems stemming from the lack of services that are eliminated or restricted.

(ix) Limit Dental Benefits to Emergency and Palliative Treatments. DSSH estimates a cost savings in Medicaid expenditures of $7 million per year.

Your Subcommittee repeats its concern raised in regard to strategy viii.

(x) Limit Dental Benefits to Children Only. DSSH estimates that this strategy would result in a savings of $5 million per year in Medicaid expenditures.

Your Subcommittee repeats its concern raised in regards to strategies viii and ix.

(xi) Institute a Co-Payment Requirement. Co-payment is a cost-sharing mechanism in the form of a fixed dollar amount charged to the patient every time he or she uses a service. It is intended to make the consumer of medical services aware of and responsive to the costs of treatment. DSSH estimates that a co-payment requirement would result in a direct saving of $1 million per year and could result in an indirect savings of $5 million to $30 million.

Your Subcommittee is concerned that any co-payment mechanism, while making the recipient cost-conscious, must not deny needed care, nor discourage socially desirable care. Co-payment requirements for physician services may deter proper physician utilization and have adverse effects on patient health, leading to increased use of other services. Co-payments for prescription drugs may discourage necessary drug utilization, reducing pharmacy participation, and increasing the size of prescriptions. The co-payment strategy may be criticized as being harsh and lacking in consideration for the plight of the needy. Moreover, co-payments could be assessed only against non-categorically eligible recipients, according to federal law, so the impact would be both small and discriminatory.

(xii) Medical Education Project. DSSH conceived a grant proposal to HCFA to afford the purchase and distribution of health self-help materials for Medicaid recipients. The project would have had an outreach team of health educators working out of Medicaid Applications Units which would discuss the appropriate use of the health care system with groups of recipients. Unfortunately, HCFA rejected the application.

(xiii) Education of Overusers of Medicaid. DSSH has prepared a project proposal, with the assistance of the U.H. School of Public Health, to accomplish this strategy. The proposal has been submitted to HCFA for funding.

(xiv) Physician Assignment for Overusers of Medicaid. DSSH reports that this DSSH reports that this strategy has already been implemented, but the assessment of savings to the Medicaid Program has not been completed. According to DSSH, it was estimated that $50,000 to $100,000 per year would be saved in drug and physician costs. There may be some question as to the legality of the approach.

(xv) Institution of a Spend-Down Requirement. Medically needy applicants establish eligibility for Medicaid through a spend-down procedure known as "cost share." Incurred medical expenses are applied against this "cost share" liability until excess income is exhausted, at which point eligibility for medical services is established. A recent HCFA assessment of Hawaii's Medicaid Program found that the spend-down procedures for the medically-needy were not in compliance with federal guidelines. DSSH reports that a new spend-down policy was implemented April 1, 1979, and puts Hawaii's Medicaid spend-down procedures in compliance with the federal requirements. DSSH further reports that this new spend-down procedure appears to be having the anticipated effect of increasing the recipient's share of medical costs.

(xvi) Limit Payment for Non-Prescription Drugs (Over-the-Counter Preparations). Initially, DSSH estimated that elimination of Medicaid payments for those drug items that are covered in the flat-grant allowance would save the Medicaid Program about $900,000 per year. However, your Subcommittee has checked into this matter and determined

that Medicaid pays only for prescription drugs, whatever they may be, so no savings are possible.

(xvii) Institute a Drug Formulary. Federal guidelines require that reimbursement for drugs be limited to the lower of (1) the cost of the drug plus a state-determined dispensing fee or (2) the pharmacist's usual charge to the general public. Under this requirement, the State must conduct surveys to be used in the determination of dispensing fees. DSSH reports that it contracted with a California firm to conduct such a survey in order to comply with federal regulations. Since the completion of the survey, DSSH has met with the Hawaii Pharmaceutical Association in an effort towards arriving at a fee that is acceptable to pharmacists and which will avoid any major increase in drug expenditures.

(xviii) Limit Emergency Room Payments. DSSH is presently considering a change in regulations which would limit payments for non-emergency conditions treated in the emergency room to the amount paid for office clinic visits. DSSH acknowledged that if such a change in regulations is adopted, it would require sufficient lead time for hospitals to establish clinics close to the emergency rooms.

(xix) Reduce ID Card Mailings. This strategy suggests mailing the ID card semi-annually rather than monthly for those recipients with chronic conditions or who are in categories where likelihood of change is small, e.g. the aged. DSSH estimates that a cost savings of several thousand dollars per year would result, in postage and computer/supplies costs.

(xx) Disability Certification. Certification is the process of receiving approval, in advance of rendering care, that the care to be provided is medically necessary, at the appropriate level of care, and for a proper length of institutional stay. DSSH initially reported that, in attempting to curb abuses in the GA disabled classification, it would require independent certification of the disability by the Queen's Hospital Clinics for both physical and psychiatric disabilities. More recently the department reported that this arrangement had broken down.

In summarizing its presentation of cost containment strategies, DSSH emphasized that any cost cutting strategy that is considered must be subjected to a full impact analysis. DSSH recognizes that major savings achieved in Medicaid may be accomplished only at the expense of some other program, at the federal, state, or county level. DSSH acknowledges that several of the strategies presented have negative fiscal, social and ethical impacts that may render them impractical and unviable. Your Subcommittee observes that even modest impact studies have not been undertaken by the DSSH, and that the systemic health and fiscal impact assessments of future legislative or administrative changes in the Medicaid Program have yet to be accomplished.

D. Cost Containment and the Health Care Industry.

Medicaid is a vendor payment program, its costs for the most part a function of the charges for treatment received by Medicaid eligibles from health care providers.

It is a vital part of the health care delivery system, comprising a major share of the revenues of hospitals and physicians alike.

According to the 1979 HMSA Medicaid Report, in fiscal year 1979 nearly $22 million of the Medicaid budget went to hospital inpatient services. This is 22 percent of the total budget and represents an 18 percent increase over 1978. Ninety percent of the eligible physicians in Hawaii received a total of $17,580,575 or 17.8 percent of the budget; 46 percent of the physicians who participated made over $10,000 from the Medicaid Program.

Hospital Inpatient services represented 1.7 percent of the claims (22 percent of the benefits paid); Physician Services constituted 38.7 percent of the claims (17.8 percent of the benefits).

So large cuts in the Medicaid Program not only would reduce health care services to that segment of the population most at need, but also could have an adverse impact on health care providers and other elements of the health care system. Medicaid cuts could, for instance, prompt providers to increase charges for private sector patients even more than they do at the present time, thus shifting a portion of the cost of a program now borne entirely by the whole taxpaying population to privately insured or fee-for-service patients. Alternatively, providers might so structure their rates and procedures that prices would rise, and prospective savings from Medicaid cuts would evaporate

before realized.

Coping with Medicaid costs, then, really means coping with overall health care costs; the Medicaid Program cannot in truth be considered separately from the rest of the health care financing and delivery system.

Health care costs have risen rapidly for many years. For example, hospital expenditures nationally have increased by nearly 15 percent per year over the past thirteen years. Expenditures of 15 Hawaii hospitals more than doubled from 1973 to 1977, a trend that has continued unabated in the three years since. Medical insurance premiums have risen drastically, reflecting hospital cost increases and increases in physicians' fees. As a case in point, premiums for insurance under the Hawaii Public Employees Health Fund increased by rates ranging from 57 percent to 123 percent over the five years from FY 1974-75 to FY 1979-80--a trend that is continuing into FY 1980-81, for which premium increases of 14-22 percent are expected.

Health care costs have risen so rapidly, in fact, that they already have generated major Medicaid cuts in Hawaii and a number of other states, stringent reimbursement review by private insurers and widespread concern over the cost of health benefits by public and private employers alike.

In Hawaii the health care industry is by most conventional yardsticks markedly more efficient than its mainland counterpart. The industry operates on fewer hospital beds per thousand population, treats patients with fewer hospital bed days per thousand, uses more outpatient and less inpatient care and does better in all categories of both morbidity and mortality indicators than the national averages. For example, in 1977 the overall admission rates for Hawaii hospitals was 70 percent of the national average; deaths from diseases of the heart and stroke were one-half of the U.S. average; cancer deaths were two-thirds of those on the mainland. Hawaii is the only state without an underserved county as measured by the American Hospital Association criteria. This has contributed to Hawaii having a longer life expectancy than the national average (longest in the U.S.) and a lower infant mortality rate than the mainland as a whole.

But Hawaii has not escaped high costs, and the fact that costs are high despite the reputed efficiency of the industry suggests that either the yardsticks used to measure efficiency are not adequate, or that the care being provided has a high unit cost. Health care costs are higher on a per capita basis in Hawaii than the U.S. average--$805 per capita compared to $737 on the Mainland. Also, larger costs are due in part to a larger number of employees per daily patient--4.1 employees per occupied bed in Hawaii versus 3.6 for the national average.

The argument is made that high health care costs are not bad: that consumers want the care and should have it; that more health care, even at high costs, is a net social good; that good health is worth the price. This might well be true if there were a one-to-one relationship between the health care dollar spent and the health care benefit received. But there is a great deal of evidence to suggest that that relationship does not exist, and that consumers are simply not getting their money's worth from the constant escalation of health care costs.

Health care in the developed countries of the world has changed radically in this century, especially since World War II. The ancient scourges of mankind, epidemic disease, have largely disappeared as a threat to health. In some cases, as with small pox, they have been eradicated altogether. In others, as with pneumonia, they yield easily to treatment.

People don't die of what they used to. Heart disease, cancer, and accidents are the new killers, and their toll, while grim, is not so early nor so pervasive as that of the illness of an earlier age. Life expectancies have increased dramatically. Increasingly, the health care industry devotes its talents to ailments whose proper treatment is social or which is chronic, degenerative and associated with old age or genetic defect.

There isn't much difference in the standard indicators of health status across the developed nations, as the Rand Corporation's Joseph Newhouse concluded in pricing studies for a Department of Health, Education, and Welfare conference three years ago:

"There is no evidence of which I am aware suggesting that Swedes are healthier than Norwegians or Finns or that Canadians are healthier than the residents of the United Kingdom or Australia, despite much higher spending on medical care in Sweden or Canada. For example, infant mortality rates are similar in Norway and Sweden; they are also similar in the United Kingdom, Canada and Australia."

Indeed, said one expert at the same conference, the cost of saving life and treating disease by curative medicine has grown so great that "more and more scientists, politicians and others have concluded that the marginal value of a dollar invested outside the health care sector is greater than within it." (HEW Conference on Policies for the Containment of Health Care Costs and Expenditures, 1976).

For examples he offered the facts that:

(1) Occupational accidents increase during times of economic uncertainty because of investment and labor turnover, not when the economy is stable.

(2) Labor payments with production incentives built in stimulate accidents and nervous and muscular strain more than fixed hourly wages, except where individuals enter such arrangements voluntarily.

(3) Persons who reduce work gradually and work longer than the traditional age of retirement have fewer health problems.

Other examples spring readily to mind. Reducing traffic hazards, for instance, rather than treating the results of auto accidents in hospital emergency rooms. Spending more for prevention of socially transmitted diseases, rather than treating them after contracted. Providing housing and related social programs, rather than institutionalizing the old in nursing homes.

Nor are these conclusions and observations merely the product of a conference of thinkers sponsored by some agency that accepts no responsibility for them. They have been richly replicated in the Canadian national government's assessment of health care in Canada (1975) and in the U.S. Surgeon General's report "Healthy People," (1979).

Even in so-called mainstream medicine, that part of medical practice which is generally assumed to be proper and noncontroversial, there is much to question. A great debate is raging in medical journals, for instance, over whether heart bypass surgery is of any greater value than non-surgical treatment (approximately 250 such operations were performed in Hawaii alone last year, at a cost of around $10,000 each). Mastectomy, the surgical removal of breasts, has come under new criticism, with challenges of the degree of surgery necessary. The length of bed stay considered necessary for recuperation after heart surgery has declined drastically in recent years, partly at the prompting of insurance companies. Hawaii's own experience demonstrates dramatically that there is no special magic in benchmark figures for the number of hospital beds needed per thousand population; the State gets along quite well with considerably fewer than the national norm. Some communities have more CAT scanners (head and body cross sectional radiology devices) than others, and while this new, high technology tool is of unquestioned diagnostic value, there is considerable doubt whether any community needs redundancy in such costly equipment.

There are presently two head scanners in Honolulu and two full body scanners. This is considered appropriate for this population and according to the State Health Plan, no further authorizations will be granted until the utilization demand exceeds the capacity of the present scanners. Body scanners cost about $600,000 new. New head scanners cost about $450,000, while used ones cost about $100,000. Estimates for operating costs of a CAT scanner are about $325,000 and $400,000 per year. This includes physician fees and technical salaries, supplies, insurance and other expenditures needed to provide the service. The charge to the patient in Hawaii ranges from $120 for a single head scan to $250 for a combination; body scans run from $215-$250. This does not include the physician's fee.

Other technologies have yet to demonstrate their worth, even as they are being adapted. New procedures in fetal monitoring, for instance, have been assessed by the Department of Health, Education and Welfare and found to possibly cause more harm than benefits by comparison with the conventional procedure of listening to the heartbeat with an ordinary stethescope. Procedures such as aminocentesis, ultrasound and continuous electronic fetal monitoring are controversial at best, downright dangerous at worst. These medical activities have led to a large increase in cesarean section births with little justification. So great is the propensity to adopt costly technologies of uncertain worth that the Federal government has mandated that major technologies must pass a review by the Food and Drug Administration before installation.

And medicine, for all of its grounding in science, appears to be no less subject to fads than many another discipline. Consider, for instance, changes in the prevalance of major procedures in California, as reported for an HEW conference on the cost impact

of medical technology:

Ten most frequent surgical procedures for selected years
University of California, San Francisco
(type and number)

Order of incidence	1965[a]	Order of incidence	1970[a]	Order of incidence	1975[a]
1. Lumbar puncture	731	1. Cardiac catheterization	571	1. Cardiac catheterization	482
2. Bone marrow aspirate	590	2. Bone marrow aspirate	441	2. Cesarean section	278
3. Stapedectomy	420	3. Total-hip replacement	241	3. Total-hip replacement	234
4. Diagnostic D & C	402	4. Stapedectomy	216	4. Endarterectomy	159
5. Cardiac catheterization	306	5. Diagnostic D & C	212	5. Other joint repair & replacement (excluding hip)	151
6. Excision of skin lesion	252	6. Liver biopsy	198	6. Diagnostic D & C	148
7. Lens extraction (intracapsular cateract)	195	7. Thoracentesis	181	7. Intra-amniotic injection to terminate pregnancy	141
8. Liver biopsy	181	8. Skin biopsy	175	8. Kidney transplant	137
9. Excision of lymph node	179	9. Catheterization of "other" intra-abdominal vessels	172	9. Ligation and division of fallopian tubes	130
10. Peripheral blood vessels	158	10. Rhinoplasty	170	10. Repair of inguinal hernia	130

[a] 1965, 1970: Calendar years; 1975: Fiscal year.

Source: Data obtained by authors from UCSF Hospital department of medical records research.

If there is this much uncertainty about what really constitutes good health care (and the examples offered understate the uncertainty, if anything), then it is high time to question the cost of the product, and not least because in the real world of economic decisions, a dollar spent for health care is a dollar which will not be spent somewhere else. In the government lexicon buying more health care means not buying more housing or transportation or education.

Health care cost formation is very complex, as this report already suggests and as the Legislative Auditor noted in his special report on alternative approaches to hospital cost containment. The Auditor cited a discussion of hospital costs only, performed by the Council on Wage and Price Stability:

"The study identified four basic components of hospital cost inflation: an increased number of personnel per patient day, higher wage rates, an increased use of nonlabor inputs per patient day and higher prices for those nonlabor inputs. It concluded that 75 percent of the increase in average cost per patient day has been due to increase in inputs per patient day and only 25 percent has been due to input prices being higher than the general increase in consumer prices."

Hospitals expand their facilities and raise charges to cover the added cost; doctors and hospitals interact to prompt expansion and install new technologies in hospitals which may be used by doctors; capital intensive treatment systems place a premium on institutional care; providers respond to restrictions in reimbursements for a given procedure by performing more of another which is reimbursable; doctors hospitalize patients to obtain a better payment than office rates allow. The list goes on and on.

Certainly consumers and the financial systems through which their health care is paid for do not escape blame. Consumers want and demand the best possible care, but have little enough knowledge of what constitutes good care. They are innocents in a highly sophisticated marketplace, and the omnipresence of third party payment systems, be they private insurance or government finance, shields them from the economic consequences of their health care decisions.

Most expert observers outside the health care industry itself conclude that there are no incentives within the industry adequate to effectively restrain cost and that it will be necessary to provide such incentives. Most such observers conclude that government will have to intervene vigorously to create incentives, and even proponents of "free market" health care systems concede government action will be necessary to create the market.

The experience of government intervention, however, has been mixed. Historically, the national government has evolved a series of approaches to health care that range through the financing of health care for the aged and poor and the regulation of associated payments to the creation of an increasingly sophisticated (and complicated) system of health care planning and facilities and equipment regulation. The most recent and controversial addition to this body of work was the Carter administration's so far unsuccess-

ful attempt to install caps on hospital spending. Currently several major and dissimilar proposals are pending in the Senate, with no assurance of early action; committee markups are scheduled for the month of March.

Generally, however, the national government has accorded a role to the states, recognizing even in the hospital caps proposal State-level cost control programs. Similarly, national health planning legislation does not prevent states from adopting a more stringent planning process than that mandated by the federal law.

There are several reasons that the State of Hawaii should proceed with its own program of health care planning and regulation, rather than wait for the federal government to act. One is that the history of health care legislation in the nation has been one of piecemeal enactments. Despite the fact that health care and its financing currently are lively issues, there is no special reason to expect a sharp break in this tradition of piecemeal health care legislation.

Second, the State of Hawaii has been described by numerous observers as being well ahead of most states and the nation in health care. Financial coverage may be more complete, the delivery system is relatively more efficient, and there may be effective competition between the two major private insurers, Kaiser and the Hawaii Medical Services Association (HMSA).

Third, a number of the things that have been suggested as reforms of the health care system can be done as well at the State level as at the national.

Finally, there is no reason to wait, and there are reasons not to. Cost escalation and the competition among programs that Medicaid will induce under constitutional spending limitations provide their own rationale: it is clear that within a very few years Medicaid costs will require further political action of some sort. If that action is not to be destructive of the broad health care coverage Hawaii now enjoys, intervention is necessary. Also there are a number of arguments to the effect that national limitations will not take adequate account of local conditions. And any changes to certain elements of the existing health planning process must be completed by 1982, according to the most recent amendments to federal law.

It appears, however, that no single strategy will suffice to contain health care costs. Rather, what will be required is a combination of programs designed to influence the important elements of the health care industry, including hospital rate regulation, some measure of control over physician costs, a stronger health planning process, more and better health education, the substitution of social programs--especially for older persons--for medical care, attention to the financial system and improved medical information systems.

Rate Regulation

A number of states have enacted some form of hospital rate regulation; the Legislative Auditor discussed the range of alternatives in his report last year. It is impossible to make conclusive statements about their impact on costs because requisite studies have not been completed. But even the least restrictive of them claim some cost reduction, and just requiring hospitals to prepare a budget that is open to inspection appears to have some favorable results.

The more attractive of the hospital rate setting systems are those which use the prospective rate setting principle. Essentially, hospitals prepare budgets which must pass certain inflationary screens, and are permitted rates adequate to finance their prospective operations, including construction. The advantage to such a system is that it can be structured to provide incentives for hospitals to operate more efficiently. If, for instance, a hospital exceeds population/procedures projections, thereby increasing revenues, it may receive rates that are reduced accordingly in the next subsequent review period. The converse is also true.

The Maryland Hospital Education Institute, an industry-based organization, finds that as hospitals there work within the rate setting system to reduce their per admission costs, they are likely to give added attention to better measurement of case mix changes, reduction of hosptial-induced infections, stronger professional standards review, better discharge planning, increased admissions, improved service efficiencies, more pre-admission planning and more efficient outpatient services and stronger supervision of professionals in training in order to reduce cost per admission without sacrificing quality. With the possible exception of increased admissions, these are all steps toward more cost effective health care.

An important caveat on these observations is that they apply to costs controlled by hospitals. There are many costs which are controlled not by hospitals, but by the physicians that utilize them. Physicians, after all, order the treatment that will be provided the patient, including tests to be performed and technology to be utilized. One of the (cost ineffective) ways hospitals compete with one another is through providing facilities and equipment to physicians. There is evidence that as hospital costs are limited, physicians may transfer tests and procedures from the hospital setting to the doctor's office.

This suggests the need for some element of control over physician's charges. Proposals for fixed physicians' fees are a common response. But such proposals can, in turn, be self-defeating. When fees are lower than physicians feel is appropriate, they may respond by increasing frequency or degree of treatment or, as is the case now in the Hawaii Medicaid Program, according to testimony received by the Legislature, admitting patients to hospitals to obtain a larger reimbursement. Thus a combination of fee-fixing and hospital regulation might transfer technology to the outpatient setting and increase the number of treatments prescribed, not a desirable outcome of regulation.

The more pertinent issue in Hawaii may be the supply of physicians in the medical marketplace. The local medical association has said there are too many, and unpublished health planning studies seem to support the claim. So does the increasing level of physician participation in the Hawaii Medicaid Program. Given the ability of physicians to increase their income by increasing treatment, an excess of doctors is likely to increase costs. The more appropriate response to physician costs, then, may be to examine State licensing laws for ways to reduce the number of physicians, and to consider limiting the number of graduates from the University of Hawaii Medical School.

Increased outpatient treatment, as opposed to hospital treatment, is generally regarded as desirable from the cost standpoint, in that outpatient care avoids the "hotel" costs of hospitalization. This would be true even if technology and more procedures move to the outpatient setting as well. However, the total costs of medical care might still rise, even with such a shift. This is because outpatient costs would rise because of the more complex procedures being performed there, without a corresponding decrease in hospital costs. Ancillary services, which include testing, currently are a major revenue producer for hospitals. If such revenue sources are eroded, hospitals may have to raise rates, even in a regulated setting, in other areas of service to make up the revenue loss, unless shifts to outpatient care are matched by corresponding reductions in the scope of operations of hospitals.

Tradeoffs of this sort do not normally occur now in health care, because the payment system accommodates all price increases. Making them happen within the existing structure of the health care system must be the responsibility of the health planning agency, within whose purview, if not power, such considerations lie.

Health planning agencies, of which the (Hawaii) State Health Planning and Development Agency--SHPDA--is the local version, are mandated by federal law, the result of evolutionary changes in health planning law at the national level. Health planning agencies have the responsibility for developing State health care master plans and approving or denying Certificates of Need (CON) for health care spending for programs, purchases, or facilities worth more than $150,000. New programs, changes in bed usage and changes in services and facilities may not go forward without CON approval.

This health planning process is flawed in a number of particulars. The basic responsibilities of health planning agencies include not only regulation of facilities development, but also assuring that medically underserved areas get improved services. Agencies do not have the authority in federal law, however, to decertify existing facilities, so improving care in underserved areas almost automatically means expansion of the health care system and increases in aggregate cost.

Moreover, last year's amendments to the Federal Health Planning and Resources Development Program, within which health planning agencies exist, substantially erode the power of agencies which do not undertake the most rigorous of planning.

There already is much doubt about the effectiveness of the health planning agencies. The federal government itself does not view them as substantially restraining cost-inducing new construction. Locally, the Legislative Auditor has been sharply critical of SHPDA, noting that the agency approved $136 million in CON applications between 1973 and 1978 (some $94 million of which were from acute hospitals) and disapproved but $5 million worth. The Auditor found the planning and regulatory process to be seriously flawed, suffering from loopholes, simplistic demand determination, unsatisfactory

planning tools, reliance on industry information and industry inflation of CON proposals in the expectation of agency-imposed reductions in scope.

SHPDA took issue with the Auditor's findings, claiming that it had reduced proposed expenditures by $23 million and citing a Department of Health, Education and Welfare finding that concluded SHPDA has "materially influenced capital expenditures in the State."

Nevertheless, it is clear that the structural problems which the Auditor identified are real and have a direct bearing on the Agency's ability to influence costs. These difficulties, however, can be addressed by State law. The federal statute does not prevent states from enacting a more stringent planning process than the federal law mandates, and there are several key elements which should be addressed:

(1) Loopholes. The existing health planning law provides that SHPDA shall review facilities and programs having a value of $150,000 or more, and physicians' practices are given exemptions. This precludes examination of physician's practices and of the purchase of lower cost technologies which nevertheless can have a substantial impact on health care costs (such as blood chemistry machines, Electronic Fetal Monitoring equipment, other small X-ray equipment, and many others).

In the absence of such review, it is difficult for SHPDA to properly study the impact of changes in the mix of health care services, and impossible to do very much about that portion of them that physicians are responsible for.

Changing the level of spending for which review would be required from $150,000 to $50,000 and including physicians in CON review would correct this problem and give SHPDA effective oversight of the whole of the health care industry.

(2) Demand, Determination, and Planning Tools. There has been much discussion nationally of the fact that existing guidelines for health care planning are too crude to adequately measure industry performance. The national guideline of four acute beds per thousand people for instance, is considered excessive and has led to unnecessary authorization of beds. Planning areas which are adjacent to but do not incorporate major urban centers may be especially prone to this problem.

The Hawaii health care industry operates with significantly less than this bed limitation and is considered nationally to be a standout. But even in Hawaii there are large pressures for construction of new beds, especially in suburban areas distant from the older and established medical centers. This is a typical situation that results from the movements of large and relatively moneyed populations to the suburbs. Given the national guideline, however, and without countervailing analysis, it can be very difficult for the SHPDA to resist pressures for additional health care plant.

Arguments in favor of more plant often turn on quality of care, an elusive entity not well defined either by existing health planning yardsticks or in the literature on health care generally. Without attempting to resolve so complex an issue, it nevertheless is possible to make some observations which shed light on the situation.

In Hawaii some 100 acute beds are devoted to the care of Medicaid patients whose medical status would allow their placement in long-term care facilities (SNF or ICF) if such beds were available. Industry data suggests that various elective surgeries which might otherwise occupy such beds are being deferred in favor of hospitalization of long-term care patients. While the ostensible reason for this situation is the well-known shortage of long-term care beds in the community, there may be financial advantages to hospitals for doing so.

Payment for the long-term patients is assured, and elective surgeries by definition do not require urgent attention, so the existing situation may allow hospitals to select the patient mix which best suits their revenue needs at any given time. This, of course, would amount to rationing of health care, something which the health care industry is given to inveighing against in quality of care debates. Yet all the standard measures of health care status show that Hawaii's population is healthier and lives longer than most in the nation.

This may suggest that even with Hawaii's relatively low rate of hospital beds per thousand and bed days per thousand, there is even now excess acute bed capacity.

This state of affairs lends credence to SHPDA's present policy of not allowing additional CON authorizations for acute beds. It does not, obviously, resolve the matter

of increasing pressures from suburban communities for new or expanded facilities. This can only be done if SHPDA has the authority to decertify some existing facilities, as well as to allow new ones. This does not necessarily mean that no new bed can be built unless it replaces an existing bed; population increases, for instance, may justify added facilities. But it does mean that plant expansion or new plant construction should be subject to rigorous analysis and justification, and that expansion of the net physical plant should be permitted only upon the clear conclusion that population growth or dramatic changes in general health status support the expansion.

(3) Industry Proposals and Information. In the present CON process, elements of the health care industry submit proposals for new facilities, programs, and equipment pursuant to the State health plan and provide their own justification of the proposals, subject to SHPDA approval. The Agency may find the information submitted inadequate and demand better justification, but initiative nevertheless lies with the health care industry. SHPDA's ability to independently review proposals accordingly is limited.

This will be the more true following recent amendments to the national health planning program, (Public Law 96-79). The amendments stretch the process of health plan development to three years, eliminate the existing requirement for a separate facilities plan and exempt health maintenance organizations (HMO's) from the CON process, subject only to compliance with the State health plan.

This could mean, for instance, that an insurer could form a suitable HMO, enter into an agreement with an existing hospital for reserved beds and escape the CON process for the designated beds. The only check would be under SHPDA's general authority for compliance with the health plan. This means that the planning process must be substantially strengthened; it would be difficult to deny a CON under such conditions at the present time.

But strengthening the planning process to such a degree will require time for SHPDA to develop the more sophisticated analysis necessary. And SHPDA is likely to come under considerable pressure in the near future for approval of additional CON's. As evidence, there is the report of the Senate Health Committee's Task Force on Special Purpose Revenue Bonds. Drafted by a group of hospital and financial executives, with the participation of SHPDA, it envisions the flotation of some $100 million in special purpose revenue bonds for projects in "the current project inventory in Certificate of Need process at SHPDA."

This amount would be of the same order of magnitude as all projects approved in the 1973-78 period. Given the Legislative Auditor's sharp criticism of SHPDA performance during that period, there would seem to be sufficient cause for alarm that a major new cycle of hospital construction is in the offing, perhaps prompted in part by the prospect of lower interest rates from special purpose revenue bonds.

The reason for this alarm is that the $100 million in bonds envisioned evidently is not for projects now in the SHPDA pipeline. SHPDA officials report that they are aware of just two projects of sufficient magnitude to make their aggregate value approach the mentioned $100 million figure, expansion of Queen's Hospital and construction of a new Hilo general hospital by the State. Neither project is now in the CON process, and the Hilo project presumably would be financed by regular State bonds, rather than special purpose revenue bonds. Moreover, SHPDA has gone out of its way to look askance at the Queen's project, even in its Task Force submission.

It appears, then, that at least half the value of the bonds envisioned would be for projects not yet discussed with SHPDA. Perhaps Task Force members actually have in mind refinancing of some existing and approved projects. If not, the Legislature should be wary of the pressure that could be brought to bear on SHPDA by passage of the special purpose revenue bonds bill. While SHPDA has been careful in its formal participation in the Task Force to reserve its independence of action, there can be little doubt that the presence of assured, lower cost financing for hospital projects in the form of special purpose revenue bonds would be a significant makeweight in CON review, apparently starting with the very Queen's project about which SHPDA has formally expressed reservations.

Rather than rushing into new legislation which can exert pressure on SHPDA to approve hospital expansion in the face of what appears to be an excess of acute beds, the Legislature should grant the agency sufficient time to strengthen its planning process, the better to evaluate CON proposals in the future. A first step in this direction would be for the Legislature to establish by law a three to five year moratorium on new acute beds. In the meantime SHPDA can improve its planning tools, and the Legislature

can undertake enactment of decertification authority for SHPDA.

Social Programs and Long-Term Care

If, as some experts argue, the marginal health care dollar is better spent, for instance, on social programs than medical care, it behooves us to seek alternatives to the health care delivery system. Some come readily to mind, such as improving traffic safety programs to reduce auto accidents and/or their severity. It is not unusual in such cases, however, for the payoff not to be apparent. In the case of traffic safety, for instance, better road conditions may save lives, but they do not eliminate the need for hospital emergency rooms, because serious accidents will still occur. In such cases it may be well to examine closely the existing emergency treatment systems and emergency room referral arrangements to determine what is the most effective approach.

In other instances, however, the result is more direct. The amount of money being spent by the State in combination with federal funds, is just enough for the State Venereal Disease program to "hold its own" in its effort to contain V.D. in Hawaii. Although the parameters of prevention programs are hard to measure, additional money for education, directed both at the general population and the treating physician will certainly add to the effectiveness of the V.D. Control Program. This will become even more important when the present program is expanded to include the other Sexually Transmitted Diseases (STD) now on the increase in the State.

Probably the most dramatic single such program, however, would be a powerful emphasis on discouraging smoking. The Surgeon General of the United States in a special report has identified cigarette smoking as the single most important health hazard to Americans and urged concerted action to discourage smoking. Cigarette smokers have sharply higher incidences of heart disease and other major illness; women are especially at risk. This information already is rather widely disseminated, but it is possible that many persons do not know the actual hazards of cigarette smoking.

Prohibitions are not likely to have the desired effect, although limitations on smoking in public places do appear to have merit and to have a sound basis in preventing the exposure of non-smokers to a health hazard. Some more effective strategy is desirable, however, and that strategy appears to be the use of the taxing powers for a social purpose. Heavy taxes should be imposed on tobacco with the conscious purpose of making cigarette smoking costly. The proceeds from such a tax could be applied to a vigorous program of health education built around aggressive outreach services and designed to teach people in community settings both about common health hazards and ways to use health care services effectively and knowledgeably. Area Health Education Centers could act as resource centers for individuals and community groups as well as a means to conduct community wide screening and monitoring of specific health problems and to act as a referral service when needed.

Long-term care presents another and equally dramatic opportunity for the substitution of social programs for medical ones. At the present time there is a substantial shortage of facilities for long-term care within the State, and an even greater prospective shortage. Yet it is not clear just what should be done about it, and there is a great diversity of opinion about the proper course to take. The Department of Social Services and Housing currently estimates that the shortage of nursing and intermediate care beds numbers around 750 and may increase to more than 2,000 by 1985, if new facilities are not built.

Yet these figures may not be so accurate. The 1985 estimate is based on the number of beds needed now, plus estimates of the population in the appropriate age bracket by 1985. In turn the current estimate includes bed needs now being served by acute hospitals and a variety of other facilities including group homes.

It is not so clear that all of the population being served by group homes designated eligible for transfer to ICF beds (if there were any available) should in fact be transferred. Nor, as was discussed earlier, is it so clear that the use of acute beds for long-term care patients is necessarily bad. It may be that much of the existing shortage in beds can be served by the conversion (and upgrading if necessary) of Waimano Home beds to SNF-ICF use and a better system of administering the beds of all types which now are in existence.

This is not to gainsay the prospective shortage of long-term beds in the State, notwithstanding an emerging community consensus that all possible alternatives to institutional care must be explored. The fact of the matter is that this is the first time in human history when people have lived so long, surviving illnesses which in an earlier era would have brought death. Moreover, the population surviving into advanced age will continue

to grow for the balance of this century. This is a situation which will test the values of a generation, one whose profundity will be compounded by the terrifying economic uncertainties which lie before us. With the spectre of worldwide energy shortages looming over the middle of the decade and the consequent economic chaos that could result, planning for and acting on programs for long-term care is a matter of the greatest urgency.

Even now families are being forced by the necessity of work into agonizing decisions about aged parents, and the course of inflation and the inroads it makes on family budgets are prompting cruel choices among generations.

Not to address this situation with the best talent the political process can bring to bear would be to abandon the responsibility of election.

Officials of the Department of Social Services and Housing report that to an increasing degree families are placing their aged in nursing homes as Medicaid eligibles, there, effectively, to remain until death; and surmise that were more nursing beds available, they would instantly be filled by still other persons who are not now a part of the system of institutional care. This sensed demand is prompting considerable uneasiness among responsible officials. On the one hand, The Department of Social Services and Housing, for instance, can forsee the need for considerable construction of long-term care beds in the immediate future, without, however, discovering any evidence of intent in the private sector to build such beds; industry sources uniformly maintain that existing reimbursement rates for Medicare/Medicaid patients who constitute the bulk of the patient population are not adequate to recover investment costs. On the other hand, the very volume of prospective demand and the costs associated with it give pause and prompt consideration of alternatives to institutionalization.

The Department of Social Services and Housing believes that a range of alternatives to institutional care will tend to be more cost-effective than institutional care; these include such less intensive regimes as housing projects with attached social services, various forms of congregate housing and assisted independent living group homes, day care, medical day care, home health care.

Unfortunately, there is not at the present time any rigorous system for costing out such alternatives. At the same time the Department of Social Services and Housing has a strong tendency to dictate policy implicitly through its payments for services. Because institutional care is well recognized in federal-state reimbursement formulas, there is a strong bias toward nursing homes.

Yet there is an overwhelming weight of opinion that institutional care is in many cases undesirable, that people live longer and better in less restrictive, more homelike settings. If this is so, then to a considerable degree what is needed is not additional medical beds at all, but some combination of housing and social services with appropriate mechanisms for referral to medical care facilities when serious illness does occur. This is brought out very well in the Long-Term Care Task Force report of the Health and Community Services Council.

At the present time, there is much confusion over the administration of existing facilities. The Department of Health operates skilled and intermediate care facilities, at which medical care is delivered, and supervises group homes to which referral is medically justified. The Department of Social Services and Housing pays for the SNF's and ICF's, provides funds for people living in group homes, provides funds for persons living in boarding homes and supervises and pays for a considerable variety of group homes.

Persons who are SSI recipients, for instance, are to be found in care and group homes; Medicaid/Medicare eligibles are the more likely to be residents of acute beds or SNF/ICF's. Some persons remain in Hawaii Housing Authority projects, though they might be referred to SNF/ICF's. Some elderly persons apparently are admitted to Queen's Hospital mental ward more because they are confused and fall into a funding category than for any other reason. And the situation has been complicated by the referral to this combination of care facilities of persons formerly resident at the State Hospital or Waimano Home, pursuant to federal mandate or court order. Retarded youths, for instance, have been transferred from Waimano to Kula Hospital for no other apparent reason than that they were born in Maui, and under court order had to be moved from Waimano.

Indeed, this deinstitutionalized population appears to have contributed materially to bed shortages in the less intensive care facilities which in turn create backlogs in the more intensive facilities, and at the same time placed new demands on group home

operators who, not surprisingly, wish to be better paid for the care of the more difficult cases of retarded, or mentally ill persons the deinstitutionalized population contains. The State, meanwhile, is reluctant to accede to the wishes of the group home operators, because the funding source for them is a fixed-level SSI payment, and increases in payment must be made through State supplemental payments. The group home operators, because the pay level is not adequate, in turn, are threatening to return the residents of their homes to the State. Such a move would compound all the difficulties.

With the Department of Health claiming jurisdiction over the status of these people on medical grounds, and the Department of Social Services and Housing determining placement through fiscal formula, the dilemma is impossible to resolve.

Clearly, what is needed is sole jurisdiction within a single agency, an integrated system of care and uniform guidelines for placement. Either the Department of Health or the Department of Social Services and Housing could operate such a system; determining which is a matter both of philosophy and practicality. Philosophically, the question is whether long-term care is medical or social in nature. Certainly there are many people in SNF/ICF placement who have chronic debilitating conditions, such as stroke victims. Just as surely, there are residents of SNF's and ICF's who are relatively mobile and able, and who might be able to live more independently if they had various supporting services. Similarly, there are residents of DSSH housing projects for the elderly who have become frail, and need health care and support services, but have trouble obtaining them because the projects are not designed to provide them.

The stronger argument that can be made is that the problem is primarily social and that the responsibility and authority for its solution should lie with the DSSH. Because a person can receive medical care in any of the placements that are now made, there does not appear to be any compelling argument that a facility is "medical," just because referral to it is medically justified. Indeed, if one considers the services that are provided all but the seriously ill residents of long-term care facilities, it would appear that housing, food, and social support dominate.

Practically, the Department of Social Services and Housing will tend to dictate the types and levels of care that are delivered anyway, through eligibility and payment mechanisms, so responsibility for operation of long-term care system should be lodged with DSSH.

The Department should be charged with maintaining an integrated system of non-acute care, making placements within it, maintaining appropriate inventories of resources and planning the most economical and effective means of delivering care.

This is not to say that the Department of Social Services and Housing should become a primary provider of health care; rather, the emphasis should be on placements in care. Where treatment is medical, normal provider arrangements should take place. For these purposes it would be necessary to establish within the Department of Social Services and Housing a multidisciplinary evaluative team, capable of making medical judgements for the purpose of placement, but also having the capacity to diagnose the social needs of the person referred.

This approach would also allow the Department of Social Services and Housing to address in a cohesive manner the needs of various special groups, including the developmentally disabled, handicapped, mentally retarded, learning disabled, and so on. Programs for these people have sprung up on an ad hoc basis or because of Federal mandate; interest groups seek funding and facilities, often with success. Often, however, they find themselves in need of some service from the larger social services system: Medicaid eligibility, for instance, or licensing for group homes; and have difficulty obtaining it. Often, too, competition among groups results to no good purpose, and may occasionally conflict with the goals of the Department of Social Services and Housing. Meanwhile, there is no way to bring consistency to these disparate efforts.

Finally, it would give the Department of Social Services and Housing enhanced opportunities to experiment with alternatives to institutional care, including day care, medical day care, home health care, chore and homemaker services, transportation services, use of welfare recipients as elderly care aids, adult foster care and subsidies to families for care of adult elders.

The limitation on many of these seemingly desirable alternatives at the present time is, as indicated earlier, fiscal. Medicaid for the most part covers services which are built around a medical care delivery system, so less intensive care alternatives are fiscally unattractive. The major exceptions are certain chore and homemaker services

which now are funded under Title XX of the Social Security Act. Title XX provides funds, ostensibly for social services, under a 75-25 federal/state matching formula. Actually, numerous programs, more than 200, covering a wide range of health and social problems, are funded, and competition among them for dollars is intense. Yet Title XX is the major prospective funding source for expanded long-term care programs.

It is unlikely that the current mix of services in Title XX can be so altered as to allow adequate resources for proper experimentation with alternative forms of long-term care. Instead, it appears that DSSH will have to explore a variety of other funding sources, in some cases accepting a lesser federal share than Title XX affords, in order to come up with the combination of programs and funding sources that best serve both the State's fiscal interest and that of the people receiving long-term care. This could include Medicaid coverage for certain ICF/mentally retarded facilities and home health care services. In other cases, the Department may wish to experiment with State-funded programs which cost less than the State's share of Medicaid for institutional care of the same case. The Department could, for instance, institute a means-tested program which would subsidize families to keep their members needing long-term care at home; payments could be set at a large fraction of the State's average payment for institutional services.

Considerations such as these and the sheer complexity of funding alternatives make it necessary for the Department of Social Services and Housing to undertake strategic fiscal planning. In the process, the Department should review the Title XX program with an eye to eliminating funding for drug and alcohol abuse programs, whose execution primarily follows a medical model.

All these options and strategies, however, will not eliminate the final issues of death and dying from consideration of long-term care. The fact remains that the severely, chronically ill may live on in very high cost care facilities for extended periods, and that over time, public officials will come under increasing pressure to disallow the more heroic life-sustaining treatments that are possible. While a number of states and the Hawaii House of Representatives have addressed this issue through passage of "living will" legislation, which permits individuals to forego heroic treatments in advance, there may remain circumstances in which individuals and/or their families prefer natural death in homelike surroundings. Existing care programs and legal obstacles make this difficult at the present time, and it appears that the Departments of Health and Social Services and Housing should recommend legislation to address the issue.

Health Care Financing

Numerous commentators on the issue of health care costs have noted that the financial structure of health care, the existence of third party payors which tend to shield consumers from the economic consequences of their health care decisions, is one of the central issues in the whole debate over cost containment and cost effectiveness.

The Subcommittee, unfortunately, did not have time to explore this issue thoroughly, and can make only general observations. The first of these is that the insurance industry bears as much blame as Medicaid and Medicare in fueling the inflation of health costs. While there have been many instances in which private insurers intervened to challenge medical procedures that are of questionable benefit, it is doubtful that this is done on as systematic or critical a basis as may be possible. As with other elements of health care, there is no particular incentive to do so. Insurance companies such as HMSA, which dominates the market in Hawaii, essentially must be concerned with being able to receive enough revenues to cover costs and operating expenses; this means that they must remain reasonably rate-competitive with Kaiser, the other major insurer.

Some studies suggest that the competition between these two major private insurers does operate to hold the cost of care below what it might otherwise be, and it is possible that Kaiser's development of a major hospital in the Red Hill area, at major transportation intersections and thus readily accessible to large population, may sharpen the competition.

However, it is also true that HMSA can manipulate its competitive stance through the transfer, in the form of deductibles and co-payments, of significant costs of care to the individual consumer.

Regardless, there is too much money in the marketplace, money that supports cost-intensive medical care developments and equipment, and it is altogether timely to scrutinize what the health insurance (or government) dollar is buying. Government and other third party payors have a mutual interest in this, and should develop complementary actions. At the least it appears that SHPDA should contain the staff capability and authority to periodically review the existing nature and pattern of medical treatments and facilities

to determine what procedures are of unproven value, and to intervene in both the public and private sector to challenge payments for procedures of uncertain merit. It may well be that such determinations could be a part of the appropriateness review that SHPDA is newly mandated to perform by amendments to the federal health planning laws.

Medical Information Systems

In the final analysis, it is the patient-doctor relationship that determines what care will be provided, and, as a result, what payments will be made. This is a time-honored pattern, one which the medical profession guards most jealously. The phrase that part of medicine is art is commonplace in any discussion of medicine.

Now, however, there are technologies available which can remove much of the mystery from medicine. Electronic data processing makes it possible to program whole medical texts into diagnostic and treatment systems with which not only doctors, but also their patients may interface to their mutual benefit. That the medical profession looks askance at such systems goes without saying; to many physicians they seem to remove the necessity of extended training in medicine and to make the doctor little more than an adjunct to a machine.

Such a view is contrary to what common sense tells us about the process of treatment, however. As Lawrence L. Weed, a staunch and pioneering advocate of medical information systems notes in his book, Your Health Care and How to Manage It:

"In maintaining health, in chronic disease and in the events that lead to acute illness, the patients themselves know and control more of the relevant values than anyone else. Patients live with the variables all the time. . . . Physicians often know only a few of the variables and usually have control over none. Physicians and other medical personnel see a fragment of the total during a fragment of the time."

This is simply to say that the patient is aware of economic, social, and personal circumstances and their history which may be affecting his or her health at any given time. By comparison, the physician treating a person has a medical history of the person only as good as the current workup and whatever patient's medical records may be available. The physician may labor long to improve the workup and strengthen the case history. But no matter how great the labor, there still will be gaps and uncertainties in the record, parts of the patient's life that cannot be captured in records.

Weed's basic proposition is that the patient should possess the record and actively participate in its development, while the physician should be aided by definitive aids to memory that strengthen diagnostic performance. Doing these things is now possible, with the assistance of data processing. And there are fringe benefits. Because the data processing can be made interactive, and because a full and uniform (that is, notations are prescribed by the computer format, so all persons using the system identify treatments in the same manner) record is kept, other professionals, such as pharmacists, can actively participate in the treatment and consult with the treating physician. Moreover, the complete record is available for audit by appropriate review committees and the like.

Needless to say, such innovations would meet with much resistance from established practitioners. Just as clearly, they hold enormous promise for demystifying medicine and increasing responsibility on the part of both patient and physician. It should be apparent that such an approach is likely to be very effective in holding down costs and improving treatment. System costs are not especially large, and Hawaii could commence demonstrating the effectiveness of this approach to health care by installing such information systems throughout the State/County hospital system. In that setting, the information system could be expected not only to provide the benefits that are advertised for it, but also to supply the added value of a better management information system for the State/County hospitals.

Conclusions and Recommendations

(1) The Hawaii Medicaid Program has become a $100 million entity with a propensity to increase in cost by an average of 30 percent per year. Although the federal government pays about half of the cost of the program, with State constitutional spending limitations, it will be but a short time before the Medicaid Program competes heavily with other State programs for resources. These cost trends make political action affecting the Medicaid Program inevitable within the next five years.

(2) The Medicaid Program does not itself create costs, except as Medicaid revenues provide cash flow for the retirement of institutional debt. Medicaid is a vendor payment program whose costs are a function of the eligible population and the charges of health care providers. The eligible population has remained relatively stable, so fast-rising Medicaid costs must be attributed largely to increases in services provided to recipients; providers are charging more and dispensing more treatment.

(3) A variety of management improvements can be made in the Medicaid Program, and they will produce savings. These include additional management and investigative staffing within the Department of Social Services and Housing, additional staffing for exception review of claims paid and for review of fiscal intermediary operation and additional staffing for fraud and abuse investigation and prosecution. While it is essential for the Department to have the resources to perform its oversight duties, it is also true that the cost effectiveness of added staff, especially for eligibility control, is limited. Therefore staff increases should be moderate and targeted on the critical areas of utilization review, enforcement of third party liability payments, fiscal intermediary performance review and fraud investigation and prosecution.

The Department should adopt an aggressive policy, now sadly lacking, for utilization review and prosecution of fraud and abuse.

There appears also to be opportunities for large improvements in research and analysis and casework management. These, however, await better service from the Electronic Data Processing Division of the Department of Budget and Finance.

(4) Ultimately, Medicaid costs cannot be controlled within the program without disqualifying large numbers of persons from care or substantially reducing services, either of which moves may be self-defeating in terms of increasing the number of people who qualify for cash payments or allowing medical problems to go untended to the point of requiring expensive acute care. Accordingly, most of the suggestions offered by the Department of Social Services and Housing as program cost containing strategies should not be accepted. It should be noted that in some instances, suggestions by the Department could not be accomplished within the law or are not permitted by federal regulations governing the Medicaid Program. It follows that Medicaid cost containment should be a function of cost containment within the whole of the health care industry, which has exhibited the strong inflationary trends that are reflected in the Medicaid Program. A number of strategies are available and should be enacted. These include:

(a) Prospective rate setting for hospitals within the State.

(b) Attempts to limit the number of physicians in the medical marketplace.

(c) Reducing the benchmark figure for Certificate of Need review by the State Health Planning and Development Agency from $150,000 to $50,000 and requiring CON review of physicians' practices.

(d) Increasing financial support for SHPDA to allow more sophisticated State health planning.

(e) Granting SHPDA authority to decertify previously authorized Certificates of Need, probably in connection with the Agency's Appropriateness Review of existing facilities and programs.

(f) Granting SHPDA a greater degree of autonomy by shifting its administrative home from the Department of Health to either the Department of Budget and Finance or the Department of Regulatory Agencies.

(g) Delaying approval of special purpose revenue bonds for hospital financing to prevent their becoming a makeweight in future CON applications.

(h) Enacting a five-year moratorium on construction of new acute care hospital beds, and instructing SHPDA thereafter to allow new acute beds only upon a rigorous showing of need due to such changed conditions as population growth.

(i) Converting now unused Waimano Home beds to standard SNF/ICF purposes to gain needed beds in this category and reduce unit costs at Waimano Home.

(j) Establishing an integrated system of long-term care within a single agency of State government.

(k) Sharply increasing taxation of tobacco products to inhibit smoking, and earmarking funds from the tax for agressive health outreach programs.

(l) Considering changes in the mix of services offered under the Title XX Social Services Program to make additional funds available for chore, homemaker and other services designed to maintain senior citizens in independent assisted living.

(m) Removing legal or other obstacles to natural death at home.

(n) Providing for SHPDA oversight of contemporary medical procedures and technology for efficacy and cost effectiveness.

(o) Installing a PROMIS-type electronic data processing system capable of interactive diagnostic and case management activities throughout the State/County hospital system.

Signed by Representatives Baker, Blair, Aki, Honda, Ige, Kobayashi, Lee, Segawa, Shito, Ushijima, D. Yamada, Lacy and Sutton. (Representative Lacy did not concur.)

Spec. Com. Rep. 7

Your Committee on Employment Opportunities and Labor Relations, pursuant to H.R. No. 844, adopted by the Regular Session of 1979, and directed to assess the status of rehabilitation services and programs for the handicapped, begs leave to report as follows:

Approach Taken

During the 1979 Regular Session, the House Committee on Employment Opportunities and Labor Relations recognized that the evolution of federal and state laws relating to handicapped persons, the developmentally disabled, vocational rehabilitation, exceptional children, and other related groups, programs and services has taken place over a period of years without a conceptualization or overview of the entire target population of handicapped persons. This piecemeal development has apparently led to a less than clear idea of target populations being served, levels of services being provided, and possible neglect of certain types of handicapped individuals.

As a prelude to further efforts on the part of the State to adequately meet the needs of handicapped persons adequately, your Committee identified the following areas for review during the 1970 interim:

(1) Identification of the handicapped populations requiring rehabilitation services and programs and the statutory rehabilitation responsibilities of the State with regard thereto;

(2) Survey and assessment of the appropriateness, availability, and accessibility of rehabilitation programs and services to such persons;

(3) Identification of rehabilitation service gaps, gap groups, unserved and underserved groups;

(4) Identification of agencies vested with rehabilitation responsibilities and functions to meet the needs of handicapped persons and of certain groups of handicapped persons, including the identification of groups exhibiting critical need for agency coordination of existing services and programs; and

(5) Recommendations for clarification of coordination, program, and service responsibilities of agencies for the rehabilitation of handicapped persons.

An interim public hearing was held for the purpose of addressing the aforediscussed questions. The Departments of Social Services and Housing (DSSH), Health (DOH), and Education (DOE); the State Planning and Advisory Council on Developmental Disabilities (DD Council); and the Commission on the Handicapped were requested to present testimony at the hearing and to your Committee in its review. Field visitations to three rehabilitation facilities were also conducted: The Rehabilitation Hospital of the Pacific; Lanakila Rehabilitation Center Inc.; and the Salvation Army Social Service Center.

FINDINGS

All parties appearing before your Committee acknowledged the need to assess the

status of rehabilitation services for the handicapped. This is based on the general observation that rehabilitation services in Hawaii, whether through public or private agencies, is indeed fragmented. There was further agreement that this fragmentation, more than likely, results in both duplication of services and gap groups who are receiving less than adequate services or none at all. All parties are in accord that, first and foremost, the handicapped populations requiring rehabilitation services and programs must be defined and identified.

According to DOH, part of this fragmentation problem is due to various federal legislation and funding directed at or available to state and private agencies. The situation is compounded by state statutes placing service responsibilities to various state agencies for specific handicapped groups.

In addressing this question, your Committee learned that DSSH is planning to assess the interest and needs of severely disabled persons who do not meet its vocational rehabilitation criteria for eligibility. This assessment is part of the department's plans to implement Title VII of Public Law 95-602 which provides for a new program of services, Centers for Independent Living, for severely disabled persons. The DSSH vocational rehabilitation program is a statutorily mandated responsibility under Chapters 347 and 348, HRS. The department's Division of Vocational Rehabilitation (DVR) has as its purpose to prepare and place in gainful employment persons handicapped by physical and/or mental conditions who are interested in and possess the potential for employment. These services are shown in Exhibit 1.

However, DVR target population estimates have been difficult to ascertain because of the unavailability of reliable information. For vocational rehabilitation purposes, DSSH has been using the rate used by the federal government of 76.2 persons per 1,000 population to estimate the number of persons who can benefit from vocational rehabilitation. The total population for vocational rehabilitation services in Hawaii under this rate is 68,000. DSSH cautions, however, that this number can be misleading because not all persons are interested in services or need the aid of state government to achieve rehabilitation.

DSSH noted that currently DVR serves 6,400 persons annually in the vocational rehabilitation programs; however, many of these persons are also served by other programs for different purposes, such as public assistance, food stamps, and other social services.

The State Planning and Advisory Council on Developmental Disabilities (DD Council) is concerned with the vocational needs of the developmentally disabled. The federal definition of the developmentally disabled population encompasses those individuals who are severely handicapped and have substantial functional limitations. The DD Council noted that DVR has served only a small percentage of the developmentally disabled population in the past. DD Council recognizes that DVR's program is designed for handicapped persons with rehabilitative potential and that therefore the developmentally disabled are not prime candidates for such services. However, in view of the philosophy behind the developmental disabilities movement of encouraging maximum growth and development of the developmentally disabled through appropriate programming, the Council would like to see more developmentally disabled participate in the Vocational Rehabilitation Program.

The Department of Education provides rehabilitative services, in conjunction with educational programs, for handicapped students under its Special Education Programs. DOE noted, however, that when these students graduate from high school or attain the age of majority, they are outside the scope of DOE jurisdiction.

The Steering Committee of Parents for Adult Day Activity for the Developmentally Disabled (PADA/DD) expressed concern over the increasing number of developmentally disabled students who leave the DOE's Special Education Programs each year without clear follow up programs to participate in. PADA/DD concerns included the aforementioned eligibility criterion of DVR which precludes many developmentally disabled from its vocational rehabilitation programs.

It was further acknowledged by participants that the scope and depth of any target population assessments would require a considerable amount of staff over an extended period of time if an appropriate public agency were to perform it or a considerable amount of funding if the assessment performance were privately contracted.

CONCLUSION

During deliberations by the House Committee on Employment Opportunities and Labor

Relations on the matter of assessing the status of rehabilitation services in Hawaii, the feasibility of a lead agency to perform and compile this assessment was discussed. During the interim public hearing on this matter, DD Council suggested that because the entire issue covers a population much broader than DD Council's target group, the Commission on the Handicapped be designated as the lead agency to perform the assessment. The Commission on the Handicapped reported, however, that under its present staffing and funding structure, such an in-depth assessment would be difficult for it to perform. The Commission further explained that a subcommittee of the House Committee on Health has conducted an interim review of the scope and responsibilities of the Commission on the Handicapped as statutorily prescribed under Chapter 348E, HRS. It is your Committee's understanding a redefinition of the duties and responsibilities of the Commission is being considered by this Health Subcommittee.

RECOMMENDATIONS

Your House Committee on Employment Opportunities and Labor Relations is in support of a study and review of the duties and responsibilities of the Commission on the Handicapped including the assignment of an in-depth and comprehensive assessment of the status of rehabilitative services and programs as prescribed herein and supplemental funding resources for staffing and operational costs that would be incurred for such a task.

EXHIBIT 1

SERVICES PROVIDED BY DIVISION OF VOCATIONAL REHABILITATION, DEPARTMENT OF SOCIAL SERVICES AND HOUSING:

a. Diagnostic services to determine eligibility for services.

b. Training.

c. Guidance.

d. Job placement.

e. Maintenance.

f. Occupational licenses, tools, equipment, books, and training materials.

g. Transportation costs.

h. Physical restoration.

i. Reader services for the blind.

j. Interpreter services for the deaf.

k. Telecommunications, sensory, and other aids and devices.

l. Services to family members when necessary to expect rehabilitation of the handicapped.

m. Post-employment services.

n. Other services to benefit an individual's employability.

Signed by Representatives Takamine, de Heer, Andrews, Dods, Hagino, Kiyabu, Kunimura, Masutani, Nakamura, Say, Silva, Stanley, Ikeda, Marumoto and Medeiros.

Spec. Com. Rep. 8

Your Committee on Employment Opportunities and Labor Relations appointed pursuant to H.R. No. 844, adopted by the Regular Session of 1979, and directed to study and determine the feasibility of an employment functional plan, begs leave to report as follows:

APPROACH TAKEN

A subcommittee was appointed to study and determine the feasibility of an employment functional plan. The Subcommittee was composed of Representatives Yoshito Takamine, Chairman; Gerald de Heer; Robert Dods; Ken Kiyabu; Kathleen Stanley; and Barbara Marumoto. Informal separate meetings were held with representatives from business, labor, education, and government to discuss the subject of an employment functional plan.

The Subcommittee also made field visitations to the Neighbor Islands to discuss the concept of an employment functional plan with local representatives of the State Departments of Labor and Industrial Relations and Education, the University of Hawaii and appropriate county officials involved in manpower and employment planning.

BACKGROUND

Subsection 226-52(a)(3) of the Hawaii State Planning Act requires the preparation of State functional plans for the areas of agriculture, conservation lands, education, energy, higher education, health, historic preservation, housing, recreation, tourism, transportation, and water resources development.

At the 1979 Regular Session, the House of Representatives considered the feasibility of an additional functional plan for the area of employment. The House subsequently acted on H.B. No. 716, H.D. 2, which is presently in the Senate's Committee on Human Resources. The bill proposes to amend Subsection 226-52(a)(3), HRS by requiring preparation of an additional employment functional plan and that this employment functional plan be submitted at the 1981 State Legislature.

House Draft 1 of H.B. No. 716, prepared by the House Committees on State General Planning (SGP) and Employment Opportunities and Labor Relations (EOL), emphasized "employment" as an essential component in the State's overall comprehensive planning system. Standing Committee Report No. 225 states that an employment functional plan would: (1) address the State's manpower needs by involving all State and private agencies and institutions and (2) serve as a coordinative mechanism to link together occupational needs and vocational education programs as well as other related concerns. Standing Committee Report No. 489 accompanying House Draft 2 of H.B. No. 716 and prepared by the House Finance Committee also conveys the intent that the State Department of Labor and Industrial Relations would be the agency responsible for the development of an employment functional plan.

FINDINGS

A. The State Plan Policy Council is responsible for administering the State Planning Act, with assistance from the Department of Planning and Economic Development (DPED). This agency is also responsible for the coordinated preparation of the various functional plans due to the Legislature under the State Planning Act. In testimony before the House Committees on SGP and EOL on H.B. No. 716 during the 1979 Regular Session, DPED stated that, while the Department did not object per se to the proposal for an employment functional plan, it did have some concerns which were as follows:

"Functional Plans for the areas of tourism, agriculture, energy and higher education are required for submittal to the Legislature in 1979 and 1980. Employment is an integral part of all of these areas and, as such, would be necessarily addressed in the development of the respective functional plans. However, because many employment concerns appear to flow from the broader functional areas, a clearer picture of employment needs may emerge from completed functional plans for tourism and agriculture."

Based on these concerns DPED suggested that the relationship between these functional plans and employment be further reviewed before a determination for a separate and distinct functional plan for employment is made.

The Subcommittee's discussions during the 1979 interim with representatives from business, labor, education, and government on the subject of an employment functional plan and other employment concerns proved fruitful, productive, and enlightening. The following is a summary of the more significant concerns and comments emanating from these discussions by respective areas:

Business

From the business perspective, better coordination is needed between government and private industry to avoid duplication of effort in attempts to plan and provide for manpower training. Such coordination might be better achieved through a mechanism

like an employment functional plan. The plan should recognize geographical disparity between labor supply and employment opportunities as, e.g., many job opportunities are available in Napili but most of the labor supply is located some distance away in Wailuku-Kahului. It should direct the University system to produce "generalists" having the mobility to move among various occupations and leave to private industry, the role of "fine tuning and technically educating" its employees. The community college system should concentrate on vocational rather than academic aspects in their curriculum. It should also address the laws of supply and demand in employment. At various times there has been a manpower surplus in many occupations, such as, teachers and engineers. At the present time, there is an oversupply of teachers and an undersupply of employees in the fields of tourism and health (e.g., nurses).

The private sector in general and each industry in particular--with their unique and specific problems and needs--should be afforded opportunity to provide input in the development of an employment functional plan or any employment component of a particular functional plan.

Labor

An anticipated undersupply of the teachers in the 1990's should be addressed, otherwise the State will probably have to recruit on the Mainland for teachers. This undersupply will occur because (1) a significant number of teachers will be retiring during that decade and (2) the university system will be graduating fewer teachers over the next ten years.

Trade unions have experienced difficulty in planning for their apprenticeship training programs because requisite job and occupational data has been unavailable and whatever statistical information compiled by State agencies has been less than adequate.

Education

An employment functional plan could emphasize the university system's important contributory role of creating new occupational fields and jobs through its research capabilities. The University should be viewed as the major institution responsible for the education, training and preparation for eventual employment of Hawaii's young people.

In planning educational curriculum, the university should address the philosophical issue of controlling enrollment and graduation numbers to meet job opportunities versus the freedom of educational pursuit. However, occupational and job statistics gathered by various governmental agencies have been found to be divergent and inconsistent and of little assistance to the university in its curriculum planning and formulation of enrollment/graduation strategy. Furthermore, any attempt to control enrollment to meet market needs must recognize that university training is on a long-term basis which subjects enrollment strategy to a time lag factor. For example, aquaculture training may require a six-year master's degree program and by the time a student has already advanced in the program, it could well be that the aquaculture field has a manpower glut.

Lower education's role is viewed as preparing students with the basic learning skills and providing general preliminary orientation for career pursuits.

Government

Representatives of the government sector noted that mechanisms for gathering necessary manpower data already exist in government. There are several public agencies which have the responsibility of compiling job information statistics and occupational data. It was acknowledged, however, that coordination among the various agencies has been less than satisfactory and that there is no single lead agency with a "handle" on the spectrum of fact and data gathering process. The Hawaii State Occupational Information Coordinating Committee (HSOICC), however, is presently developing a career information delivery system. DLIR will also be conducting an occupational employment survey on an annual basis. It was further recognized that the relationship between economic development and manpower training requires better and closer coordination.

CONCLUSIONS

Your Committee recognizes that there are currently several different efforts in government which provide for employment training, vocational-technical education, related manpower training programs, and economic development activities. These include the Comprehensive Employment and Training Act (CETA) prime sponsor plans, the

Annual State Plan for the Administration of Vocational Education, occupational projections produced by the Department of Labor and Industrial Relations and the Office of the State Director for Vocational Education and economic and industry projections from the Department of Planning and Economic Development.

It is apparent, however, from the discussions the subcommittee held with representatives from business, labor, education, and government, that there must be some coordinating mechanism that would address the employment and training needs in private industry and government and guide the allocation of resources toward these needs. The idea of a single government agency solely responsible for the entire employment picture has merit.

Your Committee acknowledges the argument that employment concerns appear to flow from the broader functional topics already regarded under the State Plan and that employment would more properly fit as an integral part of the several functional plans now being developed. It is presumed that employment would be addressed as an integral component of several functional plans and in particular, tourism, agriculture, energy, education, and higher education.

Your Committee, however, is unaware of any provision in the Hawaii State Planning Act that mandates the inclusion of employment as an integral component of any of the functional plans. There is no assurance that an agency responsible for the development of any particular functional plan will properly and adequately address the employment issue. Since employment transcends several areas to be covered by different functional plans, there is no further assurance that the necessary coordination among the different agencies in addressing the employment issue will occur in the development of their respective functional plans.

In view of these concerns, but primarily because of the critical import of coordinating employment training to meet Hawaii's manpower needs, your Committee believes that some rational statutorily designated mechanism is needed to meet these concerns. Your Committee agrees that an employment functional plan can best serve this purpose and that the Department of Labor and Industrial Relations would be the appropriate agency to be responsible for the development of an employment functional plan. In this regard, your Committee files this report in further support of the concept of an employment functional plan as an integral part of the State's overall planning efforts.

Signed by Representatives Takamine, de Heer, Andrews, Dods, Hagino, Kiyabu, Kunimura, Masutani, Nakamura, Say, Silva, Stanley, Ikeda, Marumoto and Medeiros.

Spec. Com. Rep. 9 (Majority)

Your Committee on Employment Opportunities and Labor Relations appointed pursuant to H.R. No. 844, adopted by the Regular Session of 1979, to investigate the feasibility of providing relocation assistance for the unemployed and those entering the labor force for the first time for the purpose of obtaining jobs, begs leave to report as follows:

BACKGROUND

During the 1979 Regular Session, the House Committee on Employment Opportunities and Labor Relations recognized that some counties may accommodate more of the State's unemployed labor force than other counties. The Committee recognized that each county has different economic characteristics and unemployment rates as illustrated in the following table:

	Per Capita Personal Income (1976)	Unemployment Rate (September 1978)
City and County of Honolulu	$ 7,325	8.0%
Maui County	6,507	7.0%
Hawaii County	5,812	10.5%
Kauai County	5,791	6.6%

The State is composed of six major islands divided into four county jurisdictions and separated by water. It was recognized that because of the physical separation

of the counties, the individual's employment opportunities may be limited to the island of residence. The Employment Opportunities and Labor Relations Committee felt that increasing the individual's physical mobility may reduce some of the unemployment problems and that the concept should be studied and means to assist the relocation of persons desiring employment in different counties should be investigated.

APPROACH TAKEN

A subcommittee held discussions with representatives from the State Department of Labor and Industrial Relations (DLIR) in examining the feasibility of providing relocation assistance to the unemployed and those entering the labor force for the first time for the purpose of obtaining jobs.

The subcommittee was composed of the following members: Representatives Yoshito Takamine, Chairman; Gerald de Heer; Robert Dods; Ken Kiyabu; Kathleen Stanley; and Barbara Marumoto.

FINDINGS

The countries of Sweden and Great Britain have had the most experience, historically, with worker relocation programs. There have also been some federally sponsored experimental labor mobility demonstration projects in the United States.

Sweden

Worker relocation assistance has existed in Sweden since 1912 and is an integral part of the country's welfare policy endorsing full employment and government assistance to unemployed individuals.

Sweden's relocation assistance program provides for the following categories of allowances:

1. Travel Allowances

Transportation expenses for job hunting and interviewing.

Daily commuter costs to work, for a maximum of three months prior to actual relocation.

Subsistence expenses for room and board in transit while attempting to secure employment.

Removal allowances for costs incurred while transporting family from the old to new area and freight charges for the moving of household goods.

2. Family Allowance

Family allowance is paid for a maximum of one year and is tax exempt. This allowance is paid when the worker cannot find housing in the new location. It compensates the family for the cost of maintaining two households. For the first six months the allowance is for the equivalent cost of rent and heating for the family in the home district. During the last six months the allowance is cut in half. The allowance is stopped as soon as new housing is located.

3. Starting Allowance

Monetary assistance is given until the worker receives the first paycheck. The allowance must be repaid if the employee terminates employment without good cause.

4. Settlement Allowance

A lump sum is paid to workers who have been chronically unemployed and who move into areas which have a high cost of living.

In some cases the government will compensate a homeowner for the difference between the appraised value of the home and the selling price.

In order for a person to be eligible for relocation assistance, the person must meet the following requirements:

1. The person must be unemployed or soon to be unemployed due to plant closure

or layoff.

2. The person cannot find employment in the home area.

3. The new job cannot be a transferred within the same firm.

4. The person will take employment in a location that has a shortage of adequate manpower.

5. The person must live in a labor surplus area.

Great Britain

Great Britain's manpower policies provide financial inducements such as investment grants for capital expenditures to firms to locate in designated areas. This is a major tool in the country's attempt to realize full employment and to encourage growth in underdeveloped parts of the nation. Further, government relocation assistance is given to persons who take jobs in industries in designated development areas.

Great Britain's worker relocation assistance program, which first began in 1940, is composed of three major schemes:

1. Resettlement Transfer Scheme

This program is designed to assist workers who are unemployed to resettle permanently in areas with plentiful jobs.

2. Key Workers Scheme

This program assists employed workers who are transferred either permanently or temporarily to jobs beyond daily travelling distance of their homes.

3. Nucleus Labor Force Scheme

This program assists firms setting up industries in underdeveloped areas by recruiting unemployed workers for transfer from their home areas for training. Upon completion of training, workers are returned or resettled in the area of the industry.

The worker relocation program provides the following financial assistance to temporarily transferred workers and permanently resettled workers as follows:

1. Allowances for Transferred Workers

Lodging assistance while living away from home for a period up to two years.

A percentage of travel costs is assumed by the government for a maximum of six home visits annually.

Living subsidy is paid if the worker's family relocates temporarily in the new area. The living subsidy will pay for the rent or mortgage of the house in the old area. The worker's lodging allowance ceases if the family receives the living subsidy.

2. Allowances for Permanently Resettled Workers

Household moving assistance is provided to cover the cost of transporting household goods and furniture to the new area.

All transportation costs for the worker and family are paid by the government.

Three-fourths of the cost of the solicitor's and agent's fees are paid for the selling of a worker's house in the old area.

In order for a person to be eligible for relocation assistance, the person must meet the following requirements:

1. The person must be unemployed with no prospects of employment in the home area.

2. The person must be planning to transfer or relocate to areas of employment that are designated by the government as a development area.

3. The person must prove that similar moving allowances cannot be obtained through a private employer.

United States

Experimental labor mobility demonstration projects were authorized under the Manpower Development and Training Act (MDTA). A total of 37 projects in 29 states were funded during the period 1965-1968 through the Deparment of Labor. Most projects were carried out by the State Employment Service agencies and a few were contracted out to private and public employment and training organizations. The total effort, which cost about $9 million, relocated approximately 14,000 workers. The average cost was $700-$800 per individual relocation.

The projects were designed to test the effectiveness of relocation in the alleviation of unemployment and to examine the operational, economic, and social implications of relocation. Relocation efforts were aimed at two categories of workers; they were: (1) skilled workers who were layed off due to plant closures or automation and (2) unskilled, disadvantaged workers from rural or depressed areas who were chronically unemployed or underemployed.

The MDTA program provided for the following allowances:

1. Travel allowance to cover transportation costs to the new location by means of the most economical means of transportation.

2. Moving allowance to cover the transporting of household goods.

3. Storage allowance to cover the storage of household goods for a period of not more than thirty days.

4. Lump sum allowance, for living cost until the first paycheck was received.

In order for a person to have been eligible for assistance in the MDTA labor mobility project, the person must have met the following requirements:

1. Person must have been involuntarily unemployed through no fault of his or her own for six or more weeks.

2. Person could not be expected to find employment in the home area or within a commuting distance.

3. A definite long-term job awaited the worker in the area of relocation.

4. Person had to register and be selected by the sponsoring employment service.

The results of the MDTA experimental labor mobility demonstration projects were as follows: 14,000 people were relocated through pilot projects. On the average there was a 20 percent return rate among workers to their original homes. One of the factors for return was the high cost of housing in developed areas. Another factor was cultural, social, and economic ties with the home area. For some participants the transition from a rural to an urban cultural and social milieu was difficult to achieve. Moving from the ghetto to industrial area was another difficult transition. In the case of Kentucky, the high payment of welfare benefits in the home area discouraged workers from relocating permanently. Many of the "hardcore" unemployed from the ghetto lacked the fundamental skills of job retention and had the highest rate of return. Another 20 percent of the relocated workers had changed jobs in the demand area a year after relocation.

Statistical studies show that those who relocated experienced on the average a 25 percent increase in salary. A study by Dr. Gerald Sommers of the University of Wisconsin compared the condition of relocated Michigan workers with a control group of unemployed workers. The results showed that relocated workers showed favorable occupational shifts away from unskilled categories towards professional and technical occupations. The study also showed that over time the income and employment among the relocated improved considerably and consistently.

In Hawaii, DLIR reported that efforts have been made in the CETA program for geographical location. This was done in FY 1977 as part of the Molokai Task Force whereby Molokai residents moved to Maui for vocational training and upon completion returned to Molokai. Cost covered by CETA funds under Title II-B included airfare, support services, and vocational training instruction. It was pointed out, however, that CETA efforts in this

particular situation involved relocating individuals from one island to another for the purpose of classroom training in order that they can return back to their home area to obtain suitable employment.

DLIR pointed out further that the Federal Trade Act of 1974 provides for trade adjustment allowances to individuals who have been adversely affected by foreign competition. The sugar and pineapple industries in Hawaii were affected by such foreign competition, but DLIR does not have any information as to the number of individuals who may have been relocated under the trade adjustment allowances of the Trade Act.

Finally, DLIR provided a cost breakdown where the State would subsidize "settling in" costs for the purpose of relocating individuals from one county to another. The cost of moving a family of four from Kohala to Honolulu would be approximately $3,700 and would include:

Moving expense (household)	$ 2,000
Air transportation	164
Two bedroom apartment including utilities, $350/month x 3 months	1,050
Ground transportation $5/day x 20	100
Child care (under 5 years) $150/month	150
Work related tools and equipment	150
Medical	100
Total	$ 3,714

Arguments, pro and con, have been made relative to the concept of worker relocation assistance.

Proponents of worker relocation assistance argue that:

1. Relocation assistance facilitate upward mobility in the labor force.

2. The American work force is mobile by nature and that planned and coordinated efforts lend rationality to the migration of those who drift aimlessly in search of employment.

3. Relocation programs have shown economic and social benefits for the moved worker and his family.

4. Relocation of workers from an economically depressed community tightens that community's labor market and therefore is a manpower device that serves to alleviate some of the unemployment pressures.

5. Worker relocation assistance can be used as an inducement to "big business" for industrial development in economically depressed or underdeveloped areas.

Opponents of worker relocation assistance argue that:

1. There is a loss of social capital to a depressed community if a significant number of workers relocate, as, e.g., investments in schools and community facilities become wasted because of minimal use.

2. Government should not interfere with the labor market but should permit economic and social forces to operate naturally.

3. It is inhumane to uproot families from economically depressed communities in an effort to find employment and the solution lies, rather, in encouraging industry to move into such depressed areas.

CONCLUSION

That the Legislature study and review implications of costs to the State before considering implementation of a program providing relocation assistance for the unemployed and those entering the labor force for the first time.

Signed by Representatives Takamine, de Heer, Andrews, Dods, Hagino, Kiyabu, Kunimura, Masutani, Nakamura, Say, Silva, Stanley, Ikeda, Marumoto and Medeiros.
(Representative Marumoto did not concur.)

Spec. Com. Rep. 10

Your Committee on Employment Opportunities and Labor Relations appointed pursuant to H.R. No. 844, adopted by the Regular Session of 1979, to review the rehabilitation program of injured employees under workers' compensation, begs leave to report as follows:

BACKGROUND

House Bill 586, entitled "An Act Relating to Workers' Compensation," was introduced during the 1979 Regular Session and is presently in the House Committee on Employment Opportunities and Labor Relations for review and consideration.

The purpose of H.B. No. 586, which is an Administration sponsored measure, is as follows: To provide greater rehabilitation opportunities to an injured employee who (1) has become permanently and totally disabled or (2) is unable to return to his usual or prior occupation as a consequence of a work injury or (3) in the opinion of the director of the Department of Labor and Industrial Relations, is either presently unable to return to any form of work or in the future may be deemed to be permanently and totally disabled or unable to return to his usual or prior occupation, by referring the employee to either the Department of Social Services and Housing or to any agency providing physical or vocational rehabilitation services. The director must first approve a rehabilitation plan prepared and submitted by the employer before the employee is referred and enrolled in a physical or rehabilitation program. The costs of physical and/or vocational rehabilitation services, benefits, and training will be paid from Federal or State funds, the employer, or the Special Compensation Fund as applicable.

APPROACH TAKEN

A subcommittee held a public hearing to review the rehabilitation program of injured employees under workers' compensation and to consider, in particular, the merits and justification, of H.B. No. 586.

The State Department of Labor and Industrial Relations (DLIR), which has PPBS Program jurisdiction over disability compensation matters, was requested to testify on the general issue of rehabilitation of injured employees under workers' compensation and on H.B. No. 586.

The subcommittee was composed of the following members: Representatives Yoshito Takamine, Chairman; Gerald de Heer; Tony Kunimura; Donald Masutani, Jr.; Yoshiro Nakamura; Calvin Say; Donna Ikeda; and Barbara Marumoto.

FINDINGS

According to DLIR an essential factor of a successful rehabilitation program under workers' compensation is motivation to accept rehabilitation by the injured employee who is unable to return to his previous occupation. An inducement would be for an employee not to suffer any form of wage loss should he agree to a rehabilitation program. The Department feels that enrollment in a rehabilitation program will be maintained if the injured employee is able to economically sustain himself and his family during the period of his rehabilitation. It is along these lines that H.B. No. 586 provides that the injured employee shall continue to receive workers compensation plus rehabilitation benefits which together will at least equal the employee's weekly wage at the time of injury.

The Department also believes that the employer should provide rehabilitation at no cost to the injured employee. The Administration measure makes the employer responsible for travel and living expenses and all additional costs of rehabilitation services.

Finally, the Department feels that the chances for successful rehabilitation are enhanced if the injured employee is rehabilitated in the following priorities: (1) the same or similar occupation with his present employer; (2) the same or similar occupation within the industry he is presently employed; and (3) an occupation completely different from his present job. The Department's philosophy is that the more familiar the work, the better the chances for rehabilitation.

CONCLUSIONS

House Bill 586 proposes to make each employer individually liable for the rehabilitation costs of his injured employees. Concern was voiced by several Committee members as

to (1) the effect this increased responsibility for rehabilitation costs of injured employees on the specific employer would have where the employer is a small businessman and (2) the several ramifications that may be involved in possible increased insurance premiums for specific employers.

RECOMMENDATION

That the House Committee on Employment Opportunities and Labor Relations defer action on H.B. No. 586 until the concerns described in the preceeding paragraph are addressed and adequately answered.

Signed by Representatives Takamine, de Heer, Andrews, Dods, Hagino, Kiyabu, Kunimura, Masutani, Nakamura, Say, Silva, Stanley, Ikeda, Marumoto and Medeiros.

Spec. Com. Rep. 11

Your Committees on Employment Opportunities and Labor Relations and Public Employment and Government Operations appointed pursuant to H.R. No. 844, adopted by the Regular Session of 1979, to review the funding and operations of the Federal Comprehensive Employment and Training Act (CETA) and State Comprehensive Employment Training (SCET) programs, beg leave to report as follows:

APPROACH TAKEN

A subcommittee was appointed to review CETA and SCET programs and was co-chaired by Representatives Yoshito Takamine and Kathleen Stanley and included Representatives Gerald de Heer, Robert Dods, Ken Kiyabu, and Barbara Marumoto.

In its review of the funding and operations of the CETA and SCET programs, the subcommittee focused on the following areas of concern:

(1) A comparative analysis of CETA and SCET participants and a follow-up of the employment status of participants upon completing the program.

(2) A comparative analysis of costs per participant under CETA and SCET programs.

(3) An analysis of the loans and subsidies programs under the State Program for the Unemployed (SPU) and a comparative analysis of costs with SCET.

(4) An assessment of what target groups need to be served by SPU who are not being served by CETA to avoid duplication.

The subcommittee held a public hearing at which the State's Department of Labor and Industrial Relations (DLIR) and Department of Personnel Services (DPS), as well as the Office of Human Resources of the City and County of Honolulu, presented testimony addressing the aforementioned concerns.

BACKGROUND

Overview of Federal Comprehensive Employment and Training Act (CETA) Programs

The 1973 Federal Comprehensive Employment and Training Act was amended in October, 1978, to extend its authorization under the administration of the U.S. Department of Labor and to provide for improved employment and training services. The scope and purpose of the CETA Act, as stated in the federal rules and regulations, is "to provide job training and employment opportunities for economically disadvantaged, unemployed, and underemployed persons, and to assure that training and other services lead to maximum employment opportunities and enhance self-sufficiency. The purpose of the Act is to be accomplished by the establishment of a flexible and decentralized system of federal, state, and local programs."

CETA is a totally federally funded program and under federal regulations, each state designates "sponsor" agencies to act as receivers for these federal funds. There are two sponsors for the CETA program in the State of Hawaii: the City and County of Honolulu is the sponsor for CETA programs for the island of Oahu and the State Department of Labor and Industrial Relations is the sponsor for the balance of the State, i.e., for CETA programs on the neighbor islands. The State Department of Personnel Services acts as a subgrantee to both prime sponsors and administers the operational phase

of CETA programs on Oahu and for the Balance-of-State (BOS) counties.

The CETA Act is comprised of Titles I-VIII. DLIR sponsored four of these titles during FY 1978 for the neighbor island counties. These were as follows:

Title I - Comprehensive Manpower Services. Title I is designed to provide comprehensive manpower services to individuals so they may secure and retain employment at their maximum capacity. These services include classroom training, work experience, on-the-job training, job placement, and other types of supportive services.

Title II - Public Service Employment (PSE). Title II is designed to provide public service jobs and employment training in areas of substantial unemployment.

Title III - Special Federal Responsibilities. Title III is designed for persons having particular disadvantages in the labor market. Many of these programs are funded and administered directly through the U.S. Department of Labor's National Office. Hawaii's BOS programs included:

(1) The Indian Manpower Program.

(2) The Seasonal Farmworker Program.

(3) The Seasonal Farmworker Youth Community Conservation and Improvements Projects.

(4) The Seasonal Farmworker Youth Employment and Training Program.

(5) The Help Through Industry Retraining and Employment Program II.

(6) The Skill Training Improvement Program.

(7) The Summer Program for Economically Disadvantaged Youth.

(8) The Youth Community Conservation and Improvement Projects.

(9) The Youth Employment and Training Program.

Title VI - Emergency Jobs Program. Title VI was established in 1974 to provide additional public service jobs and employment training for areas of excessively high unemployment.

Overview of State Program for the Unemployed (SPU)

As part of the State's effort to combat cyclical unemployment through a program similar to CETA, the 1975 Hawaii State Legislature enacted Act 151 establishing SPU. It is administered by DLIR, is a totally state-funded program, and is a temporary act that must be extended from year-to-year by the State Legislature.

SPU was intended to develop training and employment opportunities to unemployed and underemployed persons throughout the State by means of one of the following components:

State Comprehensive Employment and Training (SCET) functions as a work relief program to assist unemployed and underemployed individuals in obtaining training and work experience through subsidized public service employment opportunities organized on a project basis which serve an unmet need. SCET was established to supplement the CETA (PSE) program as a short-term measure to reduce unemployment;

State Assistance for Certain Employment (State On-the-Job Training (SOJT)) provides State subsidies to private industry employers who agree to train and hire unemployed individuals;

State Loans for Certain Employment (Loans) offer low-interest loans to employers who create additional jobs, which would generate full-time, permanent employment in the private sector to unemployed residents.

FINDINGS

It is noted that comparative and statistical data available to your Committee on CETA participants covered only those participants on the neighbor islands (BOS) since the CETA program on Oahu is sponsored by the City and County of Honolulu. Data presented

by the Office of Human Resources, City and County of Honolulu on the CETA programs on Oahu was minimal. For FY 1979, the City received about $26 million in federal CETA funds of which about $19 million was to provide temporary public service employment opportunities to an estimated 2,200 disadvantaged/long-term unemployed individuals.

A comparative analysis of CETA and SCET participants and of costs per participants under the respective programs can be seen in DLIR's breakdown of selected characteristics of SCET participants, CETA (PSE) participants, and all CETA participants for FY 1978 (see Exhibit 1). In general, the characteristics of all CETA-BOS participants served during FY 1978 show the following:

(1) Fifty percent of the participants were males, 50 percent were females.

(2) The greatest percentage of participants (29 percent) fell in the 25-44 years of age category.

(3) The majority of the participants (66 percent) had completed between 9 and 12 years of school.

(4) Most of the participants (81 percent) were economically disadvantaged.

(5) Sixty-seven percent of the participants were unemployed, and 5 percent were underemployed prior to participation. The remainder had been either in school or in other employment and training programs.

(6) The greatest percentage of participants (35 percent) fell in Hawaiian/Part Hawaiian category, with the Filipino category next (20 percent).

Of the 4,293 persons served under CETA, 1,154 were enrolled in public service employment jobs; the rest were enrolled in various CETA training programs. The average cost per CETA (PSE) participant was $6,635 and about $1,042 for training program participants. During the FY 1978, the number of participants served under the SCET program totalled 1,828.

In examing Exhibit 1, it can be concluded that the characteristics of participants served in both SCET and CETA (PSE) are comparable. The majority of SCET and CETA participants for FY-78 tend to be male (67 percent and 59 percent respectively), in the prime working age group of 22 through 44 years of age (70 percent and 73 percent respectively), and with 12 or more years of schooling (78 percent and 87 percent respectively).

Due to program thrusts and priorities established for the types of unemployed and underemployed to be served in CETA, that is, the economically disadvantaged, the CETA program has reached this group in higher proportion than SCET (65 percent to 47 percent respectively). However, both programs are serving basically in proportion to the general numbers of unemployed registered for work with Hawaii's State Employment Service.

The only major significant difference between SCET and CETA is in the average cost per participant. Average cost per participant for SCET during FY-78 was $4,567, while for CETA (PSE) it was $6,635. This difference is attributable to the absence of fringe benefits under SCET, i.e., vacation, holiday, and sick leave, and a higher turnover in SCET.

In regards to the employment status of participants upon completion of the program, DLIR provided a summary of SCET and CETA-BOS terminations for FY-78 (Exhibit 2). Over a 12-month period, SCET has experienced 2-1/2 times more participant turnover than the CETA (PSE). This has been due to SCET projects either accomplishing its goals or projects termination and the uncertainty of the life of the SCET program. CETA (PSE), is expected to be incurring a higher turnover rate in the future, since there is now a limitation for participation of 78 weeks and lower paying positions.

About 80 percent of the CETA-BOS persons terminating from the various programs were successful, i.e., those entering employment accounted for 36 percent, and 44 percent either entered school or other employment and training programs. An analysis by the U.S. Department of Labor's Region IX office on the accomplishments of programs under Titles I, II, and VI shows Hawaii's BOS comparing favorably with the other prime sponsors in Region IX. For the Title I's Comprehensive Manpower Services Program, Hawaii's BOS positive outcome rate ranked sixth highest among the 51 Region IX prime sponsors, with the entered employment rate fourth from the top. For the Title II PSE Program, Hawaii's BOS positive outcome rate was the fifth highest among 49 Region IX prime sponsors, and the entered employment rate was the third highest. For the

Title VI PSE Program, Hawaii's BOS positive outcome rated eleventh from the top among 50 prime sponsors, and the entered employment rate was in eighth place.

An update on SCET enrollees was submitted by DLIR for the period beginning July 1, 1978, and ending September 30, 1978. During this three-month period, there was a total of 920 enrollees. Of this total, 98 left the program with 49 percent of these 98 individuals leaving for unsubsidized employment. The majority of these unsubsidized jobs, 63 percent, were training-related and most participants were receiving higher wages in their new jobs. The SOJT program was not operational since available resources were directed at the SCET and State Loan components. The State Loans for Certain Employment component provided 16 employers with loans for the employment of 36 individuals prior to June 30, 1978.

Comparative costs of the various SPU programs, i.e., the costs of the State Loans for Certain Employment, State Assistance for Certain Employment (SOJT), and SCET programs for FY 1978 are listed in Exhibit 3. SCET component cost ($8.35 million) comprised nearly 96.0 percent of the total SPU program expenditures ($8.69 million). Statistical data for FY 1979 indicates that SCET program expenditures will be decreased to approximately $5.17 million serving a reduced population of 987 participants (as compared to 1,828 participants in FY 1978).

In regard to the concern over possible target group duplication between SPU and CETA, DLIR provided the following assessment:

"The goals and objectives of SPU and CETA are to reduce the effects of high unemployment in the State by providing training and employment opportunities to unemployed and underemployed persons throughout the State.

Certain target groups within the unemployed population are given priority for participation in both programs. These include those who are (1) cyclically unemployed (such as unemployment insurance claimants), as a result of either the general business cycle or cycles more specific to particular industry; (2) displaced as a result of market shifts and technological changes; and (3) structurally unemployed, such as those whose skills are not in demand, the long-term unemployed, welfare recipients, the economically disadvantaged, and those who lack appropriate training.

The difference between both SPU and CETA programs is the eligibility criteria for participation in selected programs. Individuals who do not qualify under CETA would more than likely qualify under one of the programs under SPU. Since both SPU and CETA are intricate in design, duplication of target groups served cannot be avoided."

It was also learned that there is strong concern by DLIR, DPS, and the City Office of Human Resources as to the possible impact on the CETA (PSE) program because of recent amendments in the CETA reauthorization regulations, adopted in April 1979. This was noted above in regard to future increases in CETA turnover rates due to reductions in employment periods and wages paid. In accordance with the April 1979, U.S. Department of Labor CETA rules and regulations, the length of time an individual can remain in a CETA (PSE) program is now limited to 78 weeks (18 months) in a five-year period. Program operators must terminate all PSE participants who exhaust their time limitation in the program. The initial "forced layoffs" of CETA (PSE) participants who were affected by this 18-month ceiling occurred on September 30, 1979. Another change requires CETA (PSE) program operators to allocate 15 percent of their Title II PSE funds and 5 percent of their Title VI Emergency Jobs Program funds for training activities. As a result, the number of new hires into the CETA (PSE) program was significantly reduced with more emphasis placed on classroom training programs.

Concern was also expressed by the State and the City and County of Honolulu regarding the impact of the newly reduced annual average wage limitation of $7,093 will have on CETA (PSE) programs. These prime sponsors are presently pursuing a Congressional waiver from the annual wage provisions, arguing on the basis of Hawaii's higher cost of living and distortions in the data base used for the computation of the average wage index.

Compliance with this provision would leave the prime sponsors no alternative but to hire individuals who qualify for the CETA (PSE) program at the lowest entry level (SR-04). According to the prime sponsors, this alternative has drawbacks that may significantly affect the continued efficient operation of the CETA (PSE) program:

(1) Few entry level jobs in the government meet the average wage requirements, making it difficult for program operators to target services to significant segments

of the population;

(2) Employment in menial jobs will not provide meaningful work experiences to participants;

(3) With little opportunity to upgrade their skills and work experience, it would be difficult to place these participants into permanent unsubsidized jobs.

RECOMMENDATIONS

SCET and CETA programs are not primarily intended to solve the unemployment problem but rather to provide training opportunities for employment in the private sector and thereby ease some of the economic problems caused by unemployment. Although both programs are similar in design, each has its own distinct mix of services to reduce the impact of high unemployment. Currently, there are an estimated 25,000 individuals that are unemployed in the State.

With unemployment rates still relatively high and unstable, your Committees believe there is still a need to continue programs such as SCET and CETA. Continued efforts in this area can also serve as a countercyclical strategy when State and national economic forecasts include continued recession.

Your Committees are satisfied that the SCET component of SPU and the State's BOS program under CETA are operating effectively and therefore recommends (1) that the State Legislature appropriate sufficient funds to extend the SCET component of SPU; and (2) that the prime sponsors of the CETA-PSE program, i.e., the State (BOS) and the City and County of Honolulu (Oahu), continue its efforts in identifying alternatives to the federal $7,093 average wage limitation and that every reasonable attempt be made in this regard to prevent non-utilization of CETA (PSE) funds and the concomitant loss of federal dollars to Hawaii.

Signed by Representatives Takamine, Stanley, de Heer, Kunimura, Andrews, Dods, Hagino, Kobayashi, Masutani, Nakamura, Say, Silva, Ikeda, Marumoto and Medeiros.

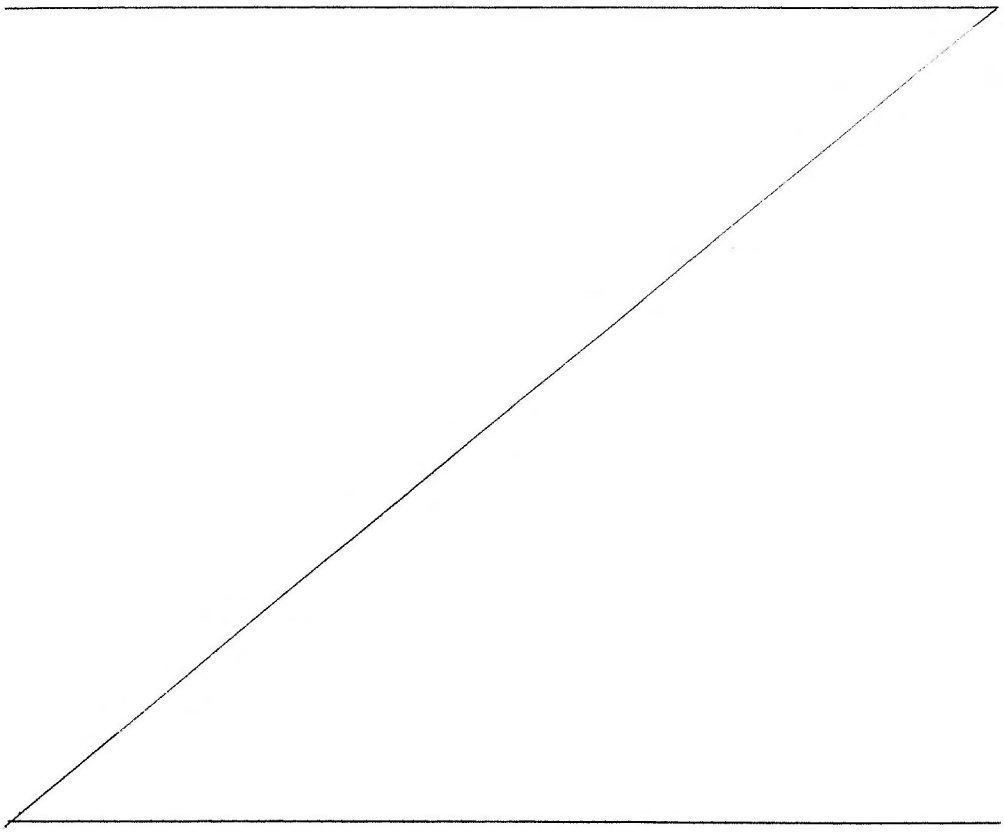

Exhibit 1

SELECTED CHARACTERISTICS
OF SCET AND CETA
DURING FY-78

CATEGORY	SCET[1]	BOS ONLY CETA PSE[2]	ALL[2] CETA (BOS ONLY)
TOTAL NUMBER	1,828	1,154	4,293
SEX			
Male	67%	59%	50%
Female	33%	41%	50%
AGE			
21 & under	13%	15%	55%
22 - 44	70%	73%	40%
45 - 54	11%	8%	3%
55 & over	6%	3%	1%
EDUCATION			
0 - 11	22%	13%	38%
12	42%	42%	33%
13 & over	36%	45%	27%
VETERANS	23%	29%	11%
WELFARE	19%	18%	23%
ECONOMICALLY DISADVANTAGED	47%	65%	81%
ETHNIC GROUP			
White	22%	25%	19%
Hawaiian/PH	29%	28%	35%
Japanese	14%	23%	14%
Chinese	2%	1%	1%
Filipino	15%	14%	20%
Other	18%	9%	11%
HANDICAPPED	5%	3%	3%
LABOR FORCE STATUS			
Underemployed	7%	1%	5%
Unemployed	93%	71%	67%
Other 3/	-0-	28%	28%
Unemployment Insurance	48%	29%	12%
Average Cost per Participant	$4,567	$6,635	$2,546

1/ As of June 30, 1978

2/ As of September 30, 1978

3/ Includes in-school youth who are unemployed, or eligible inter-title transfer from other CETA titles.

Exhibit 2

SUMMARY OF SCET AND CETA
TERMINATIONS DURING FY-78

CATEGORY	SCET	(BOS ONLY) CETA PSE	CETA (BOS ONLY)
TOTAL SERVED	1,828	1,154	4,293
TOTAL TERMINATIONS	1,100	383	2,919
Entered Unsubsidized Empl.	25%	51%	36%
Other Positive Term.	57%	11%	80%
Total Non-Positive Term.	18%	38%	20%

Exhibit 3

STATE PROGRAM FOR THE UNEMPLOYED, HAWAII STATE,
JULY 1, 1977 TO JUNE 30, 1978.

CATEGORY	TOTAL	SCET	LOAN	SOJT
TOTAL ENROLLMENTS	2,010	1,828	52	130
Enrollments this Year	576	525	51	0
Carry Over	1,434	1,303	1	130
TOTAL TERMINATIONS	1,237	1,100	7	130
Entering Employment	370	270		100
Other Positive 1/	629	627		2
Non-Positive	238	203	7	28
CURRENT ENROLLMENTS	772	728	45	0
SIGNIFICANT TARGET GROUPS				
Long-Term Unemployed	1,091	1,009	5	77
Economically Disadvantaged	1,012	866	16	130
Welfare	369	344	2	23
UI Claimants				
Regular Benefits	622	595	13	14
Extended Benefits	128	119	2	7
Exhausted Benefits	147	142	5	0
PROGRAM EXPENDITURES	$8,692,137 2/	$8,349,137	$343,000	$78,458 3/

1/ Includes end of project, entered other manpower program and entered school.

2/ Does not include SOJT expenditures.

3/ Includes encumbered monies from FY-77 to support carried over contracts.

Spec. Com. Rep. 12

Your Committee on Employment Opportunities and Labor Relations, appointed pursuant to H.R. No. 844 adopted by the Regular Session of 1979, to examine the issue of exempting commissioned persons from workers' benefit payment coverage, begs leave to report as follows:

COMMITTEE ACTIVITIES AND APPROACH

The question of exempting commissioned persons from the various workers' benefit payment coverage allowed under the state laws of Hawaii resulted from consideration at the 1979 Regular Session of House Bill No. 1439 entitled "Relating to Temporary Disability Insurance." The measure specifically calls for the exclusion of real estate salesmen from coverage under Hawaii's Temporary Disability Insurance (TDI) laws when services are performed by renumeration solely by way of commission. In reviewing House Bill No. 1439, your Committee on Employment Opportunities and Labor Relations determined that the broader issue of commissioned persons being included under Hawaii's several workers' benefit payments coverage, of which Temporary Disability Insurance is only a part, required further examination. Other worker benefit coverage programs include Unemployment Insurance (UI), Workers' Compensation (WC), and Prepaid Health Care (PHC). The Committee therefore determined that it should be a matter for interim review.

During the 1979 interim, a Subcommittee of the House Standing Committee on Employment Opportunities and Labor Relations examined the issue of including commissioned persons under workers' benefit payments coverage. Your Subcommittee was composed of the following members: Representatives Yoshito Takamine, Chairman; Gerald de Heer; Robert Dods; David Hagino; Donald Masutani, Jr.; and Barbara Marumoto.

Discussion meetings with representatives from the State Department of Labor and Industrial Relations (DLIR) proved fruitful in the Subcommittee's examination of worker benefit payments coverage.

FINDINGS

Of all the commissioned workers in the State of Hawaii, only real estate salespersons and insurance agents are covered by some but not all of worker benefit programs. Under Hawaii's present laws, all commissioned workers except for the two aforementioned categories are entitled to unemployment benefits, workers' compensation, temporary disability insurance, and prepaid health care.

Insurance agents receive benefits only under one program, workers' compensation. Real estate salespersons are eligible for both workers' compensation and temporary disability insurance. Both types of workers are ineligible for unemployment compensation and prepaid health care. The ineligibility of insurance agents for unemployment benefits is consistent with the federal unemployment insurance law which does not include such workers. According to the U.S. Department of Labor, Employment and Training Administration, Region IX, the State of Hawaii has the option to include or not include insurance salesmen paid solely by way of commission under its state unemployment program. Specifically, such individuals are exempt under Section 3306(c)(14) of the Federal Unemployment Tax Act, and DLIR was informed that said section constituted a "permissable exclusion."

In regard to the general question of excluding commissioned persons from workers' benefit payments coverage, DLIR offered the following comments:

Should persons paid solely by commission be exempted from the UI, WC, TDI, and PHC laws, it will serve as an inducement for employers to arrange for their employees presently on an hourly or monthly salary basis to be paid on a commission basis and thus avoid providing the required coverages.

We believe that this proposal is contrary to the basic intent and purpose of the UI law, which is to protect workers against the risk of involuntary unemployment, and the WC, TDI, and PHC laws, which provide protection to workers against the financial hardships resulting from occupational or non-occupational injury or illness.

RECOMMENDATIONS

Your Committee agrees that the State's various worker benefit laws were designed by the legislature to protect workers against involuntary unemployment and financial hardships resulting from occupational or non-occupational injury or illness. Your Com-

mittee further agrees with the Department of Labor and Industrial Relations on the matter of potential employer abuse should further exemptions from such laws and the programs which implement such laws be adopted.

Your Committee therefore recommends that such action be deferred because of the implications and impact of exempting certain classifications of workers on the State's long standing worker benefit programs.

Signed by Representatives Takamine, de Heer, Andrews, Dods, Hagino, Kiyabu, Kunimura, Masutani, Nakamura, Say, Silva, Stanley, Ikeda, Marumoto and Medeiros.

Spec. Com. Rep. 13

Your House Committee on Corrections and Rehabilitation, pursuant to H.R. No. 844 adopted by the Regular Session of 1979, conducted an interim review of the State Law Enforce-ment Planning Agency's (SLEPA) Supplement No. 1 to the Juvenile Justice Plan, begs leave to report as follows:

COMMITTEE APPROACH AND ACTIVITIES

The 1970 Hawaii State Legislature, through Act 179, mandated SLEPA to develop a Correctional Master Plan for adults and juveniles. An adult Correctional Master Plan was subsequently submitted and adopted by the Legislature in 1973. This Correctional Master Plan embraced both adults and juvenile correctional needs, but placed its primary focus on adults, integrating juvenile concerns only when appropriate. It, therefore, became apparent that the social apparatus for dealing with the problems and needs of this target group would require separate treatment.

Therefore, a Juvenile Justice Master Plan was prepared by SLEPA in 1974 and submitted to the Legislature at the 1975 Regular Session. It was the subject of a 1975 interim examination by the State House of Representatives. The findings and recommendations of a 1975 House Interim Committee on the Juvenile Justice Master Plan were filed in Special Committee Report No. 7 at the 1976 Regular Session. It found that while the Juvenile Justice Master Plan called for a shift in attention and resources from the later phases of the juvenile justice process to not only the earlier stages of involvement but also to those who are not in the formal justice system and proposed a shift away from the justice system to the maximum use of in-community resources, the Plan did not establish any priorities in its recommendation.

The Plan, however, recommended a juvenile justice coordinating council as an organizational structure to facilitate a more cohesive and coordinated deliquency prevention and juvenile justice process. The 1975 interim committee agreed that such a coordinating council could address the concern of establishing priorities and conduct planning program study activities, as well as set long-range objectives for juvenile justice. The Juvenile Justice Coordinating Council was subsequently established by the Governor and administratively placed under SLEPA pursuant to the federal Juvenile Justice Prevention Act requirement that states receiving federal funds under the Act establish advisory councils.

In 1977, the Council participated as a member of a Juvenile Justice Steering Committee to generally update the 1975 Plan by addressing some of the criticisms of the Plan, to add to the Plan's data base, and rethink some of its conclusions. Also participating as members of the Steering Committee were representatives from the State Department of Social Services and Housing, private social service agencies, the Judiciary, and the Honolulu Police Department. The Steering Committee was reconvened in 1978 at the request of SLEPA to provide guidance to the SLEPA staff in gathering new data and formulating recommendations. The group met frequently during the year to review data and preliminary drafts prepared by SLEPA staff. As a result, Supplement No. 1 to the Juvenile Justice Plan was submitted to the State Legislature in 1979. Your Committee on Corrections and Rehabilitation conducted an interim informational meeting in October, 1979 to review the findings and recommendations made in this report.

Your Committee found that the Supplement presents new data, new conclusions, and further recommendations. Many of the problems cited in Supplement No. 1 can be attributed to the absence of long-range planning and the lack of coordination among the various components of the Juvenile Justice System. Your Committee further learned that a bill incorporating those recommendations contained in Supplement No. 1 requiring statutory changes for implementation is presently being drafted by SLEPA. The proposed bill will include amendments to the Family Court Law (Chapter 571, HRS) and the Hawaii Youth Correctional Facility Law (Chapter 352, HRS). Since the proposed bill will

be submitted to the Governor's Office for review and consideration, it is your Committee's recommendations that action on the statutory proposals in Supplement No. 1 to the Juvenile Justice Plan be deferred until these are submitted as an administration measure reflecting agreement between the Governor and the various agencies affected.

Signed by Representatives Nakamura, Aki, Baker, Blair, Dods, Honda, Larsen, Lee, Masutani, Shito, Uechi, D. Yamada, Ikeda and Medeiros.
(Representative Garcia was excused.)

Spec. Com. Rep. 14

Your Committee on Corrections and Rehabilitation, pursuant to H.R. No. 844, adopted by the Regular Session of 1979, and directed to (1) review the laws relating to confidentiality of juvenile offender records and (2) consider the issue of original jurisdiction for certain juvenile offenders, begs leave to report as follows:

APPROACH TAKEN

One of the longstanding problems with Hawaii's juvenile justice system has been the need for greater coordination and flow in information and records in regard to juvenile offenders. Special Committee Report No. 7 filed at the 1976 regular session summarized a House interim study on the Juvenile Justice Master Plan. Among its findings, the need for information and statistics regarding juvenile offenders for research, program evaluation and statistical purposes was cited. Without such information, it is difficult to make improvements to the operation and effectiveness of the State's collection of agencies and programs dealing with juvenile offenders, and appropriately include private sector programs for maximum effectiveness.

The question of family court jurisdiction was discussed at the 1979 Regular Session and has gained prominence because of incidences of violent crimes committed by juveniles in recent years. It has been argued that felonious acts committed by minors inflicts the same degree of suffering upon the victim and has no relation to the age of the offender.

Your Committee was therefore directed to (1) review the laws and policies relating to the confidentiality of juvenile records and (2) consider the issue of removing the original jurisdiction of the Family Court over a juvenile offender of the age 16-17 who is charged with a Class A or B felony. A public hearing was held to receive testimony on these two subject matters. Testimony was received from the Department of Social Services and Housing (DSSH), the Family Court, the Office of the Attorney General (AG), the Hawaii Prosecuting Attorneys Association, and the Hawaii Council on Crime and Delinquency.

Juvenile Offender Records

Present law requires that the records (Section 571-84, HRS,) of juvenile offenders maintained by the Family Court and any police department shall be kept confidential. Act 129, enacted in 1979 by the State legislature entitled the "Criminal History Record Information Law" prohibits dissemination and disposition of Family Court records of juvenile delinquency and juveniles in need of supervision to noncriminal justice agencies, unless a law, court order, rule, decision, or federal executive order specifically authorizes such release. It further provides that juvenile records may be disseminated to individuals and agencies having agreements with a criminal justice agency to provide services required for the administration of criminal justice or to conduct research, evaluative, or statistical activities information. The law restricts the dissemination of juvenile records to noncriminal justice agencies to uses for which the information is provided, and that information may not be disseminated further.

DSSH strongly feels that confidentiality of juvenile records should be maintained in terms of releasing information on juvenile offenders to the public and, particularly, to the media. However, the Department concurs that a review of the confidentiality policy as it applies to the sharing of information among criminal justice agencies is essential because such information is needed to properly carry out programs of rehabilitation or diversion in juvenile justice cases.

The Family Court testified that it does not oppose giving information on juvenile offenders to those persons, institutions, and agencies who have a need to know or who have a legitimate interest in the child or in the proceedings. Family Court, however, does oppose making such information available to the public.

Your Committee learned that, pursuant to Act 129, SLH 1979, the AG will be developing rules relating to compliance with this Act to establish a criminal history record information system. As part of this task, all laws and policies relating to the confidentiality of juvenile offender records are being reviewed. The provisions contained in the Federal Privacy and Security Act and the Federal Privacy Rights of Parents and Students Act are also, by necessity, being included as part of this review. Your Committee further notes the recent amendment to Hawaii's State Constitution recognizing the right of the people to privacy subject to compelling state interest.

Family Court Jurisdiction of Certain Juvenile Offenders

Section 571-11(1), HRS, of the Family Court Law provides the Family Court with exclusive original jurisdiction over youthful offenders under the age of 18. Section 571-22, however, grants the Family Court the option of waiving jurisdiction over juvenile offenders between the ages of 16-17 who are alleged to have committed acts which would constitute a felony if committed by an adult. The case then is referred to the circuit court for disposition.

Incidences of juveniles committing violent crimes have been notable in recent years with an increasing number of documented cases where 16- and 17-year old offenders are involved in acts of an extremely violent or heinous nature. It has been argued that where the violent acts of minors would normally be considered felonious under adult criminal proceedings, the degree of victims' sufferings have no relation to the age of the perpetrator. Furthermore, a large number of 16- to 17-year old offenders are hard-core, habitual violators who apparently have not benefited from the noncriminal treatment provided in the Family Court Law.

However, the idea of the Family Court testified in strong opposition to transferring the exclusive original jurisdiction over 16- to 17-year old offenders who have allegedly committed Class A or B felonies to the adult criminal court and providing for waiver of jurisdiction by the adult court.

According to the Family Court the present system operates in the following manner:

(1) A juvenile 16 or 17 years of age is charged with a felony violation;

(2) The prosecutor decides whether or not to petition the Family Court to waive its jurisdiction and have the adult court try this juvenile as an adult;

(3) After an investigation and hearing, the Family Court judge decides whether or not to grant the petition.

From 1970 to 1979, 163 petitions for waiver were filed of which seventy were granted, 41 were either withdrawn by the prosecutor or are still under advisement or pending before the court, and 52 were denied. Of the 52 denials, 11 minors appeared again in Family Court, and of this number, 4 now have adult criminal records. This means that only 8 percent of the minors (4 of 52) in cases where Family Court denied waiver have gone on to accumulate criminal records as adults.

The Family Court noted observation that rationale for juvenile law violators being treated differently than adult law violators is that juveniles are viewed as being in the process of growing up and consequently do things that they probably wouldn't have done or won't do when they mature.

The Family Court believes the present system is functioning well, sees no reasonable basis for the change being discussed and, therefore, strongly recommends retention of the existing procedure. Any change to remove Family Court jurisdiction would (1) greatly impair the treatability of the juvenile offender and (2) result in irreversible stigmatization of the offender because his records would no longer remain confidential.

The Hawaii Council on Crime and Delinquency (HCCD) testified that further examination of this proposal is required and referred to the New York experience as an example. In 1978, New York law was amended to grant original jurisdiction to criminal courts over minors 13 to 15 years old charged with murder in the second degree and 14 and 15 year olds charged with certain other violent offenses.

An analyses by the Citizens' Committee for Children of New York, Inc. and the Statewide Youth Advocacy, Inc. highly critical of the law.

"The law is based on false premises. Careful examination of arrest and offense data show that juveniles are responsible for very little of the state's violence. Persons

under 15 constituted only 6.1 percent of arrests for violent crimes in 1976. They comprised only 1.3 percent of arrests for homicide. These rates, furthermore, were decreasing at the time of the law's passage. Paradoxically, and contrary to the hypotheses upon which the law was based, juvenile arrests for designated felonies in New York rose after implementation of the harsher law. The impulsiveness demonstrated by juvenile violence raises doubts that it will be contained by the fear of consequences.

Secondly, the trial process in criminal courts is lengthier and more complex. During the process, more youngsters charged with designated felonies as adults have been granted bail or released on recognizance. The family court, with its orientation to prevention, tended to hold more youthful offenders in detention for longer periods.

The first six months' experience with the New York law saw 80 percent of those arraigned in criminal court either removed to family court or dismissed. Of 754 arrested and charged with designated felonies, 623 were arraigned. Only 177 went to the grand jury. Of those, 146 were indicted. Twelve completed the criminal process. Ten of those pled guilty to lesser offenses. Only two were convicted as charged."

DSSH feels that cautious review must be given to any proposal affecting the discretionary authority of the traditional functions of the Family Court. DSSH views as reasonable the present Family Court mechanism for handling 16- to 17-year old offenders committing serious crimes because it allows the Court to weigh, in individual cases, the needs of the juvenile against the public safety.

The Hawaii Prosecuting Attorneys Association, however, testified in strong support of the proposal to remove certain juvenile offenders of certain Class A or B felonies from Family Court to Circuit Court jurisdiction. The Association recommends that such a law should cover juvenile offenders 15- to 17-years old and be limited to violent crimes such as sex offenses, robberies, assaults involving weapons, and murder. The Association noted that Hawaii's citizens are concerned and frustrated by the continual rise in the crime rates involving juveniles, particularly in the area of violent crimes. The Association feels that the proposal reflects widespread community desires to meet this problem. The present Family Court system of dealing with juvenile offenders in their view, is not meeting the needs of the community, and the present waiver process and procedures are overly burdensome as well as not extremely effective.

The Family Court acknowledged that the entire waiver process for a particular juvenile offender may take up to three years because a decision to waive jurisdiction is usually appealed by the defendant to the Supreme Court. The Family Court feels, however, that some relief may be accorded in this instance with the creation of the constitutionally mandated intermediate appellate court.

Your Committee notes that during the 1979 Session, the House of Representatives considered a bill proposing to remove the exclusive jurisdiction of the Family Court over certain juvenile offenders. H.B. No. 1015 was passed the House in 1979 in an amended form and is presently in the Senate for consideration. H.B. No. 1015, H.D. 1 provides that a juvenile offender who commits or is alleged to have committed a Class A or B felony, while seventeen years of age, and who has a record with the Family Court, or other equivalent court, of two or more violations of law, will be treated as an adult in the first instance. The Family Court will continue to exercise exclusive original juridiction over all other juvenile offenders or all alleged offenders who are below the age of eighteen years. In sentencing minors who commit serious crimes, the circuit court judges would still exercise discretion and prescribe alternatives other than imprisonment in the Hawaii State Prison. For example, the judges may sentence a seventeen year old minor to the custody of the Hawaii Youth Correctional Facility and, upon reaching the age of eighteen, place him on probation with supervision or, if necessary, transfer him to the adult correctional system.

RECOMMENDATIONS

Confidentiality of Juvenile Records

Your Committee recommends that the Legislature await the Attorney General's review of all laws and policies relating to the confidentiality of juvenile records as part of its task of adopting rules to insure compliance with Act 129, SLH 1979, relating to the establishment of a criminal history record information system. The Legislature may thereafter consider the findings of the AG's review and act accordingly on the basis of it's own policy decisions and that of the AG's findings.

Jurisdiction of the Family Court

Your Committee recommends favorable action at the 1980 legislative session on House Bill No. 1015, H.D. 1.

Signed by Representatives Nakamura, Aki, Baker, Blair, Dods, Honda, Larsen, Lee, Masutani, Shito, Uechi, D. Yamada, Ikeda and Medeiros.
(Representative Garcia was excused.)

Spec. Com. Rep. 15

Your House Committee on Corrections and Rehabilitation, authorized pursuant to H.R. No. 844, adopted by the Regular Session of 1979 to study the feasibility of a farm/forestry program at Kulani Correctional Facility, begs leave to report as follows:

APPROACH TAKEN

The State of Hawaii's Kulani Correctional Facility on the island of Hawaii consists of approximately 10,000 acres of public, open lands suitable for all types of agriculture and forestry. During the 1979 Regular Session, your House Committee on Corrections and Rehabilitation recognized that these farm lands might be utilized for a farm/forestry program for the Kulani Facility to not only provide Kulani inmates with possible vocational training and constructive rehabilitative activity, but also contribute to the development of a commercially feasible prison industry.

Your Committee on Corrections and Rehabilitation conducted an interim site visitation of the Kulani Correctional Facility. While on the island of Hawaii, extended discussions on the subject of establishing a farm/forestry program at Kulani were held with: officials from the Corrections Division, Department of Social Services and Housing; staff of the Kulani Correctional Facility; and officials of the Forestry Division of the Department of Land and Natural Resources. Your Committee also took an extensive ground tour of the Kulani Facility.

FINDINGS

Your Committee learned that a substantial part of the acreage at the Kulani Correctional Facility is presently covered with eucalyptus trees. According to Forestry Division personnel, climatic and soil conditions and elevation at Kulani make the general area ideal for growing eucalyptus.

Based on further discussions with officials from the Corrections Division, the Kulani Facility, and the Forestry Division as well as from direct observation of the vast amount of acreage at Kulani presently supporting eucalyptus trees, your Committee believes that a program of systematic planting and cultivation of eucalyptus trees on state lands at Kulani could yield multiple benefits for both the corrections program and the general public. The "energy forest" could produce eucalyptus chips which can be burned to produce electricity.

RECOMMENDATION

Your Committee therefore recommends that the Corrections Division of the Department of Social Services and Housing be requested to conduct a study on the feasibility of a systematic program of planting, harvesting, and commercial sale of eucalyptus trees or eucalyptus tree products at the Kulani Correctional Facility as a means of providing a meaningful vocational training, constructive rehabilitation activities, and a commercially feasible prison industry.

Signed by Representatives Nakamura, Aki, Baker, Blair, Dods, Honda, Larsen, Lee, Masutani, Shito, Uechi, D. Yamada, Ikeda and Medeiros.
(Representative Garcia was excused.)

Spec. Com. Rep. 16 (Majority)

Your House Committee on Youth and Elderly Affairs, authorized pursuant to H.R. No. 844-79 to review H.B. No. 584 of the 1979 Regular Session relating to mental health services for children and youth, begs leave to report as follows:

APPROACH TAKEN

A subcommittee of your standing Committee on Youth and Elderly Affairs conducted an interim review of children's mental health services. The subcommittee was chaired by Representative Marshall Ige with Representatives Bertrand Kobayashi, Paul Lacy, Jr., and Richard Ike Sutton as members. An interim hearing and two workshops on September 19, 25, and October 17, 1979, respectively. A subcommittee report was filed with your full Committee on Youth and Elderly Affairs, and its contents are incorporated herein:

House Bill No. 584 relating to children's mental health services was introduced at the Regular Session of 1979 and referred jointly to the House Committee on Health and the House Committee on Youth and Elderly Affairs and then subsequently to the House Committee on Finance. A joint public hearing was held on the bill during the 1979 legislative session at which several individuals, organizations, and the State Department of Health testified. Among other things, H.B. No. 584 proposes to clarify by statute the interface between the children's mental health branch, the children's mental health teams, and community mental health centers. The children's mental health teams operate within public (State) community mental health centers; however, the teams and the State's centers where they are located are administratively under different divisions of the State Department of Health. At the 1979 session's joint hearing, arguments were heard regarding the lack of coordination between children's mental health teams and the activities of the community-based mental health centers, and that administrative clarification would improve the delivery of children's mental health services. In order to examine the problem more in depth, the Committee on Health and the Committee on Youth and Elderly Affairs reported H.R. No. 642, accompanied by Standing Committee Report No. 1134, to the Committee on Legislative Management requesting an interim review of the law and its administration.

The subcommittee proceeded by identifying the following areas for its review:

(1) Determination of the nature and extent of clarification needed to improve the administration and delivery of mental health services to children and youth;

(2) Determination of the extent of coordination needed: between the children's mental health services branch, community mental health centers, and children's mental health services team; between the Department of Education (DOE) and Department of Health (DOH); and between various public and private agencies dealing with mental health services; and

(3) Determination of whether the spectrum of mental health services including prevention, early identification, screening, diagnosis, treatment, and rehabilitation services for Hawaii's children and youth is adequate.

House Bill No. 584 was widely circulated with a request for written and oral testimony for the subcommittee's hearing. Testifiers at the hearing included Ms. Sheila Forman, Mental Health Association of Hawaii; Ms. Verna Lee, DOE, Office of Instructional Services; Dr. Denis Mee-Lee, DOH, Mental Health Division; Ms. Genevieve Okinaga, Office of Children and Youth; Dr. Samuel Paltin, DOH, Children's Mental Health Services Branch; and Ms. Francine Wai, Commission on the Handicapped.

Those testifying supported H.B. No. 584's intent to coordinate program responsibilities and thereby correct fragmentation of services. To develop and further refine the language of the bill, additional work sessions were conducted on September 25 and October 17, 1979. Those who testified at the subcommittee's public hearing on September 25, 1979, participated at the workshops, along with Dr. Carol Brown of DOH's Children's Mental Health Services Branch and Ms. Jo-Alyce Peterson-Leeper of DOE's Office of Instructional Services.

BACKGROUND

The children's mental health services branch within the Division of Mental Health of DOH was established pursuant to Act 211, SLH 1974 (now codified as Chapter 321, Part XV, HRS). The purpose of this law was to create an agency to provide centralized and specialized programs for children and youth in need of mental health services and to serve as a training and back-up unit for the children's mental health services teams in the community mental health centers.

Prior to Act 211, mental health services for children and youth had long been overshadowed by the concentration of mental health services for adults. The findings of the Hawaii Mental Health Association's "Hawaii and the Children's Crisis," reported to the 1974 legis-

lature, showed the incidence of mental and emotional disturbances among all children in the State to be 12 percent. Of this 12 percent, only 3.89 percent of children and youth were actually receiving services. The study also indicated that the national rate of children and youth receiving services was approximately 7 percent.

As established by Act 211, the children's mental health services branch is divided into age-related sections of preschool, elementary, intermediate, and adolescent to facilitate the delivery of highly specialized and centralized services for children and youth. Each section is also to provide consultation, training, and back-up services to the community mental health centers, DOE, and any other public or private agency or organization requesting such services. A preventive approach rather than remedial or compensatory mental health care is emphasized for the entire population of the children to age 18.

Furthermore, the 1974 law places children's mental health services teams within each community mental health center to coordinate and provide necessary services to emotionally disturbed or mentally ill children in each center's geographic area. Additionally, the children's teams in cooperation with DOE are to coordinate the identification and referral of treatment of children and youth under the DOE's jurisdiction in need of mental health services.

The law further prescribes that the children's mental health services branch develop and subsequently submit to the governor and legislature a Statewide Children's Mental Health Services Plan, in accordance with Chapter 91, HRS, and also that any amendments to this plan is to be made according to procedures set forth in Chapter 91, HRS. The Department of Health is also required under this law to submit an annual review of progress made toward fulfilling the requirements of the Statewide Children's Mental Health Services Plan to the legislature and governor.

At the request of DOH, at the 1979 Regular Session of the Hawaii State Legislature, H.B. No. 584 was introduced which proposed certain amendments to the existing law relating to children's mental health services. House Bill No. 584 clearly delineates the children's branch's role and responsibilities to include over-all coordination and program direction, the establishment of standards for mental health services, the establishment of a statewide focus for effective mental health services, and entering into statewide agreements with public and private agencies and organizations normally outside the jurisdiction of the children's branch upon approval of the Chief of the Mental Health Division and the Director of Health. According to DOH, experience under the law has shown problems in coordination and duplication of efforts as a result of the lack of clarity in the roles and responsibilities regarding the administration and delivery of mental health services to children and youth. The parameters of the children's mental health services branch's role and responsibilities in relation to the community mental health centers and children's mental health services teams was unclear. Problems in coordination also exist in the area of services performed by public and private agencies and organizations existing outside the jurisdiction of the children's mental health services branch.

House Bill No. 584 further eliminates the mandated age-related sections of preschool, elementary, intermediate, and adolescent which describe related services and programs since many services and programs cross age lines, such as handicapped and immigrant children, and such specifics hindered administrative flexibility. In regard to handicapped children, requests for assistance from DOE resulted in the children's mental health services teams providing parent education, techniques for classroom behavior management and training for teachers, school counselors, and parents on children's emotional disturbance. These additional responsibilities are included in H.B. No. 584 to ensure continued cooperation between DOE and DOH in delivering the maximum range of mental health services to school-aged children.

In regard to the Statewide Children's Mental Health Services Plan, H.B. No. 584 calls for a periodic review of said plan, something not previously required. The plan is to be reviewed every two years commencing on January 1, 1980. While the law calls for an annual review of progress to be submitted by DOH to the legislature and governor. House Bill No. 584 proposes a biennial review of progress as sufficient in terms of monitoring the program as well as relieving program staff from unnecessary paperwork.

FINDINGS

Although H.B. No. 584 does clarify and streamline the existing statute, your Committee agrees with the subcommittee's findings that the aforesaid bill needs further administrative clarification and streamlining which would subsequently facilitate the planning, implemen-

tation, and delivery of mental health services more effectively and efficiently without jeopardizing the existing provisions for necessary services. Your Committee therefore makes the following recommendations:

(1) That a general statement of the children's branch's overall functions be included in order to emphasize the coordinative responsibility of the branch. This statement should declare that the intent of the legislature is to ensure the availability of children's mental health services within the State by the establishment of a children's mental health services branch as part of the Mental Health Division of the State Department of Health and children's mental health services teams at each community mental health center. These teams are to provide a spectrum of direct, consultative, and educational services including but not limited to, prevention, early identification, screening, diagnosis, treatment, and rehabilitation of children and youth in need of mental health services. Services for treatment and rehabilitation shall include the development of appropriate range of inpatient, outpatient, and community residential facilities. The children's mental health services branch is to provide overall coordination and program direction, and where treatment of a child or youth requires more specialized and intensive services which are unavailable within the geographic region of the community mental health center, the branch shall be responsible for the provision of back-up services in accord with its coordinative function.

(2) hat H.B. No. 584 be amended to mandate a memoranda of agreement between DOH and DOE relating to mental health services for children under the DOE's jurisdiction, such as parent education, techniques for classroom behavior management and training on emotional disturbances of children for children and youth. While the bill in its present form includes these services, it does not require an interdepartmental memoranda of agreement. Your Committee believes that this will provide a mechanism for cooperative efforts between the two departments and continued delivery of said services.

(3) That H.B. No. 584 be amended so that the Statewide Children's Mental Health Services Plan is reviewed every five years rather than every two years as proposed and by including provisions for informing the public about the content of the plan and for amending said plan. Your Committee believes that a five-year review of the plan will not jeopardize the development and maintenance of a current statewide plan.

(4) That the bill be amended to ensure public input on any departmental rule-making relating to children's mental health services. Your Committee therefore recommends the applicability of Chapter 91, HRS, the Administrative Procedures Act, to such rule-making activity.

(5) That several other miscellaneous and technical amendments be incorporated to further clarify and coordinate the role and responsibilities of the children's mental health services branch, community mental health centers, and children's mental health services teams.

Signed by Representatives Aki, Ige, Baker, Blair, Honda, Kobayashi, Lee, Segawa, Shito, Ushijima, D. Yamada, Lacy and Sutton.
(Representative Sutton did not concur.)

Spec. Com. Rep. 17

Your Committee on Energy, appointed pursuant to House Resolution No. 844-79, adopted by the Regular Session of 1979, and directed to review the commercial development, production, and use of alternate energy, begs leave to report as follows:

SUBCOMMITTEE APPROACH

Act 38, SLH 1975, empowered the Governor to control the procurement, distribution, and sale of petroleum products when shortages of petroleum products occur or are anticipated. This Act was the State's first major response to fuel shortages caused by the 1974 Arab oil embargo. Since this time, the State and in particular, the standing committees of the Legislature with jurisdiction over energy matters, have supported basic scientific research to develop Hawaii's alternate energy resources, such as direct solar, geothermal, wind, biomass, and ocean thermal energy conversion (OTEC), to decrease Hawaii's almost total dependence on imported petroleum.

During the 1979 legislative session, the House Committee on Energy conducted a hearing on H.R. No. 320, requesting a review of the present status of and obstacles to the commercialization of geothermal energy. Your Committee was informed that the State is still

dependent upon imported petroleum to supply over 90% of the State's total energy requirements. Testimony by the Hawaii Natural Energy Institute (HNEI) and the Department of Planning and Economic Development (DPED) indicated that for the island of Hawaii only, commercial development and use of geothermal energy may be possible within ten years. The Committee was also informed that basic research relating to the development of other alternate energy resources had progressed to a level which could support commercial development and use of these resources, particularly solar and biomass energy. The Committee is aware that sugar plantations have substituted bagasse for petroleum to heat the boilers at sugar mills and to produce electricity, and that citizen use of solar water heaters is increasing.

However, the Committee lacked information relating to the commercial development or use of other alternate energy resources and recommended that an interim review be conducted to assess the commercial development, production, and use, of alternate energy resources.

During the 1979 interim, a Subcommittee on Alternate Energy Sources was appointed to conduct the review. Representative Clarice Hashimoto served as Subcommittee chairman, with Representatives Carol Fukunaga, Christopher Crozier, Minoru Inaba, Charles Toguchi, Mitsuo Uechi, and Tony Narvaes serving as members.

The Subcommittee conducted a public hearing on October 15, 1979, to review obstacles to the commercial development, production, and use of alternate energy sources. Agencies testifying at the hearing included: the U.S. Department of Energy (DOE), the Hawaii Natural Energy Institute (HNEI) of the University of Hawaii, the Department of Planning and Economic Development (DPED, the Public Utilities Commission (PUC), and the Hawaiian Electric Company, Inc.

FINDINGS

Testimony by HNEI regarding the present status of alternate energy resource development described the following activities: (1) Kauai, Maui, and Hawaii counties have completed plans for energy self-sufficiency; (2) the first sucessful pilot project to generate electricity from a closed-cycle OTEC system (Mini-OTEC) has been completed off Ke-ahole Point, island of Hawaii; (3) the Hawaii Sugar Planters Association (HSPA) has formed an ethanol task force to investigate the use of molasses in the production of ethanol; (4) a photovoltaic system to convert direct sunlight into electricity has been planned for Wilcox Memorial Hospital on Kauai; (5) the DOE is progressing with site selection for two DOE-funded small wind energy conversion systems; and (6) work is progressing on the installation of a geothermal wellhead generator in Puna on the island of Hawaii to convert geothermal energy into electricity.

Continued support for basic research to develop alternate energy resources is still neeeded. Your Committee believes that solutions to the several technical problems inhibiting the development and commercial production and use of alternate energy can be identified, particularly through pilot or experimental projects which can demonstrate technical feasibility. At the same time, however, obstacles to the commercially practicable development of alternate energy resources to replace imported petroleum as the State's primary source of energy also need to be addressed.

The federal government has moved to support the use of alternate energy resources by public utilities which produce, distribute and sell energy through the National Energy Act (NEA) of 1978. The NEA requires a reduction in the consumption of oil and gas in industrial and public utility boilers through the increased use of alternate fuels. The use of oil or natural gas as a primary fuel in any newly constructed utility generation facility is prohibited by the Act unless a specific exemption has been granted by the Secretary of Energy. This provision is further supported by legislation, proposed by the President, which would require utilities to reduce their current usage of oil by 50 percent by 1990.

Your Committee makes note of the NEA, since the regulation of public energy utilities has been and remains primarily a State and local government responsibility. The NEA sets forth eleven rate standards or structures that must be considered by state regulatory agencies in setting utility rates, such as establishing different rates for electricity depending on the time of day when the electricity is consumed. Hawaii's energy utilities currently utilize a declining block rate structure which reduces the unit cost of electricity as consumption increases. The NEA prohibits the use of declining block rates, and the PUC is currently conducting hearings to identify which of the eleven rate structures should be adopted or applied by Hawaii's public utilities.

Testimony by the PUC stated that although the Commission is kept informed by the public utilities of any participation in alternate energy projects, the Commission is primarily concerned with the cost and reliability of utilizing alternate energy sources. The PUC also stated that there does not appear to be any regulatory impediments to the development of alternate energy sources, since most producers of alternate energy are presently exempted from regulation as public utilities. Testimony by the Hawaiian Electric Company stated that at this time, the burning of bagasse is the only alternate energy resource which can be viewed as potentially competitive economically with petroleum as an energy source.

RECOMMENDATIONS

In view of the above findings, your Committee recommends that the 1980 Legislature consider legislation to:

(1) Establish an alternate energy revolving fund to support the development of alternate energy sources through low-interest, long-term loans to public utilities, alternate energy producers, and other activities designed to develop alternate energy sources in Hawaii;

(2) Study the feasibility of integrating or consolidating the economic regulation and technological development of Hawaii's alternate energy resources into a single agency;

(3) Conform State energy tax incentives to federal energy tax incentives which are broader than Hawaii's Laws;

(4) Establish a "life line energy program" which would establish lower rates for minimum numbers of kilowatt hours of electricity deemed necessary for basic living needs for residential consumption by families and individuals with appropriate PUC guidelines or regulations and require public utilities which produce, distribute, and sell energy to develop appropriate "life line" rate structures for PUC approval;

(5) Establish tax incentives for individuals and businesses or employers who promote energy conservation, including but not limited to (1) tax incentives for individuals who reside less than 10 miles from their principal place of employment, (2) individuals who reside 10 or more miles from their major place of employment and who participate in a van pool, ride-sharing, or flextime program as approved by the Department of Taxation, and (3) businesses or employers who provide van pool, ride-sharing, or flextime programs to their employees as approved by the Department of Taxation;

(6) Request the House Energy Committee, during the 1980 Regular Session, to determine the impact of federal energy policies and programs on energy development in Hawaii; and

(7) Endorse or support Governor Ariyoshi's proposal to develop a full-scale ocean thermal energy conversion pilot project (OTEC I) off the coast of Oahu.

Signed by Representatives Uwaine, Hashimoto, Crozier, Fukunaga, Garcia, Holt, Inaba, Kawakami, Larsen, Morioka, Sakamoto, Toguchi, Uechi, Anderson and Narvaes.
(Representative Takitani was excused.)

Spec. Com. Rep. 18

Your House Committee on Finance, appointed pursuant to H.R. No. 844-79, adopted by the Regular Session of 1979 to review proposed implementing legislation relating to various sections of the State Constitution, begs leave to report as follows:

COMMITTEE APPROACH AND ACTIVITIES

The full membership of the House Finance Committee participated in the review and evaluation of the constitutional provisions and proposed implementing legislation before your Committee. These constitutional provisions, adopted by the 1978 Constitutional Convention include Section 4, Article VII relating to state appropriations for private purposes; Section 5, Article VIII relating to state mandated programs of counties; Section 5, Article VII relating to expenditure controls; Section 7, Article VII relating to a council on revenues; Section 8, Article VII relating to the budget; Section 9, Article VII relating to legislative appropriations and the expenditure ceiling; Section 12, Article VII relating to issuance of indebtedness; Section 13, Article VII relating to the state debt limit and exclusions.

Public hearings were held on July 20 and 30, August 9 and 10, 23 and 24, and September 5, 1979. The following is a description of each of the provisions and its proposed legislation. Your Committee's recommendations regarding each matter is incorporated under the discussion of each provision below.

State Appropriations for Private Purposes

Section 4 of Article VII of the State Constitution prohibits the use of public money other than for public purposes. The provision further requires that the granting of public money or property be in accordance with standards as provided by law.

During the Regular Session of 1979, H.B. No. 15-79 and a Senate companion measure were introduced to implement this constitutional provision. The bills proposed the establishment of standards for the granting of funds for purchase of services, grants, and subsidies to private organizations. Procedures for the application for and granting of public funds were further specified. The bills were deferred for further study during the 1979 legislative interim. As a temporary measure, general standards for the granting of public funds to private agencies were included in Section 137 of Act 214, SLH 1979; the General Appropriations Act of 1979.

On July 20, 1979, a public hearing was held by the Committee on Finance in Room 307 of the State Capitol. Testimony was presented by various interest groups, the Legislative Auditor, and the Department of Budget and Finance. There was general consensus that any type of standards would by necessity be broad and similar in nature to the language in Section 137 of Act 214, SLH 1979:

"SECTION 137. All grants to private organizations in this Act are made in accordance with the standard that the private programs so funded yield direct benefits to the public and accomplish public purposes. No grant, subsidy, or purchase of service contract to a private organization for which an appropriation has been provided in this Act shall be made or allotted unless the private organization so funded agrees to the following conditions:

(1) To comply with all applicable federal and State laws prohibiting discrimination against any person, on the grounds of race, color, national origin, religion, creed, sex, or age, in employment and any condition of employment with the recipient or in participation in the benefits of any program or activity funded in whole or in part by the State;

(2) To comply with all applicable licensing requirements of the State and federal governments, and with all applicable accreditation and other standards of quality generally accepted in the field of the recipient's activities;

(3) To have in its employ or under contract such persons as are professionally qualified to engage in the activity funded in whole or in part by the State;

(4) To comply with such other requirements as the Director of Finance may prescribe to ensure adherence by the provider or recipient with federal and State laws and to ensure quality in the service or activity rendered by the recipient; and

(5) To allow the expending or related state agency; the finance committees of the House and the Senate; and the Legislative Auditor, full access to records, reports, files, and other related documents in order that they may monitor and evaluate the management and fiscal practices of the recipient organization to assure proper and effective expenditure of State funds."

The Department of Budget and Finance in testimony before your Committee suggested other standards such as:

(1) Those which would apply to a program's applicability by specific geographical area (e.g. statewide or specific county);

(2) Those which would give priority to programs meeting an urgent public concern; and

(3) Those which would limit state support to programs by selected functional areas (e.g. public health, welfare, safety, etc.).

The Department of Budget and Finance further recommended that purchase of services arrangements with private agencies not be subjected to the same review processes

as grants and subsidies to private agencies since these are already subject to an administrative review process.

Your Committee finds that the above recommendations merit further consideration and that the impact of these recommendations be duly considered during the 1980 Regular Session.

State Mandated Programs of Counties

Section V of Article VII of the State Constitution states:

"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."

Although the Constitution does not call for implementing legislation for this provision, H.B. No. 34-79 and a Senate companion measure relating to this provision were introduced at the Regular Session of 1979. These measures were deferred for further study at the 1979 legislative interim. H.B. No. 34-79 generally proposed to clarify the definition of a state mandate of the counties, the method of budgeting and payment to the counties for mandated programs, the accounting of programs mandated of the counties, legislative reports and other related procedures.

On July 30, 1979, a hearing was held by the House Finance Committee in Room 307 of the State Capitol on Section V, Article III of the State Constitution and H.B. No. 34-79. Testimony presented by the County of Hawaii and the City and County of Honolulu primarily called not only for the State's sharing in the costs of newly mandated programs but total state financing of such programs. Concern was also expressed regarding state programs which would affect a county's net revenue receipts. The Department of Budget and Finance viewed H.B. No. 34-79 as imposing ". . . excessive requirements for the compilation and cataloging of the State mandates and prescribes an elaborate procedure for the budgeting and processing of the claims for reimbursements of state-imposed mandates."

Your Committee was further concerned as to whether the appropriation of funds for a capital improvements project conveyed to the county would be construed as an increase in the county's level of services by the legislature; thereby requiring the State to share in the costs for the project's operations and maintenance. This question was referred to the State Attorney General for review and response.

In view of the above concerns and pending the outcome of the Attorney General, your Committee has decided to defer action on this matter at this time.

Expenditure Controls, Council on Revenues, the Budget, and the Expenditure Ceiling

Sections 5 and 7-9 of Article VII relating to "Expenditure Controls," "Council on Revenues," the "Budget," "Legislative Appropriations; Procedures; and Expenditure Ceiling," and "General Fund Expenditure Ceiling" requires implementing legislation. In 1979, several measures were introduced in the House of Representatives to address the various provisions:

(1) H.B. No. 16-79: A short form bill addressing Section 5, Article VII of the State Constitution.

(2) H.B. No. 18-79, H.D. 1: This bill proposes to establish a 13-member council on revenues pursuant to Section 7, Article VII of the State Constitution, to prepare revenue estimates for the State. This bill was adopted by the House of Representatives and referred to the Senate during the 1979 Regular Session.

(3) H.B. No. 19-79, H.D. 1: This bill attempts to conform various sections of the Executive Budget Act to Section 8, Article VII of the State Constitution relating to budget submittal. It was adopted by the House of Represenatives and referred to the Senate.

(4) H.B. No. 20, H.D. 1: This bill proposes to implement several sections of the State Constitution including the general fund expenditure ceiling. It was adopted by the House and referred to the Senate. Senate Draft 2 combined the substance of H.B. No. 16, 18, 19, and 20. H.B. No. 20, S.D. 2 is presently in Conference Committee.

On August 9 and 10, 1979, in Room 307 of the State Capitol, your Committee received testimony on the above-named constitutional provisions and implementing legislation.

Testimony was received from the Department of Budget and Finance, Department of Taxation, and Tax Foundation of Hawaii. Discussion generally focused on the general fund expenditure ceiling.

Your Committee believes that the discussions were fruitful and will be of assistance to its continued deliberation with the Senate of the bill presently before the Conference Committee.

Bond and Debt Limitation and Lapsing of Appropriations

Sections 11, 12, and 13 of Article VII of the State Constitution sets conditions for appropriations and their lapsing and limits for indebtedness. While state legislation is not necessarily required by the Constitution to implement its provisions pertaining to the lapsing of appropriations, legislation was required to carry-out the provisions relating to debt limitations. During the 1979 Regular Session, Acts 43 and 57 were adopted to implement the constitutional provisions relating to state and county limits of indebtedness.

On August 23 and 24, 1979, in Room 306 of the State Capitol, your Committee held hearings on Acts 43 and 57, SLH 1979 and requested all state agencies to provide the committees with a listing of past appropriated capital improvement projects scheduled to lapse on June 30, 1980. At the hearing, most of the state agencies provided a listing of those projects and discussed the effects and specific provisions of Acts 43 and 57, SLH 1979.

Based on the above discussions held by your Committee, the approach taken in Acts 43 and 57, SLH 1979 appears to be functioning well. Your Committee was able to attain an overall view on the status of the capital improvements programs, and thus recommends no further action on this matter at this time.

Special Purpose Revenue Bonds

Sections 12 and 13 of Article VII of the State Constitution allows the legislature by a two-thirds vote in each House to authorize special purpose revenue bonds to assist manufacturing, processing, or industrial enterprises, utilities serving the general public, health care facilities provided to the general public by not-for-profit corporations or low- and moderate-income government housing programs.

During the 1979 Regular Session, the House adopted several bills relating to special purpose revenue bonds which were transmitted to the Senate: H.B. No. 25-79, H.D. 1 and H.B. No. 1162-79, H.D. 1 authorizing the issuance of special purpose revenue bonds for health care facilities; H.B. No. 553-79, H.D. 1 enabling the counties to issue such bonds; H.B. No. 1222-79, H.D. 1 and H.B. No. 1223-79, H.D. 1 enabling the state and counties to authorize special purpose revenue bonds for electrical and gas utilities.

At a hearing on September 5, 1979, in Room 307 of the State Capitol, testimony was received from various members of the public and private sectors. In general, persons testifying favored the above legislation. The Department of Budget and Finance, however, recommended that the pending legislation be modified to: (1) authorize the Department of Budget and Finance to coordinate the sale of the bonds; and (2) delete the provision restricting the State's authority on eminent domain.

Your Committee recommends that these recommendations be taken up at the 1980 Regular Session when the above-named House bills are returned from the Senate for further consideration by the House.

Signed by Representatives Morioka, Crozier, de Heer, Fukunaga, Hashimoto, Holt, Ige, Inaba, Kobayashi, Kunimura, Sakamoto, Takitani, Lacy, Narvaes and Sutton.

Spec. Com. Rep. 19 (Majority)

Your House Committee on Health appointed pursuant to H.R. No. 844, adopted by the Regular Session of 1979, to examine and review health care cost containment, begs leave to report as follows:

COMMITTEE APPROACH AND ACTIVITIES

The full membership of the House Health Committee participated in the interim study

and review of health care cost containment in Hawaii. Two public hearings were conducted on June 27 and 28, 1979 on the subject of health care cost containment to obtain an understanding of the different factors which contribute to the rising costs of health care on the national level as well as in Hawaii.

As a result of these meetings, your Committee determined that since hospital care expenditures represent the single largest portion of total health care expenditures, attention would be focused on hospital cost containment for the remainder of the 1979 interim.

In addressing the issue of hospital cost containment, your Committee pursued the examination of the various approaches utilized by different states. Specifically, your Committee reviewed the efforts of Indiana, Maryland, and Rhode Island. Additionally, your Committee members were briefed on the subject of hospital cost containment by the Hospital Association of Hawaii (HAH) on September 25, 1979. The HAH had conducted its own study on hospital cost containment approaches utilized by other states and presented its findings and conclusions to the Committee. Your Committee also met informally with Dr. Harold Cohen, Executive Director of Maryland's Health Services Cost Review Commission, on November 9, 1979. In view of Maryland's legislation establishing a Health Services Cost Review Commission, your Committee sought information on the experiences of that jurisdiction under a "mandatory" hospital cost containment approach.

FINDINGS

With the continuous increase in cost of hospital care over the past two decades and the prospect of the trend continuing without abatement, cost containment has become an important and major issue to consumers, providers, insurers, employers, and officials at all levels of government. On the State level, the concern for some form of hospital cost controls have evoked proposals ranging from government regulation, voluntary efforts on the part of health care providers, and combinations of public and private sector controls. Some states have enacted legislation establishing hospital cost containment commissions. For example, Maryland's Commission is statutorily authorized to set or approve hospital rate increases, while Commissions in Maine and Virginia cannot set nor approve rates but can review hospital budgets and rates and comment on their findings. California's Commission requires mandatory disclosure of financial and statistical information from health care facilities.

The three states your Committee decided to examine, are representative of the basic types of cost containment approaches used. The state of Indiana utilizes a third-party payor contract approach, with the Indiana Blue Cross administering the program through a Rate Review Commission. Hospitals submit current financial statements and historical cost data to allow the commission to monitor changes and identify excessive year-to-year changes in operating costs and to spot management inefficiencies.

The second state your Committee examined was Maryland where a mandatory cost containment approach is utilized. A Health Services Cost Review Commission reviews hospitals' operating budgets and establishes rates for all payers. All hospitals in Maryland are required to file specific financial information with the Commission according to a uniform accounting and reporting procedure. The Commission uses a prospective rate-setting system in which an external authority sets provider charges and/or third-party payment rates for specified services prior to the period in which the services will actually be provided. The prospective rate-setting system also involves hospital budget review.

Rhode Island can be categorized as a quasi-mandatory approach. The administration of this program remains in the private sector. The State Budget Office negotiates annually with representatives from Blue Cross and Rhode Island's Hospital Association to set the State MAXICAP, the maximum percentage increase in total hospital expenditures allowed for the coming year. MAXICAP represents a ceiling within which all hospitals' budgets must be negotiated and a reserve amount is maintained for unforseen expenses and volume adjustments without covering expenses associated with professional activities financed by grants. Once MAXICAP is set, hospitals must comply with the overall ceiling and establish a schedule of charges subject to approval by Blue Cross and the State Budget Office.

Based on the aforediscussed cost containment approaches, your Committee finds that the prospective rate-setting system is a device to control hospital cost inflation by restraining the growth of hospital revenues. Its primary advantage is the incentive for a hospital to be efficient. Thus, if a hospital exceeds the population/procedures projection, thereby increasing its revenues, it may in turn receive rates that are reduced accordingly in the next subsequent review period.

Your Committee further finds that budget and rate review is used primarily to control hospital rates of increase. It entails the review of rates by an external authority of the individual facility's budget and rates. However, your Committee realizes that the power to review does not automatically imply the power to set rates.

Furthermore, in any rate-setting discussion of hospitals' costs one of the most common arguments heard is that hospitals appear to utilize different accounting and reporting principles, thereby making it difficult to accurately compare costs. In view of the foregoing, your Committee finds that the establishment of a uniform accounting and reporting system would allow for more valid and meaningful comparisons of hospital and related health care costs and would enable policy makers to make informed decisions on such costs. A uniform accounting and reporting system provides for a common standard of measurement and communication through uniformity in accounting methods, definitions of financial and statistical information to be reported, accounting classifications, and reporting format.

Additionally, your Committee reviewed the activities of the private sector in containing hospital costs and found the following:

(1) The efforts of the health insurance industry have reportedly had positive effects on the containment of said costs. Testimonies revealed that the healthy competition between the Hawaii Medical Services Administration (HMSA) and Kaiser Foundation (a health maintenance organization), the two major health insurance companies in Hawaii, is a key factor in keeping premiums competitive while delivering comprehensive benefits and ample service to their members. HMSA additionally controls hospital expenditures through a system of "cost determination." This system requires prior notification of additional services or increased charges on the part of the participating hospitals. If the level of charges is increased due to additional services, the hospital must first present supporting financial justification for the charges in order to determine reasonable costs and charges. If HMSA disagrees with the charge level, it can pay less than the customary benefit level.

(2) Health Planning agencies, as mandated by federal law in 1974, is another existing cost containment effort on the part of the private sector. In Hawaii, the State Health Planning and Development Agency (SHPDA) conforms to this federal mandate. SHPDA reviews and either approves or denies Certificate of Need applications in cases where a health care service or facility is constructed, expanded, altered, converted, initiated, or modified in excess of $150,000 in total capital expenditure; where the scope or type of health services rendered is either substantially modified, decreased, or increased; and where the class of usage of the bed complement of a health care facility is increased, decreased, or changed.

According to data presented to your Committee, between August 1973 and October 1978, of the total applications reviewed by SHPDA, $136.3 million was approved, $5.1 million disapproved, $8,000 exempted, $1.8 million withdrawn, and $80.1 million pending. Furthermore, for the same time period, acute care hospitals accounted for the greatest volume of applications--$94.3 million was approved, none denied, $8,000 exempted, $1.5 million withdrawn, and $79.6 million pending.

The Committee recognizes that without the certificate of need requirement, capital expansions might have amounted to an even larger volume. However, your Committee finds it difficult to disregard the fact that even with this mechanism a considerable sum of capital expansion had been approved.

(3) The health care industry reported that a Hawaii Voluntary Cost Containment Commission had been formed in April 1978. HAH reported that, as a result of this voluntary effort, rates of increases were reduced from 21.3 percent between January through June 1977 to 13.5 percent between January through June 1978. Your Committee however cautions that it is unknown as to whether this decline is due to actual cost cutting or only deferred spending. Your Committee further questions where and how expenses had been cut.

Based on the aforementioned activities, the private sector argues that their voluntary efforts are adequate in containing costs and that hospitals in Hawaii do compare favorably relative to the national average in several categories. The HAH cites the following figures in their argument for voluntary cost containment effort:

1. Beds per 1,000 population (1978 figures)

Hawaii	3.1
U.S. average	4.5

2. Hospital days per 1,000 population (1978 figures)

Hawaii	724
U.S. average	1,225

3. Gross inpatient revenue per inpatient day (1977 figures)

Hawaii	$182.38
U.S. average	$193.94

4. Gross outpatient revenue per outpatient visit (1977 figures)

Hawaii	$ 21.13
U.S. average	36.42

5. Hospital expenses per capita

	1977	1978
Hawaii	$175.17	$195.42
U.S. average	$240.57	$268.81

In this regard, your Committee cites data contained in the Legislative Auditor's report, "Review of Alternate Approaches to Hospital Cost Containment."

(1) The rate of increase in hospital costs in Hawaii is greater than the national rate. In Hawaii, the rate of increase in payroll costs between 1975 and 1976 was 17.9 percent and nonpayroll costs increased by 23.9 percent. Respective national averages were 10.0 percent and 17.3 percent.

(2) Hawaii hospital expenses doubled from $61 million in 1973 to $124 million in 1977.

(3) Between January and June 1977, Hawaii hospital rates increased by an average of 21.3 percent while the national increase was 15.6 percent.

(4) Between January and June 1978, Hawaii hospital rates increased by an average of 13.5 percent while the national increase was 12.7 percent.

(5) In Hawaii, semi-private hospital room rates were $45 per day in 1972, $90 per day in 1977, and in 1978, $110 per day.

(6) In the early 1970's, ancilliary services charges accounted more of the hospital's income than room rates. In 1978, the average cost for ancilliary services exceeded $135 per day in Hawaii.

(7) Between 1975 and 1976, plant assets of hospitals in Hawaii increased by 24.1 percent while the national increase was 10.9 percent.

RECOMMENDATIONS

Your Committee finds that hospital costs in Hawaii have increased considerably over the past few years, and that such costs will continue to increase at the expense of the consumer. Your Committee is concerned that this trend will result in good health care becoming a privilege that only a minority will be able to afford. State government has a vital interest in the cost of health care, as it is a major purchaser of health care services, and therefore it is incumbent upon state government to develop public policies which will at least curb rising hospital costs.

Although there is a lack of hard and conclusive evidence which clearly shows one approach toward hospital cost containment to be better than another, your Committee believes that a purely voluntary effort on the part of hospitals is inadequate to minimize hospital costs.

Your Committee therefore recommends that a mandatory cost containment approach

through a hospital cost containment commission should be considered at the 1980 Regular Session, as well as a uniform system of accounting and reporting among hospitals. Your Committee believes, however, that the accounting and reporting system requirement of all hospitals in Hawaii is essential if not preliminary to any other consideration of hospital cost containment. It would allow for the review, comparison, and monitoring of hospital costs in Hawaii and therefore provide the appropriate data base for public disclosure and further public discussion.

Signed by Representatives Segawa, Kobayashi, Aki, Baker, Blair, Honda, Ige, Lee, Shito, Ushijima, D. Yamada, Lacy and Sutton. (Representatives Lacy and Sutton did not concur.)

Spec. Com. Rep. 20

Your House Committee on Ecology and Environmental Protection authorized pursuant to H.R. No. 844-79, adopted by the Regular Session of 1979, and requested to conduct a review of beverage container deposit and return legislation and related matters, begs leave to report as follows:

COMMITTEE APPROACH AND ACTIVITIES

On February 23, 1979, during the Regular Session of 1979, your Committee held a public hearing on H.B. No. 886-79, entitled "Relating to Beverage Containers." The intent of the bill is to create incentives for recycling beverage containers, conserve energy and natural resources, improve Hawaii's environment, and reduce costs of litter pick-up and solid waste disposal. The bill requires that all beverage containers have a refund value and that dealers and distributors of these containers as well as retail outlets, vending machine operators, and restaurant dispensers accept from any person all containers of the kind, size, and brand sold by the dealer or distributor.

Your Committee learned that at the time, evaluations were being conducted of the State's present Litter Control Program projects, the effect on recycling of the increase from seventeen to twenty cents a pound paid by Reynolds Metals Company and other recycling companies to consumers for redeemable aluminium cans, and the findings in Research Monograph 79-1 prepared by the University of Hawaii College of Business Administration entitled "Impact of Beverage Container Deposit Legislation in Hawaii." This research study was prepared in response to House Resolution 353, H.D. 1, of the Regular Session of 1978 which requested the Department of Planning and Economic Development (DPED) to conduct a study of the impact of a minimum deposit requirement for all metal, plastic, and glass containers and to submit a report of its findings to the House prior to the Regular Session of 1979. The DPED arranged with the Office of Environmental Quality Control (OEQC) to enter into a contract with the University of Hawaii for staff services to conduct such a study. Legislative action on H.B. No. 886-79 was therefore postponed to allow an interim review of the above matters.

During the 1979 interim, your Committee held a public hearing on September 18 for the purpose of gaining an overall perspective on the possible or anticipated impacts of beverage container deposit and return legislation and other related matters. Your Committee specifically set out to:

(1) discuss the recent study prepared by the University of Hawaii College of Business Administration entitled "Impact of Beverage Container Legislation in Hawaii" in conjunction with the report prepared by the DPED entitled "A Study of the Economic Impact of Deposit and Return Legislation on the State of Hawaii," the DPED study being based on the University of Hawaii study together with forecasts and other data available from DPED economic models;

(2) review the status and the effectiveness of the various counties' Resource Recovery Programs and the State Litter Control Program;

(3) determine the progress or status of the construction of a Reynold's aluminum plant in Hawaii, which upon completion is expected to increase the use and recycling of aluminum cans and thereby reduce litter; and

(4) review the status of the compliance by the U.S. Department of Defense, as exemplified by such compliance in Hawaii, with the guidelines established by the Environmental Protection Agency, relating to mandatory deposits for beverage containers, in order to determine the impact of such compliance on recycling and litter here in Hawaii.

At this hearing, your Committee heard testimony from representatives of the State

Department of Planning and Economic Development; the State Office of Environmental Quality Control; the Litter Control Program of the State Department of Health; the U.S. Department of Defense; Reynolds Metals Company; the Department of Public Works of the City and County of Honolulu; Life of the Land; and the United States Brewers Association.

FINDINGS AND RECOMMENDATIONS

Upon review of data and facts relating to deposit and return legislation, your Committee believes that H.B. No. 886-79, if adopted, would result in litter reduction, energy savings, new job opportunites, and the improvement of Hawaii's physical environment. However, your Committee learned that the adoption of H.B. No. 886-79 would also create an undue hardship for retail outlets, vending machine operators, and restaurant dispensers due to increased handling, transportation, and in some cases, personal costs, and space requirements needed to store returned beverage containers. Health problems, resulting from the storage of dirty beverage containers, were also cited. Your Committee recognizes the significance of these health-related problems since the control of insects and odors is extremely difficult under Hawaii's climatic conditions.

Your Committee believes that H.B. No. 886-79 needs to be amended in order to minimize or, if possible, eliminate the anticipated adverse impacts it would have on retailers, by requiring the suppliers and consumers of beverages, instead of the retailers, to carry the non-refundable costs of retrieving the used containers. In this regard, your Committee requested the Director of OEQC to submit suggested amendments to H.B. No. 886-79 to the Committee prior to the convening of the Regular Session of 1980. OEQC was also asked to include the following possible amendments or additions: the establishment of recycling centers as an alternative to the collection of beverage containers at the retail level; the establishment of a deposit and recycle fund, to be administered by the Department of Health, from which to make payments to recycling centers for each deposit-paid container collected; and a provision for imposing a deposit charge on the manufacturer or the distributor who first brings or causes the initial importation into the State of the beverage container.

Your Committee believes that these amendments transferring the non-refundable costs of recycling to the manufacturer, distributor, and consumer will eliminate some of the problems at the retail level which are expected to result from the adoption of the bill in its present form.

Your Committee on Ecology and Environmental Protection therefore recommends that amendments to H.B. No. 886-79 being prepared by the Office of Environmental Quality Control be examined and considered during the 1980 Regular Session.

Signed by Representatives Larsen, Takitani, Crozier, Fukunaga, Hashimoto, Holt, Inaba, Kawakami, Morioka, Sakamoto, Toguchi, Uechi, Uwaine, Anderson and Narvaes.
(Representative Garcia was excused.)

Spec. Com. Rep. 21

Your Committee on Culture and the Arts appointed pursuant to H.R. No. 844, adopted by the Regular Session of 1979, to review economic incentives and development restrictions relating to historically designated sites in the furtherance of the State's overall historic preservation and restoration programs begs leave to report as follows:

APPROACH TAKEN

The Hawaii State legislature has always recognized the value of conserving and developing historic and cultural property within the State for the public good, and that the State's historic and cultural heritage is among its important assets. It is in fact, the declared public policy of the State to provide leadership in preserving, restoring, and maintaining historic and cultural property (Act 104, SLH 1976). As part of this public policy, a subcommittee was formed during the 1979 interim to examine economic incentives and development restrictions as these relate to historically designated sites and places located on private property. Members of the Culture and Arts subcommittee included: Representatives Calvin Say, chairman; David Hagino; Richard Kawakami; Gerald Machida; Yoshito Takamine; Charles Toguchi; Clifford Uwaine; Whitney Anderson; and Barbara Marumoto. The subcommittee proceeded to examine existing federal, State, and county laws in regard to economic incentives and development restrictions for historically designated sites and places located on private property as well as proposals for other types of incentives or restrictions for such property.

The term "historically designated properties," used throughout this report, refers to those properties deemed to be of historic significance and which have been placed on the National Register of Historic Places or the Hawaii State Register of Historic Places, or both.

A public hearing on this matter was held on September 7, 1979. Public and private organizations and individuals testifying or submitting testimony at the hearing included: the State Department of Land and Natural Resources, the State Department of Taxation, the City and County of Honolulu Department of Land Utilization, the County of Kauai Planning Department, Historic Hawaii Foundation, the National Trust for Historic Preservation, Life of the Land, Bernice Bishop Museum, Kona Historic Society, Waioli Mission House Museum, and the Daughters of Hawaii.

FINDINGS

Economic Incentives. The subcommittee found that while federal and Hawaii State laws provide for various types of tax incentives to encourage historic preservation and restoration, the same does not hold true at the county level.

At the federal level, the Federal Tax Reform Act of 1976 and the Revenue Act of 1978 set out four types of tax incentives relating to historic preservation and restoration. Under the Federal Tax Reform Act of 1976, owners of commercial or income producing "certified historic structures" are allowed to deduct certain costs for income tax purposes. For example, rehabilitation costs can be amortized over a 60-month period, or at an accelerated rate if the property qualifies as substantially rehabilitated property. The Act defines "certified historic structures" as any structure listed in the National Register of Historic Places or located within a historic district designated by state or local statute that has been certified by the Secretary of the Interior. Income, estate, and gift tax deductions are also allowed for the transfer of partial interest in property for conservation purposes. These two provisions will remain in effect until June 30, 1981.

Disincentives to discourage private landowners from demolishing a certified historic structure are also included. Demolition costs incurred from the demolition of a certified structure are required to be capitalized i.e., added to the cost of the property rather than be treated as a deductible item along with any remaining undepreciated portion of the demolished structure. Private property owners are further limited to the use of a straight-line rather than accelerated depreciation method to amortize the costs of a new structure on a site occupied by a demolished historic structure. This provision will remain in effect until December 31, 1980.

The Federal Tax Reform Act of 1978 establishes tax credit incentives, allowing private landowners who rehabilitate commercial buildings other than apartments, which are more than 20 years old to receive a federal investment tax credit equal to 10 percent of the cost of rehabilitation. This procedure enables the property owner to deduct the tax credit amount from income tax payable to the federal government.

Hawaii's State laws provide incentives similar to federal historic preservation and restoration tax incentives. Specifically, Hawaii state tax laws have adopted the historic preservation tax incentive and disincentive provisions of the Federal Tax Reform Act of 1976, thereby enabling Hawaii private property owners of historically designated properties to benefit from these tax incentives in determining their state income tax obligations.

Section 246-34, Hawaii Revised Statutes, allows private owners who dedicate any portion of their property for landscaping, open space, public recreation, and other similiar uses real property tax exemption on that dedicated portion of property. If the property lies within historic designated districts, the law entitles such owners to receive a real property tax exemption for the aforesaid purposes and additionally for any other portion of the property used to meet setback and open space requirements under county zoning ordinances.

Development Restrictions. The subcommittee also reviewed federal, Hawaii State, and county laws to determine if there were any development restrictions imposed by law to protect historically designated properties. The subcommittee found that while federal historic preservation laws (i.e., Antiquities Act of 1906, Historic Sites Act of 1935, National Historic Preservation Act of 1966, and Executive Order 11593) provide certain safeguards to protect historically designated properties on public lands, there are no legal requirements at the federal level prohibiting private landowners from initiating action to demolish, remove, or alter historically designated properties.

State historic preservation laws, like federal historic preservation laws, do not prohibit

private landowners from initiating action which may alter or destroy historically designated properties on their land. However, the State imposes a major "notification" requirement under Section 6E-10, Hawaii Revised Statutes. Private landowners must notify the State of any action affecting a historically designated property and wait at least 90 days before proceeding with such action. During this 90-day period, the State has the option to initiate condemnation proceedings for the purchase of the property in question. Noncompliance with the notification requirement can result in a fine not exceeding $1,000 for each violation. This provision falls under Chapter 6, HRS, which establishes a nomination system for historic sites and places on private and public lands to the Hawaii and Federal Historic Places Registers. Chapter 6E, HRS, further establishes a comprehensive historic preservation program identifying and protecting historic properties on public lands under the State Department of Land and Natural Resources.

Chapter 343, HRS, imposes an additional requirement of filing an environment impact statement on any landowner proposing any use within any historic site designated in the National Register or Hawaii Register which will probably have significant environmental effects.

At the county level, the subcommittee found that Maui and Kauai counties and the City and County of Honolulu have established, by ordinance, requirements which give their respective county government the authority to protect properties located within county designated historic districts.

Chapter 8, Section 3 of the Maui County Comprehensive Zoning Ordinance establishes specific historic districts (i.e., Lahaina and Wailuku) and places stringent requirements on the structures within these designated districts. Property owners in these districts must submit an application for any change to their property for review by the Maui Planning Commission and approval by the Maui Historic Commission. If denied, the property owner may file an appeal to the Maui County Board of Adjustments and Appeals and, if necessary, to the Second Circuit Court.

Similarly, Kauai County's Comprehensive Zoning Ordinance establishes "special treatment districts" which designates areas having historical or cultural significance as historic or cultural districts. Property owners in such districts must submit an application explaining any proposed property changes to the Kauai County Planning Commission for approval. If denied, the property owner may file an appeal to the Fifth Circuit Court.

Article 12 of the City and County of Honolulu's Comprehensive Zoning Code provides for the creation of "historic, cultural and scenic" districts and "special design" districts with the requirement that landowners in these districts submit an application to and receive the approval of the Department of Land Utilization for any proposed action to their property. If the application is denied, the property owner may appeal this decision to the City's Zoning Board of Appeals and, if necessary, the First Circuit Court.

Presently, Hawaii county does not have specific ordinances establishing historic districts and regulating their uses within such districts.

The subcommittee also learned that all counties have adopted shoreline management area ordinances pursuant to Chapter 205A, HRS, for the purpose of protecting Hawaii's shorelines and coastal area resources, including historically designated properties. As a condition of approving any private action proposed within shoreline management areas, the counties can require the applicant to maintain or preserve a historically designated property which may be affected by the proposed action. This mechanism appears to be the strongest type of historic preservation regulation shared by all counties at the county level.

Other Proposals. The subcommittee also reviewed other proposals relating to tax incentives or regulations as means to protect and restore historic properties. These included the following:

(1) Property tax exemption. The Hawaii Historic Foundation emphasized amendments to Hawaii's state real property tax laws to fully or partially exempt private landowners having historically designated properties from real property assessments as well as the payment of property taxes. Alaska, Maryland, Ohio, and Texas have tax laws which provide various types of property tax exemptions for historic property. Hawaii's present real property tax laws allow exemptions from real property assessment only for charitable, non-profit organizations, such as our museum and historic preservation organizations.

(2) Actual rather than highest and best use. Another proposal review by the subcommittee was the assessment and taxation of historically designated property at its "current" rather than "highest and best use." This approach would encourage rather than penalize a property owner for under utilization of his property. For example, a historic structure such as a low-rise hotel located in high-rise apartment/ hotel zoned area would be taxed on its current use, rather than highest and best use, thereby providing a considerable real property tax savings for the property owner. Presently, California, Louisiana, Nevada, Oregon, Virginia, and Washington have state laws which provides for various types of real property tax assessments based on actual rather than highest and best use.

(3) Transfer of development rights. Another type of economic incentive is the concept of transfer of development rights. This allows a landowner to transfer and sell unused development rights to other property owners desiring and permitted within applicable planning controls to develop their property to a density in excess of the existing or original assigned density. Those testifying in support of a transfer of development rights law emphasized that such a law could encourage property owners of older, historic buildings in high density zoned areas to sell any unused development rights attached to such buildings and be compensated for maintaining these buildings in their present state.

(4) Historic property development restrictions. Testimony presented by Life of the Land suggested legislation which would prohibit, without any economic compensation to private property owners, the destruction or alteration of historic designated property without government approval. In 1978, the United States Supreme Court upheld the constitutionality of New York City's Historic Preservation Law (Penn Central Transportation Company v. City of New York, 438 U.S. 104 (1978)) which permits the city, as part of its comprehensive program to preserve historic landmarks and historic districts, to place restrictions on the development of individual historic landmarks--in addition to those imposed by applicable zoning ordinances--without effecting a "taking" of private property and payment of "just compensation." The U.S. Supreme Court rejected Penn Central Company's argument that the New York City Landmark Preservation Commission's decision to deny Penn Central's request to build a 50-story building over the Penn Central Station constituted a "taking" of private property. The U.S. Supreme Court ruled that the New York City's historic landmarks ordinance did not: (1) interfere with Penn Central Station's present use; (2) prevent Penn Central from realizing a "reasonable return" on its investment; and (3) limit Penn Central's ability to use its air rights (as provided by New York City's transfer of development right ordinance) above the station.

(5) State historic preservation law penalty provisions. Historic Hawaii Foundation testified that the present statutory penalty of $1,000 a day for any continued violation of the State historic preservation law (Chapter 6E, HRS) should be amended to provide a one-time maximum penalty of $25,000 for any wilful violation. They felt a penalty provision with a high-maximum amount would serve as an effective deterrant against any property owner who may choose to circumvent the law. Also, by setting a maximum and no minimum limit, this penalty would give the Courts sufficient flexibility to set penalties on a case by case basis.

RECOMMENDATIONS

Based on the subcommittee's interim review of existing federal and state laws, county ordinances, and other proposals relating to historic preservation and restoration, your Committee on Culture and the Arts believes that the development and use of incentives, rather than burdening private landowners with additional regulations, constitutes a more constructive and realistic approach toward the protection of historically designated sites and places located on private property. Accordingly, your Committee makes the following recommendations:

(1) While the idea of exempting property tax payments of historically designated properties is desirable, your Committee believes it necessary to first determine the negative impact on property tax revenues such a proposal would have. Therefore, the counties of Kauai, Maui, and Hawaii and the City and County of Honolulu should be requested to first examine the feasibility of such a proposal as this falls within the counties' jurisdiction under Article 8, Section 3 and Article 18, Section 6 of the Hawaii State Constitution. As amended in 1978, the Constitution provides that the powers and duties relating to real property taxation shall be the responsibility of the counties rather than the State, commencing July 1, 1981. While the State is not precluded from enacting real property tax laws prior to this date, any real property legislation enacted in the period of time between the ratification of these amendments, November 11, 1978, and

July 1, 1981 shall remain effective only during this time period. In view of the short-term effect any enactment of new state real property tax laws will have, your Committee believes that the aforementioned recommendation is the most appropriate course of action at this time.

(2) The counties of Kauai, Maui, and Hawaii and the City and County of Honolulu should be requested, in instances involving historically designated properties, to examine the feasibility of establishing real property tax assessments and rates based on actual rather than highest and best use under zoning ordinances and state land use designations.

(3) The concept of transfer of development rights, which could serve as a valuable planning mechanism to encourage historic preservation of existing sites and places, requires further examination in view of the complex legal and economic impact the implementation of such a concept would have. Some of the unresolved problems related to implementing this concept include: a variety of definitions on what constitutes "development rights" or "potential development rights"; the use of Development Rights Transfer Districts; the use of a Development Rights Bank; restriction of transfer only to adjacent properties; and its use as a tool for urban planning and design.

Signed by Representatives Say, Hagino, Andrews, Kawakami, Kiyabu, Lunasco, Segawa, Stanley, Takamine, Toguchi, Ushijima, Uwaine, Anderson and Marumoto.

Spec. Com. Rep. 22

Your House Committee on Ecology and Environmental Protection and your House Committee on Judiciary, appointed jointly pursuant to H.R. No. 844-79, adopted by the Regular Session of 1979, to review, during the 1979 legislative interim, Article XI, Section 9 of the Hawaii State Constitution relating to the right to a clean and healthful environment and to determine whether legislation is necessary to implement that right, beg leave to report as follows:

BACKGROUND

The environmental rights amendment was proposed as an addition to the State Constitution by the 1978 Hawaii Constitutional Convention and was ratified by the electorate in the November, 1978 general election.

That amendment, now Article XI, Section 9, provides as follows:

"Each person has the right to a clean and healthful environment, as defined by laws relating to environmental quality, including control of pollution and conservation, protection and enhancement of natural resources. Any person may enforce this right against any party, public or private, through appropriate legal proceedings, subject to reasonable limitations and regulation as provided by law."

The relevant committee report of the Constitutional Convention is Standing Committee Report No. 77, issued by the Convention's Committee on Environment, Agriculture, Conservation and Land. The Convention's Committee of the Whole Report No. 18 does not discuss the subject amendment.

COMMITTEE APPROACH

Your joint Interim Committee on Environmental Rights was comprised of the members of the standing Committee on Ecology and Environmental Protection and the standing Committee on Judiciary.

Review of amendment and relevant committee report. Your joint Interim Committee very carefully reviewed the environmental rights amendment (Article XI, Section 9) to the State Constitution and Constitutional Convention Standing Committee Report No. 77.

Public hearing. Your joint Interim Committee also held a public hearing on August 27, 1979, to receive testimony regarding the new constitutional right to a clean and healthful environment and the enforcement of this right through appropriate legal proceedings.

Testifiers were requested to focus on the following three issues:

(1) Whether legislation is necessary to "implement" the subject constitutional amendment;

(2) Whether the 1978 Constitutional Convention intended that the Legislature enact "implementing" or "limiting" legislation, and if yes, whether such enactment is mandatory or discretionary with the Legislature; and

(3) If legislation is necessary, required, or advisable, what factors or policy considerations should the Legislature consider in limiting or regulating the right or standing-to-sue to enforce the right to a clean and healthful environment.

Testimony submitted. Testimony was submitted, among others, by four ex-Delegates to the 1978 Hawaii Constitutional Convention, all of whom were members of the Convention's Committee on Environment, Agriculture, Conservation and Land and which included the chairman of that Committee; Professor Jon Van Dyke, a specialist in constitutional and administrative law at the University of Hawaii School of Law who was requested to testify; the Department of the Attorney General, State of Hawaii; the Office of Environmental Quality Control, State of Hawaii; the Construction Industry Legislative Organization, Inc.; and the Hawaiian Electric Company, Inc.

Relevant testimony is summarized in the following section relating to findings and recommendations.

FINDINGS AND RECOMMENDATIONS

Findings. Your joint Interim Committee on Environmental Rights, having carefully reviewed the environmental rights amendment to the Hawaii State Constitution and the relevant Constitutional Convention standing committee report, and having carefully considered the testimonies submitted, makes the following findings:

(1) The environmental rights amendment (Article XI, Section 9) has two major provisions which grants to each person in Hawaii two distinct rights: (a) the right to a clean and healthful environment, as defined by present or existing laws relating to environmental quality, and (b) the right or power to enforce the right to a clean and healthful environment against any party, public or private, through appropriate legal proceedings.

All four of the ex-Con-Con Delegates testified that the amendment, or both of the constitutional rights contained in the amendment, are self-executing or self-implementing and were intended to become effective upon ratification. One ex-Delegate testified that "The amendment was written with the deliberate intent of being self-executing, to become effective as soon as it was passed by the electorate."

Professor of Law Jon Van Dyke, who was requested to assist your joint Interim Committee with his legal expertise, informed your Committee through his testimony that the subject amendment:

"is self-executing in the sense that it presently grants [to Hawaii's citizens] the right [to a clean and healthful environment, as defined by Hawaii's laws relating to environmental quality] and also grants to each person the power of enforcement through appropriate legal proceedings. If the legislature enacts no implementing legislation, each of us will nonetheless have the constitutional right to a clean and healthful environment and the right to go to court to protect that right."

Your joint Interim Committee, having independently considered the matter, agrees with the testimony summarized above and finds that both of the constitutional rights contained in the environmental rights amendment took effect and were granted to each person in Hawaii immediately upon ratification, at the general election of November 7, 1978, of the amendment to the Hawaii State Constitution now designated as Article XI, Section 9.

Your Committee relatedly finds and concludes that the environmental rights amendment (Article XI, Section 9) is self-executing or self-implementing, and that no legislation is necessary at this time to implement its provisions.

(2) The finding in (1) above, that Article XI, Section 9 is self-executing and needs no implementing legislation at this time, is also based on the following analysis relating to the two distinct constitutional rights granted by the subject amendment and to another section of the State Constitution:

(a) The first right, the right to a clean and healthful environment, by its own terms, is both self-implementing and self-defining. The sentence granting this right specifically provides that "Each person has the right to a clean and healthful environment, as defined by laws relating to environmental quality, including control

of pollution and conservation, protection and enhancement of natural resources." (Emphasis added).

Con-Con Standing Committee Report No. 77 explains that this right has been defined in terms of "present [or existing] laws" (statutes, ordinances, and administrative rules) so as to impose "no new legal duties" on parties and to avoid the "confusion and inconsistencies" which could result from relying on the development of "a body of case law defining the content of the right".

For "laws relating to environmental quality," see, for example, Hawaii Revised Statutes, Chapter 342 (Environmental Quality) and Chapter 343 (Environmental Quality Commission and Environmental Impact Statements) and any rules and regulations adopted to implement or administer the provisions of those chapters.

(b) The second right, the right of any person to enforce the right to a clean and healthful environment "against any party public or private, through appropriate legal proceedings, subject to reasonable limitations and regulation as provided by law," is also self-executing or self-implementing.

This right or power of enforcement through appropriate legal proceedings, or through the courts, is commonly referred to as standing to sue.

According to Professor Van Dyke, even if the Legislature enacts no legislation to implement, limit, or regulate this right of enforcement, each of us will still be able to go to court to protect and enforce the right to a clean and healthful environment "in the same manner we can now go to court to protect our other constitutional rights."

In this regard, your joint Interim Committee is not aware, and has not been informed, of any case in which any court has dismissed or refused to entertain any action, or denied standing to any person bringing an action, based in whole or in part on Article XI, Section 9, for the reason that the Legislature has failed to enact implementing legislation or to enact "reasonable limitations and regulation" to limit or regulate the provision in the amendment relating to the right of enforcement.

Con-Con Standing Committee Report No. 77 of the Committee on Environment, Agriculture, Conservation and Land supports your Committee's conclusion, that no legislation is required to implement the right or power of enforcement, and provides in part:

"Your committee believes that this important right deserves enforcement and has removed the standing to sue barriers which often delay or frustrate resolutions on the merits of actions or proposals and provides that individuals may directly sue public and private violators of statutes, ordinances, and administrative rules relating to environmental quality." (Emphasis added).

For an explanation or analysis of how the courts have liberalized the law of standing in environmental litigation, and how the Hawaii Constitutional Convention of 1978--through the standing-to-sue provision of Article XI, Section 9--has created and intended to create "public interest standing," or to allow "public interest lawsuits" in which the plaintiff represents an (environmental) interest of the general public rather than a personal monetary or property interest, see pages 2-5 of Professor Jon Van Dyke's testimony to your joint Interim Committee at the public hearing of August 27, 1979.

(c) Another reason why your Committee finds that Article XI, Section 9 is self-executing or self-implementing stems from another section of the State Constitution. Article XVI, Section 16 provides that "The provisions of this constitution shall be self-executing to the fullest extent that their respective natures permit."

In light of the discussion and reasons previously set forth, your joint Interim Committee believes that the nature or wording of the environmental rights amendment is such that the amendment is self-executing.

(3) With specific regard to the enactment of legislation establishing "reasonable limitations and regulation" to limit or regulate the right to enforce the right to a clean and healthful environment through the courts, your Committee finds that:

(a) The phrase "subject to reasonable limitations and regulation as provided by law," in the second sentence of Article XI, Section 9, is not a mandate to the Legislature to enact such limitations and regulation.

Your Committee agrees with the ex-Con-Con Delegates and Professor Van

Dyke who testified that such legislation to limit or regulate the standing-to-sue provision of Article XI, Section 9 is discretionary. In this regard, Con-Con Standing Committee Report No. 77 provides in part:

"Your Committee intends that the Legislature may reasonably limit and regulate this private enforcement right by, for example, prescribing reasonable procedural and jurisdictional matters, and a reasonable statute of limitations." (Emphasis added).

The above-quoted language indicates that the intent of the Constitutional Convention was not that the Legislature enact or is required to enact legislation to limit and regulate this private enforcement right but that the Legislature may enact such legislation. The word "intends" in the above-quoted language from the committee report appears to modify the phrase "may reasonably limit and regulate" (emphasis added), rather than the phrase "that the Legislature . . . limit and regulate . . . ."

As indicated by Professor Van Dyke, the second sentence of Article XI, Section 9, as clarified by the above-quoted language from the Con-Con committee report, "authorizes but does not require" the Legislature to regulate the standing-to-sue provision, or the private enforcement right, contained in that same second sentence.

(b) Although Article XI, Section 9 does not mandate the Legislature to enact limitations and regulations, testimonies presented by representatives from the private sector (Construction Industry Legislative Organization, Inc., and the Hawaiian Electric Company, Inc.) expressed concern that the broad, liberalized standing-to-sue provision in the subject amendment will encourage a flood of lawsuits, including frivolous or vexatious ones. These representatives therefore urged the Legislature to enact relevant legislation, particularly legislation to limit and regulate the provision in Article XI, Section 9 which grants to any person the right to enforce the right to a clean and healthful environment against any party, public or private, through appropriate legal proceedings.

More specifically, these private sector representatives recommended, among others, the following requirements to statutorily limit and regulate the standing-to-sue provision: that potential plaintiffs first exhaust all available administrative remedies before initiating a lawsuit; that there be a specific limitations or time period within which to bring the lawsuit; that only bona fide State residents be allowed to bring lawsuits; and that, in order to prevent frivolous or bad faith lawsuits, the statute specifically impose a good faith requirement, require the plaintiff to post a bond with the court when initiating the suit, and either (a) require the court, if it determines that the suit was not brought in good faith, to order the plaintiff to pay to the defendant the defendant's court costs and reasonable attorney's fees or (b) require or authorize the court to award to the prevailing party at least such party's court costs and attorney's fees.

Your joint Interim Committee finds that to date the liberalized standing-to-sue provision in the subject amendment has not resulted in a flood of lawsuits in Hawaii, since November 1978 when the amendment took effect, as feared by private industry.

In this connection, one ex-Con-Con Delegate testified that in the other six states with broad standing-to-sue provisions for environmental litigation (Illinois, Michigan, Massachusetts, New York, Pennsylvania, and Rhode Island), citing Michigan as a specific example, the number of civil cases brought under such a standing-to-sue provision, percentage-wise, is very small in comparison with all other civil cases.

Recommendation. In view of the foregoing analysis and findings, your joint Interim Committee on Environmental Rights recommends no legislation, at this particular time, to implement, limit, or regulate the provisions of, or the rights granted by, the environmental rights amendment to the Hawaii State Constitution (Article XI, Section 9).

However, limiting or regulatory legislation may become necessary should experience show (1) that the broad, liberalized standing-to-sue provision continued in Article XI, Section 9 is being used to bring environmental lawsuits of a frivolous, vexatious, or bad-faith nature, or is encouraging and resulting in a flood of environmental lawsuits, or (2) that the courts are having significant problems in construing and applying the amendment or in establishing and/or applying standards or guidelines to limit or regulate the liberalized standing-to-sue provision.

To date, it does not appear that there have been abuses of, or significant court difficulties in construing and applying, the environmental rights amendment. Should limiting or regulatory legislation become necessary, the Legislature may then consider exercising

its discretion in enacting "reasonable limitations and regulation" in accordance with the express language of the second sentence of Article XI, Section 9.

For a discussion of what limitations and regulation would be "reasonable," see page 9 of Con-Con Standing Committee Report No. 77 and pages 1-2 and 6-8 of Professor Van Dyke's testimony to your Committee.

In summary, your joint Interim Committee on Environmental Rights recommends no legislation, at this particular time, to implement, limit, or regulate the provisions of, or the rights granted by, Article XI, Section 9 of the State Constitution.

Signed by Representatives D. Yamada, Larsen, Honda, Takitani, Crozier, Aki, Baker, Fukunaga, Blair, Garcia, Dods, Hashimoto, Holt, Inaba, Kawakami, Lee, Morioka, Masutani, Sakamoto, Nakamura, Toguchi, Shito, Uechi, Uwaine, Anderson, Ikeda, Medeiros and Narvaes.

Spec. Com. Rep. 23

Your Committee on Energy and your Committee on Housing appointed pursuant to House Resolution No. 844, adopted by the Regular Session of 1979, and directed to review the utilization of solar energy devices in government assisted housing, beg leave to report as follows:

SUBCOMMITTEE APPROACH

The 1979 Legislature considered several measures to further promote the use of solar energy devices, primarily solar water heaters, as a means of decreasing energy cost and consumption, as well as to cut back on the state's overall dependence on imported petroleum. H.B. No. 1255-79 requires all public housing constructed by the State or its political subdivisions to be equipped with solar water heating systems in lieu of conventional gas or electrical water heaters. To review the measure's impact on government assisted housing programs in the State, it was referred jointly to the Committee on Energy and the Committee on Housing.

Your Committees were keenly aware of the State's efforts to decrease Hawaii's dependency on imported petroleum which presently supplies more than 90% of our energy needs. In combination with increasing world market prices of petroleum, the State has supported the development of Hawaii's indigenous, renewable alternate energy resources, including direct solar, biomass, and geothermal possibilities. The State and Hawaii's public utilities have acknowledged the use of direct sunlight to heat water as a means of reducing per family electrical consumption by as much as 30% annually.

Your Committees also acknowledged the use of federal and state income tax incentives to increase solar water heating in Hawaii. The federal income tax credit allows 30% of the first $2,000 of purchase cost of a solar energy devise and 20% of each additional $1,000 up to $8,000 as credit against an individual's federal income tax liability. The maximum federal income tax credit is set at $2,200. Hawaii allows up to 10% of the total cost for a solar energy device to be credited against a person's state income tax liability.

A more comprehensive policy examination of these issues in relation to solar water heaters and public housing was deemed necessary, and H.R. No. 559-79, relating to an interim study on the matter was, therefore, adopted by the two Standing Committees. This report is a summary of this interim review, conducted by a joint subcommittee of the House Committee on Energy and Committee on Housing. Representatives Mitsuo Shito of the Housing Committee and Russell Sakamoto of the Energy Committee served as co-chairmen with Representatives James Aki, Herbert Honda, Marshall Ige, Bertrand Kobayashi, Kenneth Lee, Clifford Uwaine, Clarice Hashimoto, Richard Garcia, Milton Holt, Richard Kawakami, Jack Larsen, Ted Morioka, Anthony Takitani, Paul Lacy, and Whitney Anderson serving as members.

A two-day public hearing was conducted on Thursday, September 27 and Friday, September 28, 1979. Agencies testifying at the hearing included: the U.S. Department of Energy, the U.S. Internal Revenue Service, the U.S. Department of Housing and Urban Development, the U.S. Farmers Home Administration, the State Department of Planning and Economic Development, the State Department of Hawaiian Home Lands, the State Department of Taxation, the Hawaii Housing Authority, the State Public Utilities Commission, the Public Utilities Division of the State Department of Regulatory Agencies, the University of Hawaii and representatives of the county housing programs. Non-

governmental agencies testifying included: the Hawaiian Electric Company, the Consulting Engineers Council of Hawaii, the Solar Energy Association of Hawaii, the Home Builders Association of Hawaii, the Hawaii State Federation of Labor, the Construction Industry Legislative Organization, the General Contractors Association and the Building and Construction Trades Council.

FINDINGS

Your Committees agree that for discussion purposes and as used in this report, "solar energy device" means any apparatus which uses direct or indirect sunlight (insolation) to replace petroleum based energy and that "government assisted housing" means any form of lease, rental, or fee housing which is constructed by or for the State or any of its political subdivisions for sale to or use by the public.

Testimony unanimously supported the concept of promoting the use of solar energy devices in government assisted housing, but only where such devices have been shown to be more economical than conventional petroleum based energy devices. The government agencies also agreed that a solar energy device would be judged more economical than conventional devices where the life cycle costs, i.e. the total cost of installing, maintaining, and operating such solar devices, is less than the life cycle cost of comparable conventional devices for the same period of time. Public utilities again testified that studies indicate solar water heaters can reduce per family electrical consumption approximately 30% annually. However, long-term (10 years or more) data regarding operating and maintenance costs for the vast majority of recently sold solar devices is not yet available.

Although both the state and federal solar energy tax incentives are meant to promote the use of solar energy, there are unexplained differences in the state and federal definitions of solar energy devices which can qualify for tax incentives. The State Department of Taxation's definition of solar energy device does not include certain types of solar energy devices, such as windmills and heat pumps. These devices qualify for federal tax incentives.

Your Committees do not believe there is any apparent reason why a Hawaii resident should receive a federal tax credit for the use of a solar energy device and be denied a state solar energy tax credit for the same device. According to the State Department of Taxation, the latest figures indicate that approximately 1,500 state residents have applied for state solar energy tax credits from December 31, 1974 through December 31, 1977. The U.S. Internal Revenue Service does not compile similar information regarding the number of state residents who have applied for federal solar energy tax credits.

State and county housing agencies testifying expressed serious reservations regarding any mandatory installation of solar energy devices in government assisted housing. The governmental housing agencies explained that the overall cost of a mandatory policy could result in (1) raising the price of government assisted housing; (2) decreasing the number of government assisted housing units constructed; or (3) constructing government assisted housing units which are smaller in size or with fewer amenities.

Testimony from representatives of the construction industry and labor unions indicated that a mandatory policy would have little direct impact on their operations. Although there was general support for the concept of utilizing solar energy devices, union and construction industry representatives also expressed concern that a mandatory policy might reduce the number of government assisted housing units to be constructed because of the added and new costs of installing and maintaining solar energy devices.

RECOMMENDATIONS

Your Committees recommend that the Committee on Energy and the Committee on Housing:

(1) consider legislation to conform the state solar energy tax credits with federal energy tax credits. This would usually provide more uniformity in tax structure in regard to solar devices but also provide greater state support for the use of solar energy devices in Hawaii;

(2) monitor the cost of installing, operating, and maintaining solar devices to determine the life-cycle cost of various solar devices. This information will be needed for the eventual determination of whether solar devices will be more economical than comparable electrical devices for the same length of service; and

(3) explore the availability and maximum use of federal funds to cover the cost of installing solar devices in government assisted housing.

Signed by Representatives Uwaine, Shito, Hashimoto, Lee, Aki, Baker, Crozier, Fukunaga, Blair, Garcia, Holt, Honda, Ige, Inaba, Kawakami, Kobayashi, Larsen, Morioka, Sakamoto, Segawa, Takitani, Toguchi, Uechi, Ushijima, D. Yamada, Anderson, Lacy, Narvaes and Sutton.

Spec. Com. Rep. 24 (Majority)

Your House Committee on Transportation appointed pursuant to H.R. No. 844-79, adopted by the Regular Session of 1979, to examine the status of the State's air, land, and water transportation programs, begs leave to report as follows:

COMMITTEE APPROACH

The full membership of the House Committee on Transportation participated in site visitations and committee meetings relating to the State's air, land, and water transportation programs and facilities during the 1979 interim. Your Committee inspected air transportation facilities and services at Honolulu International Airport (HIA) and reviewed the Department of Transportation's (DOT) proposed 1980 supplemental budget request relating to air transportation facilities and services on Wednesday and Thursday, September 12 and 13, 1979. On Monday, September 24, 1979, your Committee inspected facilities at Honolulu Harbor and reviewed the proposed 1980 DOT supplemental budget request relating to water transportation facilities and services. Your Committee conducted public committee meetings on Monday and Tuesday, October 22 and 23, 1979, in Room 310 of the State Capitol to review the proposed 1980 DOT supplemental budget request for land transportation facilities and services and to examine the City and County of Honolulu's proposals for the financing of the Honolulu Area Rapid Transit system (HART).

BACKGROUND

Funds for the construction, operation, and maintenance of State transportation facilities and services are provided for by the collection of "user fees" which are deposited into three special funds administered by the DOT. The three special funds, created by Section 248-8 of the Hawaii Revised Statutes, are: (1) the "airport revenue fund" which receives all moneys collected by the DOT from rents, fees, and other charges to users of airport facilities for the State's air transportation system; (2) the "harbor special fund" which receives all dockage, wharfage, demurrage, and other fees charged to users of harbors, wharves and other water transportation facilities and services to provide for the State's water transportation system; and (3) the "state highway fund" which receives all moneys from state vehicle weight and registration fees and motor vehicle liquid fuel taxes to provide for the states' land transportation program.

The "user fee" financing of State transportation facilities and services is based on the concept that the capital, operating, and maintence costs of providing transportation services and facilities should be paid for by those who utilize such facilities and services. Strict adherence to this concept requires the State to collect sufficient revenues from the direct users of State air, land, and water transportation facilities to meet the financial costs of providing such facilities, rather than use "general revenue" funds which are collected from all persons in the State, including those who do not directly use transportation facilities.

FINDINGS

Your Committee's primary concern in reviewing the State's transportation programs and the 1980 DOT supplemental budget request was to determine whether fees currently being charged by the DOT are sufficient to meet the costs of constructing, operating, and maintaining existing and planned transportation facilities and services. Your Committee found that current fees for the use of State transportation facilities are generating sufficient revenue to finance current and planned facilities and services. In fact, the state highway fund currently maintains an approximate $10 million surplus and the other two special funds anticipate small surpluses for the current fiscal year.

The DOT supplemental budget request for 1980 consisted solely of additional funding requests for capital improvements. Approximately $98.5 million in state funds and authorization was included to secure an additional $67.3 million in federal transportation funds in 1980-1981. The supplemental budget request was apportioned as follows: $63.4 million in state funds and $11.1 million in federal funds for statewide air transportation facilities; $8.3 million in state funds for water transportation facilities; and $26.8 million in state funds and $55.2 million in federal funds for land transportation facilities statewide.

Major air transportation capital improvements projects requiring more than $1 million each for fiscal year 1980-1981 are: (1) planning, design, and construction of a new general aviation airport on Oahu; (2) development of additional parking facilities at HIA; (3) construction of a Diamond Head Extension to the main terminal at HIA; (4) development of a new Inter-Island Terminal at HIA; (5) construction of a Lihue Airport Passenger Terminal; (6) construction of a new Lihue Airport runway; and (7) acquisition of land and construction of airfield and support facilities at various airports throughout the State.

Major water transportation capital improvements projects requiring more than $1 million each for fiscal year 1980-1981 are: (1) improvements to Piers 39-40 at Honolulu Harbor; and (2) improvements to the Barber's Point Deep Draft Harbor. Your Committee notes that if the Barber's Point Deep Draft Harbor is approved by the City and County of Honolulu, the Harbors Division of DOT will proceed with the project which is expected to generate an additional $53 million in federal harbor development funds.

Major land transportation capital improvements projects requiring more than $1 million each for fiscal year 1980-1981 are: (1) improvements to Kalanianaole Highway from Ainakoa to Lunalilo Home Road; (2) realignment and widening of Fort Weaver Road; (3) improvements to Moanalua Road from Aiea to Middle Street; (4) improvements to Interstate Route H-1 from Middle Street to Koko Head; and (5) improvements to Interstate Route H-1 east of Halawa Valley.

Your Committee reviewed at length safety problems at HIA caused by the mix of general aviation and other planes. Your Committee recognizes that the potential for aircraft accidents exists at every airport in the world regardless of past air safety records and existing air safety programs. However, your Committee finds that unless a new airport specifically for general aviation aircraft is constructed to relieve aircraft congestion at HIA, the State may be forced to limit the types and number of aircraft operations at HIA.

Your Committee also reviewed the fixed guideway system (HART) as proposed by the City and County of Honolulu and in particular, the City's request for a portion of the State's general excise tax revenues as a means of financing HART's operating and maintenance costs. Your Committee continues to maintain that before any consideration of shared state and city financing arrangements for HART, the City must be able to show that (1) a significant number of private motor vehicle drivers will use HART rather than existing forms of mass transit, such as buses; (2) operating, maintenance, and construction estimates for HART are reasonably accurate and will not fall into massive cost overruns similar to those experienced in constructing and operating similar systems in Washington, D.C., and San Francisco; and (3) energy consumption and operating revenue estimates for HART are reasonably accurate. Your Committee agrees with public opinion polls that have shown a preference by state residents for an expanded bus system rather than construction of a fixed guideway system by a two to one margin.

RECOMMENDATIONS

Your Committee on Transportation recommends that:

(1) the DOT pursue development of a general aviation airport at Poamoho, Oahu. If the department is unsuccessful in starting development of the airport at Poamoho during the 1980-1981 fiscal year, the department should be directed to develop recommendations to limit the number of aircraft operations at HIA in order to reduce air congestion;

(2) development of the Barber's Point Deep Draft Harbor be supported as a means of providing additional harbor capacity, particularly for dangerous or flammable commodities such as coal, since considerable safety problems will occur as Honolulu Harbor becomes increasingly congested; and

(3) the existing state appropriation of $3.3 million for HART be allowed to lapse on June 30, 1980 unless the City is able to respond satisfactorily to questions raised by the Legislature over the past three years, particularly those relating to ridership and cost estimates for its operation, maintenance, construction, and operating revenues.

Signed by Representatives Dods, Masutani, de Heer, Andrews, Hagino, Kiyabu, Kunimura, Nakamura, Say, Silva, Stanley, Takamine, Ikeda, Marumoto and Medeiros.
(Representative Hagino did not concur.)

Spec. Com. Rep. 25

Your House Committee on State General Planning, appointed pursuant to H.R. No. 844-79, adopted by the Regular Session of 1979, to review, during the 1979 legislative interim, the twelve functional plans required under the Hawaii State Planning Act, begs leave to report as follows:

BACKGROUND AND COMMITTEE APPROACH

Background. In 1978, the Hawaii State Legislature adopted the Hawaii State Planning Act (Act 100, Session Laws of Hawaii 1978; now Chapter 226, Hawaii Revised Statutes; also referred to as the Hawaii State Plan) in order to improve and refine the State's comprehensive planning process. Parts I and III of this omnibus planning act set forth broad goals, objectives, policies, and priority directions to provide a long-range guide for Hawaii's future. Part II of the Act establishes a statewide planning process to coordinate and implement these goals, objectives, policies, and priority directions.

One major component of the statewide planning process set forth in Part II of the Hawaii State Planning Act is the requirement that state functional plans be prepared for, although not limited to, the following areas or fields of activity: agriculture, conservation lands, education, energy, higher education, health, historic preservation, housing, recreation, tourism, transportation, and water resources development. "Functional plan" is defined in the Act as "a plan setting forth the policies, programs, and projects designed to implement the objectives of a specific field of activity [e.g., agriculture], when such activity or program is proposed, administered, or funded by any agency of the State." The functional plans are designed to implement the overall objectives and policies of the Hawaii State Planning Act.

The State agency head primarily responsible for a given functional area is required under the Act to prepare the functional plan for the area and to work in close cooperation with the plan's advisory committee, applicable officials, and the people of each county in preparing the plan.

The Act also establishes a State Plan Policy Council which is required, among other things, to review each of the functional plans and submit its findings and recommendations to the Legislature. The functional plans for agriculture, housing, tourism, and transportation, in accordance with section 226-58(c), Hawaii Revised Statutes, were required to be submitted to the Legislature prior to the convening of the Regular Session of 1979. The other eight functional plans, as provided in section 226-52(a)(3), Hawaii Revised Statutes, are required to be submitted to the Legislature prior to the Regular Session of 1980.

During the 1979 session, however, only three functional plans--the plans for housing, tourism, and transportation--were submitted to the Legislature. The functional plan for agriculture was not completed and thus was not formally submitted to the 1979 Legislature.

Upon submission of a functional plan to the Legislature, section 226-58(d), Hawaii Revised Statutes, requires the Legislature to review, modify, and, as appropriate, adopt the plan by concurrent resolution. In light of the foregoing and the integrated planning process set forth in Part II of the Hawaii State Planning Act, the 1979 Legislature was reluctant to adopt only a couple of the four functional plans required to be submitted to the Regular Session of 1979, without first assessing the critical interrelationships and possible conflicts between and among these plans. Accordingly, the 1979 Legislature did not adopt, or deferred action on these four plans since it was unable to review these plans, at the same time or from an integrated perspective.

Therefore, in accordance with section 226-58(e), Hawaii Revised Statutes, the non-adopted functional plans for agriculture, housing, tourism, and transportation reverted to the respective State agencies of origin for revision and resubmittal to the Legislature prior to the convening of the Regular Session of 1980. Consequently, twelve functional plans must be submitted to the 1980 legislative session for review, modification, and, as appropriate, adoption by concurrent resolution.

Committee Approach. In view of the experience of the Regular Session of 1979, and the fact that twelve functional plans are scheduled for submission to the Regular Session of 1980, a review was conducted during the 1979 legislative interim to:

(1) assess and facilitate the progress being made by the various State agencies in preparing the various functional plans;

(2) examine the role of the functional plans in the integrated planning process

set forth in Part II of the Hawaii State Planning Act; and

(3) facilitate legislative understanding of the Hawaii State Planning Act and the various functional plans.

To achieve these objectives, the members of the standing Committee on State General Planning, and the chairmen and vice-chairmen of the following standing committees directly affected by the Hawaii State Planning Act participated in the interim review: the Committees on Agriculture; Finance; Housing; Transportation; Tourism; Water, Land Use, Development and Hawaiian Affairs; Energy; Higher Education; Health; Education; and Culture and Arts. Your Committee held workshops regarding this matter on August 8, 9, and 15, 1979.

At these workshops, your Committee received testimony from representatives of the following State agencies responsible for preparing the various functional plans: the Departments of Health, Education, Land and Natural Resources, Planning and Economic Development, Social Services and Housing, Agriculture, and Transportation and the University of Hawaii.

FINDINGS AND RECOMMENDATIONS

Your Committee emphasizes that the preparation of the functional plans to comply with the intent of the Hawaii State Planning Act is an arduous and time-consuming undertaking. The Act is an innovative piece of planning legislation which necessitates a cooperative effort and continuous dialogue between the executive and legislative branches of government and close coordination between and among State and county agencies to ensure its successful implementation.

Findings. Based on your Committee's review of the progress being made by the various State agencies responsible for preparing one or more of the functional plans--which review was conducted during the interim prior to the Regular Session of 1980--your Committee's concerns or findings (as of the convening of the Regular Session of 1980) include the following:

(1) Some of the functional plans need major work prior to their submittal to the 1980 Legislature, and in view of the fact that some of those plans are in the early stages of development, only some of the advisory committees for these plans have been formed and public information meetings on several of the plans have yet to be held.

(2) The overlay maps for the various functional plans have not been completed and, therefore, it is difficult to determine possible conflicts between or among the plans within different geographic areas and to take appropriate action to eliminate or minimize these conflicts.

(3) It appears that some of the agencies responsible for preparing the functional plans are not adhering to the guidelines set forth in Chapter II of the Hawaii State Plan Administrative Guidelines of June, 1979, prepared by the Department of Planning and Economic Development pursuant to section 226-55(10), Hawaii Revised Statutes. The Administrative Guidelines, although not formally adopted, have been accepted by the State Plan Policy Council to serve as interim guidelines for, among other things, the development of the functional plans. The Guidelines establish a standard format for the functional plans, as well as requirements for the process of plan preparation and for the content of the plans. Such non-adherence to, or non-compliance with, the Administrative Guidelines may mean that the format, contents, and scope of the functional plans may vary among the various functional plans and that the plans, upon submittal to the 1980 Legislature, may require significant modifications or improvements.

(4) Although the Department of Planning and Economic Development, with the assistance of the consultant firm of Daly and Associates has been conducting a study of the interrelationships, including any conflicts or possible conflicts, between and among the functional plans, this study will probably not be completed prior to the submittal of the various plans to the 1980 Legislature.

(5) The State Plan Policy Council, although not fully constituted, has begun its review of the various draft functional plans.

(6) There appears to be a need for increased and more meaningful dialogue between the State agencies responsible for preparing the various functional plans and your Committee on State General Planning and the respective legislative standing committees directly affected by the Hawaii State Planning Act, regarding, among other things,

the scope of the plans, particularly the major issues, problems, and programs addressed by the plans.

Recommendations. Based on the above findings, your Committee recommends the following:

(1) The State agencies responsible for preparing the various functional plans should expedite the development of these plans and the accompanying overlay maps so that the plans are submitted in timely fashion to the Regular Session of 1980 and conflicts between or among the plans can be identified and, where possible, eliminated or minimized prior to their submittal to the 1980 Legislature.

(2) The Guidelines relating to the preparation, contents, and format of functional plans, such as those contained in Chapter II of DPED's Hawaii State Plan Administrative Guidelines of June, 1979 or other such guidelines which may be prepared by the State Plan Policy Council, should be carefully reviewed and adhered to by the State agencies responsible for preparing the various functional plans. Such adherence will help (a) ensure that functional plans contain certain specified elements and that those elements are appropriately interrelated, and (b) facilitate better understanding and more effective review of the functional plans by interested parties, including the Legislature and the State Plan Policy Council.

(3) The Department of Planning and Economic Development should complete its study of the interrelationships and possible conflicts between or among the functional plans, and the study should accompany the submittal of the functional plans to the 1980 Legislature.

(4) The State Plan Policy Council should continue its review of the functional plans to ensure that the plans are submitted in timely fashion to the Regular Session of 1980 accompanied by the Council's findings and recommendations.

(5) There should be greater communication and coordination between and among the involved State agencies, the House Committee on State General Planning, and the standing committees of both the House and Senate directly affected by the Hawaii State Planning Act to facilitate the identification of conflicts or possible conflicts between or among the various functional plans and discussion of ways to minimize such conflicts prior to the submittal of these plans to the 1980 Legislature.

Your Committee emphasizes that the implementation or achievement of the goals, objectives, policies, and priority directions contained in the Hawaii State Planning Act will be greatly facilitated if the various functional plans submitted to the 1980 Legislature do not require extensive modifications.

Signed by Representatives Kiyabu, Dods, de Heer, Fukunaga, Hagino, Hashimoto, Inaba, Kawakami, Kobayashi, Kunimura, Lee, Lunasco, Masutani, Morioka, Nakamura, Say, Segawa, Shito, Stanley, Takamine, Uechi, Ushijima, Uwaine, Ikeda, Marumoto and Medeiros.

Spec. Com. Rep. 26

Your Committee on Housing appointed pursuant to H.R. No. 844, adopted by the Regular Session of 1979, to review the state's rental housing programs, begs leave to report as follows:

APPROACH TAKEN

Problems facing the State's low-rent public housing programs include rising maintenance and operation costs, community resistance to proposed neighborhood locations of such housing, and the need to greater private sector participation.

During the 1979 interim, a subcommittee of the House Standing Committee on Housing was appointed to study these problems. The subcommittee consisted of members of the House Committee on Housing which included: Representatives Mitsuo Shito, Chairman; James Aki; Byron Baker; Herbert Honda; Marshall Ige; Bertrand Kobayashi; Herbert Segawa; Dennis Yamada; and Paul Lacy.

A public hearing was held on September 14, 1979 to discuss these identified areas of concern and testimony was received from the Hawaii Housing Authority and various individuals involved with public rental housing.

BACKGROUND

A variety of federal and state funded public rental housing programs exist in the State. The administration, management, and operation of these programs are the responsibility of the Hawaii Housing Authority (HHA) under Chapters 356, 359, and 359G, Hawaii Revised Statutes.

HHA's major public rental housing activities include developing, managing and operating low-rent public housing programs and rental housing subsidy programs. Low-rent public housing programs consist of federal and state funded projects. Presently, HHA manages about 5,300 public housing units which consist of about 4,400 federally and 900 state developed units. Public rental housing developments constructed with federal funds are maintained by revenues from federal public housing subsidies and tenants' rents. Monthly rent payment charged to qualified tenants residing in these federally subsidized developments is equal to 15 percent of the tenant's monthly gross income or 25 percent of the tenant's adjusted monthly gross income, whichever is higher. The difference between the rent charged per household and the actual operating cost per unit occupied by that respective household is recovered through federal operating subsidies. State funded public rental housing are maintained through revenues received from tenants' rents established at rates sufficient to cover operating costs of such developments.

The rental housing subsidy program consists of federal and state subsidies to qualified individuals and families who reside in private rental housing. Federally funded rent subsidy programs fall under the Section 23 Leased Housing Program which is being phased out and presently provides subsidies to eight households, and the Section 8 Existing Housing Assistance Program which provides assistance to 1,340 households. Both programs require qualified families and individuals to pay no more than 25 percent of their monthly adjusted gross income and subsidizes the difference between their rental payment and a maximum rent amount based on household size and income.

State funded rent subsidy programs include the State Rent Supplement Program and the Shelter Allowance Program. Families participating in the State Rent Supplement Program are required to make rent payments equal to 20 percent of their monthly gross income with HHA subsidizing the difference between this amount and the rent being charged, provided that the monthly state rent supplement does not exceed $70 for regular households and $90 for elderly (62 years and older) and handicapped individuals and families. The Shelter Allowance Program is administered by DSSH and provides public assistance clients with fixed rent subsidies based on household size.

FINDINGS

In reviewing the State's performance in providing rental assistance to qualified low-income families and persons, your Committee submits the following:

Operating and Maintenance Costs. Your Committee found that the costs to operate and maintain state administered public rental housing developments have risen sharply in recent years due to high rates of inflation and a large public rental housing supply which requires extensive rehabilitation and repair work. About 40 percent of the present total public housing supply is 20 years or older and in some instances, low cost construction materials and techniques were used and have required continual maintenance and repair.

Your Committee learned, however, that HHA has recently instituted several types of management and control programs to prevent excessive public housing operating and maintenance costs in future years, and has been able to keep operating and maintenance costs from increasing at rates exceeding annual inflation rates.

Community Opposition. Your Committee was informed that public rental housing developments are seriously impeded by strong opposition from residents of the communities affected, despite HHA's efforts to consult with affected communities during the planning of any public housing development. Your Committee learned that HHA has considered the feasibility of developing small scale public housing developments, consisting of 30 to 50 units dispersed throughout the State to ease community opposition towards large developments such as Kuhio Park Terrace. However, in most cases, the cost of developing a low density development, especially in urban areas, can be excessive and the development therefore often not very cost-effective.

Incentives for Private Sector Participation. Since the construction and operations of rental housing developments require a long-term commitment of large sums of capital, your Committee learned that, in most instances, private individuals and organizations choose not to participate in the development of low-income rental housing. Private

housing developers prefer to develop private housing for sale since short-term rather than a long-term commitment of capital is required and upon the completion and sale of private housing units, the developer's initial capital investment is recovered and in most instances, a profit is made on the sale of such units. Your Committee was informed by HHA that existing federal and state tax laws and financing programs do not provide any substantial economic incentives to encourage significant private sector participation in the development of rental housing programs, especially for low-income households.

Your Committee believes, however, that HHA should examine the feasibility of developing economic incentives such as low-interest loan programs for the development and operation of rental housing by private individuals or organizations.

RECOMMENDATIONS

Your Committee recommends the following:

(1) that HHA place high priority on the implementation of effective public housing management programs and practices to minimize future increases in operating, maintenance, and repair costs of public housing developments.

(2) that HHA develop economic incentives for private developers such as state funded low-interest loans for the construction and operation of public housing developments. Your Committee believes this type of economic incentive has the potential of stimulating active, private sector participation in the development of rental housing for low-income households.

Signed by Representatives Shito, Lee, Aki, Baker, Blair, Honda, Ige, Kobayashi, Segawa, Ushijima, D. Yamada, Lacy and Sutton.

Spec. Com. Rep. 27

Your Committee on Housing, appointed pursuant to H.R. No. 844, adopted by the Regular Session of 1979, to review, during the 1979 legislative interim, the impact of residential real property speculation in Hawaii, begs leave to report as follows:

BACKGROUND AND COMMITTEE APPROACH

In recent years, the problem of providing sufficient numbers of adequate, affordable housing for individuals and families in Hawaii as well as in other states has become a critical problem and a public policy issue for which there is no easy or single answer. This problem results from a number of factors, including high interest rates for construction and home mortgage loans, spiraling costs of land, labor, and construction, and an increasing demand for residential housing. Another major factor often cited and receiving increased public attention is the practice of speculative buying and selling of residential real property. Many believe that speculative activity in the housing market contributes to the rapid increases in residential housing unit prices.

While information is available regarding the impact of land, labor, and capital increases on residential housing prices, information regarding the impact of real property speculation is not as readily available. Therefore, during the 1979 interim, a subcommittee of the House Standing Committee on Housing was appointed to gather information on the incidence and impact of residential real property speculation in Hawaii. The subcommittee consisted of members of the House Committee on Housing which included: Representatives Mitsuo Shito, Chairman; James Aki; Byron Baker; Herbert Honda; Marshall Ige; Bertrand Kobayashi; Herbert Segawa; Dennis Yamada; and Paul Lacy.

A public hearing on this matter was held on September 13, 1979, at the State Capitol. Testimony was received from the State Department of Taxation, Building Industry Association of Hawaii, Hawaii Association of Realtors, Land Use Research Foundation of Hawaii, Hawaii League of Savings Associations, Kokua Council for Senior Citizens, Council of Housing and Construction Industry, and various individuals.

FINDINGS AND RECOMMENDATIONS

In reviewing the testimony submitted on the incidence and impact of residential real property speculation in Hawaii, your Committee observes that while all organizations and individuals agreed that residential real property speculation is occurring and is contributing to the escalating prices of homes in Hawaii, the testimonies submitted by the private organizations and individuals failed to present specific information substantiating

the extent and impact of real property speculation on our housing market.

On the other hand, the Department of Taxation submitted information relating to residential real property sales activity in Hawaii between 1976 and 1978. Your Committee, however, agrees with the Department that a thorough, in-depth analysis of such data should be conducted before a determination is made as to whether such data may validly yield or evidence trends or conclusions as to the incidence and impact of real property speculation in Hawaii, and if yes, what those trends and conclusions may be.

Recommendation. In view of the foregoing, your Committee recommends that the Committee on Housing closely examine, during the 1980 interim, the data submitted by or available through the Department of Taxation relating to residential real property sales activity. It is further recommended that your Committee work closely with appropriate private organizations and individuals to determine how specific data substantiating, or not substantiating, the incidence and impact of real property speculation can be identified and obtained for your Committee's review.

Although specific instances of real property speculation were not provided, the individuals and organizations who testified described situations in the sale of newly developed condominium units in which the ultimate buyer, who is more than likely an owner-occupant, has paid a price substantially higher than what was the original offering price made by the developer.

According to testimony provided to your Committee, many condominium units, before they are completed, are sold and resold several times with each sale resulting in a substantial net profit to each seller. By the time the condominium units are finally sold to the owner-occupants, the prices of the units have increased substantially, sometimes doubling in price.

This situation which is not uncommon, maybe described or explained through the following example:

A developer, after a property has been submitted for development as a condominium project, notifies the Real Estate Commission that he intends to offer a condominium project for sale. The Real Estate Commission commences a review of the notification to prepare a preliminary report of the project. After a preliminary report is issued by the Commission, the developer is then permitted to offer the condominium units for sale.

These units are often "sold" first to select individuals called "straw buyers" whose only interest in purchasing the units is to resell their interest to another buyer after a short period of time has elapsed and before the condominium project has been completed. In the usual case the straw buyer will put a down payment of $1,000 to reserve a right to purchase the unit when it is completed.

If the original offering price of the unit is $50,000 the straw buyer may resell his right to purchase the $50,000 unit to another buyer by offering that other buyer the right to purchase the unit for $65,000 when the unit is completed. Thus, the original straw buyer has made a profit of $14,000 and the price of the unit has increased from $50,000 to $65,000.

The time period between the original sale and the second sale may be very short, just long enough to complete the paper work. By the time the ultimate buyer, the owner-occupant, is offered the unit, the purchase price may have increased substantially, e.g. to $75,000.

Although some persons believe that the use of straw buyers has declined since financial institutions are reportedly now imposing stricter construction loan qualification requirements, your Committee believes that this practice still exists.

Since the initial offer to purchase the condominium units can first be made to a few favored individuals of the developer, the general public, and particularly the unsophisticated individual who is simply seeking a place to live, is not given that special opportunity to participate in the original offering of the condominium units.

Recommendation. In view of the foregoing, your Committee recommends that legislation to minimize or control this above-described type of "speculative" sales transactions be considered for possible enactment in order to help ensure that individuals and families seeking first-time homeownership are given the opportunity to purchase a condominium unit at the time the unit becomes initially available and at a reasonable selling price not artificially inflated by a series of "speculative" sales transactions.

Signed by Representatives Shito, Lee, Aki, Baker, Blair, Honda, Ige, Kobayashi, Segawa, Ushijima, D. Yamada, Lacy and Sutton.

Spec. Com. Rep. 28

Your Committee on Education appointed pursuant to H.R. No. 844, adopted by the Regular Session of 1979, and directed to review basic skills instruction and competency-based testing programs in Hawaii's public schools, begs leave to report as follows:

BACKGROUND

During the 1970's, in Hawaii as well as in other states across the nation, a decline in elementary and secondary public school students' verbal, writing, and mathematical skills prompted public policy makers to require improvements in basic skill instruction and a mastery of basic skills prior to high school graduation.

Most school districts throughout the nation now have student instructional and testing programs designed to achieve mastery in basic and real-life skills before high school graduation. In Hawaii, the case has been no different. The State Department of Education has developed a five-year plan of action for the development of testing and evaluation measurements of student performance, revised and adopted new curriculum requirements for graduation, developed a performance expectation testing instrument, and a method of assessing mastery of adult oriented real-life skills.

In 1976, the Department of Education adopted a curriculum improvement planning document entitled Framework for DOE Curriculum Improvement 1976-1981. This five-year plan of action calls for the development of testing and evaluation measurements of student performance at different grade levels, of student mastery of basic skills, and of student mastery of real-life skills prior to high school graduation. It also stressed teacher assistance in correcting identified basic skill deficiencies in students.

Changes in high school graduation requirements were adopted pursuant to work done by a Citizens' Advisory Committee and DOE Task Force. The Task Force was initially created in 1975 to review existing graduation requirements and was reactivated in 1977 to develop policy changes which would integrate basic skill competencies as part of public high school graduation requirements. In the same year, the Legislature adopted Act 187 establishing a Citizens' Advisory Committee on Basic Skills and Real-life Skills to advise the Legislature on levels of student proficiency necessary for graduation.

A year later, the Advisory Committee submitted a report to the Legislature which cited an over emphasis by the department on testing development and not enough emphasis on curriculum development to improve student skills.

These concerns were considered by the Task Force and in August, 1978, the Board of Education (BOE) approved the Task Force Report on Graduation Requirement revisions, which were recommended along with the establishment of grade level performance expectations. The report used the DOE's foundation program as a baseline document, a program which has served as the department's traditional set of major educational objectives for student academic, behavioral, and social skills. As a result, major graduation requirement changes effective as of 1983 in Hawaii's public schools, include:

(1) Increasing present graduation credit requirement from 18 to 20 with mathematics and science minimums increased from 1 to 2 credits;

(2) Mastery of 15 identified competencies that consist of basic and other life skills, and which additionally will be used to test the Foundation Program's Objectives;

(3) A high school diploma, instead of the present graduation certificate, for students meeting regular graduation requirements and for those completing the adult education General Education Development Program;

(4) A "Certificate of Completion" for students who complete Individually Prescribed Programs such as special education students; and

(5) Expanded opportunities for students to receive credit by examination.

In 1983, graduating students will also be required to pass the Hawaii State Test of Essential Competencies (HSTEC). The HSTEC tests a student's basic and real-life skills including the reading and understanding of such everyday items as classified ads,

bus schedules, long distance telephone rates, utility bills, revenue and expenditure graphs, consumer advertisements, and employment application forms.

Presently, the Stanford Achievement Test (SAT) is used as the primary DOE test instrument to evaluate the reading, vocabulary, language, spelling, and mathematics performances of students in grades 2, 4, 6, 8, and 10. While SAT is not designed to measure student performance in all of the major objective areas of DOE's Foundation Program, it does provide a comparison of basic skills performance of Hawaii's students with national SAT test results and individual states as well.

The larger scope of DOE Foundation Program Objectives is measured by a "performance expectation" or competency-base measured testing instrument. This was designed to evaluate the overall educational progress of students in grades 3, 6, 8, and 10 in areas such as developing basic skills, independence in learning, developing a positive self-concept, acquiring decision-making skills, preparing for a career, and appreciating the arts.

APPROACH TAKEN

During the 1979 interim, a House Education subcommittee was directed to review the status of the Department of Education's efforts in basic skills instruction and testing. The subcommittee consisted of members of the House Standing Committee on Education which included: Representatives Charles Toguchi, Chairman; David Hagino; Richard Kawakami; Oliver Lunasco; Gerald Machida; Calvin Say; Herbert Segawa; Clifford Uwaine; and Whitney Anderson. Public hearings were conducted on Hawaii, Maui, Molokai, Kauai, and Oahu between September 17 and October 3, 1979. Testimony was received from the Department of Education, DOE district administrators, numerous administrators from elementary, intermediate and high schools, parent-teacher organizations, the Hawaii State Teachers Association, and individual teachers, parents, and students.

FINDINGS

Instructional programs. The DOE's efforts at improving basic skill instruction has been to strengthen this program at the early elementary and at the high school grade levels. A solid foundation in basic skills at the early elementary level will facilitate the learning of new educational skills and carry students to improved levels of basic skills in uppper grades. This emphasis in resources include instructional guidelines to assist elementary school teachers in identifying deficiencies and providing adequate developmental and remedial services. A handbook to assist early elementary teachers in effectively teaching reading and writing, Language Arts Strategies for Basic Skills, K-2, has also been issued. Your Subcommittee was further informed that the dismantled 3-on-2 team teaching positions in elementary schools have proven to be of valuable assistance in providing individualized remedial instruction to students with learning difficulties. Usually, regular classroom teachers do not have the time and in some instances, are not adequately prepared to provide such instruction.

To provide immediate remedial work on basic and real life skills to students on the verge of entering the community, your Subcommittee learned that the department has provided individualized tutorial assistance to high school students with identified basic skills deficiencies. The DOE's alternative education and bilingual/bicultural programs are also utilized for these purposes. Your Committee learned, however, that the needs of only a portion of the total student target group in need of basic skill assistance are being met because of limited funds. It is clear that in order to meet its objective in this area, your Committee believes that more financial resources will have to be allocated.

Your Committee also learned of the DOE's interest in replacing the Hawaii English Program (HEP), developed especially for Hawaii's elementary and secondary students, with such new reading programs as the Chicago Mastery Learning Reading Program and the Ann Adams Reading Program. Your Committee would like to caution the department against the tendancy to tinker with new reading programs at the expense of on-going, existing programs. While your Committee realizes that in certain instances a different approach helps in assisting students with certain learning difficulties, your Committee believes that frequent experimentation with new programs too easily leads to large operational and purchase costs, setting up new in-service training sessions for teachers and administrators, and adjustment problems for students as they move from one grade to the next or transfer from one school to another. Your Committee believes the DOE should continue to modify HEP, rather than replace it with a new program since HEP was specially designed to provide language art skills for Hawaii's students.

Testing programs. HSTEC was administered for the first time in the Fall of 1978

to all tenth grade students and some ninth, eleventh, and twelfth grade students. Statewide HSTEC test results by grade level and respective percentage of passing student scores are as follows: ninth grade, 50.1 percent; tenth grade, 64.5 percent; eleventh grade, 73.1 percent; and twelfth grade, 75.4 percent. Your Committee was also informed that during school year 1979-1980, the DOE will be administering HSTEC to all ninth and eleventh grade students, and will be developing two alternatives to provide students who fail HSTEC another means of demonstrating mastery of essential competencies.

Your Committee learned that competency-base measured (CBM) testing will eventually replace SAT testing as the primary testing instrument since it tests students on other areas besides basic skills. However, SAT will still be administered on a random sampling basis for purposes of comparing Hawaii students with students of other states.

Your Committee also received testimony supporting a competency-based testing program requiring the use of a broad range of testing and evaluation instruments in addition to the traditional pencil and paper written examination. Your Committee is in support of this approach provided teachers and school administrators are given timely and adequate instructions on the use and implementation of CBM testing.

For both HSTEC and CBM testing, principals and teachers expressed the need for adequate and timely in-service training so that test results can effectively be used to assist students with identified weaknesses. Your Committee also learned that SAT test results of Hawaii's students over the past few years have shown a slight, gradual improvement in reading and math. However, when Hawaii's test results are compared with the national SAT scores, the percentage of Hawaii students in the "below average" category is greater than the national norm for the "below average" category.

For all testing programs, your Committee was informed that it is the practice of schools to transmit a student's test results to parents or guardians. However, your Committee found that parents often do not receive any accompanying explanation or interpretation of these test results.

RECOMMENDATIONS

While your Committee is generally satisfied with present DOE efforts and direction regarding basic skill instruction and testing, your Committee believes that the following recommendations can further improve present basic skills planning and implementation:

(1) Basic skills instruction and testing in-service training for teachers and administrators should be increased so that these individuals can more effectively use test results to assist students with identified educational weaknesses.

(2) The DOE should design an informational presentation utilizing other languages when appropriate, for parents and guardians to assist them in interpreting tests such as the Hawaii State Test of Essential Competencies, the Competency-Based Measurement Testing, and the Stanford Achievement Test. The major objective of this presentation should be to provide parents and guardians with clear and meaningful interpretations of test results so that they can better understand and assist their children in achieving the best education possible.

(3) The DOE should assess its present policies and practices regarding the selection and use of new programs to replace existing programs, especially in the areas of reading and mathematics. Your Committee believes that continual experimentation with new programs on a large scale basis can create confusion in a student's learning environment especially at this present time when critical emphasis is necessary for immediate improvement of basic skill instruction.

(4) The DOE should develop a detailed basic skills program impact statement providing information and analysis on the projected number and type of students expected to participate in the basic skills testing and instructional programs as well as the projected type and amount of resources required to fully implement a basic skill testing and instructional program based on the DOE's basic skills implementation timetable.

Signed by Representatives Lunasco, Say, Andrews, Hagino, Kawakami, Kiyabu, Segawa, Stanley, Takamine, Toguchi, Ushijima, Uwaine, Anderson and Marumoto.

Spec. Com. Rep. 29

Your Committee on Higher Education and your Committee on Tourism, appointed pursuant to House Resolution No. 844-79, adopted by the Regular Session of 1979, and directed to jointly review the manpower needs of Hawaii's visitor industry, beg leave to report as follows:

BACKGROUND

Currently, and for the foreseeable future, employment opportunities for Hawaii's residents are and will continue to be dependent upon three primary sources of economic activity: government expenditures, agricultural production, and visitor spending. The continued economic viability of the visitor industry depends to a large extent on the availability of qualified manpower to serve the needs of the industry.

This report summarizes the review conducted by your Committees, during the 1979 legislative interim, on the manpower needs of Hawaii's visitor industry, detailing in particular the examination of the number, qualifications, and availability of persons to perform services necessary to the continued growth and development of Hawaii's visitor industry.

Four resolutions relating to visitor industry manpower shortages and manpower training programs and problems were introduced during the 1979 legislative session. These resolutions were referred to your Committees for consideration. This report addresses the substantive concerns contained in the following four House Resolutions, which were considered by your Committees at public hearings and subsequently reported out favorably and referred to the Committee on Legislative Management: (1) H.R. No. 75-79 and H.R. No. 77-79, requesting progress reports on the implementation, within the community college system of the University of Hawaii, of the "Curriculum Guide for Hospitality Education" prepared by the Office of the Hawaii State Director for Vocational Education; (2) H.R. No. 76-79, requesting a review of the respective visitor industry training programs of the Hawaii State Office of Manpower Planning and the Honolulu City Department of Human Resources; and (3) H.R. No. 541-79, requesting a study of visitor industry training programs and facilities.

During the course of hearings on the four previously cited House Resolutions, your Committees were informed of manpower shortages in the visitor industry, particularly in the recruitment of persons to fill entry level "service" positions, such as in housekeeping and maintenance, and in the retention of food service employees. Your Committees believed that a comprehensive examination of this problem required additional time and preparation and therefore could best be accomplished during the legislative interim.

COMMITTEE APPROACH

The chairmen of your two standing Committees served as co-chairmen of the joint interim committee, with the full membership of both standing Committees serving as members.

As general policy observations, your Committees believe that:

(1) With proper planning, the visitor industry has great potential for employing even greater numbers of local residents in satisfying, responsible, and economically rewarding jobs.

(2) The continued health and growth of Hawaii's visitor industry is heavily dependent upon maintaining a productive, technically competent, and efficient visitor industry work force who also help exemplify to our visitors Hawaii's famous "aloha spirit."

During the 1979 legislative interim, your Committees conducted a "Visitor Industry Manpower Needs Workshop" on Monday, August 20, and Tuesday, August 21, 1979, at the State Capitol to identify existing and projected manpower shortages in various sectors of the visitor industry; to review current public and private efforts to train persons to fill such manpower shortages; and to examine problem areas in, or related to, the visitor industry which could be remedied by education programs for local residents, both those employed by the visitor industry and those who are not.

To assist your Committees at the workshop, your Committees requested the following agencies and organizations to testify or make appropriate presentations relating to the following subject areas:

(1) Visitor industry manpower needs and projections: State Department of Planning and Economic Development, State Commission on Manpower and Full Employment, and State Department of Labor and Industrial Relations.

(2) Public education programs and problems relating to visitor industry manpower training: University of Hawaii Community College System, University of Hawaii School of Travel Industry Management, Kapiolani Community College, and Maui Community College.

(3) Other educational programs: Brigham Young University, Chaminade College, and Visitor Industry Education Council.

(4) Visitor industry training programs and concerns: Hawaii Hotel Association, Hawaii Visitor's Bureau, Hawaii Restaurant Association, Hawaiian Discovery Tours, Sheraton Hotels, and Honolulu Airlines Committee.

(5) Training programs and concerns of organized labor relating to visitor industry manpower training: Hawaii State Federation of Labor and ILWU.

Relevant testimony is summarized in the following section on findings.

FINDINGS

Your Committees find that the visitor industry is expected to remain the largest single source of private sector employment in the State. Your Committees further find that the continued growth of the visitor industry clearly requires the development of effective training programs to produce and train the labor force needed to meet the diverse labor requirements of the visitor industry, particularly if the visitor industry continues to rely heavily on a relatively unskilled and untrained labor pool from which to recruit its employees.

Testimony unanimously supported the concept of developing publicly and privately supported visitor industry training programs to meet the current and projected manpower needs of the visitor industry. The Department of Planning and Economic Development (DPED) testified that, based on a five percent growth rate in the number of visitors to Hawaii, the number of jobs generated by direct visitor expenditures statewide would be approximately 5,000 per year by 1985. DPED further testified that approximately 162,800 new jobs will be created by all economic activities in the State during the ten year period from 1980 to 1990. 87,000 or 53.4 percent of these new jobs will be directly or indirectly created by the visitor industry, largely in the food service area.

The Department of Labor and Industrial Relations (DLIR) testified that visitor industry manpower training programs under the Comprehensive Employment and Training Act (CETA) of 1973 are administered by DLIR's Office of Manpower Planning, which works closely with the visitor industry, particularly on the Neighbor Islands. DLIR/CETA resources are used to provide job-related training to meet visitor industry manpower needs to fill vacant positions during periods of visitor industry expansion and the opening of new visitor industry establishments.

DLIR identified the following major problems in locating and recruiting sufficient numbers of persons eligible for CETA training and interested in visitor industry jobs: (1) a lack of or inadequate transportation to visitor industry jobs; (2) the unwillingness of potential employees to commute to visitor industry jobs; (3) the unwillingness of potential employees to adapt to visitor industry working conditions, especially shift work; (4) the existence of a cultural climate in Hawaii which considers "service" occupations or positions as the least desirable form of employment; (5) the diverse cultural background of Hawaii's people, particularly recent immigrants from foreign, non-Western countries, which requires potential visitor industry employees to be extensively trained in order to be familiar with and to accept occidental customs and practices; and (6) the shortage of moderate and low-income housing within reasonable commuting distance of visitor industry establishments, particularly on the Neighbor Islands.

Testimony from other agencies, including the University of Hawaii, generally supported existing education and training programs as being adequate to meet existing and projected demands in all visitor industry job categories, except in the food service area which has traditionally been plagued by manpower shortages. These shortages have become even more pronounced because of an increasingly high turnover rate among food service employees.

Your Committees also found that vocational education programs in the community colleges, which carry a major responsibility for visitor industry manpower training,

need greater direct support from the Legislature, particularly during the current period of fiscal austerity. Your Committees were deeply concerned by testimony reporting that community college vocational education programs are accorded a low priority by the administration of the statewide University of Hawaii system for the budgeting or allocation of funds.

Testimony from the visitor industry itself and representatives of organizations representing the visitor industry work force reviewed existing visitor industry and labor organization education and training programs. Your Committees find that such education and training programs are commendable, although limited in scope and lacking in uniformity.

Your Committees further find that lack of uniform job or position descriptions and responsibilities, job classifications, and job qualifications throughout the visitor industry has impeded the development of industry-wide education and training programs. Your Committees recognize that different sectors or segments of the visitor industry have unique job requirements, and that job descriptions, responsibilities, classifications, and qualifications for similar occupations may vary even among similar visitor industry establishments. However, your Committees find that such lack of uniformity may contribute substantially to confusion among applicants for entry level "service" occupations or positions in the visitor industry, particularly those having little contact with or knowledge of local visitor industry employment opportunities and practices.

Your Committees are also concerned that entry level employees, particularly recent immigrants, are not aware of "career ladders" which identify opportunities for job advancement, in increasingly responsible and financially rewarding positions, and the qualifications for such career advancement. Your Committees find that lack of awareness of such advancement opportunities may contribute to frustration, dissatisfaction, and turnover among entry level employees which could be remedied by expanded or more effective information and education programs which emphasize long-term careers and career opportunities in the visitor industry.

RECOMMENDATIONS

Your Committee on Higher Education and your Committee on Tourism recommend that:

(1) A study be conducted to determine the feasibility of developing uniform job or position descriptions and classifications in the visitor industry and identifying "career ladders" for entry level employees, particularly those employed in "service" positions or occupations;

(2) The visitor industry and the community colleges, together with other appropriate agencies such as the State Department of Labor and Industrial Relations, be requested to more effectively coordinate their visitor industry manpower training programs and explore alternatives to conventional classroom training programs, including but not limited to improved and/or expanded on-the-job training, mobile education, and recruitment programs; and

(3) The University of Hawaii administration and Board of Regents be requested to provide greater support for vocational education programs at the community college level which provide training for visitor industry or visitor-industry-related jobs.

Signed by Representatives Ushijima, Kiyabu, Andrews, de Heer, Hagino, Dods, Kawakami, Kunimura, Lunasco, Masutani, Nakamura, Say, Segawa, Silva, Stanley, Takamine, Toguchi, Uwaine, Ikeda, Anderson, Marumoto and Medeiros.

Spec. Com. Rep. 30

Your Committee on Education appointed pursuant to House Resolution No. 844, adopted by the Regular Session of 1979, and directed to review the State Administration's progress in implementing special education programs and services for handicapped children, begs leave to report as follows:

APPROACH TAKEN

Because of a recent court ruling and time requirements under federal law to identify and place handicapped children in educational programs, a subcommittee of the House Standing Committee on Education was appointed to review the State Administration's

progress in this area. The subcommittee consisted of members from the House Committee on Education and included: Representatives Herbert Segawa, Chairman; David Hagino; Richard Kawakami; Oliver Lunasco; Gerald Machida; Calvin Say; Charles Toguchi; Clifford Uwaine; and Whitney Anderson.

Public hearings were conducted on Hawaii, Maui, Molokai, Kauai, and Oahu between September 17 and October 3, 1979 at which public and private organizations and individuals submitted testimony. Those participating at these hearings included: the State Departments of Education, Health, Transportation, and Accounting and General Services; Department of Education District Offices; numerous public schools and parent-teacher organizations; the Hawaii Association of Special Education Private Schools; the Protection and Advocacy Agency of Hawaii; Parents for Educational Rights of Children with Handicaps; and various individuals involved with handicapped children.

For purposes of this report, the term "handicapped children" means individuals between the ages of three and twenty inclusively, in accordance with the definition of "handicapped children" used in a 1977 Hawaii Circuit Court consent agreement and order (Silva et al., vs. Board of Education, State of Hawaii, et al., Civil No. 41768) which mandated the State of Hawaii to provide educational and related services to handicapped children.

BACKGROUND

While the Department of Education (DOE) is required by general law to provide instructional services to handicapped persons under age twenty (Sections 301-21 and 301-22, Hawaii Revised Statutes), the department's efforts in this area have been stepped up to comply with deadlines set forth under Public Law 94-142, known as the Education for All Handicapped Children Act of 1975, and a 1977 Hawaii Circuit Court consent agreement and order (Silva et al., vs. Board of Education, State of Hawaii, et al., Civil No. 41768).

P.L. 94-142, in particular, requires the State education agency to provide full educational opportunities and programs for all handicapped children from age three through eighteen by not later than September 1, 1978, and for all handicapped children from age three through twenty-one not later than September 1, 1980. The First Circuit Court consent agreement and order required the State to provide educational opportunities and programs to all handicapped children between ages three and twenty not later than September 1, 1980. Because the provisions of the court order prevail over federal and state law and any department policy, the department has accelerated its efforts to identify and place children from age three to twenty, rather than twenty-one, in appropriate programs.

The agreement and order also requires the DOE, the Department of Social Services and Housing (DSSH), and the Department of Health (DOH) to provide the necessary special education and related services for handicapped students and placed overall responsibility with the DOE. Under the DOE's State Plan for Special Education and Services in Hawaii, adopted by the State Board of Education in 1975, the responsibilities for various agencies include: DOH--medical and health services; DSSH--social and vocational rehabilitation services; the University of Hawaii (UH)--training of professional staff for handicapped; and the DOE--ensuring that all handicapped receive the necessary special education and medical, health, social, and vocational services. This document also defines handicapped children as those persons under age twenty who suffer from mental retardation, loss of hearing, speech impairment, loss of sight, orthopedic impairment, learning disabilities, are emotionally disturbed, or a combination of these conditions.

The plan directs the DOE Special Needs Branch to develop policies, regulations, and standards for special education programs and services. School district superintendents are responsible for the implementation and monitoring of special education programs in their respective districts, and school principals are responsible for the day-to-day operation of special education programs. To integrate handicapped children into a regular classroom environment as much as possible, regular classroom teachers also provide instruction and annually evaluate the progress of each special education student, with the special education teacher further developing an individualized education plan for such students. The plan also recommends that career and vocational education be provided through the DOE and other State agencies such as DOH and DSSH.

DOE Regulation 49 assures due process to handicapped children and their parents for testing, evaluation, and placement procedures. It requires that the assessment of a child suspected of handicapped conditions be completed within three months of the time of referral and further, that an individualized education program and placement of the child be completed within thirty days after a child has been certified and received parental approval.

To implement federal and state laws, the recent court order and its special education plan, the DOE has extensively used this diagnostic testing program and has expanded its special education program in public and special education schools. The diagnostic testing program is administered by the department's special education branch and involves identification, referral, diagnosis and education evaluation for children between the ages of three to nineteen. Diagnostic teams operate on a school district basis and consist of a psychological examiner, speech and hearing specialist, school social worker, and a diagnostic-prescriptive teacher. Referrals are made to other public agencies and private organizations through cooperative agreements and contractual agreements for further diagnosis, intensive treatment and therapy, and follow-up services.

Instruction is provided at regular and special education schools. At a regular school, students can be assigned to: a full-time, self-contained class with a special education teacher; or an integrated self-contained class where instruction from a special education teacher is received for at least half of the school day and a regular class situation prevails for the remainder of the day. DOE special education schools provide intensive specialized services not available at regular schools and include the Hawaii School for the Deaf and Blind, Jefferson School Orthopedic Unit, and Pohukaina School. Private special education schools provide educational and other services not available in the public schools and include the Variety Club School, Special Education Center of Oahu, Hawaii Association for Retarded Children - Ruger Center, and the United Cerebral Palsy Association of Hawaii Pre-School.

Special needs for pre-school children, ages three to five, are handled through the Children's Health Services Division, DOH. Under a Title XX purchase of services contract administered by the DSSH, DOH screens, evaluates, and provides comprehensive developmental training for these children through children's mental health services teams stationed at community mental health centers at Wahiawa, Pearl City, Aina Haina, Leahi Hospital, and on Hawaii, at Kona. To service other parts of the State, such as other parts of Hawaii, Maui, Kauai, and Waianae and Honolulu, the DOH contracts with various private agencies. Children's Health Services Division provides one occupational therapist and one physical therapist in each school district through a contract with the DOE and in addition operates the Learning Disability Clinic which provides diagnostic assistance to private and public pre-school and school age children who are suspected of having a specific learning disability. These services are provided at an Oahu clinic and to the neighbor islands by an interdisciplinary team on an itinerant basis.

The DOE's efforts in identification, diagnosis, treatment, and rehabilitative services for persons up to age seventeen is complemented by the DOH children's mental health services teams. These teams, in conjunction with the mental health centers, provide special health, medical, and therapy services to children in general as well as those referred by DOE diagnostic teams.

FINDINGS

While the State has expanded its efforts to meet federal and state special education requirements as well as to meet an increasing demand for special education and related services, your Committee found a shortage of special education instructional and support personnel, a need to improve special education staffing capabilities, a lack of interagency coordination for pre-school children, and satisfactory improvements in transportation services for handicapped students.

Shortage of instructional and support personnel. Your Committee found that accelerated efforts to meet federal and the 1977 State Circuit Court order has resulted in a steady increase in the number of handicapped children requiring special education assistance. In 1977, approximately 8,400 handicapped students were enrolled in DOE's special education programs, with this number increasing to about 11,100 students for school year 1979-80. For school year 1980-81, the department projects the number to increase even further to approximately 15,700 special education children. Of these total figures, the groups representing the largest increases are pre-school special education children (ages three to five) and children with speech impairments. Presently, about 50 of the 11,100 handicapped students are pre-school students and this target group is expected to increase to about 600 by September, 1980. A major category of handicapped children are those with speech impairments who are treated on a caseload basis rather than through general instructional programs. The caseload for speech impaired children is expected to increase from a present total of about 4,800 to about 8,900 for school year 1980-81. This handicapped population is expected to be a major contributor to the significant increases in special education needs in the coming years.

While the DOE and DOH have requested and received additional professional and support positions to meet this increasing demand for special education and related

services, your Committee was informed that these State agencies have experienced difficulty in filling these positions. Professional positions such as occupational and physical therapists, speech and hearing specialists, and clinical psychologists and support positions such as educational assistants have particularly been difficult to fill because of nationwide shortages of qualified persons for these positions. Your Committee also learned that at the State level, the temporary job classification of some positions, providing no employment security, and the lower starting salaries for professional and support positions in comparison with mainland school district equivalents have hampered local recruitment efforts. This recruitment problem is expected to continue for school year 1980-81.

Problems with the recruitment of qualified pre-school special education teachers are also expected since this is a relatively new profession. To meet the need for pre-school education teachers, the DOE will hire instructors with a baccalaureate degree in pre-school or special education and, as a condition of employment, require the completion of a master's degree in special education by 1984 with necessary course requirements in pre-school special education. Instructors hired with a master's degree in special education to teach pre-school students will be required to complete necessary pre-school special education training and instruction by 1984.

Strengthening Staff Capabilities. Your Committee identified a need to improve the development and review of individualized education programs for a special education child, the preparation of regular classroom teachers so that they may better identify and work with handicapped children, and diagnostic and evaluation services for special education.

Presently, Public Law 94-142 requires the development of an individualized education program (IEP) for each identified special education child. In the preparation of the IEP, federal and DOE guidelines require parental participation through parent-teacher conferences. Your Committee learned, however, that special education teachers spend much time beyond regular work hours to fulfill this special education requirement since parent-teacher conferences are generally restricted to non-instructional time under Article VI, Section AA of the State teachers' contract. Such conferences have had to be scheduled during teacher preparation periods and pre- and post-school hours.

Your Committee further found that regular classroom teachers are often not sufficiently prepared to identify students suspected of having a handicapped condition or have the necessary educational background to provide instruction to special education students. Your Committee agrees that regular classroom teachers play an integral role in identifying students with handicapped conditions and in providing instruction to special education students in a regular classroom setting. The DOE, however, has not placed a high priority on inservice training for regular teachers in identifying and working with special education students nor has the department aggressively pursued a policy of requiring new regular classroom teachers to have some amount of college background in special education.

Your Committee was also informed that the DOE diagnostic teams which play an integral role in providing diagnostic and evaluative services to handicapped students suffer from a lack of uniformity in personnel classification. At the present time, a diagnostic team consists of both certified personnel (i.e. teachers) and classified personnel (i.e. DOE and district administrators). Certified members of the team are not available to provide services during regular school holidays and vacation periods. In hopes of resolving this problem, your Committee learned that the DOE will be hiring only classified personnel as new diagnostic team personnel to ensure year round staffing.

Interagency Coordination. Your Committee found that in most cases, agencies involved with the delivery of special education and related services utilize formal, interagency agreements to coordinate their activities and ensure effective and full implementation of federal and State special education guidelines. However, your Committee is concerned that for the State's pre-school program, no formal, written guidelines have been prepared for DOH to follow in reporting identified and evaluated handicapped children to the DOE for necessary follow-up services. Parents of a pre-school handicapped child are relied on by the DOH to notify DOE of their child's handicapped conditions. Your Committee is concerned that such an informal arrangement can result in an identified handicapped pre-school child not receiving necessary and timely follow-up services simply because the child's parents or guardian has not notified DOE of their child's disabilities. Your Committee believes that if the DOE is planning to expand its operations in servicing pre-school handicapped children, a high priority should be placed on adopting the necessary working agreements with agencies involved with pre-school children, especially in the area of referral and follow-up services.

Transportation Services. Your Committee was informed that in recent years, significant improvements in providing safe and timely transportation services to handicapped students have been made. This includes expansion of services and the development of an adult bus aide program to provide better supervision of handicapped students on school buses. Your Committee, however, is quite concerned about instances where parents or guardians are not home to receive their children, thereby requiring bus drivers, in some instances, to supervise the children until the parents or guardian are home. To resolve this problem, your Committee is in agreement with the Department of Accounting and General Services' plan to require parents or guardians of handicapped students to agree to an alternative drop off place close to their home if the parents or guardian is not home.

RECOMMENDATIONS

To ensure timely and adequate delivery of special education and related services to our handicapped children, your Committee recommends that the State place high priority in the following areas:

(1) An evaluation of the State's salary compensation structure for all special education and support positions so that the State can effectively compete with other school districts in the recruitment of such personnel;

(2) A review of the feasibility and impact of reclassifying temporary special education and support positions to permanent positions to strengthen the State's special education personnel recruitment efforts;

(3) Increase instructional efforts to train and qualify persons in the specialized and growing field of pre-school special education;

(4) Increase in-service and pre-service training for regular classroom teachers to strengthen identification and instructional capabilities for special education children, and review the feasibility of adopting a DOE hiring policy requiring new regular school teachers to possess certain levels of college preparation in special education; and

(5) Adopt formal interagency agreements to provide clear guidelines regarding referral and follow-up services for identified pre-school children with handicapped conditions.

Signed by Representatives Lunasco, Say, Andrews, Hagino, Kawakami, Kiyabu, Segawa, Stanley, Takamine, Toguchi, Ushijima, Uwaine, Anderson and Marumoto.

Spec. Com. Rep. 31

Your Committee on Education appointed pursuant to H.R. No. 844, adopted by the Regular Session of 1979, and directed to review the Department of Education's efforts in resolving problems cited in the 1977 Legislative Audit on the library system of the Department of Education, begs leave to report as follows:

APPROACH TAKEN

During the 1979 interim, a subcommittee of the House Standing Committee on Education was appointed to review the progress made by public and school libraries in regard to the 1977 Legislative Audit. The subcommittee consisted of members from the House Committee on Education and included: Representatives David Hagino, Chairman; Richard Kawakami; Oliver Lunasco; Gerald Machida; Calvin Say; Herbert Segawa; Charles Toguchi; Clifford Uwaine; and Whitney Anderson.

The subcommittee conducted public hearings on Hawaii, Maui, Molokai, Kauai, and Oahu between September 17 and October 3, 1979 to receive testimony regarding the Department of Education's progress in implementing the recommendations presented in the 1977 Legislative Auditor's report on the State library system. Public and private organizations and individuals testifying or submitting testimony at these hearings included: the State Department of Education; Department of Education District Offices; numerous public schools, public libraries, and parent-teacher organizations; Hawaii State Teacher Association; and groups and individuals involved with library services and programs.

BACKGROUND

Under Section 26-12 and Chapter 312, Hawaii Revised Statutes, the State Department

of Education (DOE) is responsible for the management and operations of school and public library programs and services. School libraries, considered to be part of the school unit, are under the administrative authority of the individual school principals for budgetary and program development purposes (Act 58, SLH 1979). Public and community/school libraries are administratively placed under the DOE's State Office of Library Services (OLS) and headed by an Assistant State Superintendent known as the State Librarian.

The existing state library system was developed pursuant to a 1968 Board of Education plan for statewide library development entitled Planning for Libraries in Hawaii. The plan stressed an integrated, cohesive system of libraries and outlined the following major programs: (1) an overall management plan; (2) delivery of integrated library services through community, community/school, and regional libraries with support from a state resource center; (3) integration of multi-media programs (e.g., audio and visual media) with school library programs; (4) special statewide library activities such as interlibrary loans, and services to state agencies and to the blind and handicapped; and (5) integration of administrative and technical support services to facilitate coordinated planning and supervision. The plan was intended to: (1) increase the range of materials and services available at individual libraries since all materials in the library system were to be integrated and made available on request; (2) reduce duplication of materials; and (3) promote consolidated purchase of materials to achieve lower per unit costs.

In implementing the plan, a network of library facilities and programs was established by OLS. For example, school libraries were to have materials related specifically for school and classroom use, community libraries were to provide materials emphasizing general reading interests and community/ school libraries were to have materials designed to meet both school uses and general reading interests. Regional libraries were to have comprehensive collections and reference materials not available in community libraries, e.g. microfilm of newspapers. The resource library, the Hawaii State Library, was intended to satisfy specialized needs through in-depth research and reference materials such as government and business publications and specialized indexes. This system was expected to collectively provide patrons with those materials frequently used and requested.

In 1977, a Legislative Audit of the management and operations of the state library system found that the State's libraries do not operate as a single system. The Audit, A Study of the Library System of the Department of Education, reported that school and public libraries do not significantly cooperate, nor complement, one another in such a way as to distribute library materials equitably throughout the State. The Audit noted that despite repeated endorsement of a "systems" development for libraries in Hawaii, there has been conspicuous lack of initiative and action toward such development.

FINDINGS

Your Committee conducted an assessment of progress made by the DOE to remedy the concerns raised in the 1977 Legislative Audit. In this regard, your Committee submits the following:

School libraries. At the time of the Audit, State law required the state librarian to be responsible for the operation of all school and public libraries in the State. The Audit found that, in practice, school libraries had remained individually isolated under the control of their respective school principals. The Audit also revealed that: (1) school libraries do not cooperate with one another or work collectively as an effective subsystem within the overall state library system; (2) school library instructional programs, budgets, and collections vary considerably; and (3) while most of Hawaii's library resources are in school libraries, a serious underutilization of these resources by the general public existed since the hours and operations of school libraries in most cases do not permit general public use of school library materials and services. To correct these problems and inequities, the Auditor recommended that the state librarian adhere to the mandate of being responsible for the operation of school and public libraries and that the DOE: (1) establish a curriculum for teaching library skills to enhance elementary and high schools students' library utilization; (2) establish clear criteria for allocating funds to each library; (3) formulate material selection policies for school libraries for the selection and purchase of library materials; (4) design a system to encourage and facilitate greater public use of school libraries; and (5) improve the communication among school libraries and between school and public libraries to maximize the use and sharing of state library resources.

In reviewing the DOE's efforts to address the aforementioned recommendations, your Committee found that a library use study skill guide, Study Skills Related to Library Use: a K-12 Curriculum Guide for Teachers and Libraries was developed in June 1978 and distributed to all school teachers, librarians, and administrators in September

1978. While general orientation sessions were held for principals and school librarians, your Committee learned that only one-fourth of all school teachers received orientation on the use of this guide.

Your Committee also found that a material selection policy has been included as part of the DOE school code. However, there has been minimal effort to implement the Auditor's recommendations relating to criteria for school library funding, public use of school libraries, and improvements in the communication network among school libraries and between school and public libraries. According to the DOE, criteria for school library funding is included in the process of establishing criteria for curriculum funding needs at individual schools. Your Committee notes, however, that it is not clear how consistent the criteria used by individual schools are and that, to date, the DOE has not taken action to establish such criteria on a statewide basis.

The DOE further maintains that the primary responsibility of school libraries is to support their respective school's curriculum and that public use of school libraries will deprive student and teacher access to school library materials and instruction. The HSTA informed your Committee that two schools using volunteers opened their school libraries during the evenings and summer of 1979 and found minimal general public use of these school libraries. Your Committee believes that before any conclusions are formulated regarding public interest in the use of school library resources, the DOE should conduct a pilot-testing program using a larger, more representative sampling of school libraries.

Your Committee learned that an informal communication network already exists among school and public libraries. However, your Committee believes that since the existence of an informal communication network largely depends on the interest and personalities of individuals involved, a formal network with specific procedures and guidelines is still needed to ensure timely and effective communication among school and public libraries.

Community/School libraries. To meet the library needs of students and the general public in rural communities, the community/school library concept was initiated as a single library service facility. The Auditor found that shortly after this concept was implemented, total media facilities were included, such as audio-visual materials and equipment and specialized personnel. In evaluating the combination of multi-media programs with community/school library services, the Audit was especially critical of the DOE's failure to properly evaluate this program before adding it to more of these library centers, the lack of adequate policies and procedures to guide its operations, and the underutilization of such sophisticated technology and resources at community/school libraries. The Auditor therefore recommended that: (1) the total media component should be separated from community/school libraries unless a need for such a combination can be demonstrated; (2) the community/school libraries be integrated into the statewide library system and governed by the same policies and procedures that apply to other libraries; and (3) the relevancy and use of high technology equipment in community/school libraries be examined and that a plan be devised for redistributing underutilized equipment on an equitable and systemwide basis.

Your Committee found that department guidelines have been developed for community/ school library operations and that the department is evaluating the need for a total media component before including such a component in community/ school libraries. The department, however, has not yet thoroughly assessed the use of high technology equipment in existing community/school libraries and has not established any formal guidelines for the redistribution and more equitable use of underutilized media equipment in community/school libraries.

Regional library systems. The Audit found that much confusion exists regarding the role and responsibilities of regional libraries and regional library division offices which were established as an administrative, rather than instructional, operation responsible for the supervision and coordination of community and regional library services. Part of this problem was found to be due to a lack of clearly defined criteria and objectives for the operations of regional libraries and an absence of measures to evaluate the performance of regional libraries and regional library division offices. Accordingly, the Audit recommended that such operational criteria and objectives and measures of effectiveness be developed and the responsibilities of regional librarians be clearly defined and made distinct from regional library administrators.

Your Committee learned that the DOE has been extremely responsive to the Audit's recommendations regarding the regional library system. Criteria and objectives, as well as measures to determine the effectiveness of regional library and regional library administrative programs and services have been developed. The department has also established guidelines detailing the role and responsibilities of regional librarians

and regional library division administrators.

State resource center. The Auditor found that the Hawaii State Library has operated as an oversized public library rather than as the State's central library resource center to assist patrons requiring specialized materials and services not readily available at community or regional libraries. In response to the Auditor's recommendation that the DOE implement a definite timetable for the conversion of the Hawaii state library into a Hawaii library resource center, your Committee was informed that an implementation plan is currently being developed. However, this plan will still require considerable work in view of the absence of a definite implementation schedule and the lack of detail explaining funding requirements and program details for this conversion.

Staffing and personnel management. School and public library personnel management and staffing problems, stemming from the use of two separate personnel classification systems for public librarians and school librarians, were cited by the Auditor. Public librarians are classified as civil service employees while school librarians are classified as DOE certified personnel. There are differences between the two groups in regard to work and hour equivalencies. For example, school librarians are required to administer their respective libraries only during school hours, while public librarians are generally required to manage their respective libraries on a year-round basis. At the same time, school librarians believe their work is substantially different from that of public librarians since their primary mission is to provide library and school-related instruction which requires a college degree in education.

The Audit found, however, that school librarians spend much of their time on clerical activities rather than on library instruction. The Audit therefore recommended that such clerical and administrative functions at school libraries be the responsibility of OLS and that library instructional functions remain with the schools for purposes of improving school library services. In reviewing this finding and recommendation, your Committee was informed that shortages in clerical staff at school libraries have required school librarians to spend considerable time with non-instructional activities. Your Committee also learned that the DOE has not taken any formal steps to implement the Auditor's recommendation to maintain instructional services at school libraries and have public libraries be responsible for other school library operations.

At community/school libraries, the mixture of school and public library personnel has prevented the effective coordination of services since both types of personnel are involved with the entire operation of such libraries. Furthermore, the school library staff is under the general administration of the school principal while public library staff reports to the regional library division administrator. The Auditor recommended that the general management and operations of community/school libraries should be handled by a public library staff while school-related instructional and library services be handled by school libraries.

The Auditor also found certain instances of improper classification of library positions requiring formal education instructional skills as civil service positions and positions not requiring such instructional skills as DOE certified positions. Your Committee learned that the DOE has taken action to correct this improper classification of school and public library personnel.

Another program area reviewed by your Committee was the Auditor's recommendation that school library staffing standards be developed to ensure the teaching of library use skills. Your Committee was informed that the DOE has developed suggested school library staffing guidelines but has not yet formally adopted such standards.

An Organizational Alternative for the State Library System. Your Committee acknowledges receipt of petitions and testimony from users as well as former and current employees of Hawaii's public libraries citing the need for a separate state department for the administration and operations of public libraries. Those testifying in support of this proposal emphasized the low priority given to the budget and operations of public libraries by the DOE and the lack of similiar benefits and compensation between public and school librarians.

According to DOE testimony, the State Board of Education (BOE) has no objections to transferring public libraries programs out of the DOE. However, your Committee was informed that county library advisory commissions are to support of maintaining the existing public library system. These commissions are appointed by the Governor and selected to serve in an advisory capacity to the BOE (Section 26-12, Hawaii Revised Statutes). Because of the important role public libraries play in our public school system, these commissions believe that public libraries should remain as a major program

area with DOE. The Audit also reviewed various organizational alternatives to the state library system and concluded that the existing system is satisfactory. The Audit emphasized that the current library system has the potential to develop into a very effective, integrated system once identified management and operation problems are corrected.

RECOMMENDATIONS

While your Committee is encouraged by the department's efforts in certain areas to correct problems and concerns identified by the Legislative Auditor's 1977 Report, your Committee believes that the following recommendations should be given high priority by the DOE:

School Libraries: The DOE should (1) increase its library use study skill guide orientation programs for teachers since teachers at only one-fourth of all schools have received orientation on the use of this guide; (2) establish statewide criteria to determine minimal funding, and program requirements necessary for the operations of school libraries; (3) for the purpose of determining public interest and use of school libraries, pilot test the concept of opening school libraries to the public by using a representative sampling of public school libraries; and (4) develop, among school and public libraries, a formal communication network with specific guidelines and procedures to provide timely and effective communication among libraries.

Community/School Libraries: The DOE conduct a formal assessment of the use of multi-media equipment in community/ school libraries and establish formal guidelines for the redistribution and more equitable use of underutilized media equipment.

Your Committee further recommends that the department continue to work on its implementation to convert the Hawaii State Library to a state library resource center and formally adopt school library staffing standards to ensure all school libraries are provided sufficient staffing resources.

Signed by Representatives Lunasco, Say, Andrews, Hagino, Kawakami, Kiyabu, Segawa, Stanley, Takamine, Toguchi, Ushijima, Uwaine, Anderson and Marumoto.

Spec. Com. Rep. 32

Your Committee on Education appointed pursuant to House Resolution No. 844, adopted by the Regular Session of 1979, and directed to review the state administration's efforts in resolving the operational, organizational, and management problems cited in the 1978 Legislative Auditor's report on state student transportation services, begs leave to report as follows:

APPROACH TAKEN

During the 1979 interim, a House Education subcommittee on student transportation services was appointed to undertake this review. The subcommittee consisted of members from the House Committee on Education and included: Representatives Calvin Say, Chairman; David Hagino; Richard Kawakami; Oliver Lunasco; Gerald Machida; Herbert Segawa; Charles Toguchi; Clifford Uwaine; and Whitney Anderson.

The subcommittee conducted public hearings on Hawaii, Maui, Molokai, Kauai, and Oahu between September 17 and October 3, 1979 to receive testimony regarding the State's progress in implementing the recommendations presented in the 1978 Legislative Auditor's report on state student transportation services. Public and private organizations and individuals testifying or submitting testimony at these hearings included: the State Departments of Education, Transportation, Accounting and General Services, and Personal Services; Department of Education District Offices; various individuals, public schools, and parent-teacher organizations; the Protection and Advocacy Agency of Hawaii; Hawaii Association for Retarded Citizens; and Parents for Educational Rights of Children with Handicaps.

BACKGROUND

Hawaii's State student transportation program is mandated by law to provide safe transportation services for public school students. One of its unique characteristics is the involvements of far more than one state and county agency in its program operations.

The State Department of Education (DOE) serves as the primary state agency responsible for adopting, implementing, and evaluating policies and programs for a state student transportation program (Section 296-45, Hawaii Revised Statutes). It is also responsible for adopting and executing state safety standards and regulations for student transportation (Section 286-181, Hawaii Revised Statutes). The United States Department of Transportation also requires the states to establish student transportation safety standards and regulations. DOE's Rule 48 establishes specific safety regulations regarding school bus equipment and maintenance, driver training and qualifications, and passenger safety. The DOE primarily contracts with private bus companies to transport students to and from school where public transportation is limited. However, in isolated rural communities, such as Kohala, Kona, and Kau, the DOE hires state-employed bus drivers using state owned buses to transport students. The state student transportation program also subsidizes students who live a mile or more from school and use state contracted or public bus transportation. DOE's Rule 1 establishes criteria for determining student bus fare subsidies, and requires students who live a mile or more from school to pay a 10 cent one-way fare with state subsidies covering the difference between the 10 cent fare and the actual per student operating cost. Students who qualify as "economic hardship cases" or handicapped are exempted from paying for student bus transportation. For neighbor island students, the counties pay the 10 cent bus fare for each student, thereby entitling these students to free student transportation services.

The State Department of Accounting and General Services (DAGS) through a 1970 memorandum of understanding between the DOE and DAGS, is responsible for the day-to-day operations of student transportation, which includes preparing student transportation budgets, preparing and executing contracts with private bus companies, and responding to student transportation complaints. The enforcement of student transportation safety regulations and standards falls under the State Department of Transportation (DOT) and county police departments. Section 286-201 through 286-216, Hawaii Revised Statutes, authorizes the DOT to establish and enforce rules governing the operation of commercial vehicles on public highways, while Section 286-181 and 296-46, Hawaii Revised Statutes, requires the mayor and police department of each county to enforce student transportation safety standards.

The vagueness and fragmentation of the organizational structure and laws applicable to the state's student transportation program constituted one of the major findings of a 1978 Legislative Auditor's report, Management Audit of the Student Transportation Services Program. This was cited as the major reason for what the audit found to be an ineffective and inefficient delivery of student transportation services. Another major shortcoming in the state student transportation programs cited was the lack of clear and adequate guidelines for and enforcement of student transportation safety standards and regulations.

FINDINGS

Legal provisions and organizational structure relating to student transportation safety. In view of the Legislative Auditor's findings that inadequate and unclear legal provisions relating to student transportation safety regulation and deficient organizational arrangements make it difficult to define clearly agency roles and determine responsibilities, your Committee sought an assessment of progress made to remedy this problem. Your Committee agrees that the situation has created confusion as to which agency is responsible for the various aspects of the student transportation program. The Audit found that while state laws designate the DOE as the primary state agency responsible for student transportation safety, the department has been reluctant to assume this responsibility and has not adequately monitored and coordinated the student transportation safety efforts of other agencies to ensure proper and timely enforcement of such standards. The Audit recommended that: (1) DOT should replace DOE as the primary state agency responsible for setting and enforcing student transportation safety standards; (2) DAGS not be involved in its various regulatory activities relative to the program such as issuing DOE driver certificates and enforcing safety provisions of bus contracts; and (3) DOE should effectively implement a safety compliance program by administratively fixing operational responsibility for student transportation at a higher level within the department, by exerting closer coordination of student transportation safety with other aspects of school safety, and by developing a system for monitoring program performance and compliance of safety requirements.

Your Committee found that the following courses of action are being considered or have been completed:

(1) The state administration will propose legislation at the 1980 legislative session transfering from DOE the responsibility of establishing student transportation safety

standards to DOT but retain jurisdiction over student safety on buses and while at bus stops with the DOE.

(2) A comprehensive memorandum of understanding governing all aspects of student transportation was adopted in August, 1979 by all state agencies involved with student transportation. As far as the agencies are concerned, this memorandum of understanding more clearly defines the assorted responsibilities relating to student transportation safety. The importance of driver training as a necessary component of the program resulted in Department of Personnel Services being designated as the primary agency responsible for providing driver training for state-employed drivers. The memorandum also establishes DOT as the primary agency responsible for student transportation safety and DAGS as the agency responsible for enforcing contract obligations, including adherence to bus operator and vehicle safety standards.

Your Committee also learned that DOE has not taken action to address the Audit's recommendation that the DOE establish student transportation responsibilities at an administratively higher level within the DOE and develop a system to monitor the performance of the student transportation program, especially in the area of safety requirements.

School bus drivers. The legislative Audit was critical of the recruitment, selection, qualification, and training of school bus drivers and the State's approach of encouraging contractors to hire school bus drivers based on minimum requirements rather than hiring drivers who are most qualified. Specifically, the Audit found a lack of effective administrative monitoring and enforcement of school bus driver qualifications, such as physical and mental health requirements, traffic and criminal clearances, driver license and driving experience verification, as well as inadequate training and evaluation of school bus drivers, and the issuance of school bus driver certificates.

The specific need for better discipline and control on vehicles transporting handicapped students was also brought to your Committee's attention. Because of the special physical, medical, and mental needs of handicapped students, it was suggested that the State expand its current bus aide program so that adequate supervision and care can be provided. Your Subcommittee notes that the need for this type of supervision will become ever more critical in view of the projected increases in the handicapped student population.

In this regard, the Audit recommended that: (1) the State encourage private contractors to develop a positive recruitment, selection, and qualification program designed to seek the best available talent for school bus drivers; (2) the State develop a comprehensive set of school bus driver requirements for all school bus drivers; and (3) the State and private contractors establish a driver training, improvement, and performance program for their school bus drivers.

Your Committee was informed that DOT agreed with the need to establish a positive recruitment, selection, and qualification program for the State as well as private bus contractors. On the same matter, DAGS testified that better qualified state-employed student bus drivers could be attracted by making their hourly pay comparable to that of tour bus drivers or public bus drivers.

In response to the Audit's recommendation to establish a comprehensive set of school bus driver requirements, DOE, DAGS, and DOT testified that existing school bus driver requirements are sufficient and what is lacking is simply additional personnel to enforce these requirements.

Your Committee was also informed that the Department of Personnel Services, pursuant to the comprehensive joint agency memorandum of understanding, has been designated as the agency responsible for providing driver training for state-employed bus drivers and that the University of Hawaii Manpower Training Office developed and implemented in 1979, a driver improvement course for state and private bus drivers. To date, 521 school bus drivers have participated in this federal, State, and privately funded program.

In response to the concerns for improved transportation services for handicapped students, DAGS testified that it will be requesting more bus aides in the State's 1980-81 supplemental operating budget request.

School bus safety. The use of outdated vehicles to transport students, inadequate school bus equipment and safety standards, and weak enforcement of vehicle and passenger safety standards were cited in the Legislative Audit, along with the following recommendations: (1) that the State require private contractors to eliminate old buses and ensure the continuing and timely replacement of school buses; (2) DOE's Rule 48 be amended

to comply with federal school bus vehicle standards; (3) an agressive enforcement program of vehicle inspection and maintenance be implemented; (4) the establishment of formal guidelines governing school bus seating arrangements to eliminate the unsafe practice of allowing students to stand in moving buses; and (5) DOT replace DOE as the agency responsible for student passenger safety and discipline, including development of educational materials to carry out this responsibility.

Your Committee learned that DAGS, as the primary agency responsible for school bus contracts, has initiated standards requiring the replacement of conventional buses which are more than 10-years old and transit-type buses which are more than 20-years old. DAGS also testified that insufficient State operating funds for student transportation and the existence of on-going school bus contracts have prevented the achievement of a complete replacement program for old vehicles. Your Committee further learned that the DOE's Rule 48 has been amended to not only comply with federal school bus standards but also to establish criteria for safe bus seating arrangements and that all State contracted buses meet federal and State standards. DOT has further agreed to review existing school bus standards to determine if additional vehicle and passenger standards were needed.

State agencies disagreed with the Audit's recommendation that DOT be the state agency responsible for student passenger training and discipline, and accordingly, the DOE has already prepared and distributed instructional materials relating to student bus safety.

Your Committee was informed that the unsafe practice of students standing in moving school buses because of a lack of adequate seating occurs only among Oahu's secondary school students. According to DAGS, this problem can be resolved by providing additional buses for those identified routes which, however, will require additional funding.

Management policy and practices. The Audit found that the lack of clear objectives and criteria for determining the adequacy of student transportation services, weak and inefficient business management of school bus services, and a shortage of student transportation personnel to handle student transportation operations have seriously hampered the State's efforts to provide safe, cost-effective transportation of students. Without clear objectives and criteria, the State has been unable to effectively evaluate the performance of its student transportation program and take necessary action to correct any deficiencies. The Auditor was also critical of the State's management practices which do not ensure that amounts awarded for private bus contracts are reasonable, and the absence of substantive efforts to seek transportation alternatives which could be safer and more cost-effective.

The Audit recommended that: (1) the DOE develop comprehensive objectives and criteria to evaluate student transportation services; (2) the DOE develop a system of accountability to ensure that the State is not being overcharged, that contracted services are delivered, and that maximum competition occurs in school bus contract bids; (3) the State consider eliminating DAG's role in student transportation and consolidate student transportation operations and management under the DOE; (4) the DOE establish procedures to promptly handle student transportation complaints; and (5) the DOE and DAGS conduct a thorough assessment of an alternative combination for providing student transportation.

In response to these concerns and recommendations, your Committee found that both the DOE and DAGS believed the existing arrangement to be better, given sufficient staffing and proper management, than consolidated under the DOE. Your Committee is willing, on an interim basis, to allow the continuation of this arrangement, provided, however, that if problems continue to occur, a mandate for consolidation should be seriously considered. In regard to competitive bidding and equal bidding opportunities for small as well as large companies, your Committee learned that the Anti-Trust Division of the State Attorney General has been working with DAGS to develop new bus contract specifications. DOE and DAGS further agreed that an assessment of alternative student transportation combinations should be conducted. However, both agencies agreed that a private consultant, rather than the State, should conduct this study. Your Committee also learned that to date, the DOE has not yet developed comprehensive objectives and criteria for evaluating student transportation.

RECOMMENDATIONS

While your Committee is encouraged by the action by the state administration to improve the management and operations of transportation services for public school students, your Committee believes that further corrective action should be taken as soon as possible

if the State is to achieve its goal of providing safe, cost-effective student transportation services. Accordingly, your Committee recommends that the State Administration give high priority to the following:

(1) Determine the number and type of administrative and enforcement personnel needed to adequetely monitor student transportation services especially in the area of vehicle and passenger safety.

(2) Develop a formal, state funded training program for school bus drivers and bus aides to ensure that these individuals are properly trained to assist the anticipated increases in handicapped student passengers.

(3) Develop a DOE program where teachers, especially at the elementary school level, assist students in learning about the importance of student transportation safety.

(4) Strengthen DAGS' data gathering and evaluation capabilities to ensure that the State is operating a student transportation program which provides safe services in the most cost-efficient manner. This would also allow the State to increase its capabilities of correcting any problems as well as improve its delivery of student transportation services.

(5) Develop the scope and parameters for a privately contracted assessment of the state's student transportation program in terms of cost-efficient, safe student transportation alternatives. Hopefully, this evaluation will determine if the State is providing cost-efficient and safe transportation services, and if not, would identify other alternatives which could provide such services in a safe, cost-efficient manner.

Signed by Representatives Lunasco, Say, Andrews, Hagino, Kawakami, Kiyabu, Segawa, Stanley, Takamine, Toguchi, Ushijima, Uwaine, Anderson and Marumoto.