

Act 69 (SB 468 May 4, 1985)

Amends section 207(a) to remove the minimum acreage restrictions of agricultural, aquacultural or pastoral lots.

ACT 69

the serving officer or an affidavit showing that [the notice and] the copy of summons and complaint were served as aforesaid or sent by certified or registered mail as aforesaid, and in the latter case the return receipt signed by the defendant shall be filed with the affidavit. The service shall be deemed complete upon delivery of the required papers to the defendant outside the State, personally or by mail as provided.

If the defendant cannot be found to serve or mail the summons and the facts shall appear by affidavit or otherwise to the satisfaction of the court, it may order that service be made by publication of summons in at least one newspaper published in the State and having a general circulation in the circuit in which the action has been instituted, in such manner and for such time as the court may order, but not less than once each week in four successive weeks, the last publication to be not less than twenty-one days prior to the return date stated therein unless a different time is prescribed by order of the court."

SECTION 30. This Act shall be amended to conform to all other acts passed by the legislature during this Regular Session of 1985, whether enacted before or after the effective date of this Act, unless such other acts specifically provided otherwise.

SECTION 31. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 32. This Act shall take effect on July 1, 1985.

(Approved May 4, 1985.)

ACT 69

S.B. NO. 468

A Bill for an Act Relating to the Hawaiian Homes Commission Act, 1920, as Amended.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 207, Hawaiian Homes Commission Act, 1920, as amended, is amended by amending subsection (a) to read as follows:

"(a) The department is authorized to lease to native Hawaiians the right to the use and occupancy of a tract or tracts of Hawaiian home lands within the following acreage limits per each lessee: (1) [not less than one nor] not more than forty acres of agriculture lands or lands used for aquaculture purposes; or (2) [not less than one hundred nor] not more than [five] one hundred acres of irrigated pastoral lands and not more than one thousand acres of [first-class] other pastoral lands; or [(3) not less than two hundred fifty nor more than one thousand acres of second-class pastoral lands; or (4) not less than forty nor more than one hundred acres of irrigated pastoral lands; or (5)] (3) not more than one acre of any class of land to be used as a residence lot; provided that in the case of any existing lease of a farm lot in the Kalaniana'ole Settlement on Molokai, a residence lot may exceed one acre but shall not exceed four acres in area, the location of such area to be selected by the department; provided further that a lease granted to any lessee may include two detached farm lots or aquaculture lots, as the case may be, located on the same island and within a reasonable distance of each other, one of which, to be designated by the department, shall be occupied by the lessee as [his] the lessee's home, the gross acreage of both lots not to exceed the maximum acreage of an agricultural, pastoral, or aquaculture lot, as the case may be, as provided in this section. The department is authorized

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to develop and construct multifamily units for housing native Hawaiians. The method of disposition, as well as the terms, conditions, covenants, and restrictions as to the use and occupancy of such multifamily units shall be prescribed by rules adopted by the department pursuant to chapter 91."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 4, 1985.)

A Bill for an Act Relating to Dentists.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 448-2, Hawaii Revised Statutes, is amended to read as follows:

"§448-2 Practice without license prohibited. No person shall practice dentistry or dental surgery in the State, either gratuitously or for pay, or shall offer to so practice or shall advertise or announce himself, either publicly or privately, as prepared or qualified to so practice, or append the letters "D.D.S.", "D.M.D.", "Dr.", "L.D.S.", or any other dental degree to his name with intent thereby to imply that he is a practitioner of dentistry or a dental surgeon, without having a valid, unrevoked license from the board of dental examiners."

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 4, 1985.)

A Bill for an Act Relating to Annual Reports.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Findings and purpose. The legislature recognizes that there is a proliferation of annual reports published by departments and agencies in the executive branch of the state government. Some of these reports are required by statute while others are published at the initiative of individual departments, agencies or programs.

The original purpose of these annual reports was to provide information on programs of the executive branch to the legislature, governor, general public, and other governmental agencies.

However, with the enactment of Act 185, SLH 1970, the majority of the information provided in annual reports is available for all 300 programs administered by the department, and agencies in the executive branch in the form of program and financial plans, program memoranda and variance reports, etc. This detailed information is provided to every legislator and is readily available to interested members of the general public at public hearings within the State.

(To be made one and two copies)

THE SENATE
THIRTEENTH LEGISLATURE, 19⁸⁵
STATE OF HAWAII

ACT 69

S.B. NO.

468
H.D. 1

A BILL FOR AN ACT

RELATING TO THE HAWAIIAN HOMES COMMISSION ACT, 1920, AS AMENDED.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 207, Hawaiian Homes Commission Act,
2 1920, as amended, is amended by amending subsection (a) to
3 read as follows:

4 "(a) The department is authorized to lease to native
5 Hawaiians the right to the use and occupancy of a tract or
6 tracts of Hawaiian home lands within the following acreage
7 limits per each lessee: (1) [not less than one nor] not
8 more than forty acres of agriculture lands or lands used for
9 aquaculture purposes; or (2) [not less than one hundred nor]
10 not more than [five] one hundred acres of irrigated pastoral
11 lands and not more than one thousand acres of [first-class]
12 other pastoral lands; or [(3) not less than two hundred
13 fifty nor more than one thousand acres of second-class
14 pastoral lands; or (4) not less than forty nor more than one
15 hundred acres of irrigated pastoral lands; or (5)] (3) not
16 more than one acre of any class of land to be used as a
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S.B. NO.

468
H.D. 1

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SECTION 3. This Act shall take effect upon its approval.

Approved by the Governor on MAY 4 1985

*Frank
Choi*



GEORGE R. ARIYOSHI
GOVERNOR



RECEIVED
MICHAEL W. LILLY
ATTORNEY GENERAL

1985 APR 19 7:10 AM '85
CORINNE M. WATANABE
FIRST DEPUTY ATTORNEY GENERAL

STATE OF HAWAII
DEPARTMENT OF THE ATTORNEY GENERAL
STATE CAPITOL
HONOLULU, HAWAII 96813
(808) 548-4740

GOVERNOR'S OFFICE

April 17, 1985

REPORT TO THE GOVERNOR ON BILL PASSED BY THE LEGISLATURE:

S. B. NO. 468 RELATING TO THE HAWAIIAN HOMES COMMISSION ACT, 1920, AS AMENDED.

GOVERNOR'S
DUE DATE: June 10, 1985

PURPOSE: The purpose of this bill is to allow the Department of Hawaiian Home Lands to award homestead leases at less than the minimum acreage limits which the law now sets for designated pastoral lands.

COMMENTS: Presently, section 207(a) of the Hawaiian Homes Commission Act, 1920, as amended, provides for the following agricultural and pastoral acreage limitations:

Agriculture - not less than one nor more than 40 acres;

Pastoral: Irrigated - not less than 40 nor more than 100 acres;

1st Class - not less than 100 nor more than 500 acres;

2nd Class - not less than 250 nor more than 1,000.

As amended by S.B. No. 468, H.D. 1, the minimum acreages of both agricultural and pastoral homestead awards are removed and, in its simplicity, now provides:

Agricultural - not to exceed 40 acres;

Irrigated Pastoral - not to exceed 100 acres;

Other Pastoral - not to exceed 1,000 acres.

The proposed measure makes it possible for the department to award agricultural and pastoral lots of smaller sizes and should facilitate the department's attaining its goal of accelerating homestead awards.

This is an Administration measure, Legislative Proposal No. I-8(85), which was amended to retain the one-hundred-acre-maximum applicable to irrigated pastoral lands.

OPINION AS
TO LEGALITY:

There appears to be no constitutional or other legal objection to this bill.

Respectfully submitted,

George K. K. Kao, Jr.
for George K. K. Kao, Jr.
Deputy Attorney General

APPROVED:

Michael A. Lilly
Michael A. Lilly
Attorney General

Ldeo

1985 LEGISLATIVE SESSION

SENATE

BILL NO. 468

Delivery of the bill hereon identified, to the Governor of Hawaii by the Clerk of the House of the Legislature in which the same originated is hereby acknowledged on the day and hour noted hereon:

April 11, 1985 4:01 p.m.

FOR THE GOVERNOR OF HAWAII:

by **Nancy Okazaki**

SUBJECT: RELATING TO THE HAWAIIAN HOMES COMMISSION ACT, 1920, AS AMENDED.

Due Date for Departmental Report: **April 30, 1985**

Due Date for Governor's Action: **June 10, 1985**

Referred to	Admin. Code (Dept. Use)	Departmental Recommendations (For Governor's Office Use Only)
Lt. Governor ✓ Attorney General Budget & Finance HHL For info only to: Legis. Ref. Bureau	 1-8 (85)	 <div style="text-align: right;"> <p><i>any</i></p> <p>RECEIVED Dept. of Attorney General State of Hawaii</p> <p>1985 APR 12 PM 2:57</p> <p><i>Reg</i></p> <p><i>Draft Due 4/17/85</i></p> <p><i>mc</i></p> </div>

ACTION TAKEN:

DATE:

(To be made one and twelve copies)

THE SENATE
THIRTEENTH LEGISLATURE, 19⁸⁵.....
STATE OF HAWAII

S.B. NO. 468
H.D. 1

A BILL FOR AN ACT

RELATING TO THE HAWAIIAN HOMES COMMISSION ACT, 1920, AS AMENDED.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 207, Hawaiian Homes Commission Act,
2 1920, as amended, is amended by amending subsection (a) to
3 read as follows:

4 "(a) The department is authorized to lease to native
5 Hawaiians the right to the use and occupancy of a tract or
6 tracts of Hawaiian home lands within the following acreage
7 limits per each lessee: (1) [not less than one nor] not
8 more than forty acres of agriculture lands or lands used for
9 aquaculture purposes; or (2) [not less than one hundred nor]
10 not more than [five] one hundred acres of irrigated pastoral
11 lands and not more than one thousand acres of [first-class]
12 other pastoral lands; or [(3) not less than two hundred
13 fifty nor more than one thousand acres of second-class
14 pastoral lands; or (4) not less than forty nor more than one
15 hundred acres of irrigated pastoral lands; or (5)] (3) not
16 more than one acre of any class of land to be used as a
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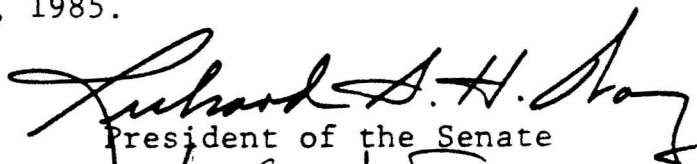
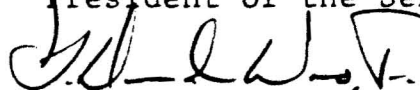
SECTION 3. This Act shall take effect upon its approval.

S.B. No. 468, H.D. 1

THE SENATE OF THE STATE OF HAWAII

April 11, 1985
Honolulu, Hawaii 96813

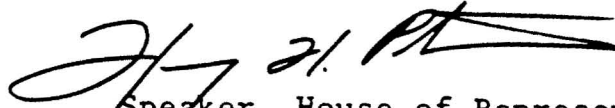
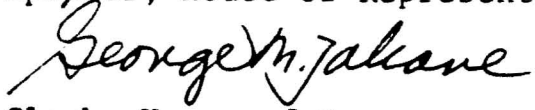
We hereby certify that the foregoing Bill passed Final Reading in the Senate of the Thirteenth Legislature of the State of Hawaii, Regular Session of 1985 on April 8, 1985.


President of the Senate

Clerk of the Senate

THE HOUSE OF REPRESENTATIVES OF THE
STATE OF HAWAII

April 11, 1985
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill passed Third Reading in the House of Representatives of the Thirteenth Legislature of the State of Hawaii, Regular Session of 1985 on April 1, 1985.


Speaker, House of Representatives

Clerk, House of Representatives

A BILL FOR AN ACT

RELATING TO THE HAWAIIAN HOMES COMMISSION ACT, 1920, AS AMENDED.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 207, Hawaiian Homes Commission Act,
2 1920, as amended, is amended by amending subsection (a) to read
3 as follows:

4 "(a) The department is authorized to lease to native
5 Hawaiians the right to the use and occupancy of a tract or tracts
6 of Hawaiian home lands within the following acreage limits per
7 each lessee: (1) [not less than one nor] not more than forty
8 acres of agriculture lands or lands used for aquaculture purposes;
9 or (2) [not less than one hundred nor] not more than [five
10 hundred] one thousand acres of [first-class] pastoral lands; or
11 [(3) not less than two hundred fifty nor more than one thousand
12 acres of second-class pastoral lands; or (4) not less than forty
13 nor more than one hundred acres of irrigated pastoral lands; or
14 (5)] (3) not more than one acre of any class of land to be used
15 as a residence lot; provided that in the case of any existing
16 lease of a farm lot in the Kalaniana'ole Settlement on Molokai, a
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1 residence lot may exceed one acre but shall not exceed four acres
 2 in area, the location of such area to be selected by the
 3 department; provided further that a lease granted to any lessee
 4 may include two detached farm lots or aquaculture lots, as the
 5 case may be, located on the same island and within a reasonable
 6 distance of each other, one of which, to be designated by the
 7 department, shall be occupied by the lessee as [his] the lessee's
 8 home, the gross acreage of both lots not to exceed the maximum
 9 acreage of an agricultural, pastoral, or aquaculture lot, as the
 10 case may be, as provided in this section. The department is
 11 authorized to develop and construct multifamily units for housing
 12 native Hawaiians. The method of disposition, as well as the
 13 terms, conditions, covenants, and restrictions as to the use and
 14 occupancy of such multifamily units shall be prescribed by rules
 15 adopted by the department pursuant to chapter 91."

16 SECTION 2. Statutory material to be repealed is bracketed.
 17 New statutory material is underscored.

18 SECTION 3. This Act shall take effect upon its approval.

19 INTRODUCED BY:

By Request

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Honolulu, Hawaii

MAR 08 , 1985

Honorable Richard S. H. Wong
President of the Senate
Thirteenth State Legislature
Regular Session of 1985
State of Hawaii

Sir:

RE: S.B. No. 468

Your Committee on Economic Development, to which was referred S.B. No. 468 entitled:

"A BILL FOR AN ACT RELATING TO THE HAWAIIAN HOMES
COMMISSION ACT, 1920, AS AMENDED",

begs leave to report as follows:

The purpose of this bill is to authorize the Department of Hawaiian Home Land (DHHL) to award pastoral lots of smaller sizes than currently permitted in order to accelerate homestead awards to eligible beneficiaries.

Section 207(a), Hawaii Revised Statutes, now requires DHHL to lease not less than the following minimum acreages: 100 acres of first class pastoral lands; 250 acres of second-class pastoral lands; or 40 acres of irrigated pastoral lands. These minimum acreages would be eliminated as well as the no longer meaningful distinction between first-class and second-class pastoral lands.

Your Committee concurs with DHHL testimony supporting this measure because site improvement costs could be minimized; small acreages are needed for individual part-time ranch operations; intensive ranching techniques can now increase the carrying capacity of given acreages two or three times; and the corresponding capacity increases and livestock densities will allow the development of additional pastoral lots on available lands.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 468 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Honolulu, Hawaii
March 29, 1985

RE: S.B. No. 468
H.D. 1

Honorable Henry Haalilio Peters
Speaker, House of Representatives
Thirteenth State Legislature
Regular Session of 1985
State of Hawaii

Sir:

Your Committee on Water, Land Use, Development and Hawaiian Affairs, to which was referred S.B. No. 468 entitled: "A BILL FOR AN ACT RELATING TO THE HAWAIIAN HOMES COMMISSION ACT, 1920, AS AMENDED", begs leave to report as follows:

The purpose of this bill is to amend Section 207(a) of the Hawaiian Homes Commission Act, 1920, as amended, by allowing the Department of Hawaiian Home Lands to award leases less than the minimum acreage limits which the law now sets for designated pastoral lands.

According to testimony from the Department of Hawaiian Home Lands, there are now 69 pastoral leases in the State, 59 of which are on the Big Island of Hawaii. These 69 leases comprise approximately 15,000 acres. There are also approximately 540 applicants statewide for pastoral leases, of which 445 are for the Island of Hawaii. Given the present statute, the Department would have to provide for a minimum of 44,500 acres of first-class pastoral lands, or 111,250 acres of second-class pastoral lands, on the Big Island in order to accommodate these applicants on the pastoral waiting list. However, the Department owns 107,450 acres on Hawaii, of which over 19,000 acres are already in homestead use, and not all of the remaining lands are pastoral. Moreover, the estimated cost for site improvements, such as roads and domestic water, by the Department would reach \$35,000,000 to deliver homesteads to the 540 eligible applicants on the pastoral waiting list.

Your Committee is in agreement that this bill, in making it possible for the Department to award pastoral lots of smaller sizes than permitted now, should be approved for the following reasons:

- (1) The site improvement cost per unit would be less, allowing more awards for the same amount of funding;

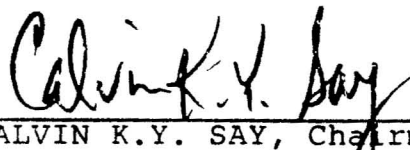
- (2) Because many existing pastoral leases are too large for an individual ranch operation, thereby forcing many homesteaders to enter into grazing agreements with other ranchers, the reduced size of pastoral lots would allow homesteaders to be more independent in land use;
- (3) The concept of higher densities will allow the development of more pastoral lots on a given amount of land; and
- (4) Pastoral lot lessees would be able to use intensive ranching techniques to increase carrying capacity of a given unit of pasture.

Your Committee is of the opinion that another amendment to this bill would be desirable. Item 2, on page 1, lines 9-10, may raise a question as to whether it is the intent of the bill that the Department be authorized to lease up to 1,000 acres of irrigated pastoral lands. The bill intends merely to remove the minimum acreage now specified by law. Therefore, the following recommended amendment would retain the present statutory ceiling on the maximum acreage that can be awarded in the case of irrigated pastoral lands:

"(2) [not less than one hundred nor] not more than [five] one hundred acres of irrigated pastoral lands and not more than one thousand acres of [first-class] other pastoral lands".

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of S.B. No. 468, as amended herein, and recommends that it pass Second Reading, in the form attached hereto as S.B. No. 468, H.D. 1, and be placed on the calendar for Third Reading.


Respectfully submitted,

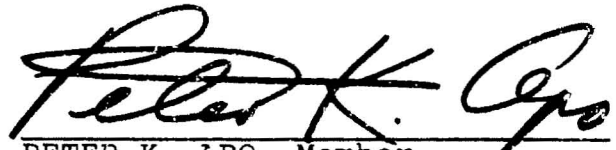



CALVIN K.Y. SAY, Chairman




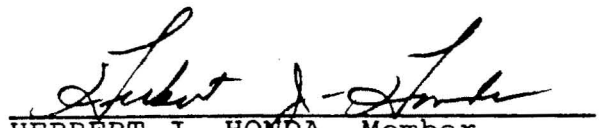
ROD TAM, Vice Chairman

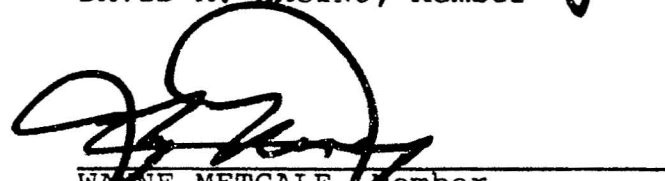

MARK J. ANDREWS, Member


PETER K. APO, Member


MIKE CROZIER, Member


DAVID M. HAGINO, Member



HERBERT J. HONDA, Member


WAYNE METCALF, Member


ROBERT S. NAKATA, Member


JAMES T. SHON, Member


HARVEY S. TAIRI, Member


TERRANCE W.H. TOM, Member


VIRGINIA ISBELL, Member


KINA'U BOYD KAMALI'I, Member


BILL PFEIL, Member

GEORGE R. ARIYOSHI
GOVERNOR



Reg
Michael A. Lilly

ATTORNEY GENERAL
Corinne Watanabe

FIRST DEPUTY ATTORNEY GENERAL

STATE OF HAWAII
DEPARTMENT OF THE ATTORNEY GENERAL
STATE CAPITOL
HONOLULU, HAWAII 96813
(808) 548-4740

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1985 MAY 3 PM 4 22

GOVERNOR'S OFFICE

April 29, 1985

REPORT TO THE GOVERNOR ON BILL PASSED BY THE LEGISLATURE:

S.B. NO. 469 RELATING TO THE HAWAIIAN HOMES COMMISSION
ACT, 1920, AS AMENDED.

GOVERNOR'S
DUE DATE: June 10, 1985

PURPOSE: The purpose of S.B. No. 469 is to allow, upon the death of the lessee, the payment of net proceeds for improvements made by the lessee to the spouse and children who are not qualified to succeed to the homestead leasehold interest, even where there is a relative qualified to succeed the leasehold.

COMMENTS: S.B. No. 469 was introduced as an Administration measure, Legislative Proposal I-10(85), which passed without amendment.

Presently, payment for improvements can be made, if there is no qualified relative to succeed and the lease is canceled.

However, when a relative qualified to succeed is designated by the Commission as the successor to the leasehold interest, such payment is not authorized, since there is no termination of the leasehold interest. This amendment would permit the payment notwithstanding the continuation of the lease in a qualified relative.

This is essentially the same legislative amendment proposed by H.B. No. 2169-84, which passed the Legislature last year, but was vetoed because of concerns that the bill, if enacted into law, would have on Act 272 (the successorship bill - reducing blood quantum of spouse and children to one-fourth Hawaiian) passed in 1982 and

presently pending Congressional approval pursuant to section 4 of the Hawaii Admission Act. The basic concern, as we understand, was that if H.B. No. 2169(84) was signed into law it would implicitly repeal Act 272, 1982 Hawaii Sess. Laws 703, then pending before Congress.

Section 3 of this bill was added to address this specific concern. It basically provides that this bill, if enacted into law, will not affect the validity of any amendment that may be pending before Congress and, upon consent of Congress of such amendments, would be amended to conform to such amendments as consented to by Congress.

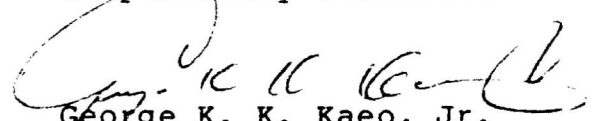
Section 4 of the Admission Act (Act of March 18, 1959, Pub. L. No. 86-3, 73 Stat. 4) and section 3, article XII of the State Constitution generally provide that amendments to the Hawaiian Homes Commission Act, 1920, as amended, can be amended only with the consent of the United States, with exceptions as noted therein.

While we believe this measure falls within one of the permitted exceptions, an argument could be made that this legislation requires Congressional approval. This measure provides for such eventuality in section 2.

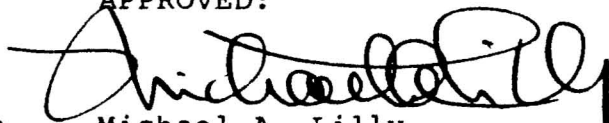
OPINION AS
TO LEGALITY:

Except as noted above, there appears to be no constitutional or other legal objection to this bill.

Respectfully submitted


George K. K. Kaeo, Jr.
Deputy Attorney General

APPROVED:


Michael A. Lilly
Attorney General