

SCRep. 388-78 Energy and Transportation on H.B. No. 2609-78

The purpose of this bill is to ensure the highest standards for maintenance for state and federal-aid highways by transferring the responsibility of maintenance of highways to the respective counties, by providing sufficient revenues to cover maintenance costs, and by creating a temporary transition commission on highway maintenance to oversee the transition process.

The aggregation of all highway maintenance responsibility to one level of government would enable citizens to better assess accountability and performance in this area, and is expected to achieve significant savings in maintenance costs by reducing overlapping government services and by reducing confusion over jurisdictional responsibilities.

This bill provides that each county's highway official is responsible for the maintenance and repair of state and federal-aid highways, through public employment or by contract, to the highest possible standards and at no time, to jeopardize the loss of federal-aid highway funds. The county highway official is accountable to the state director of transportation.

Section 2 of this bill will take effect subsequent to the transition commission's acknowledgment that all state highway maintenance responsibilities have been assumed by the counties. This section provides funding to the counties by amending sections 243-4 and 243-6 of the Hawaii Revised Statutes on the state fuel tax.

The transition commission established by this bill is temporary in nature and will function to coordinate and evaluate the transition schedule for each county. Provisions are made within the bill for the transfer of personnel, equipment, facilities, materials, and records necessary for the respective counties to assume all highway maintenance responsibilities.

Your Committee on Energy and Transportation is in accord with the intent and purpose of H.B. No. 2609-78 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 389-78 Energy and Transportation on H.B. No. 2593-78

The purpose of this bill is to provide for the safe and orderly operation of bicycles by requiring the uniform application of certain rules of the road. The bill permits bicyclists to ride on the left side of one-way streets and regulates the operation of bicycles on the highway shoulders, bicycle lanes and bicycle paths.

The bill requires that a bicycle must ride at the right hand edge of roadway with two-way traffic except when preparing for a left turn. The Department of Transportation recommended prohibiting left turns at high volume intersections or where left turns are hazardous. Accordingly, your Committee has amended the bill to allow left turns except where prohibited by official traffic control devices.

Your Committee has also amended the bill to give the counties discretion in prohibiting motor-driven bicycles, or mopeds, from using bicycle lanes and bicycle paths.

Your Committee has further amended the bill to allow vehicles to drive upon bicycle lanes or bicycle paths when in the process of executing a legal turn, lane change or parking maneuver.

Your Committee on Energy and Transportation is in accord with the intent and purpose of H.B. No. 2593-78, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2593-78, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Cobb, Ikeda and Peters.

SCRep. 390-78 Energy and Transportation on H.B. No. 2592-78

The purpose of this bill is to define bicycle facilities and to provide for appropriate

traffic lane markings.

Your Committee finds this will facilitate enforcement of the rules of the road and will clarify eligibility of these facilities for funding appropriations.

Testimony presented by the Department of Transportation recommends that a solid white line be used to designate a bicycle lane or bikeway only when supplemented by appropriate signing or other pavement markings to prevent confusion with other uses of the white line. Your Committee has amended the bill accordingly.

Your Committee on Energy and Transportation is in accord with the intent and purpose of H.B. No. 2592-78, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2592-78, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Cobb, Ikeda and Peters.

SCRep. 391-78          Energy and Transportation on H.B. No. 2169-78

The purpose of this bill is to establish energy efficient standards in the construction of new public buildings and existing public buildings undergoing substantial renovation in compliance with the federal requirements of PL 94-163.

The standards would be no less stringent than those developed by the American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE 90-75) and would be adopted in the building codes of each county.

Failure to incorporate energy efficient standards by July 1, 1978 could result in the loss of up to \$1.5 million in federal funding over the next biennium. However, the federal Department of Energy has indicated that conformance by that date by the City and County of Honolulu, plus assurance of similar conformance in the near term on the part of neighbor island counties would assure continued funding.

Your Committee finds that since Hawaii is almost totally dependent on imported oil for its energy needs, it is critical that the state implement an energy conservation program to prevent excessive waste of energy. Therefore, your Committee finds that the energy efficient standards provided in this bill would be more appropriately applied to all buildings, and not just public buildings and has amended the bill accordingly.

The bill also provides exemptions in the case of buildings without heating or cooling systems, those with low energy usage and those of historic interest. Your Committee has amended the bill to include exemptions for dwelling units with air conditioning systems totaling less than 12,000 BTUH capacity and for special applications such as hospitals, computer rooms and industrial processes.

A recommendation prepared jointly by the state Department of Planning and Economic Development, the city Building Department and ASHRAE finds it is not in the best interests of the state to include specific requirements for energy conservation in state statutes since Hawaii's unique climate and geography require more flexibility in the practical application of the federal standards. Accordingly, your Committee has amended the bill to provide energy efficient standards based on the recognized model code developed by ASHRAE, omitting explicit requirements.

Your Committee on Energy and Transportation is in accord with the intent and purpose of H.B. No. 2169-78, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2169-78, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representatives Cobb, Ikeda and Peters.

SCRep. 392-78          Energy and Transportation on H.B. No. 2168-78

The purpose of this bill is to mandate that the counties, statewide, establish energy efficiency standards for lighting for existing buildings before July 1, 1978, in conformance with federal requirements set forth in Public Law 94-163.

Since Hawaii is almost totally dependent on imported oil for its energy needs, it is critical that the state implement an energy conservation program to prevent excessive waste of energy, thereby reducing Hawaii's dependency on imported fossil fuels.

The Energy Policy Conservation Act (Public Law 94-163) requires that the state implement minimum lighting efficiency standards for existing buildings. Continued financial support, as provided for under the federal government's State Energy Conservation Program is contingent upon the state instituting conservation programs in the five areas of 1) energy efficiency in government procurement practices; 2) promotion of carpooling, van pooling, and mass transit; 3) traffic ordinances; 4) thermal efficiency standards; 5) and lighting efficiency standards as addressed by H.D. No. 2168-78. Failure to incorporate these standards before July 1, 1978, could result in the loss of up to \$1.5 million in federal funding over the next biennium.

During your Committee's hearing of February 11, 1978, the Department of Planning and Economic Development recommended that the bill be amended to eliminate the exemption for structure renovations costing less than \$10,000. This amendment would permit conformance with a recent policy decision of the Federal Department of Energy.

The Building Department of the City and County of Honolulu presented testimony reflecting their opposition to the bill's reference to stringent standards. These new standards may not be applicable here, due to Hawaii's unique climatic conditions, thereby possibly necessitating frequent amendments. These amendments would be more easily accomplished on the county level by revising ordinances and building codes if any provision was found to be impractical or inefficient. They recommended that any state statute adopted require the counties to establish energy conservation regulations based on recognized model codes and standards, without going into extreme detail, while incorporating within the measure flexibility to permit expeditious changes as well as substance in conformance with federal requirements. Presently, the City and County of Honolulu is in the process of drafting amendments to the City's Building Code, Chapter 53 on Energy Conservation which directly addresses the problem of establishing standards towards more efficient utilization of energy in buildings.

The American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE) recommended that H.B. No. 2168-78 be amended to adopt procedures and values no less stringent than the design requirements approved by ASHRAE Standard 90-75.

Your Committee requested that representatives of the state Department of Planning and Economic Development, the Building Department of the City and County of Honolulu, and ASHRAE discuss amendments to H.B. No. 2168-78 satisfactory to all groups involved. An amended version of H.B. No. 2168-78 gives the counties responsibility to develop energy efficiency standards for lighting in conformance with federal requirements, applicable to all existing buildings. Exempted are buildings without heating or cooling systems, those with low energy usage, any federal buildings, historical buildings, buildings with gross interior floor area less than ten thousand square feet, and portions of multiuse buildings.

Your Committee on Energy and Transportation is in accord with the intent and purpose of H.B. No. 2168-78 as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2168-78, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representatives Cobb, Ikeda and Peters.

SCRep. 393-78                      Energy and Transportation on H.B. No. 2066-78

The purpose of this bill, as amended, is to provide a statement of policy and priority governing general aviation in the state of Hawaii.

The fastest growing segment of Oahu aviation has been in the area of general aviation. In the past this rapid growth and its attendant problems of airport efficiency, safety and capacity has been addressed in terms of accommodating the increased activity by providing additional facilities.

Testimony presented by the department of transportation indicates that the establishment of an additional airport for general aviation activity will not resolve the current problem at Honolulu International Airport as it is expected that fully one third of the operations

at HIA will continue to be general aviation related whether an additional airport is provided or not.

In addition, as air transportation activity on Oahu has increased, there has been mounting concern about the continuing capability of Honolulu International Airport to efficiently and safely handle all aircraft using its facilities. HIA now accommodates the operations of fast, high performance jets and light general aviation planes in a potentially dangerous combination.

Your Committee finds that a serious problem has developed at HIA through the use of intersecting flight patterns of the light and heavy aircraft. Current operating maneuvers require general aviation planes to cross the paths of commercial and military jets in take-offs and landings. The problem is further compounded when inexperienced and student pilots are introduced into the flight patterns.

Your Committee finds that the problem may be alleviated by implementing a proposed redesign of flight patterns accompanied by certain structural improvements to runways and terminal facilities at HIA. The proposal would segregate general aviation and commercial activity, providing separate runways and facilities for each and eliminating the use of intersecting flight patterns.

The department of transportation estimates that the implementation of the proposal in conjunction with policy guidelines limiting the growth of general aviation would obviate the need for another airport for a period of at least five years.

The 1977 Oahu General Aviation Master Planning Study, also known as the Kentron Report, also recommends the formulation of a definitive policy regarding long-term general aviation growth.

Your Committee has determined that a statement of policy and priority regarding the role of general aviation in Hawaii is both necessary and desirable to guide planning and programming of state efforts and that unrestricted and undirected growth of general aviation is not in the best interests of the state. Accordingly, your Committee has amended the bill to include the following statement of policy and priorities:

1. Utilization of the State Airport System is a privilege, not a right.
2. Every effort shall be made to utilize the State Airport System for the greatest good and number at all times.
3. Commercial general aviation for compensation or hire, such as air cargo shippers and air taxis, shall be given priority for the use of Honolulu International Airport over all other general aviation activities such as instructional, recreational and business flying which is not for compensation or hire.
4. With the exception of commercial general aviation activities which are for compensation or hire, all other general aviation activities shall be encouraged to utilize facilities located at airports other than Honolulu International Airport and fees and other charges should be levied accordingly.
5. When additional general aviation facilities are required, the State should seek joint use of military airfields.
6. Prior appropriations for land acquisition, plans and construction of an airfield for small planes shall be expended at one or more of the existing military airfields, excluding Bellows Field.
7. General aviation activities shall pay its fair share of the costs of constructing and operating the State Airport System.

In formulating the statement of policy your Committee directs the state to seek joint use of military airfields, excluding Bellows Field, when additional facilities for general aviation activities are required. It is the expressed intent of your Committee that every effort be made to first utilize the existing facilities at Honolulu International Airport before addressing the question of joint use.

Your Committee on Energy and Transportation is in accord with the intent and purpose of H.B. No. 2066-78, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2066-78, H.D. 1, and be referred to the Committee

on Finance.

Signed by all members of the Committee.

SCRep. 394-78 Health and Elderly Affairs on H.B. No. 2368-78

The purpose of this bill is to make an appropriation to the Department of Health to enable them to contract with Kapiolani-Children's Medical Center for maintenance, management and nursing staff costs incident to the operation of the State's child psychiatric inpatient service at the medical center, under the direction of the child psychiatry program of the University of Hawaii John A. Burns School of Medicine. This appropriation is for operating expenses from the period starting March 1, 1979 and continuing to June 30, 1979.

The State's child psychiatric inpatient service, presently located at Leahi Hospital has achieved a record of excellence in serving the needs of Hawaii's children afflicted with severe psychiatric and emotional illness. Pursuant to Act 59, Session Laws of Hawaii 1976, this program scheduled to be transferred from Leahi to the medical school's facility at Kapiolani-Children's Medical Center. Your Committee is in agreement with the Department of Health that this program should be continued and that the operating expenses to be incurred from March 1, 1979 to June 30, 1979 be funded.

Presently the Appropriation section of this bill is blank. Your Committees recommend that the amount of \$70,000 to be used for the operating costs incurred at Kapiolani-Children's Medical Center from the period starting March 1, 1979 and ending June 30, 1979 be inserted. Such amendment would be as follows:

SECTION 2. Appropriation. There is appropriated out of the general revenues of the State of Hawaii the sum of \$70,000, or so much thereof as may be necessary, for the purpose of contracting with Kapiolani-Children's Medical Center for the initial period from March 1, 1979 to June 30, 1979, for the costs of conducting the State's child psychiatric in-patient service at the Medical Center under the clinical supervision and medical direction of the child psychiatry program of the University of Hawaii John A. Burns School of Medicine.

Your Committees on Health and Youth and Elderly Affairs are in accord with the intent and purpose of H.B. No. 2368-78 as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2368-78, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Baker and Ushijima.

SCRep. 395-78 Health on H.B. No. 2447-78

The purpose of this bill is to amend Section 321-193 of the Hawaii Revised Statutes by requiring the Department of Health to certify counselors and accredit programs, effective December 31, 1979.

Presently, incidences related to substance abuse are an increasing problem throughout the State.

In order to provide unified rehabilitative treatment and educational services to the community, various private agencies were incorporated in the Alcohol and Drug Abuse Branch of the Department of Health and funded by the Legislature.

Your Committee recognizes the need for the Department of Health to review and certify substance abuse programs in order to insure:

1. Accountability of funds and its appropriate expenditures;
2. Efficient management and operation;
3. Quality care that is provided to substance abuse clients by treatment personnel and programs;
4. Recognition to substance abuse treatment personnel as health professionals.

Your Committee finds that in order to develop uniform and comprehensive standards, adequate input from the general public is needed.

Therefore, your Committee has amended the bill to provide sufficient time to develop substance abuse standards.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2447-78 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Baker and Ushijima.

SCRep. 396-78      Health on H.B. No. 2569-78

The purpose of this bill is to improve health cares and services for the people of the State of Hawaii.

Your Committee has amended the bill to appropriate \$24,891 to provide mental health services within the criminal justice system in Hawaii County.

This bill will support the continuity of essential mental health services which have been provided for over two years within the criminal justice system. These mental health services have included consultation, group and individual counseling, therapy and training.

Currently, the Law Enforcement Assistance Agency has funded the psychologist position. However, these services have been threatened to terminate by June of 1978 from the Law Enforcement Assistance Agency.

Therefore your Committee recognizes that it is essential that the County of Hawaii continue to provide these services.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2569-78, as amended herein, and recommends it pass Second Reading in the form attached hereto as H.B. No. 2569-78, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Baker and Ushijima.

SCRep. 397-78      Health on H.B. No. 2657-78

The purpose of this bill is to appropriate the sum of \$100,000, or so much thereof as may be necessary to purchase furniture and equipment for the new South Wing at Maui Memorial Hospital.

Your Committee recognizes that hospitals play a vital role in providing health care in the State.

Your Committee finds that, in order to function properly, hospitals must be provided with adequate equipment.

Your Committee on Health is in accord with the intent and purpose of H.B. 2657-78 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Baker and Ushijima.

SCRep. 398-78      Health on H.B. No. 2933-78

The purpose of this bill is to provide appropriations for a grant-in-aid to Serenity House, Kauai.

Your Committee finds that Serenity House is a residential program for alcoholics which has been in operation on Kauai since 1973.

Your Committee further recognizes that alcoholism has been a long-term and still

is an ever present problem. With the assistance of alcohol treatment programs, a person may be able to reduce alcohol consumption to some degree and hopefully maintain sobriety throughout life.

Based on testimony presented, your Committee finds and recommends that the funding level to Serenity House be amended to the sum of \$23,767.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2933-78, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2933-78, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Baker and Ushijima.

SCRep. 399-78      Health on H.B. No. 2364-78

The purpose of this bill is to appropriate \$45,578 for a grant-in-aid to the Easter Seal Society to provide for services for the physically handicapped and developmentally disabled.

Your Committee feels that there is a need for services for the developmentally disabled/delayed children for Hilo.

Therefore, your Committee recommends that an amendment be made to appropriate \$95,371 for the continuation and expansion of the current level of services being provided by the Easter Seal Society. The Easter Seal Society will have a reduction in their Title XX funding. Additional staffing of a program coordinator, physical therapist, social worker, and secretary/bookkeeper are needed to have a quality program for the developmentally disabled.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2364-78, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2364-78, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Baker and Ushijima.

SCRep. 400-78      Health on H.B. No. 2292-78

The purpose of this bill is to appropriate a grant-in-aid to the Waianae Coast Comprehensive Health Center.

The Waianae Coast Comprehensive Health Center is a community non-profit health center, striving to provide for a 24 hour coverage. However, emergency care has only been a 10 hour coverage. As a result, residents find it necessary to make long trips to Honolulu for emergencies. If their facilities were open 24 hours, emergency trips to Honolulu could be alleviated.

Testimonies from Waianae Coast Comprehensive Health Center indicated that total emergencies in October were 273, in November 230, and December 1977, 253.

Your Committee feels that the Waianae Coast Comprehensive Health Center should work in conjunction with the Pearlridge Hospital in providing emergency care after hours. Pearlridge Hospital is the closest hospital operating an emergency care facility in that district.

Therefore, your Committee feels an amendment to H.B. No. 2292-78 of \$52,000 be appropriated to provide 1.95 physician assistants and 1.95 nursing assistants. Any unexpended or unencumbered funds lapse in the general fund as of the close of business on June 30, 1979.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2292-78, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2292-78, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Baker and Ushijima.

SCRep. 401-78 Health on H.B. No. 2745-78

The purpose of this bill is to appropriate the sum of \$9,552 or so much thereof as may be necessary for social rehabilitation programs and projects for the handicapped and disabled at the Molokai Rehabilitation Facility in Kaunakakai, Molokai. Funds are contingent on the Federal Government's ability to provide the sum of \$28,656 for the purposes stated in the bill.

Your Committee recognizes the need of social rehabilitation services for developmentally disabled individuals. Likewise, rural areas of our State are in particular need of these types of services.

Therefore, your Committee is in accord with the intent and purpose of H.B. No. 2745-78 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Baker and Ushijima.

SCRep. 402-78 Health on H.B. No. 1942-78

The purpose of this bill is to require that every woman taking the marriage license be required to receive serologic testing for rubella.

Presently, rubella vaccine in Hawaii has been given to school age children. Immunization levels in the elementary schools have exceeded 95 percent.

There has been a high percentage of susceptible women in the childbearing age group. With the implementation of this bill, detection and follow-up on susceptible women must be prompt and thorough.

This program will last for five years. This is based on the knowledge that the children now in school will be applicants for marriage licenses from 1982 and on.

Your Committee finds that there will be a possibility of reduction in the birth of children with congenital rubella syndrome.

Therefore, your Committee feels that \$50,000 be appropriated for the purposes of this Act. Such amendment would be as follows:

"Section 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$50,000, or so much thereof as may be necessary, to carry out the purposes of this Act, including the hiring of necessary staff. The sum appropriated shall be expended by the department of health."

Your Committee on Health is in accord with the intent and purpose of H.B. No. 1942-78, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1942-78, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Baker and Ushijima.

SCRep. 403-78 Health on H.B. No. 2779-78

The purpose of this bill is to appropriate out of the general revenues, the sum of \$60,000 or so much thereof as may be necessary, to provide grant-in-aid to the Hilo Association to help Retarded Citizens. Funds will be used to support group home treatment of deaf-blind and multi-handicapped children who reside in Hilo.

Your Committee finds that children born with physical handicaps experience a difficult task overcoming social barriers. Many times, these handicaps restrict the individual from experiencing the social environment around him/her and in the process, frustrate the child and the families involved.

Your Committee further finds that many parents are unable to assist the child and cope with the situations confronting them. As a result, the child will best benefit in a program which is specialized to meet the child and parents needs.

Therefore, your Committee recognizes the need to establish a group home in Hilo,

Hawaii in order to assist the handicapped child to cope with his/her social environment.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2779-78 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Baker and Ushijima.

SCRep. 404-78 Health on H.B. No. 2804-78

The purpose of this bill is to provide the sum of \$31,721, or so much thereof as may be necessary, for a grant-in-aid to the Kauai Substance Abuse Control Program, Kauai County.

Your Committee finds that substance abuse has been an increasingly difficult problem. With the use of various harmful substances, individuals are proven to be socially dysfunctional.

Your Committee further finds that the County of Kauai has been involved in addressing the problems of alcohol and drug abuse among its population since 1975 as well as providing direct services to substance abusers through its Kauai County Substance Abuse Control Program since 1976.

Your Committee recommends that an amendment of \$18,830 be provided for preventive health services for the County of Kauai. The facility currently handles treatment but preventive health measures are necessary for the program.

Therefore, your Committee on Health is in accord with the intent and purpose of H.B. No. 2804-78, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2804-78, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Baker and Ushijima.

SCRep. 405-78 Health on H.B. No. 2806-78

The purpose of this bill is to appropriate out of the general revenues the sum of \$262,000, to G. N. Wilcox Memorial Hospital and Health Center, Kauai for the planning and construction of a solar water heating and cooling system and a wind generated alternate energy system.

In light of the increasing concerns over limited oil resources, there has been an equally important awareness of alternate forms of energy available to the public as well as one private sector in Hawaii. Your Committee is of the opinion that a grant-in-aid for the planning and construction of solar water heating and cooling system and a wind generated alternate energy system is appropriate.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2806-78 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Baker and Ushijima.

SCRep. 406-78 Health on H.B. No. 2857-78

The purpose of this bill is to appropriate the sum of \$25,000, or so much thereof as may be necessary for the installation of humidity control equipment and the extension of the Maui Health Center Laboratory.

Your Committee finds that the installation of humidity control equipment at the Maui Health Center's Laboratory will improve the working environment at the facility. Likewise, realizing the crowded conditions of the facility, there is a need to extend the facility in order to alleviate the crowded conditions.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2857-78 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Baker and Ushijima.

SCRep. 407-78 Health on H.B, No. 2858-78

The purpose of this bill is to authorize the Department of Health to use Medicare trust funds for the Maui Memorial Hospital.

Presently, the County of Maui returns the State Medicare funds earned by Maui Memorial Hospital to be held in trust by Maui County.

However, the Attorney General has ruled that the authority to expend these funds rests with the Legislature.

Your Committee feels that with this bill it will provide authorization to transfer the Medicare trust fund to the special funds of Maui County/State hospitals for equipment and improvements.

Therefore, your Committee on Health amends the bill by stating that trust funds be for the Maui County/State hospitals.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2858-78, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2858-78, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Baker and Ushijima.

SCRep. 408-78 Health on H.B. No. 2744-78

The purpose of this bill is to appropriate \$100,000 for the plans and construction of a new water tank at Kalaupapa Settlement, Molokai.

Testimony by the Department of Health was in favor of this bill. However, the Department wishes to also utilize some of the moneys for the upgrading of the water system particularly the water transmission main to the settlement. The sum of \$125,000 appropriated by the Legislature in 1976 is inadequate to upgrade the entire system. The Department stated that this would give them more flexibility in the general upgrading of the water system including the construction of a new water tank if that is found to be necessary.

Your Committee recommends that H.B. No. 2744-78 be amended to include upgrading of the entire water system for the purpose of ensuring an adequate supply of water for the settlement. The amendment would be as follows:

(a) Section 1. There is hereby appropriated from the general revenues of the State of Hawaii the sum of \$100,000, or so much thereof as may be necessary, for plans and construction to upgrade the water system including a new water tank at Kalaupapa Settlement, Molokai.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2744-78, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2744-78, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Baker and Ushijima.

SCRep. 409-78 Agriculture on H.B. No. 548

The purpose of this bill is to facilitate fair treatment of locally produced agricultural products sold and distributed in Hawaii.

It has been alleged that generally, local agricultural products has a higher mark-up as compared to the same agricultural products imported to the State for intra state distribution.

Your Committee has amended this bill by adding a new section prohibiting mark-up of local farm products in excess of that attached to similar imported farm products.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 548, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 548, H.D. 1, and be recommitted to the Committee on Agriculture.

Signed by all members of the Committee except Representatives Blair, Carroll, Garcia, Inaba, Morioka, K. Yamada and Fong.

SCRep. 410-78          Agriculture on H.B. No. 2917-78

The purpose of this bill is to define agricultural use as it relates to roll back provisions in the real property tax law to insure that the land benefiting under the real property tax law is substantially and continuously being used for agriculture.

Your Committee has found that the intent of this bill is to correct certain deficiencies in sections of the real property tax law which relate to preferential tax treatment of agricultural land.

Your Committee has amended the bill by amending Sec. 246-12, subsection (a), (b), (c) and paragraph (3), (4), and subsection (h).

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 2917-78, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2917-78, H.D. 1, and be recommitted to the Committee on Agriculture.

Signed by all members of the Committee except Representatives Blair, Carroll, Garcia, Inaba, Morioka, K. Yamada and Fong.

SCRep. 411-78          Health on H.B. No. 2539-78

The purpose of this bill is to establish a continuing education fund from the assessment of nurses licenses in order to provide continuing education offerings for nurses.

Your Committee finds that the Board of Nursing has been administering a Continuing Education Approval and Recognition Program (CEARD) using an appropriation of \$42,250 by the Legislature during its 1975 session. Through this program, nurses on a statewide basis were able to participate in continuing education programs which proved to be vital to the continuing competence of licensees and the upgrading of public health.

Your Committee further recognizes that the public, as consumers of health care, will benefit from the services provided by the nursing profession. Therefore, systematic learning experiences beyond basic nursing preparation are necessary and vital to the delivery of safe and quality care services. These experiences are designed to promote the development of knowledge, skills, and attitudes for the enhancement of nursing practice, thus improving health care to the public.

House Bill Number 2539-78 establishes a continuing nursing education fund to provide on a permanent basis for continuing nursing education programs. The bill increases existing application and renewal fees for both registered and practical nurses and designates a percentage of the aggregate fees paid by licensees to be paid into this fund. The increase is intended to provide additional funds which will enable all nurses to continue their professional education and thereby improve the quality of nursing care in Hawaii.

Your Committee has amended H.B. No. 2539-78 in the following manner:

(a) "Nurses Continuing Education Fund" has been amended to read "Nurses Continuing Education Approval and Recognition Fund".

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2539-78, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2539-78, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Baker and Ushijima.

SCRep. 412-78          Health and Education on H.B. No. 2827-78

The purpose of this bill is to establish a statewide school health services program by integrating the current pilot vision and hearing screening into the current pilot school health services program by making the school health services program permanent within the Department of Health.

The school health services program was initiated under a pilot project established by Act 130, Session Laws 1970. This program has demonstrated its effectiveness during the past years in providing health care for children in public schools.

The vision and hearing screening program has been successful in early detection and identification of sensory deficiencies in students. Impaired hearing and vision which can lead to the development of learning, emotional and behavioral problems can be detected early with correct diagnosis.

Testimonies presented showed concern that quality services will be sacrificed through the usage of health aides in performing vision and hearing screening. However, your Committees feel that this may be true only during the first year, but given time, the health aides will become proficient in rendering health services to the students.

Furthermore, your Committees feel that by this integration, screening services shall be completed by Christmas vacation as compared to the present schedule which screens some schools in April and May of the school year.

Your Committees find that by integrating the vision and hearing screening program into the school health aides program, there will be a cost savings of \$59,145.

Your Committees amend House Bill No. 2827-78 by extending vision and hearing screening services to private and parochial schools. During the past years, vision and hearing screening has been implemented in private and parochial schools, which was found to be successful.

This bill is further amended to provide nurses and audiologists with the same vacation and sick leave allowances as other employees of their bargaining unit. They shall also have daily working hours when children are in attendance at schools. The school health aides and screening technicians shall have the same working hours as teachers.

Your Committees further amend that \$162,498 be appropriated to supplement funding provided in Act 10, Session Laws 1977, and the Governor's Supplemental budget. This funding will enable the school health services program to grant civil service status to all health aides and nurses.

Your Committees on Health and Education are in accord with the intent and purpose of H.B. No. 2827-78, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2827-78, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Baker and Ushijima.

SCRep. 413-78      Culture and the Arts on H.B. No. 2849-78

The purpose of this bill is to create much needed basic policies for the management, operation and future restoration of the Iolani Palace complex by giving a 15 member temporary commission to be established by this bill, the duties of formulating and recommending policies for the Iolani complex for ultimate adoption by the Legislature. Members of the commission are to be appointed by the governor and selected from various public and private organizations. Under the bill, the commission is directed to formulate and recommend policies relating to the management and operation of the Iolani Palace to the Board of Land and Natural Resources who shall then make the appropriate policy recommendations for adoption by the Legislature. The commission shall be terminated upon the adoption of these policies by the Legislature.

The restoration of the Iolani Palace which is but one of the buildings in the Iolani Palace complex has taken nearly seven years to complete. A series of eight contracts between the Friends of Iolani Palace and the Department of Land and Natural Resources were executed to complete the physical restoration of the palace structure resulting in a total expenditure of \$5.95 million, including \$5.65 million in state funds. Despite the expenditure of nearly 6 million dollars to restore the Iolani Palace, it was found

by a 1977 Legislative Reference Bureau study and a 1978 House interim committee on the management and operations of the Iolani Palace complex that basic policies and a comprehensive plan for the restoration, management, and operation of the complex were never established. Consequently, answers to basic questions relating to the scope of the restoration project, the function and purpose of the complex, and the appropriate management and operations of the complex have not been forthcoming.

Your Committee believes that basic policies governing the scope and management of the Iolani Palace should have been established before the expenditure of State funds and must certainly be established now to determine the type of audiences it will serve and the type of programs and services it will offer. Restoration and management policies must also be established to serve as the basis for the development of a comprehensive plan for the future restoration of the rest of the Iolani Palace complex. Testimony from the Chamber of Commerce of Hawaii and the Hawaii Sightseeing Association support the need for a temporary commission representing public and private groups in the formulation of management and operational policies of the Iolani Palace complex.

The Chairman of the Board of Land and Natural Resources testified that a management contract has been executed between the Board and Friends of Iolani Palace, and that rules and regulations for the management of Iolani Palace has been adopted recently by the Board so that the need for a temporary commission is less critical at this time. Your Committee believes that the management contract and the rules adopted by the Board do not adequately establish policies to properly govern the management and operations of Iolani Palace. Further, your Committee believes that private and public representation in the formulation of a comprehensive policy governing Iolani Palace is necessary to ensure that the use of the Palace will serve the best interest of the people of Hawaii. Your Committee believes that the 15 member temporary commission will provide the necessary private and public representation in the establishment of the basic management and operational policies of the Iolani Palace complex.

Your Committee on Culture and Arts is in accord with the intent and purpose of H.B. No. 2849-78 and recommends that it pass Second Reading and be referred to the Committee on Public Employment and Government Operations.

Signed by all members of the Committee except Representative Ushijima.

SCRep. 414-78            Judiciary on H.B. No. 3034-78

The purpose of this bill is to establish a Hawaii Criminal Justice Information Data Center. The data center would control and coordinate criminal offender record-keeping within the state and the sharing of information among Hawaii's state and county criminal justice agencies. The bill would establish more efficient and uniform systems of criminal offender record-keeping; assure periodic audits of such record-keeping; and establish a more effective administrative structure for the protection of individual privacy in connection with such record-keeping.

This bill would bring Hawaii into compliance with Department of Justice and Law Enforcement Assistance Administration regulations issued to implement the mandate contained in the Crime Control Act of 1973 requiring procedures to provide for privacy and security of criminal history record information.

"Criminal history record information" is defined in the regulations as information collected by a criminal justice agency on individuals consisting of arrests and other formal criminal charges and any disposition which follows. Identification information (such as fingerprint records) where it does not indicate the individual's involvement in the criminal justice system is excluded by this definition as is investigative or intelligence data (such as reports of suspected criminal activity, descriptions of associates, financial information about suspects, and the like). "Criminal justice agencies" are courts and other government agencies (including subunits of non-criminal justice agencies) which administer criminal justice and allocate to it a substantial part of their budgets. "Administration of criminal justice" encompasses identification, detection, apprehension, prosecution, adjudication, detention, supervision, and release of criminal offenders and maintenance of criminal history record information. A "criminal history record information system" includes its equipment, facilities, procedures and organization. These definitions and several other relevant terms are defined in Section -1 of the bill.

Certain kinds of records, which would otherwise satisfy the definition of criminal history record information, are exempted from the requirements: (1) wanted person

announcements; (2) police blotters or other public original records of entry kept by criminal justice agencies where chronologically compiled; (3) court records; (4) published court opinions or records of public judicial proceedings; (5) traffic offense records kept for licensing purposes; (6) announcements of executive clemency. Criminal justice agencies may answer, on the basis of these exempted kinds of data, specific inquiries as to whether an individual has been charged on a specific date. Section -8 of the bill provides for these exclusions and defines their limits in detail.

The Federal regulations urge states to establish central record repositories for maintenance of comprehensive statewide criminal history record information files. Section -2 of the bill accomplishes this purpose by establishing a Hawaii criminal justice information data center which will function as a central state repository for the collection, storage and dissemination of criminal history record information. The data center, which would be attached to the judiciary for administrative purposes, will also provide analysis of pertinent criminal history record information in support of the legislative process and the administration of criminal justice. All functions that are currently being performed by the Hawaii Criminal Justice Statistical Analysis Center (SAC) will be incorporated into the data center. The data center will also provide technical assistance to criminal justice agencies engaged in the development of agency level information systems.

The initial input of criminal history record information to the data center is provided for in Section -3 of the bill. It provides that state and county agencies having the power of arrest shall furnish the data center with descriptions of all such persons arrested by them for any felony or misdemeanor or other appropriate offense as declared by rule and regulation. Section -5 of the bill requires all criminal justice agencies to report the disposition of cases which enter their area in the administration of criminal justice to the data center. "Disposition" is defined to include the formed conclusion of each stage of a case as it moves from arrest through the criminal justice system. These provisions will insure compliance with the federal requirements governing completeness of criminal history records and mandatory statewide reporting of all dispositions within 90 days.

The regulations further require that, in those states having central state repositories, "procedure shall be established for criminal justice agencies to query the central repository prior to the dissemination of any criminal history record information to assure that the most up-to-date disposition data is being used." The regulations also require that queries be made prior to the dissemination of criminal history records. The provisions of Section -4 of the bill would insure compliance with these provisions of the regulations.

The federal regulations call for two different forms of auditing. A systematic audit is required as a means of guaranteeing the completeness and accuracy of records. Annual audits of representative criminal justice agencies chosen on a random basis are also required to insure agency adherence to the regulations.

Section -6 of the bill provides for compliance with the federal requirements governing the systematic audit. Agencies must institute procedures to minimize the recording and storage of inaccurate information and on the discovery of inaccurate information of a material nature they must notify all criminal justice agencies known to have received such information. The section further requires recorded listing of agencies to which criminal history record information was released, establishment of delinquent disposition monitoring systems, and verification of all record entries.

Section -12 meets the federal requirements covering the annual audit by providing that the data center shall conduct annual audits of a sample of criminal justice agencies chosen on random basis. This audit will verify the accuracy and completeness of information maintained by such agencies and determine adherence to the regulations.

The federal regulations impose detailed security standards that the states must satisfy in the design of their criminal history record information systems. The regulations permit the operation of shared systems serving various users including criminal justice agencies. Although a criminal justice agency must be ultimately responsible for compliance with the regulations, this can be accomplished by review approval and monitoring of procedures developed by another agency to insure compliance with the regulations. Section -7 of the bill incorporates these provisions of the federal regulations and sets forth the detailed requirements concerning protection against unauthorized access to criminal history record information systems, personnel selection and accountability, and physical security.

The federal provisions dealing with dissemination of criminal history record information

require adequate provisions for the privacy of such information and that such information "shall only be used for law enforcement, criminal justice and other lawful purposes." Dissemination means transmission of criminal history record information to individuals and agencies other than the criminal justice agency which maintains the information. The regulations allow dissemination of conviction data and information relating to a pending charge without limitation. Non-conviction data may be disseminated to criminal justice agencies for law enforcement and criminal justice agency employment purposes. Non-conviction data is defined to include year-old arrest records without disposition information or a pending prosecution and records disclosing an acquittal, dismissal, or decision not to prosecute. Such information may be disclosed to non-criminal justice agencies where authorized by state law.

The federal regulations establish two general restrictions on the use of criminal history record information (conviction data, information pertaining to pending charges, non-conviction data, and recent arrest data where no prosecution is pending). These are that its use by a non-criminal justice agency must be limited to the purpose for which given, and no agency may confirm that existence or non-existence of such information to a person ineligible to receive the information itself. The regulations also permit dissemination to individuals and agencies engaged in research or providing other services required for the administration of criminal justice under a specific agreement with a criminal justice agency. The agreement must limit the use of data to the purpose for which access is given, insure its confidentiality, and provide sanctions for its violation.

Section -9 and -10 of the bill incorporate these provisions of the federal regulations and establish the limits of dissemination of criminal history record information for criminal justice agencies. Section -11 of the bill incorporates the more restrictive limits on dissemination of juvenile records provided for in the federal regulations.

The regulations further provide that an individual must be provided with access to any criminal history record information maintained on him to insure its accuracy and completeness. They further require that provision be made for administrative review of any claimed inaccuracies and for correction where needed. Administrative appeal of agency rejection of a challenge must also be allowed. All criminal justice recipients of incorrect information are to be notified of corrections by the correcting agency. Section -13 of the bill provides for agency compliance with these federal requirements governing access and review of criminal history records.

Section -14 of the bill provides authority for the Attorney General to promulgate rules and regulations necessary to insure compliance with the provisions of the bill. Section -15 provides misdemeanor penal liability for violations of the security and privacy provisions of the bill.

The Office of the Attorney General recommended that line 16, page 15 of the bill be amended by inserting a period after the word "given" and deleting the words thereafter on line 16 and 17. The restriction on further dissemination is not provided for in the federal regulations and may unnecessarily restrict non-criminal justice agencies in the performance of their duties. Your Committee has amended the bill in accordance with the recommendation.

Your Committee also made some technical changes which do not affect the substance of the bill.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 3034-78, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3034-78, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Baker and Fong.

SCRep. 415-78      Corrections and Rehabilitation on H.B. No. 3030-78

The purpose of this bill is to clarify the transfer to the intake service centers of the pre-sentence diagnosis and report functions relating to adult offenders and to provide for the transfer of positions and incumbents in the Judiciary currently performing those functions. The authorization also allows the transfer of funds, records, equipments, machines, files, supplies, etc., that are being used for the pre-sentence diagnosis and report functions. Finally, this bill grants authorization for the governor to execute an agreement with the Judiciary to complete the transfer after the necessary arrangements are made.

Your Committee agrees that the transfer to the Intake Service Center of the pre-sentence report functions currently performed under the jurisdiction of the Judiciary is appropriate.

Hawaii Revised Statutes, Section 353-1.4(1) provides that the intake service center shall [p]rovide guidance and technical services for volunteer referrals and to admitted persons, correctional diagnostic evaluation services for diversionary determinations, pre-sentence investigations for the courts, and post-sentence correctional prescription program planning for committed persons; . . . ."

However, your Committee believes that mandatory access to police investigative reports of cases in Court may jeopardize police investigative work. To that end, your Committee has adopted the recommendations of the Intake Service Center and the Honolulu Police Department, and has amended the bill to specify that the county police departments shall not have to grant access to police investigative reports of cases that have not been adjudicated in Court. The amendment is not intended to change in any way the presently-existing agreement and understanding between the county police departments and the Intake Service Center which provides that in limited and specific cases, the county police departments will make available their investigative information to pre-trial release service workers of the Intake Service Center.

Your Committee also believes that to place responsibility on the Courts to designate agencies that should give notice of the Criminal Injuries Compensation Act is an inappropriate function for the Courts. Your Committee has adopted the recommendation of the Judiciary Central Administration and amended the bill by removing that function from the Courts.

Your Committee also made some minor technical amendments to the bill.

Your Committee on Corrections and Rehabilitation is in accord with the intent and purpose of H.B. No. 3030-78, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3030-78, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Baker.

SCRep. 416-78            Culture and the Arts on H.B. No. 2081-78

The purpose of this bill is to provide \$300,000 for the development of the Arizona memorial museum and shore-side support complex at Pearl Harbor, Hawaii, by the Arizona Memorial Museum Foundation.

Testimonies submitted by the Pearl Harbor Survivors Association, Inc. and the Arizona Memorial Museum Foundation supported the need for an Arizona memorial museum and shore-side support facilities. The present memorial and shore-side support facilities are inadequate and unable to accommodate the growing visitor interest.

The United States Congress has appropriated \$2 million for the construction of shoreside support facilities that will include a boat landing, restrooms, courtyard, walkways, two theaters and landscaping.

Upon consideration of the testimony, your Committee has amended line 2 of the bill by changing 11.3 acres to 9.0 acres.

Your Committee on Culture and the Arts is in accord with the intent and purpose of H.B. No. 2081-78, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2081-78, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Ushijima.

SCRep. 417-78            Water, Land Use, Development and Hawaiian Homes and Culture  
and the Arts on H.B. No. 2540-78

The purpose of this Act is to provide for the documentation of Honokaa as a historic community.

This Act has been amended by clarifying the duties of the expending agency.

Your Committees on Water, Land Use, Development and Hawaiian Homes, and Culture and Arts are in accord with the intent and purpose of H.B. No. 2540-78, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2540-78, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Campbell, Garcia, Larsen, Mizuguchi, Naito, Shito, Uechi, Takamine, Uechi, Ushijima, Carroll and Evans.

SCRep. 418-78      Water, Land Use, Development and Hawaiian Homes and Ocean and Marine Resources on H.B. No. 2750-78

The purpose of this bill is to reorganize the Department of Land and Natural Resources by abolishing the present Fish and Game Division, establishing a Division of Enforcement and a Division of Fisheries and Aquaculture, and by transferring the Wildlife Branch of the Division of Fish and Game to the Division of Forestry. The general approach of the bill is to specify the organizational framework relating to enforcement functions within the Department of Land and Natural Resources as well as to authorize the Board of Land and Natural Resources to make, among other things, such transfers of functions and personnel so as to effectuate the intent and purposes of this bill. The Department is therefore charged with considerable flexibility in terms of fashioning suitable means to implement the enforcement provisions of this bill.

The bill also provides for the repeal of the specific enforcement authorities vested in the Divisions of Forestry, Fish and Game, and State Parks. However, similar authority, but without the existing "police powers" now vested, would be vested in the Division of Enforcement and the enforcement officers. The "police powers" is vested in the Board of Land and Natural Resources and the Board is authorized to delegate same to enforcement officers within the Division of Enforcement as may be required for the enforcement of state conservation laws and rules and regulations promulgated thereunder.

The bill further provides for the centralization of aquaculture activities within the new Division of Fisheries and Aquaculture. At present, aquaculture activities are dispersed among five State agencies: the Department of Land and Natural Resources, the Department of Agriculture, the Office of Marine Affairs Coordinator, the University of Hawaii, and the Department of Planning and Economic Development. Your Committee finds that this dispersal of activities is disadvantageous to aquaculturists, those involved in aquaculture research and development, and the general public. Consequently, under the terms of this bill, most of these activities will be under the control and direction of a single agency so that aquaculture activities can be planned, organized, coordinated, and supervised efficiently and effectively in accordance with principles of sound management thereby yielding substantial benefits to the public in terms of increased cost effectiveness.

The bill further integrates, within a single division, activities dealing with commercial fishing development. Presently, there is no single agency in the State responsible for this function. Consequently, your Committee finds that the development of the resources and activities of the fishery industry would be greatly enhanced by the creation of a Division of Fisheries and Aquaculture which would better serve the legitimate interest of the public in effective governmental administration.

Your Committee has held a public hearing on this bill and has received testimony from the Board of Land and Natural Resources and the Department of Planning and Economic Development which generally was favorable to the intent and purpose of this bill. It was stated therein that the establishment of an integrated enforcement program within the Department of Land and Natural Resources was under study by the Department for some time and culminated in the initiation of H.B. 3058-78 which, if enacted, would have created a Conservation and Enforcement Program within the Department of Land and Natural Resources.

Your Committee has amended the bill to address the concerns voiced by the affected agencies. Specifically, your Committee has incorporated into this bill the main provisions of H.B. 3058-78, which is said to eliminate the technical barrier erected by the very specific assignment of enforcement authority to the Divisions authorized by the original provisions of this bill. The amendment authorizes the Board of Land and Natural Resources to transfer enforcement functions and personnel within the Department upon its determination of the functional characteristics of the integrated enforcement mechanism within the Department. Your Committee finds that by centralizing the enforcement powers within a single division, an enforcement officer would not be restricted to enforcing the regulations of a single division. Moreover, the Board of Land and Natural Resources is afforded the opportunity

to administratively reorganize units within the Department and to make those necessary technical adjustments to existing departmental programs which will facilitate effective operations with a minimum of traumatic dislocation. Your Committee therefore finds that such a gain more than offsets the loss in terms of the separation of the development of regulations from their enforcement.

Your Committee agrees with the Department of Planning and Economic Development's position that it is best not to provide for an inflexible statutory mandate regarding functional and personnel changes within the Department but rather to leave those areas for administrative determination with the Department retaining the primary responsibility to ascertain what is needed to best implement the provisions of this bill.

Your Committees on Water, Land Use Development and Hawaiian Homes and Ocean and Marine Resources are in accord with the intent and purpose of H.B. 2750-78, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2750-78, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives  
Garcia, Larsen, Naito, Uechi and Carroll.

SCRep. 419-78      Water, Land Use, Development and Hawaiian Homes on H.B. No.  
2174-78

The purpose of this bill is to provide for statewide land use guidance policies and to replace the interim policies contained in Section 205.16.1, Hawaii Revised Statutes. The general approach of the bill is to specify guidance policies for each of the four State land use districts. In addition to the specific policies for each land use district, the bill contains five overriding provisions which are applicable to all district boundary amendment actions. These five provisions attempt to express the Legislature's clear intent that the Land Use Commission take a broad regional approach when acting on individual boundary amendment petitions, that overriding priority be given to protecting critical resources of statewide concern from adverse impacts as a result of Commission actions, and that considerations shall be given to county general plans. A further purpose of the bill is to require the State Land Use Commission to monitor performance of petitioners subsequent to reclassification of lands, and to reclassify lands that are incompatible with the statewide land use guidance policies or the Hawaii State Plan when adopted. A further purpose of the bill is to require that the State Land Use Commission, in adopting a land use district boundary amendment or other action, appropriately address applicable provisions in the Hawaii State Plan and to repeal Section 205-16.2, Hawaii Revised Statutes, relating to the legal effect of the interim statewide land use guidance policy.

The statewide land use guidance policies, as set forth in the bill, were formulated pursuant to Section 205-12.2, HRS, which states that the interim statewide land use guidance policy shall be observed and complied with by the Land Use Commission until the effective date of the enactment of the state plan.

Your Committee has held a public hearing on this bill and received testimonies that such statewide land use guidance policies are necessary and desirable for the proper administration of the land use law by the Land Use Commission, and are most appropriately provided for in separate legislation rather than as part of the Hawaii State Plan (H.B. No. 2173-78).

However, your Committee has amended the bill to address the concerns voiced by the Land Use Commission, the Counties, and other interest groups. Specifically, your Committee has amended Section 205-4(j) of the bill to provide that the Land Use Commission shall issue a show cause order when there is reason to believe there has been a failure to comply or make substantial progress after five years from the date of a reclassification. Your Committee further finds that in cases of non-compliance by petitioners, a motion to reclassify is not necessary, and that a Commission order to show cause why property should not revert to its previous classification is sufficient.

Your Committee has also amended the bill to provide that any appropriate party as defined in Section 205-4(a) may move to reclassify any land, the classification of which is incompatible with the statewide land use guidance policy or the Hawaii State Plan, when enacted. Your Committee has further clarified the bill to the effect that no amendment to any land use district boundary nor any other action by the land use commission shall be adopted unless such amendment or other action conforms to the provisions of the Hawaii State Planning Act.

Your Committee has also amended the third urban district policy to refer to self-contained urban area rather than urban center; and has amended the fifth urban district policy to require the Land Use Commission to appropriately address the ten-year master plan for the growth of tourism prepared pursuant to Chapter 203, HRS.

Your Committee has heard testimony that the Land Use Commission should be mandated to conform to or comply with the Hawaii State Plan, rather than appropriately address the Plan. While there is some ambiguity in the language of the bill as presently worded, your Committee favors the present wording for the following reasons. The Hawaii State Plan reflects the long-term goals and aspirations of Hawaii's people. The State Plan policies cannot all be pursued simultaneously at this time. Trade-offs among the long-range policies of the State Plan must be made by a decision-making body such as the Land Use Commission in the context of each case before it. This approach is subject to much uncertainty and places great responsibility upon the decision-making body. But the alternative is a rigid and inflexible administration of the law which would be insensitive to variable and changing conditions and trends.

Your Committee has heard testimony that the Land Use Commission should conform or comply with the County General Plan. Your Committee therefore amended Section 205-16.1(f) by adding subsection (5) to read "In establishing the boundaries of the districts in each county, the Commission shall conform to the provisions of the Hawaii State Planning Act."

Your Committee agrees with the Department of Planning and Economic Development's testimony that it is best not to provide an inflexible statutory definition of terms and concepts, but rather to leave these as areas for oral and written arguments with substantiating evidence submitted by the parties before the Land Use Commission in each case, with the Commission retaining the responsibility to decide which to accept as a basis for its actions.

Your Committee on Water, Land Use, Development and Hawaiian Homes is in accord with the intent and purpose of H.B. No. 2174-78, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2174-78, H.D. 1, and be referred to the Committee on State General Planning.

Signed by all members of the Committee except Representatives Garcia, Larsen, Natio, Uechi and Carroll.

SCRep. 420-78      Water, Land Use, Development and Hawaiian Homes on  
H.B. No. 2170-78

The purpose of this bill is to 1) consolidate funds by function and source; 2) standardize terms; 3) add new funds as a depository for interest charges, borrowed monies and, through proposed amendment contained herein, gifts bequeathed to the Department of Hawaiian Home Lands; 4) define parameters of use; and 5) increase the loan guarantee amount.

This bill is similar in many respects to H.B. NO. 1173, H.D. 1, S.D. 1, C.D. 1, which was passed during last year's legislative session but which was not enacted due to a technical error.

Your Committee has amended this bill in the following manner:

Page 19, line 16: Raised the ceiling \$2.5 million, to \$7,500,000.

Page 23, line 15: Added two new special funds, known as the Hawaiian Home trust fund, and the Hawaiian Home education fund. These two funds are defined in page 27.

Page 31, line 8 to 12: Deleting reference to private agencies to service and collect loans, with fees for such work being assumed by the lessee or cooperative association.

Page 34: Adding new language allowing the department to receive gifts bequeathed to it.

Page 39, section 8: Including language relating to the Hawaiian Home education fund.

Your Committee on Water, Land Use, Development and Hawaiian Homes is in accord with the intent and purpose of H.B. No. 2170-78, as amended herein, and recommends

that it pass Second Reading in the form attached hereto as H.B. No. 2170-78, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Garcia, Larsen, Naito, Uechi and Carroll.

SCRep. 421-78      Water, Land Use, Development and Hawaiian Homes on H.B. No. 2566-78

The purpose of this Act is to provide funds for a computer model for construction industry forecasting and studies.

Your Committee is in agreement that the computer model will fill a need for a tool which can accurately forecast the peaks and valleys of the construction industry. Such information will aid labor, management and government analysts in taking corrective steps to stabilize the construction industry.

Your Committee on Water, Land Use, Development and Hawaiian Homes is in accord with the intent and purpose of H.B. No. 2566-78 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Garcia, Larsen, Naito, Uechi and Carroll.

SCRep. 422-78      Water, Land Use, Development and Hawaiian Homes on H.B. No. 2506-78

The purpose of this Act is to provide grants-in-aid to the County of Hawaii.

Your Committee on Water, Land Use, Development and Hawaiian HOMes is in accord with the intent and purpose of H.B. No. 2506-78, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Garcia, Larsen, Naito, Uechi and Carroll.

SCRep. 423-78      Water, Land Use, Development and Hawaiian Homes on H.B. No. 2121-78

The purpose of this Act is for the preservation of historic buildings and sites in the Third Representative District, County of Hawaii.

This Act has been amended by inserting the sum of \$50,000, and by clarifying the activities of the expending agency.

Your Committee on Water, Land Use, Development and Hawaiian Homes is in accord with the intent and purpose of H.B. No. 2121-78, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2121-78, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Garcia, Larsen, Naito, Uechi and Carroll.

SCRep. 424-78      Water, Land Use, Development and Hawaiian Homes on H.B. No. 1778-78

The purpose of this Act is to authorize the issuance of economic development bonds by the State to alleviate unemployment and to provide further assistance for continued growth and development of the State's economy.

Your Committee is in agreement that this Act will help provide a means of financing job markets in areas of consistent unemployment and where traditional financing methods are unavailable.

Your Committee on Water, Land Use, Development and Hawaiian Homes is in accord with the intent and purpose of H.B. No. 1778-78 and recommends that it pass Second Reading

and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Garcia, Larsen, Naito, Uechi and Carroll.

SCRep. 425-78          Judiciary on H.B. No. 2086-78

The purpose of this bill is to grant the Director of Planning and Economic Development the power to review the results of state funded research projects and to patent those inventions or processes discovered under the projects. The bill also provides for the pursuit of legal action against any person who releases to another an invention or process which may be patentable. The bill restricts utilization of any invention or process when the effects of that utilization provide economic competition with the state as defined within the bill.

Presently there are no statutes within the State of Hawaii which govern the patentability of inventions or processes that originate from state funded research projects. Therefore, your committee feels that there is a need to establish regulations which define the rights to these inventions and processes, and the manner in which these inventions and processes may be utilized by private parties. A substantial amount of State funds are used each year to finance research projects that are of statewide importance. The state presently has no means of control over the use of the inventions and/or processes developed with state research funds.

Your committee amended the bill by expanding Section -7 and renumbering it to read Section -9, to provide the director with authority to promulgate rules and regulations in order to carry out the purposes of this chapter. Your committee has further amended the bill by including a provision that annual reports of all patented processes and inventions resulting from state funded projects be made to the legislature.

Two new sections, Sec. -7 and Sec. -8 have been incorporated into the bill. Sec. -7 was added to provide for the sharing of royalties between the State and the individual who developed the invention or process within the Rules and Regulations. Sec. -8 was added to provide for the exemption of federally funded projects from the provisions of this bill whenever required by federal statute or regulation.

Sec. -2 was further amended to include the words "are sufficiently novel and" in order to clarify which projects may be patented.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2086-78 as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.B. No. 2086-78, H.D. 1.

Signed by all members of the Committee except Representative Baker.

SCRep. 426-78          Culture and the Arts on H.B. No. 3056-78

The purpose of this bill is to establish a Washington Place Oversight Commission which shall be responsible for the preservation and restoration of Washington Place, the home of Hawaii's last monarch, Queen Liliuokalani. The commission shall consist of the spouse of the governor, all former first ladies living in Hawaii and willing to serve as members, and six additional members to be appointed by the governor.

This commission shall be placed under the Department of Accounting and General Services for administrative purposes. Testimony from the Department of Accounting and General Services support the establishment of a commission that will be responsible for the review and approval of plans for major renovations of, and restoration and preservation of Washington Place as a historic resource.

The Department of Accounting and General Services recommended that sufficient funds be appropriated to reimburse commission members for expenses incurred during their performance of their duties. Your Committee, therefore recommends an amendment for the purpose of appropriating \$1,500 to carry out the purposes of this Act.

Such amendment would be as follows:

"Section 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1,500 or so much thereof as may be necessary, to carry out the purposes of this Act. The sum appropriated shall be expended by the Department of Accounting and General Services."

For purposes of consistency your Committee also recommends that this Act should be further amended as follows:

- (a) Section 3 and 4 be changed to sections 4 and 5 respectively.

Your Committee on Culture and the Arts is in accord with the intent and purpose of H.B. 3056-78 as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3056-78, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Ushijima.

SCRep. 427-78      Judiciary on H.B. No. 2303-78

The purpose of this bill is to authorize the attorney general to commission notaries public to act statewide. Under present law, notaries are appointed to act only in their own respective judicial circuits. Your Committee finds that it would be in the best interests of the public to have notaries who are commissioned to act throughout the State.

Your Committee received recommendations for amendments to the bill from the Judiciary and the attorney general. Upon consideration of the bill, your Committee has made the following amendments:

Section 1 of the bill was amended by amending Sec. 456-1 to provide that in addition to cases where a change occurs in the notary's office, occupation or employment which renders holding of the commission no longer necessary, where the residence of the notary changes, the notary's commission may be revoked after a hearing. The section was further amended to require notaries to report any change in residence to the attorney general.

Section 3 of the bill was amended by amending Sec. 456-3 to delete the requirement of delivery of the seal to the attorney general for destruction or defacement upon a change of residence from the circuit for which the notary was appointed.

Section 4 of the bill was amended by amending Sec. 456-4 to provide for filing of copies of commissions, impressions of seals and specimens of official signatures with the clerks of all circuit courts, and to allow any clerk to certify as to the authority of the notary.

Section 5 of the bill was amended by amending Sec. 456-5 to require the bond to be filed with the clerk of the circuit court of the judicial circuit in which the notary resides.

Section 6 of the bill was amended by requiring notaries to deposit notarial records with the clerk of the circuit court of the judicial circuit in which they reside.

A new Section 7 was added to the bill to provide that all presently authorized notaries will be allowed to act statewide until their present commissions expire and conditioned upon the deposit of any additional bond required by the bill.

Your Committee also amended the bill to change the effective date to January 1, 1979.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2303-78, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2303-78, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Baker, Fong, Naito, Uechi and D. Yamada.

SCRep. 428-78      Education on H.C.R. No. 43

The purpose of this House Concurrent Resolution is to request the United States Department of Health, Education and Welfare to consider favorably the Hawaii Department of Education Application for a Fiscal Year 1978-79 Community Education Federal Grant under the Community Education Act.

Your Committee finds that there are Federal grants available that would assist the State in achieving the following goals:

1. To develop general knowledge, awareness and acceptance of community education.
2. To provide training and technical assistance related to community education

to districts, schools, community agencies and the general public;

3. To design, develop and pilot test a Statewide systematic procedure for identifying and documenting community needs; and
4. To develop a long range State plan for incorporating community education into the existing organizational structure of the Hawaii Department of Education.

Your Committee recommends that the Department of Education pursue such Federal grants that are available in order to facilitate the implementation of the Community Education Program.

Your Committee on Education concurs with the intent and purpose of H.C.R. No. 43 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 429-78      Consumer Protection and Commerce on H.C.R. No. 50

The purpose of this concurrent resolution is to request the office of the Legislative Auditor to conduct an audit of the operation of the Real Estate Commission (1) to determine whether the Commission is providing efficient service to the real estate industry and to the public; and (2) to determine whether program operations can be improved through better utilization of resources or whether additional resources are needed.

Your Committee has found that due to the population and economic growth in the State, the increase in the number of real estate licensees, and the increase in the amount of real estate activity, the Commission's workload borders on being unmanageable. Additionally, the Commission appears grossly understaffed and underfunded to effectively handle the increasing responsibilities created by expanded real estate programs and operations. In view of the critical situation confronting the Commission, your Committee strongly feels that an audit is necessary to determine the Commission's ability to fulfill its statutory mandates.

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of H.C.R. No. 50 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Baker.

SCRep. 430-78      Corrections and Rehabilitation on H.R. No. 11

The purpose of this resolution is to request the Mental Health Division of the Department of Health, and the Social Welfare Development and Research Center of the University of Hawaii, to review and evaluate the "People Synergistically Involved" Program available to inmates of Hawaii State Prison, and, additionally, to have this evaluation carried out with the cooperation of the Department of Social Services and Housing.

Testimony given by the Director of Social Services and Housing stated that the Department of Social Services and Housing concurs with the idea of evaluating this program and will cooperate fully with the agencies conducting the study.

During the discussion on the resolution, it was recommended that this study be done by the Mental Health Division of the Department of Health alone, rather than having it done jointly by that agency and the Social Welfare Department and Research Center of the University of Hawaii. Consequently, your committee has amended the wording in the seventh paragraph of the resolution to read: "it requests the Mental Health Division of the Department of Health to review and evaluate", etc.

Also, your committee has amended the eighth paragraph of the resolution to read: "BE IT FURTHER RESOLVED that the Department of Social Services and Housing, the Social Welfare Development and Research Center of the University of Hawaii, and any other appropriate agencies afford full cooperation to the study;". Also, your committee has amended the ninth paragraph by deleting the word "joint" from the phrase "joint report" and has amended the last or tenth paragraph by deleting the words "the Director of the Social Welfare Development and Research Center".

Your Committee on Corrections and Rehabilitation concurs with the intent and purpose of H.R. No. 11, as amended herein, and recommends that it be referred to your Committee

on Finance in the form attached hereto as H.R. No. 11, H.D. 1.

Signed by all members of the Committee except Representative Baker.

SCRep. 431-78 Water, Land Use, Development and Hawaiian Homes on H.B. No. 2172-78

The purpose of this bill is to improve the present method of land exchanges involving Hawaiian Home Lands.

Currently, Hawaiian Home lands may be exchanged for private lands of equal value. However, the method of exchange is awkward and inefficient.

For example, a land exchange involving privately owned lands requires a three-way exchange: 1) the private lands are exchanged with the Land Board; 2) Hawaiian Home lands are exchanged with the Land Board; and 3) the Land Board exchanges Hawaiian Home lands for the private lands.

Your Committee feels this bill would eliminate the cumbersome process and allow for more efficient planning and timely progression of work.

Your Committee on Water, Land Use, Development and Hawaiian Homes is in accord with the intent and purpose of H.B. No. 2172-78 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Carroll, Garcia, Larsen, Naito and Uechi.

SCRep. 432-78 Water, Land Use, Development and Hawaiian Homes on H.B. No. 2171-78

The purpose of this bill is to permit the Department of Hawaiian Home Lands to qualify for existing funds and grants from Federal Programs.

The Department of Hawaiian Home Lands has only qualified for the Farmers Home Administration Program 502 by virtue of a separate agreement with the state requiring a 100% guarantee. Your Committee found it took 10 years to consummate this limited agreement. This Administration will utilize \$6,000,000 of Farmers Home Administration funding. Currently, only rural areas qualify for Farmers Home Administration mortgage financing. Papakolea and Keaukaha are subdivisions in urban areas and therefore do not qualify for Farmers Home Administration. No other Federal funds have been available to this program either by direct appropriation or participation in federally funded programs.

Deterioration of homestead subdivisions can be attributed to a lack of funds for district redevelopment and improvement in which the Department has the sole responsibility to finance because the lessee does not have any interest in the land.

Available State appropriations for this program total \$53,000,000. The Hawaiian Homes General Plan completed in 1976 forecasts a need for \$270,000,000. Your Committee forecasts a need closer to \$400,000,000. This is a prohibitive demand on the State debt obligation if the taxpayer would tolerate the expenditure.

Your Committee feels if federal credit and funding through existing programs were made available, the State would be relieved of this obligation. Opportunities for acceleration and expansion of current Hawaiian Homes programs and services would be greatly enhanced.

Your Committee on Water, Land Use, Development and Hawaiian Homes is in accord with the intent and purpose of H.B. No. 2171-78 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Carroll, Garcia, Larsen, Naito and Uechi.

SCRep. 433-78 Water, Land Use, Development and Hawaiian Homes and Culture and the Arts on H.B. No. 2941-78

The purpose of this bill is to place a moratorium on any new physical restoration within the Iolani Palace complex until an Iolani Palace complex physical restoration master plan

has been adopted by the Board of Land and Natural Resources.

The Iolani Palace complex is an eleven acre site located in the State Capitol District bounded by Richards, King, and Likelike Streets and the State Capitol mall. The complex presently includes: Iolani Palace, Iolani Barracks, the Coronation Stand, the former Royal Tombs, and the Kana'ina Building. The State Archives (Kekauluohi Building) is also located within this complex but is not a part of the restoration of the Iolani Palace complex.

The preservation and restoration of the Iolani Palace complex was an integral part of discussions and reports in the early 1960's relating to the Honolulu Civic Center district and the proposed new state capitol building. The Iolani Palace complex restoration project is presently under the jurisdiction of the Department of Land and Natural Resources (DLNR) and includes the restoration of existing structures and grounds within the above described areas to Hawaii's monarchy period between 1882-1893. In 1970, the Board of Land and Natural Resources (BLNR) awarded the first of seven contracts to the Friends of Iolani Palace, a private, non-profit organization, for the restoration of the main palace structure. The Iolani Palace structure has been recently completed and a total of \$5.95 million, including \$5.65 million in state funds has been expended on this project. A recent DLNR estimate indicates that the project will require an additional \$2.149 million to complete the restoration of the grounds and other major structures in the Iolani Palace complex.

A 1978 House interim report on the management and operations of Iolani Palace was recently filed by the Culture and the Arts Committee. One of the major findings of the interim review was that the Iolani Palace restoration proceeded over the past seven years on an incremental basis, with decisions being made as they become necessary during the formulation of a series of contracts for the palace restoration. The Committee also found that alternatives and long-range planning decisions were not meaningfully considered and with each contract's implementation, the activities and contracts themselves determined policies and directions of the project restoration. Thus the Iolani Palace complex restoration has suffered from the absence of a comprehensive policy or plan containing direction and guidance for the restoration activities of the complex.

The interim committee called for a moratorium on any further restoration of activities and areas within the palace complex until a master plan is developed. Such a plan would avoid a fragmented approach to further palace restoration and include the nature, extent, and cost of each restoration activity and a schedule setting forth the times when each restoration would be initiated and completed.

Although the chairman of the Board of Land and Natural Resources (BLNR) testified that a moratorium would tend to further delay and thereby increase cost of the final restoration of the complex, your Committee believes that it is of greater importance that a master plan be developed before further restoration is continued. Such a plan would provide guidelines for the Legislature in determining the amount of funds necessary for the future completion of the restoration project and allow for a review of the project during its various stages of restoration. Your Committee further believes that a master plan will minimize any delays and cost increases that may arise from short-term, fragmented restoration planning.

The BLNR chairman also testified that the DLNR has utilized a 1973 study entitled An Interpretation Plan for Iolani Palace and other similar planning studies as a master plan for the restoration and operations of the Iolani Palace complex. However, a 1977 Legislative Reference Bureau study on the restoration and management of the Iolani Palace complex found that none of the planning studies on the Iolani Palace complex restoration, taken individually or collectively, amount to what can be considered a comprehensive or master plan for the Iolani Palace complex restoration. Your Committee further finds that none of these planning studies have not been adopted by the Board of Land and Natural Resources.

Testimony from the Chamber of Commerce of Hawaii and the Hawaii Sightseeing Association supported the development of a comprehensive plan prior to any further restoration of the Iolani Palace complex.

Your Committee on Water, Land Use, Development and Hawaiian Homes and your Committee on Culture and the Arts are in accord with the intent and purpose of H.B. No. 2941-78 and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Ushijima.

The purpose of this bill is to ensure that actions proposing the development of water resources which will probably have significant environmental effects will be carefully evaluated.

Your Committees find that water is a precious resource that must be wisely managed. As Hawaii's population grows, there is an increasing need to carefully evaluate the impact of actions that place further burdens on our limited fresh water resources.

Your Committees find that in the past some projects involving the significant development of water resources have been approved without the benefit of an environmental impact statement. Water development projects are sometimes considered separate from the more substantive land use decisions which are closely related and soon follow.

Your Committees further find that requiring an environmental impact statement for the development of water resources that will have significant impacts is reasonable and prudent. It will not result in the preparation of elaborate evaluations for insignificant projects.

Your Committees have deleted all of the content of H.B. No. 1998-78 and added new language to Section 343-4 to include concerns for significant water development.

Your Committees on Ecology and Environmental Protection and Water, Land Use, Development and Hawaiian Homes are in accord with the intent and purpose of H.B. No. 1998-78, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1998-78, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 435-78      Finance on H.B. No. 3041-78

The purpose of this bill is to appropriate additional moneys to the Department of Social Services and Housing and to carry out the purposes of the economic assistance programs for the remainder of the fiscal year 1977-78, and it is recommended by the Governor for immediate passage.

Current projections of expenditure requirements for the economic assistance programs in the Department of Social Services and Housing show an urgent need for additional funds to continue the present level of services for the entire 1977-89 fiscal year. Although the department is trying to operate the economic assistance programs within the appropriated amounts for the 1977-78 fiscal year, the actual caseloads, payment levels, patient loads and costs for patient care being experienced by the department are in excess of the estimates in Act 10, Session Laws of Hawaii 1977, First Special Session. Since the existing appropriations for the economic assistance programs in FY 1977-78 are based upon the estimates in Act 10, Session Laws of Hawaii 1977, First Special Session, they are insufficient to meet the actual, higher level of services being experienced. The appropriations proposed by this bill will help assure that funding for the economic assistance programs will be available for the entire 1977-78 fiscal year.

The Department of Social Services and Housing's most recent estimates indicate that the deficiency in medical payments will be \$11,899,051. The money payment deficiency is projected at \$6,912,077. In addition, recent court rulings against the Public Welfare programs are expected to increase the anticipated money payment deficiency by an additional \$2,578,507. The total economic assistance deficiency being addressed by this bill is \$21,389,635, of which \$8,661,830 is Federal Funds. The General Fund share is \$12,727,805.

Your Committee is fully aware that the assistance programs cannot be minimized and care of the needy cannot be neglected. Your Committee, however, wishes to emphasize to the Department of Social Services and Housing that it must constantly pursue its efforts to prevent abuses by claimants and providers of services in order to contain the spiralling costs of these programs.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 3041-78 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 436-78 Finance on H.B. No. 3053-78

The purpose of this bill is to amend HRS 39-53, 39-54, and 39-54.5 to provide the Department of Transportation with greater flexibility in the management of revenue bonds.

The amendment to HRS 39-53 will allow the cost of insurance on revenue bonds to be included as an element of cost of an undertaking and paid out of the proceeds of such bonds. This provision will give the state agency with the authority to issue revenue bonds greater flexibility in deciding whether or not it wishes to have these bonds insured by various municipal bond insurance programs. The insurance often enhances the marketability of such bonds.

The amendment to HRS 39-54 changes the maximum discount rate at which revenue bonds may be sold, usually as recommended by a financial consultant as the bond market conditions dictate.

The amendment to HRS 39-54.5 will correct an apparent clerical error in this section relating to CUSIP identification numbers. The proposed amendatory language in this portion of the proposed bill was apparently omitted when HRS 39-54.5 was enacted into law and this portion of the proposed bill constitutes strictly a housekeeping amendment.

Your Committee generally agrees with the intent of this bill, however, your Committee has amended page 5, lines 8 to 10, to limit the maximum discount rate to five per cent by substituting "ninety-five" for "ninety-eight" per cent. Amendatory language used in the original bill is deleted.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 3053-78, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3053-78, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 437-78 Consumer Protection and Commerce on H.B.No. 3060-78

The purpose of this bill is to improve the functioning of the medical claim conciliation panel by (1) allowing any licensed attorney to be a member thereof, (2) creating a separate panel for each case filed, and (3) increasing the number of days from the completion of a hearing in which such panel must file its decision.

Present law provides that the attorney member of the medical claim conciliation panel must be an "active trial attorney". Your Committee finds that inasmuch as the term is not operationally defined, the number of attorneys who could be called upon to serve would be severely restricted if it is interpreted to mean an attorney who spends all or most of his time in trial work. Accordingly, since this bill would eliminate the requirement that the attorney member of the panel be an active trial attorney, and your Committee feels that being such an attorney really has no bearing on the ability to effectively serve on the panel, your Committee recommends the bill's passage.

With respect to creating a separate panel for each case file, present law provides for a panel to serve for one month and to hear all cases brought before it during that month. Your Committee finds that it is unrealistic to expect one panel to hear all cases to come before it during a month given the fact that the number of cases filed within that period are relatively large and that members are unpaid volunteers. Accordingly, since this bill would spread the work load by providing for a separate panel to be formed for each case filed, your Committee recommends its passage.

With respect to increasing the number of days within which a panel must file its decision, present law requires a panel to file its decision within 15 days after the completion of the hearing. Your Committee finds that given the fact that panel members serve on a part-time basis and have their own busy schedules and that parties may be allowed a week after the hearing in which to file memorandums, it is unrealistic to expect a panel to render a decision within 15 days. Accordingly, since this bill would increase such a time period to 30 days, which your Committee feels is a more reasonable time, your Committee recommends its passage.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 3060-78 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Baker.

SCRep. 438-78      Legislative Management

Informing the House that House Resolution Nos. 387 to 397 and Standing Committee Report Nos. 312-78 to 427-78 have been printed and distributed.

Signed by all members of the Committee.

SCRep. 439-78      Tourism on H.R. No. 22 (Majority).

The purpose of this resolution requests that the federal and state governments sponsor their conferences and seminars in areas of the state with low hotel occupancy rates to the extent feasible, and that the county governments are also requested to hold their conferences and seminars in areas of their respective county with low hotel occupancy rates to the extent feasible.

Your Committee is cognizant of government and industry leaders concerns relating to low hotel occupancy rates on the neighbor islands.

Your Committee notes that certain areas of the neighbor islands have rates of less than 60 per cent occupancy. Most notable were the Hilo and Honokaa areas with a rate of 51.4 per cent, and areas of Maui exclusive of Wailuku, Kahului, Lahaina, and Napili with a rate of 58.4 per cent. These figures are according to the Department of Economic Development's Data Book of 1977.

Your Committee strongly feels that if more government sponsored conferences and seminars were held in low-occupancy areas, the economy of these islands could be stimulated and the well-being of the hotels, its employees, and their communities enhanced.

Your Committee fully endorses this measure which continues promotional and reinforcement efforts to raise hotel occupancy rates where sorely needed.

Your Committee on Tourism concurs with the intent and purpose of H.R. No. 22 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee.  
(Representative Abercrombie did not concur).

SCRep. 440-78      Tourism on H.C. R. No. 11 (Majority).

The purpose of this resolution requests that the federal and state governments sponsor their conferences and seminars in areas of the state with low hotel occupancy rates to the extent feasible, and that the county governments are also requested to hold their conferences and seminars in areas of their respective county with low hotel occupancy rates to the extent feasible.

Your Committee is cognizant of government and industry leaders concerns relating to low hotel occupancy rates on the neighbor islands.

Your Committee notes that certain areas of the neighbor islands have rates of less than 60 per cent occupancy. Most notable were the Hilo and Honokaa areas with a rate of 51.4 per cent, and areas of Maui exclusive of Wailuku, Kahului, Lahaina, and Napili with a rate of 58.4 per cent. These figures are according to the Department of Economic Development's Data Book of 1977.

Your Committee strongly feels that if more government sponsored conferences and seminars were held in low-occupancy areas, the economy of these islands could be stimulated and the well-being of the hotels, its employees, and their communities enhanced.

Your Committee fully endorses this measure which continues promotional and reinforcement efforts to raise hotel occupancy rates where sorely needed.

Your Committee on Tourism concurs with the intent and purpose of H.C.R. No. 11 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee.  
(Representative Abercrombie did not concur).

## SCRep. 441-78 Culture and the Arts on H.B. No. 2850-78

The purpose of this bill is to amend Chapter 5 of the Hawaii Revised Statutes by adding a new section designating Hawaiian as the official language of the State.

Upon consideration of the testimony presented, your Committee has amended the bill by deleting the term "official" on line 4 and adding the terms "emblematic and symbolic" in its place.

Your Committee on Culture and the Arts is in accord with the intent and purpose of H.B. No. 2850-78, as herein amended and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2850-78, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Ushijima.

## SCRep. 442-78 Legislative Management

Informing the House that House Bill Nos. 2173-78, HD3 and 2765-78, HD1, House Resolution Nos. 398 to 407, House Concurrent Resolution Nos. 82 to 84 and Standing Committee Report Nos. 439-78 and 440-78, have been printed and distributed.

Signed by all members of the Committee.

## SCRep. 443-78 Education on H.R. No. 131

The purpose of this Resolution is to request the Committee on Education to review the Department of Education's response as to the feasibility of establishing teacher centers in each school district.

Your Committee finds that H.R. No. 304, H.D. 1, entitled: "HOUSE RESOLUTION REQUESTING THE DEPARTMENT OF EDUCATION TO STUDY THE FEASIBILITY OF ESTABLISHING TEACHER CENTERS", was adopted during the 1977 Legislative Session. In that House Resolution your Committee expressed its feeling that teacher centers can provide a central location for advancing professionalism and improving communication among teachers and requested the D. O. E. to submit its findings to the Legislature. In response to H.R. No. 304, H.D. 1, a report to the Ninth State Legislature, 1978 Session, was submitted on January 19, 1978.

In review of the Department of Education's response, your Committee finds that there are teacher centers in operation in the Central, Leeward, and Honolulu School Districts. The teacher centers all share the following requisites:

- 1) Provide opportunities for teachers to initiate and organize their training program, as well as to participate in such training activities;
- 2) Make available to teachers adequate and appropriate resources to enable teachers to develop their own teaching materials and to do research;
- 3) Provide opportunities to teachers to share classroom techniques; and
- 4) Provide physical facilities for teachers to pursue their own training.

The centers in existence are the Science Center in the Leeward District, the Mathematics Center in the Central District; and the Science Center in the Honolulu District. The Values Center in the Honolulu District has been discontinued due to lack of interest from teachers.

Your Committee has heard testimony from the D. O. E. that the Department is in full concurrence with the concept of teacher centers and is actively pursuing federal funds for the establishment of more teacher centers. Recent federal legislation has made the application for grants specifically for the establishment of teacher centers a distinct possibility.

Your Committee has requested the D. O. E. to submit further information with specific plans to establish more teacher centers in each of our school districts.

Your Committee has amended this Resolution by correcting a technical error in paragraph 5. As amended, paragraph 5 shall read as follows:

"WHEREAS, in accordance with the intent of H.R. No. 304 of the Regular Session of 1977, the Department of Education, which is in full concurrence with the concept of establishing one or more of these centers in each district and is ready to report its findings; now, therefore, "

Your Committee on Education is in accord with the intent and purpose of H.R. No. 181 as amended herein, and recommends that it be adopted in the form attached hereto as H.R. No. 181, H.D. 1.

Signed by all members of the Committee.

SCRep. 444-78          Housing on H.B. No. 939

The purpose of this bill, as amended, is to make improvements in several aspects of the housing development program conducted by the Hawaii Housing Authority pursuant to Chapters 359 and 359G, Hawaii Revised Statutes. In addition to substantive changes, the bill contains several "housekeeping" amendments to facilitate the administration of the State housing program.

Significant substantive amendments are as follows:

1. This bill would expand the provisions of the State's housing development program through the development of basic or minimum houses.

In past years traditional housing subsidy programs have focused on the provision of housing to residents in the low-income group category. Your Committee finds, however, that housing programs must also be focused toward residents in a second need category who have recently been identified as possibly requiring some form of government assistance in order to achieve their housing expectations. This category is known as the "gap group" because, in terms of income, these people fall into a gap between the upper income limits of traditional housing subsidy programs and the minimum income required to purchase a home with conventional financing. Moreover, in many cases, their incomes have not been keeping pace with the rapid increase in homeownership costs during recent years.

The need to provide assistance to these residents in the gap group is reaffirmed in the recently prepared State Housing Study (Daly and Associates, January 1977) which concludes that "a major focus of the State's housing program should be on those gap group families who will not be able to achieve homeownership in the near future without government assistance."

Your Committee feels that one approach to meeting the needs of the gap group would be to make housing available which is affordable at the present time and to which can be added new additions as the incomes of the group increase. Your Committee further feels that in order to make affordable housing more available, the State must consider the development of basic or minimum houses. These substantially completed "shell" homes would meet minimum standards of habitability and would be designed to provide only the basic components of a home. They would also be designed to allow for added amenities, furnishings and other home improvements as the incomes of the owners increase over a period of time. Your Committee further feels that by giving residents the flexibility of furnishing the homes according to their own preferences and tastes, the overall result would be increased pride when the units are completed.

The benefits which the Hawaii Housing Authority will derive are related to the relationship of financing and production. By selling partially completed units, funds will not be tied up as long as conventional housing and would be in a much smaller amount. It will then be possible to reuse the funds, after purchase, for a much greater number of families.

2. This bill would also allow the Hawaii Housing Authority to sell finished and unfinished houselots, or unimproved land.

The Hawaii Housing Authority has found that some families would rather purchase the unimproved land and either construct the homes themselves through donated professional labor or hire sub-contractors and proceed as their finances and physical resources allow. To proceed on this basis would not detract from the purposes and intent of Chapter 359G.

Your Committee is in agreement that this measure will open the way for greater usage of resources and would not detract from the purposes and intent of Chapter 359G. It is the Committee's feeling that the intent of this measure will provide much needed support to the existing Chapter by allowing the Hawaii Housing Authority the flexibility needed

to fully implement the elements needed for low-cost housing.

3. This bill also redefines the civil service status of the Homeownership Counseling Administrator for HHA. Testimony from the Authority indicated that it had been incorrectly assumed by HHA's former Executive Director, the DSSH Personnel Office and the Department of Personnel Services that Act 171, Session Laws of Hawaii 1974, accorded civil service status to this position. However, the Department of Personnel Services has asserted that the position is not covered by its provisions, since the position commenced prior to the enactment of Act 171.

Your Committee finds that the position is essential to the entire Homeownership Counseling Program and the position should be accorded civil service status.

"Housekeeping" amendments include the following:

1. Eliminates redundancy in Part III, Chapter 359, Hawaii Revised Statutes.
2. Clarifies that the administrative or other costs or expense incurred by the Authority in the development and construction of elderly housing will not be part of the interim construction loan amount.
3. Reaffirms and clarifies statutory provisions relative to cooperative agreements entered into by the Authority with the counties and other governmental agencies (elderly housing).
4. Amends reference of "declarant alien" to "resident alien", the term used by the United States Department of Immigration.
5. Clarifies when the profit from a development constructed under Chapter 359G may be paid and to specify that such profit shall be based on the actual cost to the developer and not any portion subsidized by the State.
6. Amends Section 359G-12, Hawaii Revised Statutes, to conform to accepted statutory drafting language.

Your Committee on Housing is in accord with the intent and purpose of H.B. No. 939, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 939, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Baker and Ushijima.

SCRep. 445-78      Water, Land Use, Development and Hawaiian Homes on H.B. No. 2756-78 (Majority).

The purpose of this Act is to permit each county to establish its own time requirements for processing and acting on special permits.

The rigid time frames established in the statutes often hamper the counties from processing special permit requests in an efficient manner. For example, the statutes mandate the the county planning commission shall act on a special permit not earlier than fifteen days after the public hearing. The county planning commissions meet once every two weeks or every fourteen days, the extra day extends the disposition of special permits for a month.

Your Committee feels this bill will eliminate these kinds of inefficiencies and provide the counties with the flexibility needed to incorporate special permit processing in accordance with their own respective procedures and needs. This added flexibility will further provide the counties with an opportunity to combine hearings and actions with other county land use matters and also further the objectives of the Central Coordinating Agency established at the county level.

The only minor changes in this bill simply clarify and define certain terms and requirements of the statutes.

Your Committee on Water, Land Use, Development and Hawaiian Homes is in accord with the intent and purpose of H.B. No. 2756-78 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Garcia and Naito.  
(Representative Carroll did not concur).

SCRep. 446-78      Water, Land Use, Development and Hawaiian Homes on H.B. No. 2837-78

The purpose of this bill is to amend Section 171-36 of the Hawaii Revised Statutes to expressly include aquaculture and mariculture among the agricultural activities over which the Board of Land and Natural Resources can exercise flexibility in its decisions concerning the extension of the terms of the leased public lands.

This bill would assist aquaculturists and mariculturists in obtaining loans from a number of lending institutions who would otherwise be reluctant to grant loans when termination of their lease is near.

The Aquaculture Planning Program in its assessment of land suitable for aquaculture, identified 135,220 acres of primary lands and 515,740 acres of secondary lands that can be appropriately used in aquafarming. Although a precise accounting of the number of acres under the State's ownership is not yet completed, it is estimated that many thousands of acres are public lands. For these reasons, public lands are expected to play a major role in the expansion of aquaculture.

Your Committee feels this bill would contribute to the the development of new aquaculture and mariculture industries and subsequently increase business activity, employment and revenues to the State.

Your Committee on Water, Land Use, Development and Hawaiian Homes is in accord with the intent and purpose of H.B. No. 2837-78 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Garcia and Naito.

SCRep. 447-78      Consumer Protection and Commerce on H.B. No. 2192-78

The purpose of this bill is to extend the conditions under which the no-fault policy of a customer of an auto repair shop or motor vehicle dealer shall be primary over the shop's or dealer's no-fault policy on a vehicle loaned to the customer to also include a vehicle loaned while the customer's vehicle is being serviced.

Under present law, a customer's no-fault policy is primary to a shop's or dealer's policy on a temporary substitute vehicle made available to the customer at no charge only when the customer's car is being repaired. In addition, the shop's or dealer's insurance is primary to the customer's on the customer's vehicle when shop personnel are operating such vehicle only when the customer has brought it in for repair. This bill would extend the same priorities of insurance to the situation where the customer's vehicle is being serviced. Your Committee sees no logical reason why the priorities of insurance should be different when a car is being repaired and when it is being serviced.

Your Committee feels that this bill is necessary in order that shops and dealers continue to make temporary substitute vehicles available to customers who bring their cars in for servicing.

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

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2192-78, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2192-78, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Baker and Naito.

SCRep. 448-78      Consumer Protection and Commerce on H.B. No. 2929-78

The purpose of this bill is to enable a person eighteen years of age or older to be

licensed to drive a taxicab for hire.

Presently, under current State rules and regulations adopted July 1, 1977, taxicab drivers are required to be at least twenty-one years old. Prior to last July, the minimum age was eighteen. This bill would restore such minimum age.

Your Committee received testimony that employers' experiences with the age group in question, the eighteen through twenty year olds, have been consistently favorable, both from the standpoint of having an enthusiastic, serious employee, and providing rewarding employment. Your Committee, finding that the State's rules and regulations, patterned after federal law, merely incorporated the twenty-one year minimum age limit contained therein, feels that given such positive experiences, the minimum age should be restored to the previous eighteen years.

However, your Committee recommends an amendment for the purpose of specifying that the bill's provision applies only to intrastate taxicab operations. This amendment is necessary to avoid a conflict with the federal law governing interstate commerce which provides for a minimum age of twenty-one years for taxicab drivers.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2929-78, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2929-78, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Baker and Naito.

SCRep. 449-78      Consumer Protection and Commerce on H.B. No. 1935-78

The purpose of this bill is threefold; (1) to allow authorized representatives of the Public Utilities Commission (PUC) ready access to information and data relating to all activities of a public utility; (2) to provide for management audits of a public utility by the PUC or independent auditors selected by the PUC; and (3) to require a public utility to obtain prior PUC approval before entering into long-term or leverage leases.

Your Committee finds that in order for regulatory objectives to be obtained, information and data relating to all activities of a public utility have to be furnished and or readily accessible to the PUC. Under present law, it is unclear whether or not PUC staff members and assistants situated in the various counties have the right to such information. Your Committee is of the opinion that by explicitly conferring the right of access to staff numbers and assistants, this provision of the bill will facilitate the effective functioning of the PUC.

With respect to management audits of a public utility, your Committee received testimony, with which it agrees, that such audits are necessary to insure the effectiveness of a utility management. This bill would allow either the staff of the PUC or an independent auditor to conduct such an audit and require the utility so audited to bear its expense, but permit the utility to amortize such costs as part of its administrative and general expense over a two-year period.

Your Committee, while in agreement that such audits are desirable, believes that specifying the time period for amortization may be detrimental to the interests of rate payers in that, in some instances, it may be appropriate to amortize such costs over a longer period, when, for example, a utility has sufficient revenues such that the cost of the audit does not adversely affect the utility's return. Thus, instead of setting a specific time period, your Committee recommends granting the PUC discretion as to the treatment of the expense of an audit for ratemaking purposes, and has amended the bill accordingly.

With respect to requiring a public utility to obtain PUC approval prior to entering into long-term or leverage leases, your Committee received testimony indicating that while present law does not so require, the PUC has had utilities come before it to obtain prior approval of indebtedness incurred through such leases. Thus, this provision of the bill would make explicit what has been, and is, the practice of the PUC.

Your Committee is of the opinion, however, that as drafted, the bill regulates the making of leases rather than the financing of large capital programs by way of long-term leases. As such, leases for office space, motor vehicles, and equipment would require prior PUC approval. Since the intent of the bill is to regulate public utility financing through leases, and not leases per se, your Committee has amended the bill to require a public

utility to secure the PUC's approval only before it enters into financing leases including leverage leases.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1935-78, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1935-78, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Baker and Naito.

SCRep. 450-78          Consumer Protection and Commerce on H.B. No. 2499-78

The purpose of this bill is to extend the period of written notice of a rent increase required to be given by a landlord to his tenant before such a rent increase can be effectuated.

Present law provides that in a month-to-month tenancy, a landlord is prohibited from increasing the amount of rent without giving written notice thereto 28 days preceding the end of such tenancy. The law is silent as to tenancies less than month to month.

This bill increases the notice period from its current 28 days preceding the end of the tenancy to 56 days prior to the effective date of the increase and specifies that, for tenancies less than month to month, the notice period is 28 days prior to the effective date of the increase.

While your Committee agrees that defining the notice period in terms of the effective date of the rent increase is more meaningful, and that notice requirements should be statutorily spelled out for tenancies less than month to month, it is of the opinion that the time periods are unreasonably long. That is, your Committee feels that 45 days should be sufficient time for a tenant to decide whether to remain in a month-to-month tenancy and 15 days sufficient for a tenancy less than month to month. In addition, your Committee feels that in order to eliminate any ambiguity, the adjective "consecutive" be inserted to modify days. Accordingly, your Committee has made the foregoing amendments to this bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2499-78, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2499-78, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Baker and Naito.

SCRep. 451-78          Employment Opportunities and Labor Relations on H.B. No. 2396-78

The purpose of this bill is to permit insurance companies to merchandise workers' compensation insurance under a mass merchandising plan to lower insurance premiums, standardize policies and claims and to encourage participation by the insurer in safety programs.

Under the present Hawaii insurance law on rates of casualty, an insurance company is prohibited from issuing any policy of insurance giving preferred rates based on membership groupings unless the law expressly provides otherwise. This bill is intended to provide in the law an express authorization for an insurance company to give preferred rates to membership groups.

As amended, the bill prohibits insurers from mass merchandising workers' compensation insurance to members of an association or organization formed principally for the purpose of obtaining preferred rates, or which requires purchase or participation in the mass merchandising plan as a condition of membership in the association or organization.

Testimony presented to your Committee supports the intent of the bill as amended which is designed to reduce the overall cost of workers' compensation insurance to employers, to increase benefits to employees, and to prohibit mandatory participation in the mass merchandising plan as a condition to membership in the association or organization.

Your Committee has amended the bill by adding language to the section relating to "applicability" and by adding a new section relating to "conflicting provisions, precedence" to

make it clear that the mass merchandising of workers' compensation insurance is not to be prohibited by other provisions of the Hawaii insurance law which conflict or appear to conflict with the intent and purpose of the bill.

Your Committee has further amended the applicability section in the bill by providing that the requirements of this part "shall not apply to nor be deemed to allow merchandising of insurance or insurance plans or benefits other than mass merchandising of workers' compensation insurance". Although this bill is intended to be limited in its effect to mass merchandising of only workers' compensation insurance, your Committee believes that this additional limiting language should be expressly stated in the bill to prevent organizations and associations from using the intent of the bill to compel members to purchase all their insurance needs through a single source.

Technical amendments were made to the bill, including the deletion of references to merchandising of workers' compensation insurance to "employees". Workers' compensation insurance is not and should not be paid for by the employee.

Your Committee on Employment Opportunities and Labor Relations is in accord with the intent and purpose of H.B. No. 2396-78, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2396-78, H.D. 2, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 452-78          Housing on H.B. No. 1987-78

The purpose of this bill is to amend Chapter 516, Hawaii Revised Statutes, Relating to Residential Leaseholds, in order to extend its protection to those leases extending exactly thirty five (35) years.

The present law applies to those leases "exceeding thirty five years." A lease lasting exactly thirty five years would not be covered by Chapter 516, while a lease for a term of thirty five years and one day, or even one hour, would fall within its purview.

Your Committee believes the present law creates an inequitable situation for those individuals holding leases for exactly thirty five years, since they are deprived, by a day or less, of the benefits and protection accruing to the definition of the word "Lease" in 516-1 (5).

Your Committee finds that as a result of the situation created by the present law, people who hold leases for terms of exactly thirty five years cannot purchase the fee upon which their leasehold sits, nor can they rely upon the leasehold renegotiation provisions of Chapter 519, Hawaii Revised Statutes.

This bill would redress the inequities described above. By amending the definition of the word "Lease" in 516-1 (5) to include the thirty-fifth year, those people who have leases for a term of exactly 35 years have the protection and benefits of both Chapter 516, fee conversion, and Chapter 519, leasehold renegotiation.

Your Committee has amended Section 1, lines 13-17 of this bill to read as follows:

"or (B) [exceeding twenty years] twenty years or more (including any periods for which the lease may be extended or renewed at the option of the lessee) as to leases executed after June 24, 1967."

Your Committee feels that both parts (A) and (B) of the definition of the word "Lease" should be consistent.

Your Committee further believes that this change will make the definition more equitable, since it will extend the protection and benefits of Chapters 516 and 519 to those lessees who have lease terms for a period of exactly 20 years.

Your Committee on Housing is in accord with the intent and purpose of H.B. No. 1987-78, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1987-78, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Baker and Campbell.

SCRep. 453-78 Health on H.B. No. 1946-78

The purpose of this bill is to amend Section 338-41 of the Hawaii Revised Statutes to remove ambiguity of present law that enables two different documents with conflicting data to each be prima facie evidence of the stated facts.

Under present law, either a standard birth certificate or a Certificate of Hawaiian Birth are prima facie evidence of the facts therein stated. Many persons with standard birth certificates issued by the Department of Health also obtained Certificates of Hawaiian Birth from the Secretary of Territory or the Lieutenant Governor's Office. Unfortunately, in many of these instances the data on the two certificates are different and, hence, under the present law, an individual, for example, may have two different names, two legal dates of birth, two legal birth places, and two different fathers.

Your Committee agrees that this bill would remove the ambiguity by limiting the statutory acceptance of the data to that contained on the birth certificate first filed with the State. If any item on the earlier certificate is in error, there are procedures for amending such data already in the law and regulations.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 1946-78 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Baker.

SCRep. 454-78 Health on H.B. No. 1948-78

The purpose of this bill is to amend Section 338-9(c) of the Hawaii Revised Statutes to establish a certificate designed to record presumptive deaths rather than using a standard death certificate that does not have space for some of the items pertinent to presumptive deaths.

Under present law, the next of kin may file a standard death certificate "when there has been a judicial finding and declaration by a court of record that a person is dead." In such instances, a copy of the court order is attached to the death certificate filed with the Department of Health.

Your Committee agrees that this bill will establish a Certificate of Presumptive Death which will contain information that currently appears on two separate documents. Additionally, this bill will eliminate the request for information presently on the standard death certificate that is not applicable in this type of case, such as: method of disposing of the body, cemetery of burial, name of mortuary, burial permit number, name of funeral director, hospital or institution where death occurred, etc.

Your Committee further agrees that this bill will ensure that all available pertinent information will be recorded on the modified death certificate form. Since there is presently no standardized format, information to complete the certificate frequently is not furnished to the Department of Health.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 1948-78 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Baker.

SCRep. 455-78 Health on H.B. No. 3011-78

The purpose of this bill is to amend the voting requirements for the Hawaii Statewide Health Coordinating Council and Subarea Health Planning Councils so that any decisions of the Councils may be validated by a vote of the majority of the members present at a meeting when a majority of the members who have accepted nomination, and been confirmed and qualified as members are present. The purpose of this bill is also to make a technical amendment to the definition in Section 323D-41(4), Hawaii Revised Statutes, to conform with Section 323D-43, Hawaii Revised Statutes.

Presently, a majority of all the members of a council must vote in favor of a motion if the motion is to pass. The Department of Health and the Waianae Coast Subarea Health Planning Council testified that this voting requirement has led to numerous situations

where the majority of the members present at the meeting were in favor of a motion but the motion did not pass because there was no majority vote of all the members of a council. This bill amends Chapter 323D to allow the councils to validate its decisions by a vote of a majority of the members present at a meeting when a majority of the members of the councils are present.

Your Committee believes that this bill will expedite the performance of the councils' duties and responsibilities while at the same time, assuring that the interests and needs of the community are adequately represented.

This bill also makes a technical amendment in Section 323D-4l by adding the word "or" between 323D-4l(a)(1) and (2).

Your Committee has made non-substantive technical and style changes for the purposes of organization and clarity.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 3011-78, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3011-78, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Baker.

SCRep. 456-78      Public Employment and Government Operations on H.B. No. 2496-78

The purpose of this bill is to amend Section 8-1, Hawaii Revised Statutes, to rename Kuhio Day and Kamehameha Day to be Prince Jonah Kuhio Kalaniana'ole Day and King Kamehameha I Day, respectively.

Your Committee believes that citing the full names of these monarchs would aid in their recognition and familiarity among the people of Hawaii today.

Your Committee has amended this bill to provide for the designation of the fourth Thursday in November as Thanksgiving Day. Under existing State law, Thanksgiving Day is a paid holiday observed in Hawaii on the day proclaimed by the President of the United States. Your Committee finds, however, that since Thanksgiving Day is now established by statute for federal purposes (Title V, U.S. Code 6103), it is not known whether the President even issues such a proclamation. Testimony received by your Committee revealed that the federal statute does not apply to the State of Hawaii and that Section 8-1 should be amended to assure that Thanksgiving Day is established in law as a holiday for Hawaii residents.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of H.B. No. 2496-78, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2496-78, H.D. 1.

Signed by all members of the Committee.

SCRep. 457-78      Ecology and Environmental Protection on H.B. No. 2352-78

The purpose of this Act is to allow counties to designate sites for disposition of solid wastes, and to provide resource recovery facilities with a secure source of solid waste.

Your Committee finds that county control of solid waste disposal would assure delivery of the required minimum tonnage of waste to a resource recovery facility.

Your Committee on Ecology and Environmental Protection is in accord with the intent and purpose of H.B. No. 2352-78 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Naito.

SCRep. 458-78      Ecology and Environmental Protection on H.B. No. 2249-78

The purpose of this Act is to abolish the environmental council.

Your Committee finds that the Environmental Council was established to serve as a liaison between the Director and the general public and to monitor the progress of government in meeting the State's environmental goals and policies. However, the public voice can

be better heard if it is heard directly by the Director of the Office of Environmental Quality Control who is the principal advisor to the Governor on environmental matters.

While the Council was very active until approximately 1974, the formation of Legislative Committees which provide a forum for environmental issues has usurped a large measure of the Council's function.

Your Committee therefore concluded that the Environmental Council is no longer necessary. In abolishing the Council, however, the Committee felt it necessary to provide for explicit recognition of certain responsibilities within the office of the Director of Environmental Quality.

Your Committee on Ecology and Environmental Protection is in accord with the intent and purpose of H.B. No. 2249-78, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Naito.

SCRep. 459-78      Water, Land Use, Development and Hawaiian Homes on  
H.B. No. 2879-78

The purpose of this bill, as amended, is to give the State title to all historic property located on lands or under waters owned or controlled by the State; and to reserve rights to historic property on leased public lands; and to employ staff pursuant to Chapters 76 and 77.

Your Committee has deleted reference which would require that the board of land and natural resources approve any nominations for the Hawaii register of historic places before their submission to the review board. Your Committee feels that the addition of another review board was unnecessary due to the fact that members of the land board are not necessarily qualified in the fields of history, archaeology and architecture.

Your Committee on Water, Land Use, Development and Hawaiian Homes is in accord with the intent and purpose of H.B. No. 2879-78, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2879-78, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Garcia and Naito.

SCRep. 460-78      Consumer Protection and Commerce on H.B. No. 2390-78

The purpose of this bill is to allow borrowers a longer term in which to repay loans made by industrial loan companies involving interest charged of not more than one and one-half per cent per month on the unpaid principal balance.

Under present law, an industrial loan company may contract for and receive interest on money loaned at a rate not exceeding one and one-half per cent per month on the unpaid principal balance for a loan period no longer than six years. This bill would increase the allowable loan period to fifteen years.

Your Committee heard testimony that in recent years, as inflation, the cost of living and property values have rapidly risen, the size of these loans have increased from \$2,000 - \$5,000 to \$5,000 - \$30,000. When the six-year loan period was established in 1972, it was sufficiently long to reasonably amortize such smaller loans. With the larger loans, however, borrowers are forced to make exorbitantly high monthly payments, face a big balloon payment at the end of the six-year period, or not be able to borrow at all.

Your Committee finds that extending the term of these loans from six to fifteen years, allowing for a longer amortization period, would enable borrowers to obtain moneys they may not otherwise have been able to obtain or afford. Your Committee recommends an amendment, however, for the purpose of ensuring that borrowers will not be faced with a balloon payment at the end of the extended term. Accordingly, your Committee has amended the bill to require that for loans with a term of longer than six years, the note securing such loan contain a provision for repayment of the loan in equal monthly installments over the term of the loan with a final payment not exceeding twice the monthly payment.

Your Committee on Consumer Protection and Commerce is in accord with the intent

and purpose of H.B. No. 2390-78, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2390-78, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Baker and Naito.

SCRep. 461-78 Consumer Protection and Commerce on H.B. No. 2612-78

The purpose of this bill is to amend section 403-65, Hawaii Revised Statutes, by increasing the loan amount reportable for review by the banks' boards of directors from \$50,000 to \$100,000.

The present amount was set eleven years ago during the 1967 Legislative Session. Your Committee has discovered that, since that time, the \$50,000 limit has been unable to cope with the increasing demands of inflation. With the rising costs of homes, boards of directors are being overwhelmed by an increasing number of ordinary home loans requiring review. Estimates provided by the Hawaii Bankers Association indicate that the ratio of home mortgages exceeding \$50,000 to all mortgages has risen from seven per cent in 1970 to fifty-seven per cent in 1977.

Your Committee finds that the \$50,000 limit is outdated and fails to reflect the effects of inflation. The net result is that, as boards of directors must review a greater number of loans, the consumer suffers a proportionately longer delay. Your Committee feels that this bill would greatly alleviate the practical difficulties created by the outdated loan limit and recommends its passage.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2612-78 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Baker and Naito.

SCRep. 462-78 Consumer Protection and Commerce on H.B. No. 2432-78

The purpose of this bill is to limit the garnishment of a person's income to that portion remaining after the deductions required by law.

The present law permits the garnishment of prescribed percentages of an individual's gross income. Necessarily, this results in the application of the percentages to that portion of his income an individual would not have received, such as withheld taxes.

The bill would limit the application of the percentages to the individual's net income. In effect, it allows the debtor to retain a larger portion of his monthly spendable income.

Your Committee has heard favorable testimony that the bill would temper the harshness and alleviate some of the financial hardships created by the present law. Some of the effects testified to include the deprivation of the basic necessities, loss of jobs, bankruptcy and dependency on public assistance. Your Committee feels that this bill greatly benefits the public welfare and aids judgment debtors to subsist in dignity.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2432-78 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Baker and Naito.

SCRep. 463-78 Education on H.B. No. 610

The purpose of this Bill is to set up a program involving adult traffic monitors to assist in controlling and directing traffic in the vicinity of schools. The chiefs of police of the counties are to appoint, train and compensate the traffic monitors. The traffic monitor system is intended as a supplement to present methods of control in school areas, and not as a replacement for the Junior Police Officer Program. The traffic monitors would have the duty to assist police officers in all matters relating to the enforcement of traffic

regulations in the vicinity of schools.

Your Committee finds that there are JPO programs being carried on voluntarily within schools. Where there are no volunteers, the principal or his designee is assigned the task. This situation results in the person being distracted from the regular responsibilities of the job. In several schools, teachers still volunteer for this task in an advisory capacity to JPO's.

Therefore, your Committee feels that there is a need to provide additional safety precautions to schools with traffic problems that endanger the health and safety of students.

Your Committee has amended this Bill by deleting Section 3 and renumbering Section 4 to Section 3. Your Committee finds that the counties already have funds appropriated for adult traffic monitors. Therefore, grant-in-aids are not necessary for the successful implementation of this program.

Your Committee on Education is in accord with the intent and purpose of H.B. No. 610, H.D. 1 as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 610, H.D. 2.

Signed by all members of the Committee.

SCRep. 464-78          Housing on H.B. No. 1870-78

The purpose of this bill is to authorize the use of alternative mortgage instruments in Hawaii.

For many years, home purchases have been financed by long-term, fixed rate mortgage which is fully amortized and calls for equal monthly payments for the life of the loan. With the increase in housing costs in Hawaii, the monthly mortgage payments have increased proportionately. Since lenders traditionally apply the 4 to 1 rule in testing eligibility, this means that the total family income of the borrower must be four times the monthly mortgage payment. The result is that many young people cannot qualify for financing.

This bill will authorize the use of graduated mortgage payment schedules which require lower monthly payments in the early years than in the later years. Borrowers with good employment prospects and expected annual income increases can qualify with the expectation that the increases will be sufficient to meet the increased mortgage payments.

Under an alternative mortgage instrument, the monthly payment in the first few years will not be sufficient to pay the interest that is due. The unpaid interest is capitalized and collected in the later years when generally the borrower has more income. This practice is exempted from the usury law under this bill. The exact terms and conditions of the alternative mortgage instruments is left to the bank examiner to determine by rules and regulations.

As stated in Section 1, this bill will permit and encourage the utilization of alternative mortgage instruments to qualify more residents for residential mortgage loans. These types of loans are presently being made in fourteen states. In 1977, Act 24 authorized a similar program under a Housing and Urban Development pilot program. The time-consuming processing, reporting and servicing of the federal program, however, limited the availability of these loans.

Finally, this bill specifically authorizes the bank examiner to issue rules and regulations to define and govern the utilization of alternative mortgage instruments.

Your Committee on Housing is in accord with the intent and purpose of H.B. No. 1870-78, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Baker and Campbell.

SCRep. 465-78          State General Planning on H.B. No. 2114-78 (Majority)

The purpose of this bill is to further clarify the jurisdiction of the Hawaii Community Development Authority (HCDA).

Testimony by the HCDA indicated that the existing language of Section 206E-33 of the

Hawaii Revised Statutes is unclear as to whether the Authority can legally engage in activities which would involve areas outside of the Kakaako community development district. A comprehensive development plan for Kakaako, however, would require the study of facility systems such as drainage, sewer disposal, and transportation, as well as viewplanes, within and outside of the designated district boundaries. Furthermore, the temporary or permanent relocation of industrial, commercial, and residential activities and occupants to areas outside of the district may be required. Therefore, in order to plan and redevelop the Kakaako area properly, the HCDA supported the amendments to Section 206E-33 contained in H.B. No. 2114-78.

The Department of Transportation agreed that the HCDA needed the authority to study systems outside of its defined boundaries. The Department of General Planning of the City and County of Honolulu, however, opposed the bill as well as the overall concept of the HCDA, but conceded that if the HCDA will be engaging in such activities, it would have to conduct said studies.

Upon further consideration, your Committee has made the following amendments to H.B. No. 2114-78:

(1) Page 2, lines 1 to 5 have been amended to restrict the activities permitted in areas lying outside of the designated district. HCDA studies and coordinative activities outside of the district have been limited to those regarding "facility systems, resident and industrial relocation, and other activities with the counties and appropriate state agencies. The authority shall not engage in any construction activities outside of the district." Permitted activities shall include studies of the sewage system, water delivery system, recreation facility system, and transportation network, as well as coordination of studies and activities between the HCDA, government agencies, and the private sector. Coordinative activities of the HCDA will strive to resolve conflicts, minimize duplication of efforts, and facilitate action on the part of government agencies and the private sector, and shall alleviate the concerns of the general public.

(2) The typographical error on page 3, line 1 has been corrected.

Your Committee on State General Planning is in accord with the intent and purpose of H.B. No. 2114-78, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2114-78, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.  
(Representative Abercrombie did not concur.)

SCRep. 466-78      State General Planning on H.B. No. 1858-78

The purpose of this bill is to provide for a comprehensive plan for state-owned lands. The plan shall be consistent with the Hawaii State Plan and shall include but not be limited to:

1. A map and inventory of all state-owned lands, including a descriptive evaluation of the environmental characteristics of the lands;
2. A statement providing a comprehensive, statewide policy on the use of state-owned lands;
3. A statement as to the projected uses of state lands;
4. An enumeration of lands to be acquired by the State as a means of furthering the aims of this section and a statement providing for the implementation of a land banking or land trading system;
5. A compilation of the assessed value of all state lands, and a time schedule showing the dates by which selected state lands are expected to be used.

The Department of Land and Natural Resources (DLNR) is charged with submitting to the Legislature the completed map and inventory within one year and the plans and policies within two years.

Testimony received from the DLNR was in support of H.B. No. 1858-78. The department has already prepared a statewide resource plan for the approximately two million acres of land within the Conservation District. In order to develop the comprehensive plan

called for in H.B. No. 1858-78, however, the DLNR stated that it would need additional funding and estimated the total cost to be between \$150,000 and \$200,000.

Upon further consideration, your Committee has found that the DLNR had been appropriated \$100,000 for the fiscal year 1976-1977 to do land utilization studies, but these funds have been restricted and are not available to the department. However, \$75,000 has been appropriated for the fiscal year 1977-1978. Therefore, your Committee finds that additional funding is not necessary at this time.

Your Committee on State General Planning is in accord with the intent and purpose of H.B. No. 1858-78 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 467-78          Public Employment and Government Operations on H.B. No. 1994-78

The purpose of this bill is to amend the existing statutory provisions relating to establishment of rates of compensation for arbitrators appointed under Chapter 89, Hawaii Revised Statutes. Under this bill, the Hawaii Public Employment Relations Board (HPERB) would be authorized to establish the compensation rate for only those arbitrators selected and appointed by the Board pursuant to Section 89-11(b).

Presently, Section 89-5(b) authorizes the HPERB to set the rates at which all mediators, members of fact-finding boards, and arbitrators who provide services for public sector collective bargaining are to be compensated. Testimony received by your Committee indicated that the established rate of compensation for arbitrators was found to be excessively high by both the public employers and exclusive representatives who share in the cost of the arbitrator's pay. Your Committee believes that the compensation of the arbitrator should be determined by the party or parties who employ the arbitrator and therefore, recommends passage of this bill which would allow the employer and the union to negotiate the rate of compensation for each prospective arbitrator they select and employ. Negotiation of fees would not only lower the costs of arbitration, but may also encourage the selection of newcomers to the field, thus expanding the numbers of experienced arbitrators in Hawaii.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of H.B. No. 1994-78 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 468-78          Public Employment and Government Operations on H.B. No. 1997-78

The purpose of this bill is to amend Section 76-23, Hawaii Revised Statutes, to clarify the provision for non-competitive promotions of civil service employees.

Section 76-23 provides that an appointing authority may fill a vacant position by promoting any regular employee in the department without examination, if the employee meets the minimum qualifications of the position to which he is to be promoted. This section provides further, that when there is no material difference between the qualifications of the employees under consideration for the promotion, the employee with the "longest government service" shall receive first consideration for promotion.

Your Committee finds that the phrase "longest government service" is ambiguous and open to various interpretations. It can be interpreted to mean, service not only with the State or counties, but with the federal government, including military service. Your Committee believes, however, that the intent of this provision was to recognize an employee's long and faithful service with the specific State or county jurisdiction granting the promotion, and to exclude, for example, any federal civil service employment as a factor in determining the length of government service with respect to non-competitive promotions. Under House Bill No. 1997-78, the term "longest government service" is clarified to mean longest continuous civil service employment within the State or county granting the promotion.

Your Committee has made technical amendments to this bill which do not affect its substance.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of H.B. No. 1997-78, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1997-78, H.D. 1, and be

placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 469-78          Public Employment and Government Operations on H.B. No. 1996-78

The purpose of this bill is to amend Section 76-31(a) of the Hawaii Revised Statutes by deleting the restriction that provisional appointments may be extended beyond 180 days only if an examination has failed to secure qualified eligibles. The bill proposes to allow the director greater flexibility in the extension of provisional appointments through the promulgation of rules and regulations.

Testimony by the Director of Personnel Services, on behalf of the Conference of Civil Service Commissioners and Personnel Directors, was in favor of this bill. The testimony presented indicated that the present law is too stringent, as in such situations where an eligible has been appointed, but is unable to start work until after the 180th day.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of H.B. No. 1996-78, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 470-78          Public Employment and Government Operations on H.B. No. 1993-78

The purpose of this bill is to repeal Section 79-23, and to amend Section 79-24 of the Hawaii Revised Statutes.

Chapter 43, Title 38 of the U.S. Code presently protects the reemployment rights of State and county employees who have taken leaves of absence for National Guard, reserve duty, and other periods of training or service.

As federal law takes precedence over State law in this area, Section 79-23 is unnecessary, and the bill proposes its repeal. For consistency, the bill also proposes to amend Section 79-24, so that reemployment of protected State and county employees would be in accordance with applicable federal laws.

Based upon testimony presented, your Committee finds that this bill will not adversely affect any rights and benefits currently enjoyed by State and county employees who may be affected by its provisions.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of H.B. No. 1993-78, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 471-78          Energy and Transportation on H.B. No. 2165-78

The purpose of this bill is to encourage the commercial development of geothermal energy by establishing procedures to insure the geothermal energy producer, the public utilities, and the consumer that just and reasonable rates for such energy can be determined.

This bill provides that the rate payable by a public utility to the producer of geothermal steam or electricity generated from geothermal steam shall be agreed upon by both the public utility and the producer of this geothermal energy, subject to the approval of the Public Utilities Commission (PUC). If the public utility and the supplier cannot agree upon the rate or if the PUC disapproves of the agreed upon rate, the PUC shall establish a "just and reasonable rate" for the geothermal steam or electricity.

The producer of geothermal steam or electricity is excluded from the definition of a public utility and is not subject to the regulation by the PUC in any other respect other than for determining the rates for the sale of geothermal energy.

Your Committee received testimony in support of H.B. No. 2165-78, H.D. 1, from the Department of Planning and Economic Development, the Public Utilities Commission, the Office of the Mayor of the County of Hawaii, and the Hawaii Sugar Planters' Association.

Your Committee on Energy and Transportation is in accord with the intent and purpose of H.B. No. 2165-78, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Abercrombie, Kunimura, Mizuguchi, Evans and Medeiros.

SCRep. 472-78      Energy and Transportation on H.B. No. 2942-78

The purpose of this bill is to eliminate the cumbersome necessity of procuring "overlength" permits for certain truck-tractors and semitrailers when transporting agricultural products, including livestock, to market.

The present total combined length standard of 55 feet for truck-tractors and semitrailers was established 37 years ago under Act 216 of the Territorial Legislature and was consistent with the then accepted industry design standard for shorter length trucks.

Your Committee finds that over a period of years, the manufacture and technology of these trucks have produced newer, more efficient, lighter weight aluminum truck models of greater strength and length. This bill would enable the industry to use existing truck-tractors without purchase of specialized equipment to conform to present maximum length standards and would bring Hawaii's length standards into conformity with other Western states which are the greatest source of used trailers for purchase and replacement.

Testimony presented by the Department of Transportation, the Department of Agriculture, and the Hawaii Cattlemen's Council supported the purpose of this bill. It was noted that there are currently 13 trucks operating under "overlength" permits issued by the Department of Transportation, all of which have unblemished safety records.

Your Committee on Energy and Transportation is in accord with the intent and purpose of H.B. No. 2942-78 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Abercrombie, Kunimura, Mizuguchi, Evans and Medeiros.

SCRep. 473-78      Energy and Transportation on H.B. No. 1932-78

The purpose of this bill is to provide exemptions from motor carrier economic regulation for persons transporting passengers where such transportation is ancillary to a related primary business purpose. The bill establishes procedures for suspension or revocation of certificates of public convenience and necessity and provides a penalty for advertising by non-certified carriers. The bill also requires certified carriers to report any change of address or telephone number to the Public Utilities Commission (PUC) and requires the Attorney General to prosecute all violations of Chapter 271 when requested by the PUC.

Your Committee is in agreement that persons utilizing their own motor vehicles to transport passengers in conjunction with a primary business enterprise should be exempt from regulation. Your Committee has amended the exemption for purposes of clarity and to make the language more specific and explicit in prohibiting the carrier to expand into areas not associated with his primary business venture, such as taking a circuitous route for sightseeing purposes.

With respect to the suspension and revocation of certificates and permits, the PUC would be permitted to review the offending carrier's past and present record and, after proper notice and hearing, suspend or revoke his certificate, thereby preventing the circumventing of the regulatory statutes.

Testimony from the PUC indicates that advertising is probably the most widely used means by carriers to generate traffic. Your Committee finds that prohibiting the advertising of unauthorized transportation serves will protect the consuming public. In addition, the penalty provision for aiding and abetting such unauthorized transportation services should further strengthen the enforcement program of the PUC.

With respect to requiring certificated carriers to report address changes, your Committee received testimony that the PUC currently spends many manhours and incurs significant advertising expense to meet its notification requirements. Your Committee finds that requiring carriers to keep the PUC informed of their current mailing addresses is a more reasonable and equitable procedure.

The bill also requires the Attorney General to prosecute all violations of Chapter 271 to strengthen enforcement provisions of this Chapter.

Your Committee on Energy and Transportation is in accord with the intent and purpose of H.B. No. 1932-78, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1932-78, H.D. 2, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Abercrombie, Kunimura, Mizuguchi, Evans and Medeiros.

SCRep. 474-78      Tourism on H.B. No. 145

The purpose of this bill is to amend Section 3 of Act 102 SLH 1976.

Your Committee proposes to extend the pilot project relating to explore the feasibility of establishing a control clearing office for hotel room reservations in the State until 1979.

Your Committee finds that an additional year for this pilot program will give the Department of Planning and Economic Development and the legislature additional information concerning the complex day-to-day operations of hotel reservations in Hawaii.

Your Committee notes the severe crisis Hawaii experienced in 1975 concerning hotel-overbooking. This crisis caused adverse publicity for Hawaii. Such incidents are a detriment to the success and viability of Hawaii's visitor industry.

Your Committee wishes to take precautionary measures to ensure minimum over-booking incidents in this State. With the information gathered, private and government leaders will be able to make sound decisions, relating to this complex and unique section of hotel operations.

Your Committee on Tourism is in accord with the intent and purpose of H.B. No. 145, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 145, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Kunimura, Evans and Medeiros.

SCRep. 475-78      Tourism on H.B. No. 139

The purpose of this bill is to amend Section 4 of Act 133, SLH 1976.

Your Committee finds that upon submittal of the ten-year tourism policy plan by the Department of Planning and Economic Development, the purpose of the Interim Tourism Advisory Council has been completed. Therefore, your Committee desires to release all council members from their duties and responsibilities as final review and legislative action of the tourism policy plan will be the responsibility of the State Legislature.

Your Committee on Tourism is in accord with the intent and purpose of H.B. No. 139, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 139, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Kunimura, Evans and Medeiros.

SCRep. 476-78      Finance on H.B. No. 2750-78

The purpose of this bill is to enhance the operations of the Department of Land and Natural Resources through certain changes in its organizational framework. The present Fish and Game Division is abolished, a Division of Enforcement and a Division of Fisheries and Aquaculture are established, and the Wildlife Branch of the Division of Fish and Game is transferred to the Division of Forestry. The general approach of the bill is to specify the organizational framework relating to enforcement functions within the Department of Land and Natural Resources. It also authorizes the Board of Land and Natural Resources to make, among other things, such transfers of functions and personnel necessary to effectuate the intent and purpose of this bill. The Department is therefore charged with

considerable flexibility to fashion suitable means of implementing the enforcement provisions of this bill.

Your Committee concurs with the findings of the Committee on Water, Land Use, Development and Hawaiian Homes and the Committee on Ocean and Marine Resources as reflected in House Standing Committee Report No. 418-78.

Your Committee finds the appropriation section of the bill to be unnecessary and has therefore deleted said section of the bill.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2750-78, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2750-78, H.D. 2.

Signed by all members of the Committee.

SCRep. 477-78      Finance on H.B. No. 2170-78

The purpose of this bill is to 1) consolidate funds by function and source; 2) standardize terms; 3) add new funds as a depository for interest charges, borrowed moneys and gifts bequeathed to the Department of Hawaiian Home Lands; 4) define parameters of use; and 5) increase the loan guarantee amount.

Seven revolving funds and seven special funds are established. These changes will facilitate efforts to maintain orderly and accurate accounting; establish a framework for mortgage financing without cost to the State; pursue private moneys; and enable maximum use of all moneys of the department.

Your Committee has amended this bill to correct errors in style and of omission on: page 5, line 14; page 18, line 17; page 23, lines 1 to 25; page 24, line 10; page 27a, line 3; page 28, lines 1 and 16; page 30, lines 12 and 15; page 31, line 15; page 34, lines 6 to 25; page 34a, lines 9, 18 and 19; page 37, line 10; and page 39, line 15.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2170-78, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2170-78, H.D. 2.

Signed by all members of the Committee.

SCRep. 478-78      Finance on H.B. No. 3059-78

The purpose of this bill is to insure adequate funding for wildland fire suppression.

Chapter 185 delegates responsibility for wildland fire suppression to the State Forester and provides for costs to be paid from the Governor's contingency fund if such is established. The Attorney General has interpreted this chapter to exclude state agencies from reimbursement for fire suppression costs.

Your Committee feels it is necessary to set up a fire suppression fund. This fund will be available for unbudgetable fire suppression costs and cannot be used for any other purpose. The unexpended balance in this fund will lapse at the end of every fiscal year.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 3059-78, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 479-78      Finance on H.B. No. 1783-78

The purpose of this bill is to amend section 8-1, Hawaii Revised Statutes, to establish a state holiday in honor of Queen Lydia Liliuokalani and to designate the first Monday in September as Queen Liliuokalani Day (as well as Labor Day).

Your Committee finds that the establishment of a state holiday to observe the birthday of Queen Liliuokalani is a fitting tribute to one of Hawaii's greatest ladies. Queen Lydia Liliuokalani, the last reigning monarch of the Hawaiian kingdom, ascended the throne on January 20, 1891. Her reign encompassed one of the most significant and difficult

periods in Hawaiian history; a period that culminated in the overthrow of the monarchy and the annexation of the Hawaiian Islands to the United States. The Queen's courageous struggle during this period to maintain the integrity of the throne and of her people is an inspiration to us all. Queen Liliuokalani was also one of Hawaii's best loved song writers and composer of the Republic's national anthem, "Hawaii Pono".

Your Committee has amended this bill by making a technical change to conform the language of this bill with the language in statutes.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1783-78, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1783-78, H.D. 1.

Signed by all members of the Committee.

SCRep. 480-78      Finance on H.B. No. 1815-78

The purpose of this bill is to provide for the establishment of compulsory arbitration procedures for resolving disputes over the terms of an initial or renewed agreement involving the exclusive representative of bargaining Unit 11, Firefighters. Any impasse dispute involving Unit 11 which continues to exist fifteen working days after the date of impasse would be submitted to the arbitration procedures established under this bill unless the parties to the dispute mutually agree upon an alternative arbitration procedure within eighteen working days from the date of impasse. The bill provides for the selection of an arbitrator or a panel of arbitrators under conditions of mutual agreement between parties and in the event the parties have not mutually agreed on an arbitration procedure and an arbitrator or arbitration panel.

This bill provides for final-offer whole package arbitration as the method of impasse resolution. This approach requires the arbitrator or arbitration panel as the case may be, to select the most reasonable of the final offers submitted by the parties, and to issue a decision incorporating that offer without modification. The decision of the arbitrator or arbitration panel shall be final and binding upon the parties; provided that at any time and by mutual agreement, the parties may modify or amend the decision. Agreements reached pursuant to the decision of an arbitrator or arbitration panel as provided in this bill would not be subject to ratification by the employees concerned. Moreover, employees covered by this method of impasse resolution voluntarily relinquish their right to strike by virtue of such coverage. As with all other collective bargaining agreements, this bill provides for final approval of any cost items by the appropriate legislative bodies.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1815-78, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 481-78      Finance on H.B. No. 2091-78

The purpose of this bill is to improve the effectiveness of volunteer programs and to aid in their continuing development throughout state government by establishing a state policy on the utilization of volunteer services.

Presently, there is no statutory authority for the establishment of volunteer programs in state government. The potential volunteer force however, your Committee finds, is one of the State's great and underutilized assets. Experience clearly demonstrates that the development and implementation of policy and programs which result in effective utilization of volunteers can significantly enhance services in fields such as health, environment, corrections, and education. If enacted, this bill would define the role and status of a volunteer, establish the authority for state agencies to utilize volunteers, define the rights and responsibilities of both volunteers and agencies, provide for volunteer benefits, and establish agency reporting requirements with respect to volunteer programs.

Your Committee has amended section 1 of the bill to reflect accurate designations of departments of the State, and has also made several style and technical amendments to the bill which do not affect its substance.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2091-78, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2091-78, H.D. 1.

Signed by all members of the Committee.

SCRep. 482-78      Finance on H.B. No. 2727-78

The purpose of this bill is to amend chapter 88, Hawaii Revised Statutes, by adding a new section which provides that temporary public service employees paid from Comprehensive Employment and Training Act (CETA) funds shall not be eligible for membership in the State Retirement System beginning July 1, 1978. However, this bill provides further, that any such employee who is a member of the system on June 30, 1978, remains in the system unless the employee elects to terminate membership, in which case the employee is to be paid all accumulated contributions.

Presently, CETA public service employees enjoy the same fringe benefits as permanent employees of the State or county, including membership in the State Retirement System. However, federal rules and regulations effective October 1, 1977 discourage state and local agencies from making retirement contributions on behalf of CETA participants. The rules restrict the use of CETA funding to those cases in which a participant either obtains unsubsidized employment or obtains vesting in the retirement system. When participants leave the CETA program for reasons other than entering unsubsidized employment with the State or county, contributions made on their behalf may not be retained in the system. Moreover, the rules do not provide for employer contributions from federal funding for accidental disability benefits which are payable to eligible members and their survivors regardless of the member's length of service, and ordinary death benefits payable to survivors of members with at least one year of service.

The conditions imposed by federal rules are in conflict with the State provisions governing the Hawaii State Retirement System and this bill proposes to resolve these conflicts by excluding newly hired CETA participants from membership in the Retirement System.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2727-78, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 483-78      Finance on H.B. No. 2680-78

The purpose of this bill is to amend chapter 392, Hawaii Revised Statutes, to allow payment of temporary disability insurance benefits to government employees who have not earned the minimum favorable benefits under section 392-41(d), equivalent to three weeks at full pay, payable from the first day of disability.

Presently, public employees are not eligible for temporary disability insurance benefits under chapter 392 because they are provided such disability coverage by the State Employees' Sick Leave Plan. Under the State Plan, an employee is entitled to twenty-one days of paid sick leave a year, which must be earned at a rate of 1-3/4 days per month of employment. Thus, an employee who is a recent entrant into government service may not have any sick leave credited. Under this bill, the employee who has not earned the minimum favorable benefits would, after exhausting all earned sick leave benefits, be provided combined sick leave-temporary disability insurance benefits not to exceed three weeks.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2680-78, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 484-78      Finance on H.B. No. 2164-78

The purpose of this bill is to provide funds for the creation and maintenance of a State Medicaid Fraud Unit in the Department of the Attorney General. This bill is recommended for immediate passage pursuant to Article VI, Section 5 of the State Constitution.

Testimony received from the Department indicated the need for such a unit. In an initial review of the Medicaid program, the Department found indications of abuses by providers in the Medicaid program. Under P.L. 95-142, known as the Medicare-Medicaid Anti-Fraud Amendments, the State is eligible for a ninety per cent reimbursement for the establishment and operation of a Medicaid fraud unit to investigate and prosecute for fraud and abuse. The unit will consist of attorneys, auditors, investigators and

clerical staff necessary to conduct the investigations and follow through with appropriate action.

This bill authorizes an appropriation totalling \$361,800 (\$325,620 in federal funds; \$36,180 in State funds). Your Committee has revised this bill to set a lapse date of June 30, 1979.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2164-78, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2164-78, H.D. 1.

Signed by all members of the Committee.

SCRep. 485-78      Finance on H.B. No. 2097-78

The purpose of this bill is to amend HRS 87-3, to permit the Board of Trustees of the Public Employees Health Fund to apply rate credits or reimbursements received from medical or dental insurance carriers, toward the counties' share of employer contributions for the children's dental benefits plan.

Presently, the law permits the use of such funds to defray the cost of state contributions only. This bill will provide for a more equitable distribution of the costs and benefits of the program among the five employer jurisdictions, consistent with established requirements for county contributions to defray employee and retiree Health Fund benefit costs. Any rate credits or reimbursements accruing to the state or the several counties shall remain within the Health Fund and shall not revert back to the general fund of the state or counties. Your Committee agrees with the findings expressed in House Standing Committee Report No. 112-78.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2097-78 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 486-78      Finance on H.B. No. 3033-78

The purpose of this bill is to provide enabling legislation to support proposed rules and regulations for the exploration and development of geothermal resources.

In drafting the proposed rules and regulations the State Attorney General found that the Board of Land and Natural Resources does not have the authority to promulgate certain rules which the Board deemed necessary for the promotion and development of geothermal resources. This bill will give the Board that authority.

The bill amends Section 182-4 to give the Board the flexibility to devise other methods of bidding on mining leases. Under the present law, the Board can only award mining leases at auction based on the annual rental. Thus, the Board could not use other methods of bidding to obtain a higher return.

Section 182-5 is amended to clarify the requirement that a vote of two-thirds of the members to which the board is entitled is necessary before awarding a mining lease on reserved lands without public auction.

Section 182-7 is amended to give the Board flexibility to establish methods of payment other than a royalty to be consistent with the proposed amendment to Section 182-4.

Section 182-8 is amended to give the Board the power to impose a limitation on the number of acres held by any one person under mining leases issued by the Board.

Three new sections entitled "Unitization", "Penalty for violation" and "Levy and assessment of general excise tax" are added.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 3033-78, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 487-78      Finance on H.B. No. 2570-78

The purpose of this bill is to establish a veterans cemetery on the island of Lanai.

Your Committee concurs with the findings of the Water, Land Use, Development and Hawaiian Homes Committee as stated in Standing Committee Report No. 275-78. Currently, the State provides land and funds to maintain veterans cemeteries on Hawaii, Maui, Kauai and Molokai. This bill extends the same service to Lanai.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2570-78 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 488-78          Finance on H.B. No. 1922-78

The purpose of this bill is to establish a ceiling upon the liability of the State with respect to the insurance of loans from private lenders for the purposes authorized by Sections 155-5(a) and 155-6(d) of the Hawaii Revised Statutes.

The bill proposes a ceiling of \$10,000,000. Your Committee agrees that this ceiling of \$10,000,000 is appropriate for the purposes of promoting the development of the agricultural industries of the State.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1922-78, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 489-78          Finance on H.B. No. 1778-78

The purpose of this bill is to authorize the issuance of economic development bonds by the State to alleviate unemployment and to provide further assistance for continued growth and development of the State's economy.

Your Committee agrees that this bill will help provide a means of financing job markets in areas of consistent unemployment and where traditional financing methods are unavailable.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1778-78 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 490-78          Finance on H.B. No. 3042-78

The purpose of this bill is to provide supplementary appropriations for witness expenses in criminal proceedings for fiscal years 1977-78 and 1978-79.

Act 7, Special Session Laws of Hawaii 1977, designated the Department of Budget and Finance as the expending agency for witness expenses required by county prosecutors and the public defender in criminal proceedings. Expenditures for the first seven months of the current fiscal year indicate that the funds appropriated by Act 7 will be insufficient to pay witness expenses for the entire fiscal year if the current rate of expenditure continues. Therefore supplementary amounts for the fiscal year and the next have been provided for in this bill.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 3042-78, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 491-78          Finance on H.B.No. 2912-78

The purpose of this bill is to authorize an increased fee schedule for notaries public. In view of the continuing effects of inflation, your Committee agrees that the various fee increases of one dollar are reasonable.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2912-

78 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 492-78 Finance on H.B. No. 2746-78

The purpose of this bill is to amend Section 326-33 of the Hawaii Revised Statutes to ensure the proper maintenance of the Damien Memorial Chapel.

Section 326-33 of the Hawaii Revised Statutes designates the Father Damien Memorial Chapel and its premises and graveyard located in Kalawao County as a public memorial to Father Damien. Enacted in 1935, responsibility for maintaining the public memorial was not spelled out in the statutes.

This bill fixes that responsibility in the department of health.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2746-78, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 493-78 Finance on H.B. No. 2581-78

The purpose of this bill is to establish a regularized system for the department of education (DOE) to request special needs funds for each school and whereby each school decides how the special needs funds will be expended.

Your Committee has noted the findings expressed in House Standing Committee Report 237-78 in support of special needs funding. There is a high degree of teacher participation in determining expenditure of special needs funds. There is an overwhelming acceptance of the concept of special needs funding as well as a high rate of satisfaction with the implementation of special needs funds.

Your Committee supports the establishment of a regularize system on special needs funds procedure in the DOE.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2581-78 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 494-78 Finance on H.B.No. 2385-78

The purpose of this bill is to extend the life of chapter 455, Hawaii Revised Statutes, relating to naturopathy.

Act 70, Session Laws of Hawaii 1977, repeals chapter 455, Hawaii Revised Statutes, effective December 31, 1978, in effect deregulating the practice of naturopathy as of that date. This bill would extend the effective repeal date to December 31, 1984.

Your Committee agrees with the findings and recommendations expressed in House Standing Committee Report 346-78.

Your Committee has amended this bill to correct minor errors in style and omission on: page 2, line 2; page 4, line 10; page 9, line 2; and page 11, lines 7 and 18.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2385-78, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2385-78, H.D. 2.

Signed by all members of the Committee.

SCRep. 495-78 Finance on H.B. No. 2293-78

The purpose of this bill is to delineate more clearly the authority and responsibilities of the Office of Environmental Quality Control.

Your Committee agrees that the monitoring of environmental changes and effects involving health, air, water, wastes, soil, noise, and pesticides is the function of the Department of Health.

This bill removes from the responsibilities of the director of environmental quality control the development of a system to monitor ecological, environmental, and social conditions throughout the State.

Your Committee has amended this bill by correcting an error on page 2, line 5.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2293-78, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 229378, H.D. 2.

Signed by all members of the Committee.

SCRep. 496-78      Finance on H.B. No. 1880-78

The purpose of this bill is to authorize the courts to accept payment by credit card of court costs, fees, fines, bail forfeitures, expenses and other charges due the courts. Use of credit cards will significantly facilitate collection of sums owed to the courts.

Under the present system in the Judiciary, a number of steps must be taken to record and collect due payments, and the number of transactions involved is immense and requires substantial staffing. If payment is made by credit card, it will be more convenient for citizens to make payments, and it will require no paper work and no collection efforts by the courts because the credit card company will handle both record-keeping and collections.

Your Committee agrees that because credit card companies are specialists in the field of payments and collections and enjoy the efficiencies of size, it is sound management for the courts to utilize this expertise.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1880-78, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 497-78      Finance on H.B. No. 1885-78

The purpose of this bill is to give the district courts in the first circuit greater flexibility by allowing any one of the district judges to be assigned to hear landlord tenant and small claims matters, rather than requiring the twelfth judge to handle such matters as is presently required. The bill would also authorize an additional district court judgeship in the third circuit.

Your Committee has amended this bill to conform to the stated purpose by amending page 2 at lines 11, 13, and 18.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1885-78, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1885-78, H.D. 2.

Signed by all members of the Committee.

SCRep. 498-78      Finance on H.B. No. 2764-78

The purpose of this bill is to allow the lieutenant governor to furnish the session laws, supplements and replacement volumes of the revised statutes to state and county government officials, members of the Hawaii congressional delegation, federal district courts and the office of the United States Attorney for official use free of charge. Under present law, only "public officials" are entitled to receive such materials free of charge, and the term has been interpreted by the Attorney General "in the absence of legislative direction" to be limited to only those who occupy government positions in the state and county governments. The bill clarifies the distribution for official use free of charge.

Your Committee has amended this bill to clearly limit the distribution to certain federal agencies "in Hawaii" by adding these words to lines 10, 11, and 12.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2764-78, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2764-78, H.D. 2.

Signed by all members of the Committee.

SCRep. 499-78 Finance on H.B. No. 2319-78

The purpose of this bill is to repeal in its entirety the present provision relating to the county committees on the status of women.

The effect of the repeal of HRS 367-4 is that the counties will be left to provide for their own committees on the status of women. This repeal takes effect December 31, 1978.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2319-78, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 500-78 Finance on H.B. No. 2306-78

The purpose of this bill is to place responsibility for payment of the costs incurred in transporting defendants pursuant to court order, bench warrant or other valid order under HRS chapter 704. Present law does not define responsibility for such costs, and each of the circuits handles the problem differently.

Costs covered by this bill are for airfare, ground transportation, and per diem incurred when police officers escort defendants.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2306-78, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 501-78 Finance on H.B. No. 1822-78

The purpose of this bill is to provide a vehicle by which the State will work with the visitor industry and all other government agencies associated with tourism to coordinate and implement comprehensive policies to achieve the State's desired goals and objectives of attaining a high quality of life for the people of Hawaii.

Fulfillment of this purpose is to be initially achieved by establishing an office of tourism headed by a director within the department of planning and economic development for administrative purposes only.

The visitor industry is a major component of the economic base of our State and makes a significant contribution to income and employment within our community. Tourism has replaced agriculture as the State's number one industry, and is the State's first multi-billion dollar enterprise. The need for participation in establishing guidelines for orderly future growth is recognized by all levels of government and sectors of the visitor industry.

The growth of the visitor industry must take into consideration not only the needs of the industry, but the needs of the community as well. There is a special need for the State government to take an active role to set directions and standards for both the public and private sectors of the visitor industry so that we may preserve or enhance our unique quality of life in Hawaii.

The office of tourism established by this bill is to be headed by a director who will coordinate and review the overall "picture" of the tourism industry.

The director of tourism will be assisted by a visitor industry council which shall consist of representatives of the visitor's industry, organized labor, the general public and state and county governments, and serve in an advisory capacity.

Legislative adoption will be required for a ten-year policy plan which shall be developed

by the office of tourism in conjunction with the visitor industry council.

The office of tourism shall succeed to all the functions, rights and powers exercised, and all of the duties and obligations incurred by the department of planning and economic development in the administration, management, control, operation and implementation of its duties and functions transferred by this bill.

Your Committee has amended this bill by inserting section 7.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1822-78, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1822-78, H.D. 2.

Signed by all members of the Committee.

SCRep. 502-78      Finance on H.B.No. 2318-78

The purpose of this bill is to amend HRS Chapter 219 by establishing a ceiling upon the liability of the State with respect to the insurance of loans from private lenders.

At present there are no loan limits under the aquaculture loan program. The findings of House Standing Committee Report No. 121-78 is that the Attorney General has ruled that there is a definite possibility that aquaculture loan liability could be applied against the debt margin set by the bonded debt of the State and the debt ceiling of the State.

This bill establishes a \$1,000,000 ceiling upon the liability of the State with respect to the insurance of aquacultural loans from private lenders so as to avoid possible complications with the future funding of general obligation bonds of the State and other funded indebtedness. It would also assure that a proper reserve is maintained in the loan fund to guarantee payment of defaulted insured loans.

Your Committee agrees that this bill is of vital importance to the State's debt management program.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2318-78 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 503-78      Finance on H.B. No. 3045-78

The purpose of this bill is to provide flexibility for the funding of sewer or waste treatment plants under Hawaii's environmental quality law.

This bill proposes to require a state or county agency to pay 60 per cent of nonfederal share of the estimated reasonable cost of construction of a water pollution control project. This requirement will allow the State to become eligible for 85 per cent federal funding under the Clean Water Act of 1977.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 3045-78, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 504-78      Finance on H.B. No. 2860-78

The purpose of this bill is to increase the fee for service of civil summons, warrants, attachments and other civil process from \$5 to \$7. The increase would be accomplished in two phases, the first from \$5 to \$6 effective July 1, 1978, and from \$6 to \$7 effective July 1, 1979.

Your Committee agrees that the increase in fees is reasonable and necessary to offset the rising costs of service on the part of the individual deputy sheriffs. The deputies are independent contractors who bear all the costs involved in their line of work, including automobile costs, and insurance for themselves and their automobiles. There is no cost to the State, as the fee is part of the court cost.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2860-78, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 505-78 Finance on H.B. No. 2239-78

The purpose of this bill is to amend Chapter 843 relating to the Hawaii Commission on Crime to make changes necessary to clarify the provisions under which the commission is operating. Your Committee agrees that crime is a problem of such proportions that the activities of the Commission should be encouraged and the life of the Commission should be extended. Your Committee finds that extending the life of the Commission to June 30, 1979 would be more appropriate and the bill has been amended accordingly.

This bill also proposes amendments:

- (1) Changing the name of the commission to the Hawaii Crime Commission.
- (2) Extending the life of the commission to June 30, 1979.
- (3) Providing for filling of any vacancy on the Commission by the governor with the advise and consent of the Senate.
- (4) Giving the chairman of the Commission the right to vote in the event of a tie vote.
- (5) Authorizing the commission to receive and use gifts, money, services or assistance from any federal, state, county or private source.
- (6) Clarifying the right of the chairman or Commission to contract independently for services.
- (7) Providing for reports to the legislature prior to each session.
- (8) Requiring the Commission to investigate and collect evidence regarding criminal activity or the operation of the criminal justice system.
- (9) Authorizing the Commission to hold closed hearings when necessary to maintain effectiveness of a study or investigation.
- (10) Clarifying the power of the chairman to subpoena witnesses and to require production of documents, and for enforcement of the subpoenas.
- (11) Requiring the state and county governments to provide data and assistance to the Commission.
- (12) Providing civil immunity for Commission members, the chairman, staff and employees for actions or statements in the performance of their duties.

Your Committee amended this bill by reducing the appropriation of additional funds from \$500,000 to \$100,000.

Your Committee made numerous technical and style changes to conform the bill to the statute.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2239-78, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2239-78, H.D. 2.

Signed by all members of the Committee.

SCRep. 506-78 Finance on H.B. No. 1769-78

The purpose of this bill is to appropriate moneys for the purpose of compensating persons pursuant to Chapter 351, Hawaii Revised Statutes, the Criminal Injuries Compensation Act.

The compensation to be paid pursuant to this bill totals \$226,868.55 for 158 victims,

16 attorneys, 8 doctors, 7 hospitals, 7 medical clinics, 3 providers of miscellaneous medical services, and 4 funeral homes.

Your Committee has reviewed the findings of House Standing Committee Report No. 377-78, and your Committee approves the appropriated amounts.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1769-78, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 507-78          Finance on H.B. No. 2388-78

The purpose of this bill is to extend the life of chapter 463E, Hawaii Revised Statutes, relating to podiatrists and to authorize the Board of Medical Examiners to delegate a part of its duties under that chapter to a committee of three podiatrists appointed by the Board.

Act 70, Session Laws of Hawaii 1977, repeals chapter 463E, Hawaii Revised Statutes, effective December 31, 1978, in effect deregulating the practice of podiatry as of that date. This bill would extend the effective repeal date to December 31, 1984.

Your Committee has amended this bill to correct an error on page 4, line 8, adding the word "Public".

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2388-78, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2388-78, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 508-78          Tourism on H.B. No. 1823-78

The purpose of this bill is to amend Chapter 203, Hawaii Revised Statutes by adding a new section relating to the Department of Planning and Economic Development's responsibility for the promotion of tourism industry training and public awareness.

Your Committee after holding a public hearing, heard testimony supporting plans for the Department of Planning and Economic Development (DPED) to promote tourism industry training and public awareness by developing and offering two programs. One program shall be the training and education for tourism personnel and the other shall be the tourism public awareness program.

Both programs shall be operated by the DPED in consultation with labor and management representatives from the visitor industry. These programs are to partially fulfill the interim tourism policy of 1976 and shall be effective from July 1, 1978 to June 30, 1980.

Your Committee finds that some personnel already employed in the visitor industry desire an opportunity for certain upward mobility. The program for training and education for tourism personnel will permit any person employed or desiring employment in an occupation which has direct contact with tourists, the opportunity to participate. Upon satisfactory completion of this program, the person shall be issued a certificate stating that fact, and said certificate shall not be considered equivalent to any degree from an institution of higher education.

Your Committee strongly feels that there should be a public awareness program available to the all interested citizens of this State relating to the visitor industry. This program will provide information on the importance of tourism to Hawaii, the beneficial and detrimental consequences of tourism, and a general understanding as to why Hawaii is a major visitor destination area.

Your Committee has amended the bill in those sections which placed the responsibility of developing training and education programs in the tourist industry solely in the DPED. Your Committee believes that such programs which are designed to enhance the tourist industry should not be developed solely by the State, but must involve the industry's labor and management representatives in a cooperative and coordinated effort. Accordingly, your Committee has amended the sections in the proposed new part relating to "Tourism industry training and public awareness; promotion of" and "Training and education for

tourism personnel program" to include a provision requiring the DPED to develop these programs in consultation with labor and management representatives in the tourist industry. Your Committee also believes that any contract for operation of these programs should preferably be awarded to visitor industry trade organizations, such as the Hawaii Hotel Association, the Visitor Industry Education Council or one of the visitor industry labor organizations.

Your Committee on Tourism is in accord with the intent and purpose of H.B. No. 1823-78, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1823-78, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 509-78 Ecology and Environmental Protection on H.B. No. 2337-78 (Majority)

The purpose of this Act is to permit the sale of beverages in plastic containers. The purpose has been amended to allow the use of pressure sensitive tape as a detachable part of beverage containers.

Your Committee finds that beverage containers with a capacity of 32 or more ounces are used primarily in the home and are less likely to cause litter problems. Hawaii is a large enough market to support a plastic beverage container manufacturing increase the efficiency of an energy recovery-solid waste disposal facility.

Your Committee also finds that pressure sensitive tape is an appropriate opening device for non-carbonated beverages, as it is easily affixed to the container to avoid littering.

Your Committee has amended Section 1 by amending Sec. 339-7 (a) to allow the use of pressure sensitive tape. Your Committee has further amended Section 1 by amending Sec. 339-7 (b) to allow the sale of beverages in plastic containers with a capacity of 32 or more ounces.

Your Committee on Ecology and Environmental Protection is in accord with the intent and purpose of H.B. No. 2337-78, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2337-78, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.  
(Representative Larsen did not concur).

SCRep. 510-78 Finance on H.B. No. 2086-78

The purpose of this bill is to grant the Director of Planning and Economic Development the power to review the results of state funded research projects and to patent those inventions or processes discovered under the projects. The bill also provides for the pursuit of legal action against any person who releases to another an invention or process which may be patentable. The bill restricts utilization of any invention or process when the effects of that utilization provide economic competition with the State as defined within the bill.

There are no statutes within the State which govern the patentability of inventions or processes that originate from state funded research projects. Your Committee agrees that there is a need to establish regulations which define the rights to these inventions and processes, and the manner in which these inventions and processes may be utilized by private parties.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2086-78, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 511-78 Finance on H.B. No. 2303-78

The purpose of this bill is to authorize the attorney general to commission notaries public to act statewide.

Under present law, notaries are appointed to act only in their own respective judicial circuits. Your Committee agrees that it would be in the best interest of the public to have notaries who are commissioned to act throughout the State.

This bill provides that in addition to cases where a change occurs in the notary's office, occupation or employment which renders holding of the commission no longer necessary, where the residence of the notary changes, the notary's commission may be revoked after a hearing. It will require notaries to report any change in residence to the attorney general. Better control over seals of notaries is proposed and filing and bond requirements are also revised.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2303-78, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 512-78      Finance on H.B. No. 2462-78

The purpose of this bill is to require new commercial employment agencies to be certified by the National Employment Association.

Your Committee approves of the requirement that all new commercial employment agency owners be certified by the National Employment Association.

Your Committee further approves of the exemption of existing agencies from such certification and has accordingly amended this bill by deleting the requirement for existing agencies to be so certified after 1983. A non-substantive change was also effected to conform to the Ramseyer format.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2462-78, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2462-78, H.D. 2.

Signed by all members of the Committee.

SCRep. 513-78      Finance on H.B. No. 3034-78

The purpose of this bill is to establish a Hawaii Criminal Justice Information Data Center and to set forth related privacy and security policies.

The data center will coordinate the sharing of information among Hawaii's state and county criminal justice agencies so that criminal justice activities can be undertaken in a coordinated and systematic manner.

The privacy and security policies are necessary because the data center will maintain criminal history records. These records require controlled access and dissemination and stringent physical security if the individual citizens' rights to privacy are to be maintained.

Federal regulations urge states to establish central record repositories for maintenance of comprehensive statewide criminal history record information files. The Hawaii criminal justice information data center established by this bill will function as a central state repository for the collection, storage and dissemination of criminal history record information. The data center, which would be attached to the judiciary for administrative purposes, will also provide analysis of pertinent criminal history record information. All functions that are currently being performed by the Hawaii Criminal Justice Statistical Analysis Center (SAC) will be incorporated into the data center. The data center will also provide technical assistance to agencies engaged in the development of criminal justice information systems.

Your Committee concurs with the findings of the Judiciary Committee as found in House Standing Committee Report No. 414-78.

Your Committee has amended the bill by providing an effective date in Section 3. The effective date shall be July 1, 1978 to coincide with the fiscal year.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 3034-78, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form

attached hereto as H.B. No. 3034-78, H.D. 2.

Signed by all members of the Committee.

SCRep. 514-78 Finance on H.B. No. 2545-78

The purpose of this bill is to amend HRS 296-46.1, to 1) permit the State and school bus contractors to extend current contracts for two years by mutual agreement, provided, that the parties may agree to extend the contract for an additional two years thereafter, and 2) to authorize the State to impose additional provisions on to the contract between the State and the contractors as deemed necessary for the safety of the school bus passengers.

Under the existing policy of the Department of Accounting and General Services, conventional school buses are limited to a ten-year service life. The contracts processed by the Department are for a period of three years with an option to renew for another three years. These contracts can then be further negotiated for extensions of two one-year terms.

The concern of private contractors is that buses they purchase usually have a lifespan of more than ten years. Because of the ten-year age limitation, they are faced with a unique question in terms of capital investments for the buses. This bill addresses this concern and also assures the Department of Education that students will be transported safely.

Your Committee has made minor amendments to this bill to correct style and grammatical errors on page 1, lines 6, 8, 15 and 16.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2545-78, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2545-78, H.D. 2.

Signed by all members of the Committee.

SCRep. 515-78 Consumer Protection and Commerce on H.B. No. 2334-78

The purpose of this bill is to insure the general public that no less than twenty per cent of all seating at public sporting and entertainment events will be set aside for "General Admission" patrons when "General Admission" tickets are advertised or offered for sale.

Presently, there is nothing to discourage or prevent a promoter or sponsor of a sporting or entertainment event to imply in his advertising that low-cost general admission tickets are generally available when in fact only a very limited number have been made available for sale. This bill would prohibit any person from selling, offering to sell, or advertising general admission seats to a public event unless not less than twenty per cent of such seats are general admission seats, and subject such person who so sells, offers to sell, or advertises to a civil fine of not more than \$1,000 per violation.

While agreeing with the intent of the bill, your Committee is of the opinion based on testimony it received, that establishing such a fixed percentage may make it a practical impossibility for sponsors or promoters to recover the costs of sponsoring or promoting such events and force them not to make general admission tickets available at all. To avoid such an undesirable result, your Committee recommends an amendment to the bill for the purpose of deleting the twenty per cent requirement and in lieu thereof, requiring that a number of general admission seats sufficient to supply reasonably expectable public demand for such seats be made available.

As amended, your Committee feels that this bill's provisions would be an effective deterrent to unfair or deceptive selling or advertising of general admission tickets at public events while not discouraging sponsors or promoters of such events from making such tickets available at all.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2334-78, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2334-78, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Baker and Nakamura.

SCRep. 516-78 Consumer Protection and Commerce on H.B. No. 1934-78

The purpose of this bill is to insure that persons entering into the public utility business are financially fit, willing and able to perform the proposed service and that such service is in the public interest.

Presently, a person may enter public utility service merely by filing the rates, charges, rules and regulations for such service with the Public Utilities Commission (PUC). This bill would require any person proposing to engage in such service to obtain a certificate of public convenience and necessity prior to commencing business as a public utility. The certification provision would subject the proposed utility to the full statutory requirements of chapter 269, Hawaii Revised Statutes, relating to public utilities. In addition, the bill provides for a suspension and revocation provision requiring the public utility to secure PUC approval prior to abandoning the service and would exempt existing utilities from showing proof of public convenience and necessity.

Your Committee finds that by placing the burden of proving that the service is necessary and for the public's convenience on the proposed public utility company, this bill provides the PUC with the basic data and background information on such company with which to determine whether it will operate in the public interest. Your Committee also finds that by requiring such company to obtain PUC approval prior to abandoning the service it is providing, the public's interests are further protected. Finally, because companies already operating as a public utility as of the effective date of the act are exempt from the bill's certification requirements, your Committee foresees no problems with franchises, charters or federal grants of authority involving electric, gas, telephone, and air transportation utilities. In conjunction therewith, it is the express finding of your Committee that this bill does not in any way affect the right of a proposed public utility company to seek a franchise from the Legislature to provide service in a geographic area. It is your Committee's opinion that the certification provision of this bill is an effective tool for regulatory purposes.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1934-78 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Baker and Nakamura.

SCRep. 517-78 Consumer Protection and Commerce on H.B. No. 2399-78

The purpose of this bill is to insure that local subscribers of a telephone public utility's service do not have to pay rates in excess of what they normally would, due to such company being allowed unreasonably high profits.

Under present law the Public Utilities Commission (PUC) has determined that it can prescribe the rates that a telephone public utility company can charge for local service, taking into consideration only its intrastate (local) operations. Thus, notwithstanding high profits being generated by such a utility's interstate operation, and its overall profitability, the utility may be allowed to increase its local rates because in considering an application therefor, the PUC would in effect ignore the high profits the utility is otherwise making and consider only the marginal return it is receiving on its intrastate operation.

This bill would require the PUC to give appropriate consideration to a telephone utility's overall profitability in determining the rates it will allow such utility to charge its ratepayers. It would, however, exempt from its provisions, a telephone public utility which has a "separations" procedure which has been approved by the Federal Communications Commission and the PUC in which the relative profitability of its inter- and intrastate telephone operations has been determined.

Your Committee finds that this bill would effectively ensure that ratepayers would not be forced to pay excessive charges for local telephone service because, in your Committee's opinion, it would prevent the incongruous situation where an analysis of a telephone utility's intrastate operation in isolation might indicate that a rate increase is justified when in fact the utility is experiencing unreasonably high profits overall due to the success of its interstate operations. It is the further finding of your Committee that requiring the PUC to consider a telephone utility's overall profitability would also prevent the equally incongruous situation where such a utility is allowed to argue against a reduction in its interstate rates on the grounds that high profits generated therein allow it to keep local rates down while simultaneously arguing that such high profits should be ignored in

establishing local rates.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2399-78 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Baker.

SCRep. 518-78            Consumer Protection and Commerce on H.B. No. 2611-78

The purpose of this bill is to further improve and modernize selected provisions of the Hawaii Corporate Law.

The bill adds a provision to permit the directors and committees to meet by telephone conference call unless prohibited by the corporation's articles of association, charter, or bylaws. This change was adapted from the Model Business Corporation Act and is consistent with modern communication practices. It permits convenient and expeditious action by a board of directors, some of whose members may reside on another island or on the mainland.

The bill also adds a modified Model Business Corporation Act provision which sets forth the rules governing director conflicts of interest. Hawaii statutory law is silent in this area, and it is felt that the public, the directors and their representatives would benefit from clear guidelines. The provision would help preserve the integrity of contracts made by corporations where a conflict is properly disclosed and, by providing guidelines, minimize the potential for costly litigation. Your Committee has amended the Model Business Corporation Act provision by placing subsection (c) into the body of the new section. The word unanimous has been added to page 2, line 18, to make it clear that if stockholders approve a transaction by written consent, the approval must be unanimous.

Your Committee after careful review of the bill has recommended deletion of page 3 through page 12 of the bill in order to simplify its provisions.

The bill amends section 416-23, having to do with amending corporate charters and articles, by eliminating filing with the Bureau of Conveyances as a prerequisite to the effectiveness of corporate name changes. The combined operation of the filing requirements of the Department of Regulatory Agencies and the Bureau of Conveyances, and the Bureau of Conveyances' recording policies, makes it difficult if not theoretically impossible to complete and document a name change on the same day. This problem has reportedly caused difficulties in major corporate merger and financing transactions.

The bill amends sections 416-64, 416-65, and 417-4, Hawaii Revised Statutes, by adding provisions to conform stockholder voting requirements for the approval of increases in capital, reductions in capital and mergers to the voting requirement for the approval of corporate dissolutions contained in section 416-121. The amendments eliminate the requirement that stockholder action be authorized by each separate class of stock.

The bill further amends section 416-91, Hawaii Revised Statutes, to expressly permit directors or managers to authorize the payment of dividends from other than profits and earned surplus, even if a capital surplus would be created and the corporation is not dissolved pursuant to section 416-121, if such payment is pursuant to plan of complete liquidation adopted by the stockholders and all of the assets are distributed within twelve months of the adoption of the plan. The proposed amendment conforms to sections 333 and 337 of the Internal Revenue Code.

Your Committee, after careful review, has recommended the deletion of an amendment to section 416-123, which would have eliminated the appointment of a trustee upon the dissolution of a corporation in certain circumstances. In the opinion of your Committee, the proposed amendment did not provide adequate protection for stockholders and certain creditors of the dissolved corporation.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2611-78, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2611-78, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Baker.

SCRep. 519-78 Consumer Protection and Commerce on H.B. No. 2394-78

The purpose of this bill is to make a pro forma change to section 448E-4, Hawaii Revised Statutes, by explicitly specifying that the "powers" of the Board of Electricians and Plumbers are also its "duties".

Currently, the section only states the "powers" which such Board shall have. By including the word "duties", the bill expressly recognizes that the Board's powers granted in section 448E-4 are also the Board's duties.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2394-78 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Baker.

SCRep. 520-78 Consumer Protection and Commerce on H.B. No. 3047-78

The purpose of this bill is to: (1) limit the responsibility of licensed motor vehicle dealers for the acts of their employees and agents, (2) increase the bonding requirements for new and used motor vehicle dealers on the neighbor islands, (3) authorize the Motor Vehicle Licensing Board to levy fines against licensees who violate the licensing laws and rules, and (4) limit the liability of licensed motor vehicle dealers who properly effectuate the transfer of motor vehicle documents on behalf of their customers.

Presently, the law specifies that motor vehicle dealers "shall be held strictly responsible" for the conduct of their agents and employees in all transactions within the Motor Vehicle Licensing Board's jurisdiction. Your Committee agrees with testimony it received that such a broad provision of responsibility, which would conceivably make an employer liable for actions of an agent or employee outside the course and scope of his employment, is unfair and inequitable and that responsibility should be limited to generally accepted principles of agency.

Your Committee feels, however, that by merely deleting the word "strictly" as this bill does, the present law is not altered because it would still read that a license holder "shall be held responsible". Your Committee recommends that the word "shall" also be deleted and that the word "may" be inserted in its place to provide that a license holder "may be held responsible". As amended, your Committee is of the opinion that the intent and purpose of this provision of the bill will be effectuated.

With respect to increasing the bonding requirements for new and used motor vehicle dealers on the neighbor islands, your Committee finds that there is an incongruity in the present law in that a higher bond is required of a neighbor island used car salesman than for his dealer-employer, and that the bonding requirement of neighbor island dealers is inordinately low both in absolute figures and relative to Oahu dealers.

This bill would increase a neighbor island new motor vehicle dealer's bond requirement from \$3,000 to \$15,000 and a used motor vehicle dealer's bond from \$2,000 to \$10,000. Your Committee feels that this would effectively eliminate the incongruities in the present law.

With respect to authorizing the Motor Vehicle Licensing Board to levy fines against licensees who violate the licensing laws, your Committee finds that under present law, the Board is only authorized to suspend or revoke a license or seek criminal penalties against the offending licensee. This bill would permit the Board, in addition thereto, to fine respondents from \$100 to \$1,000 for violations, or in lieu thereof, order restitution. Your Committee believes the monetary sanctions contained in this bill give the Board a more flexible and possibly more potent deterrent to illegal actions.

With respect to limiting the liability of licensed motor vehicle dealers who properly effectuate the transfer of motor vehicle documents on behalf of their customers, under present law such dealers are not afforded the protection from civil and criminal liability afforded individual owners of motor vehicles who sell or otherwise transfer their vehicles in compliance with statutory procedures. This bill would afford dealers the same protection. Your Committee sees no reason why the same rationale for limiting the liability of individuals should not apply to dealers transferring motor vehicle documents on behalf of customers.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 3047-78, as amended herein, and recommends that it pass

Second Reading in the form attached hereto as H.B. No. 3047-78, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Baker and Nakamura.

SCRep. 521-78 Consumer Protection and Commerce on H.B. No. 2465-78

The purpose of this bill is to grant a gasoline dealer's spouse or next of kin the right of first refusal of a new franchise or lease agreement with the franchisor or oil dealer in the event such gasoline dealer dies.

Your Committee finds that under present oil company franchises, it is specifically provided that if the dealer dies, the agreement is canceled. Such franchises do not provide any guarantee that the family who has been running the business will be able to continue to do so. Unlike other franchise operations, oil companies have written their leases with special provisions to give the oil company control over the dealer, basically to protect it from a dealer's attempt to escape personal liability through a corporate structure. On the other hand, such leases do not provide sufficient assurance that the dealer's survivors would be able to continue in the business upon which they have been financially dependent.

Your Committee finds that this bill would serve the rights and interests of both the dealers as well as the oil companies. It protects the dealers' interests by granting the surviving spouse or next of kin the right of first refusal, and it protects the interests of the oil companies by specifically requiring that the refusal right be predicated upon the active participation in and qualification to run the dealership. Your Committee feels that the bill adequately balances the interests of both.

However, your Committee finds that the bill lacks procedural specificity and recommends an amendment for the purpose of requiring franchisors and survivors of franchisees to act in a timely fashion. Accordingly, your Committee has amended the bill to specify that if the franchisor intends to terminate the franchise, it send written notice of such intention to the last known address of the franchisee within ten days of the date of death of such franchisee, and that the prospective franchisee-survivor notify the franchisor of his desire to have a right of first refusal and his qualifications to operate the franchise, within sixty days of such date of death.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2465-78, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2465-78, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Baker.

SCRep. 522-78 Consumer Protection and Commerce on H.B. No. 2400-78

The purpose of this bill is to update section 408-15, Hawaii Revised Statutes, to allow industrial loan companies to collect certain charges associated with real estate loans from borrowers thereof.

Under present law, there is no provision made for the inclusion of certain costs incurred in making real estate loans in charges industrial loan companies may pass on to borrowers. This bill would allow such companies to charge borrowers for the cost of title insurance, to charge \$10 for in-house prepared documents such as a release of mortgage, and to collect reasonable attorney's fees incurred in the preparation of loan documents.

Your Committee heard testimony that real estate loans currently comprise the majority of loans made by industrial loan companies. In marked contrast, ninety per cent of the loan portfolio were loans other than real estate loans in the late sixties when the current law, which allows industrial loan companies to pass on certain costs incurred in making loans other than real estate loans, was enacted.

Your Committee finds that the costs incurred in making real estate loans which this bill would allow industrial loan companies to pass on to borrowers are not unlike costs already being allowed to be passed on and merely reflect the change in recent times

in the kinds of loans primarily being made.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2400-78 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Baker, Nakamura and Naito.

SCRep. 523-78 Consumer Protection and Commerce on H.B. No. 1594-78

The purpose of this bill is to permit the sale of variable life insurance in this State.

Present law does not allow the sale of variable life insurance in the State of Hawaii. In this regard, your Committee received testimony that Hawaii is one of but six states which does not. This bill would allow the sale of such insurance.

Your Committee finds that the variable life policy is but an innovation of the insurance industry to meet the demands of a segment of the consuming public for a traditional life policy with the potential for growth of an equity investment. As such, it is your Committee's opinion that by giving consumers an additional alternative as to the type of policy available for purchase, this bill would generally be beneficial.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1594-78 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Baker and Nakamura.

SCRep. 524-78 Consumer Protection and Commerce on H.B. No. 2793-78

The purpose of this bill is to protect the public by requiring the manufacturers of nonchemical pest control devices or their representatives to submit efficacy data for examination and review; provided such examination and review may require the furnishing of specimen material or samples as may be necessary for efficacy and safety determination and approval prior to the authorization for the sale of such devices in the State.

Your Committee finds that there is a need to regulate the sale of nonchemical pest control devices since many have been of doubtful efficacy and safety. Testimony presented reveals the concern over ineffective and unsafe nonchemical pest control devices, such as electro-magnetic, sound and ultra, cosmic, and other waves being sold which pose actual or potential threats to human health and safety.

Your Committee has learned that both the United States Environmental Protection Agency and the Office of Consumer Protection in Hawaii have issued stop-sale on some devices because of their ineffectiveness.

Your Committee is of the opinion that this bill would provide a protective measure minimizing the hazards associated with these devices.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2793-78, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Baker.

SCRep. 525-78 Consumer Protection and Commerce and Judiciary on H.B. No. 2895-78

The purpose of this bill is to further clarify the exemption provisions of the Attachment and Execution Law of the State of Hawaii and, in particular, to clarify that such exemption provisions only apply to attachment and execution.

Your Committees find that in 1976, the Legislature enacted Act 136 which substantially revised the exemption provisions of the attachment and execution statute. In reviewing such revision, however, your Committees find that further clarifications are necessary because of ambiguities that appear in the present statute. This bill was intended to provide the necessary language.

However, your Committees received testimony that, as written, the bill did not fully

clarify the present law. Accordingly, your Committees amended the following sections of the Hawaii Revised Statutes contained in the bill:

(1) Sections 651-92 and 651-121, to clarify that the exemption provisions contained therein apply only to attachment and execution. The broad and ambiguous language in the present statute may be susceptible to misinterpretation which may lead to the application of the exemptions to mortgage, foreclosures, partition sales, and any involuntary sales of real or personal property.

(2) Section 651-64, to make it clear that the court is empowered to adjudge the exempt status of property seized as a collateral issue in the action, whether or not defendant gives a bond, and centralizes all powers in the court, and that the prevailing party will be awarded costs including an attorney's fee incurred in the proceeding in which the court determines whether or not the property seized is exempt.

(3) Section 651-91, to clarify the definition of "Head of a Family", to include a married man or woman residing with his or her spouse and any individual who has a dependent residing with him or her, and to provide a definition of "dependents" consistent with section 152 of the Internal Revenue Code.

(4) Section 651-92, to clarify the Legislature's intent that a person may claim a real property exemption on only one parcel of real property in the State and that no more than one exemption can be claimed on any parcel of real property, and that the exemption shall not apply to mechanics' and materialmen's liens, tax liens, consensual liens created by mortgages and security agreements, and liens created prior to the acquisition of and commencement of residence on the real property.

(5) Section 651-94, to clarify that any division of real property must be in compliance with the applicable State and county land use, zoning, and subdivision laws, to provide an order of priority for the application of proceeds from a sale of divided property, and to define "material injury".

(6) Section 651-95, to provide that any sale of real property under execution is subject to prior liens and encumbrances in line with Hawaii law relating to mortgage foreclosure proceedings, the general rule applicable in judicial sales, and section 651-94. Your Committee finds that under the present law the actions taken by a judgment lienor seeking execution may unfairly jeopardize the rights of prior lienors; e.g., first mortgagees.

(7) Section 651-95, to further clarify that the court may order a sale when the appraisal shows that the value of the property exceeds the amount of the exemption, all prior liens, and all anticipated costs. Because your Committees feel that a creditor's right to execute should not be defeated by claims of subsequent lienors or a requirement that his entire claim be satisfied, the value of the property need not be also adequate to cover subsequent liens or the entire amount of the judgment being executed upon.

(8) Section 651-96, to extend the present protection for sale proceeds received by a defendant for his exemption beyond the present six-month period when such proceeds are applied to the acquisition of a new residence.

(9) Section 651-122, to provide that, as is the case for real property, personal property sold under execution is sold subject to prior liens and encumbrances.

In addition, your Committees have amended this bill to make nonsubstantive technical and grammatical changes which do not affect the intent, purpose, or content of this bill.

Your Committees find that H.B. No. 2895-78, as amended by your Committees, is necessary to provide adequate protection to judgment debtors as well as prior lienors and encumbrances of property against which a judgment creditor seeks to enforce his judgment.

Your Committees on Consumer Protection and Commerce and Judiciary are in accord with the intent and purpose of H.B. No. 2895-78, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2895-78, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Baker.

The purpose of this bill is to reflect the seriousness of credit card offenses by making such offenses to Class C felonies.

Your Committees have heard testimony that there has been a distinct increase in the number of complaints by retailers regarding dishonored credit voucher reimbursements. This increase reflects a corresponding increase in credit card offenses. Under present law, the penalty provided is inadequate to deter these crimes.

Your Committees find that the more severe penalty would have a greater deterrent effect on would-be offenders and would more accurately reflect the seriousness of the crime.

Your Committees on Consumer Protection and Commerce and Judiciary are in accord with the intent and purpose of H.B. No. 2305-78 and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Baker.

SCRep. 527-78          Finance on H.B. No. 2478-78

The purpose of this bill is to provide additional funding for the State's program of repairs and maintenance of public facilities.

Your Committee believes that schools, hospitals, and other public buildings are in need of repair, maintenance and renovation. The funds appropriated are to be used for contracting repair and maintenance work and will help protect the investment in public property by providing preventive maintenance.

The bill has been amended to include appropriations to the University of Hawaii, Hawaii Housing Authority, and the Department of Health. The requirement that the expending agency shall consult with the Department of Labor prior to expending any appropriations has been deleted.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2478-78, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2478-78, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 528-78          Finance on H.B. No. 2641-78

The purpose of this bill is to have the Secretary of the Board of Regents be appointed by the Board itself and serve at the Board's pleasure rather than, as the case is at present, have the Secretary be elected by the Board and serve for a fixed term.

This bill would establish a policy consistent with all other appointments within the University of Hawaii system, as well as with the general policy on executive secretary appointments of other boards and commissions throughout the state and county governments.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2641-78 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 529-78          Finance on H.B. No. 1910-78

The purpose of this bill is to extend the present solar energy devices income tax credit to include wind devices.

Your Committee agrees that this tax incentive would provide for the conservation of energy as well as bring this income tax provision in line with the real property exemption for alternate energy devices.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1910-78 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 530-78 Finance on H.B. No. 2229-78

The purpose of this bill is to encourage residents to join and be members of the Hawaii National Guard and of reserve components of the Army, Navy, Air Force, Marine Corps, and Coast Guard of the United States by providing tuition waivers for guardsmen and reservists attending any campus of the University of Hawaii.

There are 21 states in the union which provide similar kinds of educational assistance program and your Committee agrees that the incentive of a tuition waiver would greatly aid the recruitment efforts of the National Guard and military reserves.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2229-78, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 531-78 Finance on H.B. No. 158

The purpose of this bill is to insure that the plan for a mass transit system in the City and County of Honolulu be approved by the legislature before any funds are expended for construction.

Inasmuch as the State will be required to provide one-half of the local share of funding for the fixed guideway and up to one hundred percent of any cost overruns, your Committee agrees it is appropriate to establish a procedure requiring that the State make final approval of the plans before any funds are expended.

Your Committee further agrees with the findings expressed in House Standing Committee Report No. 386-78.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 158, H.D. 1, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 158, H.D. 2.

Signed by all members of the Committee.

SCRep. 532-78 Finance on H.B. No. 2460-78

The purpose of this bill is to provide that all teaching experience accrued as a full-time teacher with the department of education shall be counted toward tenure.

The present DOE policies and procedures preclude the granting of probationary credit to non-tenured personnel hired as temporary teaching assignment appointment (TTAA). Many of these teachers in temporary positions do the same work as any other teacher, but do not gain probationary credit toward their tenure. This bill seeks to correct this inequity and give proper probationary credit for all full-time teaching experience to both new and existing teachers.

Your Committee has amended this bill to use language found in related provisions and which clearly sets forth the intent.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2460-78, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2460-78, H.D. 2.

Signed by all members of the Committee.

SCRep. 533-78 Finance on H.B. No. 2936-78

The purpose of this bill is to authorize the Department of Transportation to expend up to \$22,500 in the 1977-78 fiscal year for the operations of the Oahu Metropolitan Planning Organization (OMPO). Your Committee finds that the increase from \$15,000 to \$22,500 will provide for non-participatory expenses.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2936-78, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 534-78 Finance on H.B. No. 2123-78

The purpose of this bill is to increase the amount of the guaranteed salary of community physicians.

Under present law, the annual amount of guarantee to each participating physician is \$36,000 gross income. It has been difficult to permanently relocate physicians in underserved areas, and in several cases, physicians have terminated their contracts in less than one year because of economic realities. Had these physicians entered into private practice in an underserved area, their income would have exceeded \$36,000 within three to six months. Third party payments alone are generally sufficient to bring this about.

Your Committee agrees that the existing guarantee to each physician of \$36,000 gross income is not sufficient.

Your Committee has amended this bill to set the guaranteed amount at \$45,000.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2123-78, H.D. 1, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2123-78, H.D. 2.

Signed by all members of the Committee.

SCRep. 535-78 Finance on H.B. No. 2107-78

The purpose of this bill is to define "mass transit" and to require proper interfacing and integration of mass transit systems to best meet the needs of the area being served.

The bill authorizes the Department of Transportation to perform the tasks and services related to water and air transit systems and clearly defines the authority and responsibility of the counties in respect to providing land transit service.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2107-78, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 536-78 Finance on H.B. No. 2937-78

The purpose of this bill is to appropriate funds for an Oahu Metropolitan Planning Organization Revolving Fund. This fund will provide the means to meet the financial obligations of OMPO operations on a timely basis. The fund will be replenished by reimbursements from federal agencies.

Your Committee agrees that a revolving fund of \$30,000 will be sufficient.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2937-78, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 537-78 Finance on H.B. No. 2827-78

The purpose of this bill is to establish the current pilot school health services program as a permanent statewide school health services program within the Department of Health.

The school health services program was initiated under a pilot project established by Act 130, Session Laws 1970. This program has demonstrated its effectiveness during the past years in providing health care for children in public schools.

Your Committee recommends that integrating the vision and hearing screening program into the school health aides program be postponed and your Committee has amended

this bill accordingly.

Your Committee has deleted the appropriation section as adequate provision will be made in the supplemental budget bill.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2827-78, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2827-78, H.D. 2.

Signed by all members of the Committee.

SCRep. 538-78          Finance on H.B. No. 3051-78

The purpose of this bill is to amend Sections 93 and 93A of Act 195, Session Laws of Hawaii 1975.

The amendments authorize the substitution of airport and harbor revenue bonds in lieu of reimbursable general obligation bonds authorized by Act 195, Session Laws of Hawaii 1975 as amended by Act 226, Session Laws of Hawaii 1976, and Act 110, Session Laws of Hawaii 1977. Certain essential capital improvement projects must be funded and constructed. The amendments prepared by this bill will authorize the use of revenue bonds to fund these projects.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 3051-78 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 539-78          Finance on H.B. No. 2868-78

The purpose of this bill is to eliminate the double taxation and pyramiding effects on sales of electric power generated from non-fossil fuels to the public utility companies for resale to customers.

Your Committee amended the short form bill to specifically provide an excise tax exemption on the gross proceeds realized from the sale of electric power generated from non-fossil fuels to the public utility companies for resale to the public.

Your Committee further specified in the bill that non-fossil fuel generated electric power includes only electric power generated by the combustion of bagasse, wood material, and combustible solid waste materials.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2868-78, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2868-78, H.D. 1.

Signed by all members of the Committee.

SCRep. 540-78          Finance on H.B. No. 2539-78

The purpose of this bill is to establish a continuing education fund from the assessment of nurses licenses in order to provide continuing education offerings for nurses.

The board of nursing has been administering a Continuing Education Approval and Recognition Program (CEARD) using an appropriation of \$42,250 by the Legislature during its 1975 session. Through this program, nurses on a statewide basis were able to participate in continuing education programs which proved to be vital to the continuing competence of licensees and the upgrading of public health.

This bill establishes a fund to provide for continuing nursing education programs. The bill increases existing application and renewal fees for both registered and practical nurses and designates a percentage of the aggregate fees paid by licensees to be paid into this fund. The increase is intended to provide additional funds which will enable all nurses to continue their professional education and thereby improve the quality of nursing care in Hawaii.

Your Committee has amended this bill by adding a new section 5 to clearly establish

a nurses continuing education approval and recognition fund.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2539-78, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2539-78, H.D. 2.

Signed by all members of the Committee.

SCRep. 541-78      Legislative Management

Informing the House that Standing Committee Report No. 441-78 and Conference Committee Report Nos. 7 to 11, have been printed and distributed.

Signed by all members of the Committee.

SCRep. 542-78      Water, Land Use, Development and Hawaiian Homes on H. R. No. 34

Your Committee has amended the title to broaden the scope of its objectives, to read: "HOUSE RESOLUTION REQUESTING THE HOUSE COMMITTEE ON WATER, LAND USE, DEVELOPMENT, AND HAWAIIAN HOMES AND THE COUNTIES TO REVIEW THE PARK DEDICATION STATUTE, THE COUNTY PARK DEDICATION ORDINANCES, AND THE RULES AND REGULATIONS IMPLEMENTING THE COUNTY PARK DEDICATION ORDINANCES".

The purpose of this Resolution, as amended, is to request the various counties to reevaluate their duties under section 46-6, Hawaii Revised Statutes, so as to ensure that the park dedication statute is being implemented equitably and efficiently in each county in the state.

Your Committee strongly supports the original intent of the park dedication law, which is to insure that as new residences are provided in an area there will be a proportional increase in the recreational areas and facilities to meet the added recreational demands.

Experience has shown that park land acquisition by government does not keep pace with the demands of a growing population if such acquisition is dependent on general funds. The woefully inadequate park area provided by the county for Salt Lake residents is a prime example of the failure of at least one county to provide park space in the absence of a park dedication ordinance.

Your Committee feels the park dedication law should be reviewed and amended as necessary to insure that it achieves the primary purpose of assuring that adequate parks and facilities accompany increases in population and that this be achieved in an equitable manner which respects the differences in needs among the various counties.

Your Committee on Water, Land Use, Development and Hawaiian Homes concurs with the intent and purpose of H.R. No. 34, as amended herein, and recommends that it be referred to the Committee on Housing, in the form attached hereto as H.R. No. 34, H.D. 1.

Signed by all members of the Committee except Representatives Garcia and Naito.

SCRep. 543-78      Consumer Protection and Commerce on H.B. No. 617

The purpose of this bill is to amend the Uniform Commercial Code, Chapter 490, Hawaii Revised Statutes, so as to clarify certain technical problems which have arisen. The clarification of these areas is based upon the experience of working with Chapter 490 over the years. These amendments were the joint effort of the Permanent Editorial Board for the Uniform Commercial Code, an adjunct of the National Conference of Commissioners on Uniform State Laws and the American Law Institute.

The official function of the Permanent Editorial Board is to promulgate amendments to the Official Text of the Uniform Commercial Code when it is shown by experience that a particular provision is unworkable, obsolescent or otherwise in need of adjustment.

Following is a brief summary and explanation of the amendments:

- (1) One of the areas that was not specifically covered as potential collateral

under Article 9 of the Uniform Commercial Code relates to the collateralization of oil and gas rights. It was the intention of the drafters of the Code to include oil and gas at the well head or mine head as collateral which could be used for purposes of securing obligations under the Code and this intention is clarified under the proposed amendments. See for example, section 490:1-201, 2-107, 9-103.

- (2) Another provision which finds its way into many of these amended sections is the elimination of the distinction between accounts and contract rights. Initially the drafters of the Code proposed to separate these two concepts, accounts standing for that portion of an account receivable which had already been executed and had therefore given rise to payment and contract rights being the executory or unperformed portion of the contract receivable. Theoretically, either of these rights could be assigned as security. However, as a practical matter, the account receivable remained a unitary item. Consequently, the contract rights concept has been dropped and the old concept of accounts receivable as a unitary form of collateral has been reinstated by denominating it an account. See for example section 5-116 and other references throughout Article 9 (e.g. section 9-102, 103, 106, etc.) relating to that change.
- (3) Article 8 involves problems relating to stock transfer and is often referred to as a Negotiable Instruments Law for Securities. It contains a definition of a "clearing corporation". This definition has been clarified and expanded in light of amendments to the Investment Company Act of 1940 as well as the Securities Exchange Act of 1934. The purpose is to make the definition of clearing corporation conform with those statutes and generally to be more comprehensive.
- (4) Section 9-103 has been completely rewritten to clarify the relationship of its several provisions to each and to other sections defining the applicable law. The section now concerns itself exclusively with perfection of security interests and the effect of perfection or non-perfection thereof. The earlier Code had several references to the "validity" of a security agreement. These have been deleted.

Certain rules relating to the manner of perfecting collateral which has been removed from the jurisdiction have been reworked and clarified under section 9-103.

- (5) Section 9-104 clarifies certain matters relating to what kinds of transactions are included or excluded under Article 9. Here the official text of the amendments has been amended so as to include "deposit accounts" as redefined, within the scope of the code for purposes of Article 9 perfection. With the increasing use of intangible forms of account, a notice method of perfection is suggested where third party accounts are involved. However, in the case of certificates of deposit, there is tangible evidence of the collateral. In the case of certificates of deposit, it is contemplated that these will be perfected in the same manner as "instruments", the method of perfection depending upon whether or not the "instrument" is negotiable.
- (6) Section 9-114 will clarify the problems relating to the definition of "consignment" under the Code. One of the difficulties has been whether the transaction is a true consignment or the creation of a security interest. The categorization has a substantial effect on the rights of third parties who may otherwise claim an interest in the inventory of the consignee-debtor.
- (7) Certain other technical amendments relate to clarification concerning the time of attachment and/or perfection of security interests including certain determinations with respect to when a financing statement must be filed in the Bureau of Conveyances to so perfect. See for example section 9-302, 9-304.
- (8) Section 9-305 has been reworked so as to clarify certain ambiguities with respect to when rights in proceeds would arise. Section 9-203(1)(b) of the earlier Code seemed to indicate that proceeds could be claimed by virtue of an express term in a security agreement whereas section 9-306(2) indicated a virtual automatic security interest in proceeds absent a term indicating a contrary intent. It has now been clarified that the latter position is the

only position of the Code.

- (9) Section 9-307 protects consumers with respect to their rights to security as buyers in the ordinary course for a period of 45 days. This conforms to certain tax considerations relating to the effective tax liens filed against the same property.
- (10) Section 9-312 is clarified with respect to the perfection of certain interests of the Code including the resolution of the question as to who shall have priority between a person claiming accounts as proceeds of inventory and those claiming them by way of a direct assignment. This related to the question of priority between the inventory financier and the first financier in the business cycle of the debtor (i.e. the purchasers of chattel paper). Under the Code as amended the judgment has been made that there is no prior right given to the inventory financier except as to identifiable cash proceeds. Certain other conforming aspects relating to future advances and the like were also promulgated.
- (11) Section 9-313 is an attempt to clarify a certain fixture provision relating to real estate financing and real estate titles as they relate to the impact on construction loans and also to clarify the filing provisions relating to the Code filings so they can be found in the regular real estate title search records. One problem which has arisen relates to when the completion of construction is to be ascertained for purpose of determining fixture priorities. Your Committee recommends that a code comment, suggesting 90 days after the issuance of a certificate of occupancy as the appropriate time period, be included with the official text of the Act.
- (12) Finally, although there are other technical matters also covered including conforming aspects relating to filings, the aforementioned materials contain the bulk of any substantive change relating to the Code. In addition, it should be noted that under section 9-505, the notice provisions are changed whenever the secured party, after default elects to return collateral in lieu of sale. So the provision is an effort to clarify what procedures are available for persons objecting to such a method of resolving the obligations after default.
- (13) Article 11 is new and is an attempt to clarify certain transition provisions which will obviously be necessitated by the aforementioned amendments. In other words, under Article 9, there are a number of ongoing rights and obligations. What impact, if any, will result from the aforementioned amendments is clarified by Article 11. Essentially whatever rights were available under the pre-amendment provisions of the Code shall remain the same. A pattern which has been generally followed under the Code.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 617, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 617, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Baker.

SCRep. 544-78      Consumer Protection and Commerce on H.B. No. 2816-78

The purpose of this bill is to strengthen the enforcement provisions of the compulsory insurance requirements of the Hawaii No-Fault Law.

Your Committee, upon due consideration, has deleted in entirety the amendments as originally proposed in the bill and in lieu thereof has amended this bill in several substantive respects.

Under present law, each county police department is authorized to issue citations for violations of the compulsory insurance requirement in a form and manner approved by the Violations Bureau of the District Court of the First Circuit. However, the Motor Vehicle Insurance Division has found that certain problems exist in the present law which hamper effective enforcement. One problem is that the present law does not specifically authorize police officers to demand production of proof of insurance from a motorist and does not require a motorist to present proof upon demand. Another problem is that the present laws do not provide adequate guidelines to the courts as

to the appropriate penalty for violations. The bill as amended, addresses itself to these shortcomings in the present law.

Section 2 of the bill provides for issuance of insurance identification cards by each insurer to its insureds and for issuance of a certificate of self-insurance by the commissioner of motor vehicle insurance of self-insureds. Your Committee has amended the bill by providing an exception to insurers of five or more motor vehicles which are under common registered ownership, and regularly used in the course of business, not requiring such insurers to indicate the name of make and the factory or serial number of each motor vehicle. This amendment would alleviate some of the concerns expressed by commercial fleet owners whose policies are written on an all-inclusive basis. Your Committee, however, does not intend that this bill would allow the exception to those insurers whose insureds' motor vehicles are legally owned by a financial institution.

Section 3 of the bill sets forth the procedures to be followed by district courts in handling violations of the compulsory insurance requirement. The courts are mandated to hear and dispose of such actions expeditiously and mandatory penalties are imposed. In all cases where a motor vehicle is found to be not insured in conformity with the no-fault law, suspension or revocation of the vehicle registration plates or suspension or revocation of the driver's license of the driver and registered owner of the automobile shall be mandatory.

Section 4 of the bill amends section 286-116, Hawaii Revised Statutes, which requires driver's licenses to be carried at all times when operating a motor vehicle and to be displayed to a police officer upon demand, to similarly include no-fault identification cards within the scope of said section 286-116. A law enforcement officer is required to issue a citation when he finds a motor vehicle in operation by a driver not in possession of an insurance identification card. Verification of no-fault coverage would result in the dismissal of charges.

Section 5 of the bill amends section 294-8, Hawaii Revised Statutes, to require the owner of a motor vehicle to maintain a no-fault policy at all times for the entire motor vehicle registration period. The purpose of this amendment may negate the necessity of proving insurance coverage at the time of annual registration thus relieving owners, motor vehicle registrars and insurance companies of the problems encountered shortly after the initial implementation of the compulsory law took effect.

Your Committee has further amended the bill under Section 7 by deleting the cancellation notification requirements by the insurance companies to the Chief of Police and Director of Finance as required under present law. Based upon the testimonies presented at your Committee's hearing, your Committee has concluded that the present requirement of notification of cancellation is an exercise in futility without any apparent success.

Your Committee, after much consideration of the testimonies presented, has amended the bill so as to amend section 294-39, Hawaii Revised Statutes, to establish a minimum fine of \$100 which cannot be suspended for any violation of the compulsory provisions of the no-fault law.

Your Committee is in agreement that this bill provides the necessary teeth to the no-fault law enforcement provision and will reduce the uninsured motorist population.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2816-78, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2816-78, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Baker.

SCRep. 545-78

Finance on H.B. No. 2729-78

The purpose of this bill is to replace section 78-18.5, Hawaii Revised Statutes, by adding a new chapter to provide for adjustments in the compensation, hours, terms, and conditions of employment and other benefits of public officers and employees excluded from collective bargaining, excepting those officers and employees whose compensation is presently established by the Constitution, statutes or legislative enactment other than chapters 77, 297, and 304.

Under the provisions of this bill, the chief executives of the State and counties, the Board of Education, and the Board of Regents would determine the adjustments to be

made and which excluded officers or employees should be granted such adjustments. The bill also establishes certain guidelines and limitations which must be adhered to in the granting of such adjustments and vests the final approval for any adjustments with the appropriate legislative bodies. For excluded officers and employees under the same compensation plans as officers and employees within collective bargaining units, adjustments shall be not less than those provided under collective bargaining agreements for officers and employees hired on a comparable basis. For excluded officers and employees who are not covered under the same compensation plans as officers and employees within collective bargaining and whose salaries are presently authorized to be fixed by the appointing authority, the appointing authority may continue to make specific salary adjustments. All adjustments, however, would be subject to the following limitations:

(1) For officers and employees covered by chapter 304, no adjusted compensation shall exceed ninety-five per cent of the compensation paid to the president of the University of Hawaii under section 26-52(2); and

(2) For officers and employees covered by chapters 77 and 297, no adjusted compensation shall exceed ninety-five per cent of the compensation paid to their respective first deputy or first assistant of State or county department.

Your Committee has made several nonsubstantive technical changes in this bill to conform to the language in the Hawaii statutes.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2729-78, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2729-78, H.D. 2.

Signed by all members of the Committee.

SCRep. 546-78          Finance on H.B. No. 2934-78

The purpose of this bill is to amend provisions relating to oversized or overweight of motor vehicles operated on any public highway by clarifying the permit requirements and management of fees.

Your Committee agrees that practical procedure would allow a copy of the permit to be placed in the vehicle or equipment while the original is retained at the place of business. The deposit of permit fees is clarified. This bill will allow agricultural vehicles to cross public roads without a permit at locations previously approved by the director of transportation.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2934-78, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 547-78          Consumer Protection and Commerce on H.B. No. 2168-78

The purpose of this bill is to mandate the counties to establish energy efficiency standards for lighting for existing buildings before July 1, 1978, in conformance with federal requirements set forth in Public Law 94-163.

Under the Energy Policy Conservation Act (Public Law 94-163) the State is required to implement minimum lighting efficiency standards for existing buildings. Moreover, continued financial support provided under the federal government's State Energy Conservation Program is contingent upon the State instituting conservation programs in the areas of (1) energy efficiency in government procurement practices; (2) promotion of carpooling, vanpooling, and mass transit; (3) traffic ordinances; (4) thermal efficiency standards; and (5) lighting efficiency standards addressed by this bill. Without these standards, the State could lose up to \$1.5 million in federal funding over the next biennium.

This bill would give the counties responsibility to develop energy efficiency standards for lighting in conformance with federal requirements, applicable to all existing buildings except buildings without heating or cooling systems, those with low energy usage, any federal buildings, historical buildings, buildings with gross interior floor area less than ten thousand square feet, and portions of multi-use buildings.

Your Committee finds that since Hawaii is almost totally dependent on imported oil for its energy needs, it is critical that the State implement an energy conservation program to prevent excessive waste of energy, thereby reducing Hawaii's dependency on imported fossil fuels. It is your Committee's further finding that this bill represents an important part of such a program and also contributes to insuring continued federal financial support through the Energy Policy Conservation Act.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2168-78, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Baker.

SCRep. 548-78          Judiciary on H.B. No. 2307-78

The purpose of this bill is to conform the provisions of Sections 134-8 and 134-9 to the Hawaii Penal Code. The sections presently provide for a sentence of two to five years without probation, but since the penal code has superseded these sentencing provisions, the courts have in practice been sentencing violators on the basis of a class C felony. The bill also makes technical changes which do not affect the substance of the statute by spelling out the length of the gun barrels.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2307-78 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Baker and Fong.

SCRep. 549-78          Judiciary on H.B. No. 2147-78

The purpose of this bill is to amend present law by making the defense of justification an affirmative defense. Your Committee finds that currently, under Section 703-301, once a defendant presents some evidence that his actions may have been justified under the provisions of Chapter 703 of the penal code, it becomes the burden of the prosecution to negate that defense. This places an unfair burden on the prosecution. Your Committee believes that if the defendant chooses to assert the defense, it should be his burden to prove the defense by a preponderance of the evidence.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2147-78 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Baker and Fong.

SCRep. 550-78          Judiciary on H.B. No. 2248-78

The purpose of this bill is to amend Section 46-17 relating to regulation of certain public nuisances to clear up an apparent conflict in the statutes.

In 1972, the Legislature enacted Chapter 342 to regulate activities affecting environmental quality, which among other things, granted to the Department of Health authority to promulgate rules and regulations regulating conduct of activities that affect the environment and authority to grant permits to conduct such activities under controlled conditions.

In 1974, Section 46-17 was enacted providing authority to the counties to adopt ordinances regulating or prohibiting noise, smoke, dust, vibration or odors which constitute a public nuisance. The section provided that no ordinance would be held invalid on the ground that it was covered by other statutes or rules, and that in case of conflict, the law which afforded the most protection to the public should apply.

Your Committee believes that the last proviso is too restrictive and could result in unreasonable restrictions on activities which are of economic necessity to industry, agriculture and power generation. Your Committee further believes that the interests of the public must be balanced against reasonably necessary activities of business which affect the environment.

Your Committee finds that this balance can best be achieved on a more uniform basis throughout the State under the Department of Health. The department has authorized business activities under permits placing conditions and controls upon such activities as are necessary to minimize any effects on the public health and welfare.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2248-78 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Baker and Fong.

SCRep. 551-78            Judiciary on H.B. No. 2087-78

The purpose of this bill is to provide the courts with authority to impose conditions on an individual when he is released on bail.

Your Committee received testimony to which it agrees that the courts should be provided with statutory authority to impose conditions on an individual when he is released on bail and to impose sanctions of release on bail.

Your Committee finds, however, that re-examination and review of the release decision is a responsibility of the defendant's counsel and the responsibility should not be placed on the court to review its own decision. Your Committee also finds that removal of the bail schedules from the police departments will impose a great deal of hardship on the Intake Service Center since they would be required to provide someone at the police department twenty-four hours a day, seven days a week, to interview the suspects and set the amount of bail on an individual basis and a further inconvenience on individuals who would be required to remain in jail if the bail schedules could not be utilized.

Your Committee recommends that this bill be amended by deleting the provisions dealing with re-examination and review of the release decision and also delete section 2 dealing with the bail schedules.

Your Committee further amended the bill by deleting the word "shall" on page 2, line 22, and substituting the word "may" thus giving discretion to the court to impose conditions upon defendant's release.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2087-78 as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2087-78, H.D. 1, and that it be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Baker and Fong.

SCRep. 552-78            Judiciary on H.B. No. 2152-78

The purpose of this bill is to clarify the deferred acceptance of guilty plea procedure by specifically providing that deferred acceptance of guilty pleas will be permitted only when the defendant pleads guilty prior to commencement of trial.

Your Committee finds that under the present law, judges are allowing defendants to change their pleas to guilty and to ask for a deferred acceptance of guilty plea even after trial has begun but prior to sentencing.

Your Committee believes that the use of the procedure rests on the premise that a defendant must recognize his guilt and admit to it. This should take place prior to trial, not after the defendant has had one or two bites out of the apple attempting to secure dismissal or to suppress evidence.

Your Committee made nonsubstantive technical changes not affecting the intent or purpose of the bill. Your Committee further amended the bill by amending Section 853-2 to delete the words "before sentence" in order to avoid a conflict with the provision requiring a plea of guilty prior to commencement of trial.

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

2152-78, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2152-78, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Baker and Fong.

SCRep. 553-78 Finance on H.B. No. 2728-78

The purpose of this bill is to amend existing statutory provisions for adjusting the compensation of employees who are promoted, reallocated, or temporarily assigned to higher grades. Under this bill, basic guidelines are established for the adoption of rules and regulations pertaining to such adjustments.

Prior to July 1, 1977, contractual agreements and civil service compensation rules guaranteed public employees an increase in compensation equivalent to one full step whenever they were granted promotions, reallocations, or temporary assignments to a higher grade. Because of the negotiated pay increases which became effective July 1, 1977, there are many employees presently compensated at rates that fall between increment or longevity steps, or beyond the maximum step for their pay range. Under the present law, these employees do not receive a full step increase upon promotion, reallocation or temporary assignment, but are entitled only to the difference between their actual pay and the next higher step. This could result in a wage increase of as little as one dollar per month for such employees.

Serious morale problems have resulted from this situation. Such token wage increases do not serve as adequate incentives or rewards for promotions and if allowed to continue, may lead to a deterioration of the quality of service, especially in the supervisory and managerial ranks. Some employees have actually refused promotions and temporary assignments because wage increases were not commensurate with the assumption of higher level duties and increased responsibilities.

This bill proposes to address the problem by providing that an employee shall receive no less than the rate of the next higher step of his existing pay range if his existing rate is on step, or no less than the dollar difference between the steps above and below his existing rate if his existing rate is in between steps. The bill provides further that for employees who are at or above the maximum step of their existing pay range, the rules may provide for other methods of pay adjustment. In no event, however, may an employee's compensation be increased to an amount which will exceed the highest pay step of the higher pay range.

Your Committee has amended the bill by adding the phrase after the number "(2)" and before the word "the" on page 1, line 15 of the bill "his existing rate added to" to correct the amount that an employee would be entitled to receive if he were promoted, reallocated or temporarily assigned to a higher grade.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2728-78, H.D. 1, as amended herein and recommends that it pass Third Reading in the form attached hereto as H.B. 2728-78, H.D. 2.

Signed by all members of the Committee.

SCRep. 554-78 Finance on H.B. No. 1803-78

The purpose of this bill is to extend the State Program for the Unemployed as established by Act 151, Session Laws of Hawaii 1975 and amended by Act 134, Session Laws of Hawaii 1976 and Act 3, Special Session Laws of Hawaii 1977, to June 30, 1979 and to appropriate funds to carry out this purpose.

Your Committee finds that unemployment in the State is still at a high level, and believes that the State Program for the Unemployed must be continued. Efforts should be directed to the areas of encouraging and stimulating private industry to create jobs of a permanent nature, and the unemployed should be counseled as to the areas in which employment opportunities exist, and be subsequently trained or re-trained to be employable in these areas.

Your Committee has amended the bill to specify that the sum of \$5,420,000 be appropriated to implement Part II and the sum of \$1,000,000 to implement Parts III and IV of Act 151,

Session Laws of Hawaii 1975, as amended by Act 134, Session Laws of Hawaii 1976, as amended by Act 3, Special Session Laws of Hawaii 1977.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1803-78, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1803-78, H.D. 2.

Signed by all members of the Committee.

SCRep. 555-78 Finance on H.B. No. 2618-78

The purpose of this bill is to grant to the Hawaii Housing Authority (HHA) the power, with the consent of the governor, to issue revenue bonds not to exceed \$22,500,000. The bonds issued by HHA would bear interest, reach maturity at any date not exceeding forty years from the date of issuance, and be sold for not less than ninety-five per cent of the principal amount thereof. Money received from the issuance of these bonds would be paid into a separate, new fund, and not into the existing dwelling unit revolving fund. The revenue bonds authorized by this bill do not count toward the debt ceiling of the State of Hawaii and are tax-exempt.

This bill is an emergency measure, the result of discontinuation of all available Program 23 GNMA funding in September 1977 and the institution of new HUD Section 11(b) regulations in January 1978. HUD has given the State of Hawaii until April 30, 1978 to secure assured and adequate long-term low interest rate financing for its Section 8 housing. If the state cannot obtain financing, the loss of Section 8 housing assistance allocation would be over \$5 million.

Your Committee concurs with the findings expressed in House Standing Committee Report No. 157-78.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2618-78, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 556-78 Ocean and Marine Resources on H.B. No. 2100-78

The purpose of this bill is to expand the definition of "Leeward Islands" to include Nihoa and Necker Islands and thus expand State authority to regulate fishing in those waters.

Your Committee finds that presently, Section 188-37, Hawaii Revised Statutes, defines the Leeward Islands as those islands, reefs, and shoals of the Hawaiian Islands chain beginning and including French Frigate Shoals to and including Kure Island. Nihoa and Necker Islands are south of the French Frigate Shoals and thus excluded.

Section 188-37 authorizes the department of land and natural resources to adopt regulations relating to fishing in the Leeward Islands. A permit system allows the taking of mullet and lobster when such species are prohibited from being taken in the main Hawaiian Islands. It also allows the use of non-portable fish traps which are otherwise prohibited. But this regulation, because of the definition of Leeward Islands, does not apply to Nihoa and Necker Islands.

Your Committee finds that the marine resources of the waters of Nihoa and Necker Islands appear to have great fishery potential as attested to by the fish catches reported from commercial fishermen.

At the present time, the islands themselves are controlled by the U.S. Government and are off-limits to fishermen. This will continue even if this bill is passed.

Your Committee finds that in view of the tremendous fishing potential which Nihoa and Necker Islands possess, it behooves the State to develop the utilization of the resources for the benefit of the people of Hawaii.

Your Committee on Ocean and Marine Resources is in accord with the intent and purpose of H.B. No. 2100-78 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 557-78      Judiciary on H.B. No. 1445

The purpose of this bill is to amend the Hawaii Penal Code.

Your Committee amended the bill to provide for repeal of Section 708-815 relating to simple trespass and to amend Section 708-814 to include knowingly entering or remaining unlawfully on premises as an element of criminal trespass in the second degree.

Your Committee finds that the penal code created a new class of offense known as a "violation" which is not a crime. Accordingly, a physical arrest cannot be made by law enforcement agencies in the case of a violation, except where a penal summons has been issued. As a result, a person committing an offense of simple trespass, although unlawfully upon the premises, cannot be removed unless his actions involve disorderly conduct. Your Committee finds that businesses and the public have suffered inconvenience and disruptions of business because of the inability to remove trespassers from their premises. Issuance of a citation in such cases is generally ineffective. Accordingly, your Committee finds that upgrading the offense of simple trespass to a petty misdemeanor is reasonable and proper.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1445, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1445, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Baker and Fong.

SCRep. 558-78      Judiciary on H.B. No. 445 (Majority)

The purpose of this bill is to provide in certain circumstances for discontinuation of medical treatment to persons who request it and who are suffering from an irremediable condition, and to enable persons to request in advance the administration of discontinuing treatment or feedings in the event of their suffering from such a condition at a future date.

Your Committee finds that the bill has the humane objective of permitting an incurably ill person to die, when he or she can no longer be restored to a meaningful existence, by permitting his or her physicians to respect the patient's wish that medical treatment be discontinued. The physician could discontinue medical treatment and feeding where a patient was suffering from an "irremediable condition" as defined in the bill, and where the person has executed a written declaration, witnessed by two persons, stating that he or she requests discontinuation of medical treatment and feeding if suffering an incurable physical illness which is expected to cause severe distress or render him or her incapable of rational existence. The bill provides that the existence of the irremediable condition would have to be certified in writing by two physicians, one being brought in as a consultant. The bill thus recognizes the importance of insuring both that the expression on the part of the patient is authentic and that the finding by the physicians is well considered.

The bill provides for revocation of the declaration at any time. Otherwise a declaration shall remain in force for three years. However, where a declaration is re-executed within the twelve months preceding its expiration date, it will remain in force for life, unless revoked.

The bill also provides for non-liability of physicians and nurses, acting in good faith, who discontinue treatment or feeding in accordance with the patient's declaration.

The bill further makes it an offense punishable by imprisonment for life to wilfully conceal, destroy, falsify or forge a declaration with intent to create a false impression of another person's wishes with regard to death with dignity. Wilfully signing a statement known to be false would be perjury.

The bill also provides that insurance policies in force for twelve months would not be affected by discontinuation of treatment or feedings.

The bill also provides administration of drugs to patients suffering severe distress to keep the patient free from pain.

The director of health is required to make necessary rules and regulations to supplement the provisions of the bill.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 445, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Baker and Fong.  
(Representative Uechi did not concur.)

SCRep. 559-78          Judiciary on H.B. No. 1884-78

The purpose of this bill is to simplify procedures for giving of notice in probate and guardianship proceedings. At present, notice may be given by first class mail or if the person to whom notice was mailed does not appear as scheduled or does not acknowledge receipt in writing, then by personal service or delivery.

The bill makes clear that first class mail and personal service are equally acceptable methods of giving notice. To ensure that there will be evidence of delivery of notice by first class mail, the bill specifies that the letter bear a return address and contain a self-addressed stamped return receipt. If notice cannot be effected by these methods the present statute provides for notice by publication.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1884-78 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Baker and Fong.

SCRep. 560-78          Judiciary on H.B. No. 1539

The purpose of this bill is to provide some relief to those who have become sureties for the appearances of persons accused of crimes. The bill allows sureties to discharge themselves if, within 90 days following the entry of default for nonappearance, the accused is surrendered to any sheriff or chief of police or authorized subordinate.

Those who have posted bail and who have not appeared as required must have a reasonable excuse or face a probability that they will lose the amount of bail posted.

Your Committee, however, heard testimony that often it is not the accused but rather a family member, friend or bondsman (who has been paid by the family member or friend) who acts as a surety for the appearance. Whether or not the surety loses property depends upon the reasonableness of the accused's failure to appear, not on what efforts the surety has expended.

It often is assumed that when the bail bondsmen post bail for prisoners who flee, that the bondsman has taken a calculated business risk and therefore must suffer the loss. In practice, a bondsman, being a businessman, protects himself by having family members and friends co-sign notes or by accepting property from them as collateral. In most cases then, it is not the bondsman who loses, but rather the family and friends of the bail jumper.

Your Committee further notes that presently when a person does not appear in court, the surety becomes liable for payment to the state of the amount of bail whether or not the person is returned. This forfeiture seems to be a disincentive for the surety to attempt to find the accused since it would involve additional expenses and risk. By allowing a portion of the bail to be returned upon surrender of the accused, the surety would be more likely to seek return of the accused.

Your Committee felt that court costs as well as all costs of surrendering the accused should be borne by the sureties. Thus, the bill was amended by inserting the phrase "including court costs" to reflect this intent.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1539, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1539, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Baker and Fong.

SCRep. 561-78          Judiciary on H.B. No. 2136-78

The purpose of this bill is to amend present law relating to expungement of arrest records by providing that persons acquitted of criminal charges by reason of insanity shall not be entitled to an expungement order.

Your Committee finds that the purpose of expunging arrest records is to render "clean" a person's record where responsibility for the offense could not be established by judicial procedure. Acquittal by reason of insanity does not fulfill that purpose.

Your Committee further finds that the term "insanity" is not used in the penal code and therefore your Committee has amended the bill by using the language of the penal code and adding a fourth exception to Section 831-3.2(a) to cover defendants acquitted on the ground of physical or mental disease, disorder or defect excluding responsibility.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2136-78, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2136-78, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Baker and Fong.

SCRep. 562-78          Judiciary on H.B. No. 2687-78

The purpose of this bill is to make unlawful the possession of a master key except by the owner or agent of the owner of premises or locks which are operated by the master key or by a person who is authorized in writing by the owner to possess the master key. Unauthorized possession would be a misdemeanor.

Your Committee finds that burglaries involving the use of master keys, particularly in the Waikiki hotels and apartment buildings is a significant problem. Your Committee further finds that police and security personnel have encountered difficulties in attempting to prosecute persons found on hotel and apartment premises with master keys on their persons. Your Committee believes that this bill will help to curb burglaries involving use of master keys.

Your Committee amended the bill by making style changes and by providing that the agent of the owner may also lawfully possess a master key.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2687-78, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2687-78, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Baker.

SCRep. 563-78          Judiciary on H.B. No. 1875-78

The purpose of this bill is to clarify Section 291C-103 relating to racing on highways by specifically providing that the offenses covered by the section may be committed by an individual driver without the participation of other drivers; that exhibition of speed and exhibition of acceleration are separate offenses; and setting out the elements of the offense of exhibition of acceleration. The bill also provides for decriminalization of the offenses covered by the section, deleting the penalty of imprisonment and providing retention of the present penalty of a maximum fine of \$500.

Your Committee was informed that the police have experienced difficulty in enforcing violations because of the ambiguity in the present statute. Your Committee finds, however, that the provision describing the offense of exhibition of acceleration should be deleted. The elements mentioned are overly broad which could include legitimate activity such as accelerating to get onto the freeway. Your Committee has amended the bill accordingly. Your Committee further amended the bill to add the phrase "on any highway" because although the section is entitled racing on highways, the provisions do not specifically refer to highways.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1875-78, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1875-78, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Baker and Fong.

SCRep. 564-78          Judiciary on H.B. No. 2145-78

The purpose of this bill is to amend present law by making the defense of physical or mental disease, disorder, or defect excluding responsibility an affirmative defense. Your Committee finds that currently, under Section 704-402, once a defendant presents some evidence of the existence of a physical or mental disease, disorder, or defect, it becomes the burden of the prosecution to negate that defense. This places an unfair burden on the prosecution. Your Committee believes that if the defendant chooses to assert such a defense, it should be his burden to prove the defense by a preponderance of the evidence.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2145-78 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Baker and Fong.

SCRep. 565-78          Judiciary on H.B. No. 2143-78

The purpose of this bill is to amend present law to allow a spouse to testify against his or her spouse where the defendant spouse has been charged with the commission of an offense against the property as well as the person of his or her spouse. Under present law, testimony of one spouse against the other is allowed only where an offense against the person of the spouse is involved.

Your Committee finds that there are numerous instances in which a defendant spouse has committed an offense against the property of his or her spouse often involving considerable cost and damage, and your Committee believes that the other spouse should be able to testify in these situations.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2143-78 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Baker and Fong.

SCRep. 566-78          Judiciary on H.B. No. 1876-78

The purpose of this bill is to conform the definition of "child" in the Uniform Probate Code to the adoption statute and the Uniform Parentage Act.

Your Committee finds that presently, Section 578-16 provides that an adopted child may inherit only from his or her legal parent where that parent is the spouse of the adopting parent, i.e. in the usual case, from the mother who is the spouse of the adopting father. Section 560:2-109(1) of the Uniform Probate Code states that the adopted child in this situation may inherit from "either natural parent." This bill cures the conflict and conforms the Uniform Probate Code to Section 578-16.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1876-78 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Baker and Fong.

SCRep. 567-78          Judiciary on H.B. No. 2142-78 (Majority)

The purpose of this bill is to amend present law by making the defense of duress an

affirmative defense. Your Committee finds that currently, under Section 702-231, once a defendant to a penal charge presents some evidence of the existence of duress, it becomes the burden of the prosecution to negate that defense. This places an unfair burden on the prosecution. Your Committee believes that if the defendant chooses to assert the defense, it should be his burden to prove such a defense by a preponderance of the evidence.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2142-78 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Baker and Fong.  
(Representative Cobb did not concur.)

SCRep. 568-78          Judiciary on H.B. No. 2144-78

The purpose of this bill is to amend Section 134-51, relating to the carrying of deadly weapons by deleting from the offense, the requirement that the weapon be carried "concealed" upon a person or in a vehicle used or occupied by him. The bill would also delete pistols and specifically exclude firearms from the coverage of the section.

Your Committee believes that deletion of the word "concealed" is necessary because potential danger exists whether the weapon is carried concealed or unconcealed and that the law should focus on the weapon itself rather than on how the weapon is carried.

Your Committee finds that pistols and firearms are dealt with more specifically in Sections 134-6 and 134-9, and that therefore excluding firearms from Section 134-51 is necessary to remove the overlap in the law.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2144-78 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Baker and Fong.

SCRep. 569-78          Judiciary on H.B. No. 1878-78

The purpose of this bill is to require that notice of proceedings for the appointment of a guardian of the person of a minor be served personally upon any affected minor who is fourteen years of age or older.

Your Committee finds that Sections 560: 5-309 and 560: 5-405 relating to guardianship proceedings for incapacitated persons require personal service of the notice upon the incapacitated person. Your Committee believes that it would be appropriate and fair to require the same kind of notice be given to minors who are fourteen years of age or older, because such minors should be aware of and be given the opportunity to participate in the guardianship proceedings.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1878-78 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Baker and Fong.

SCRep. 570-78          Judiciary on H.B. No. 1888-78

The purpose of this bill is to increase from \$10,000 to \$20,000 the jurisdictional limit of the court clerk with respect to small estates of persons who die leaving no known relatives. This bill corrects an inconsistency in the statutes since the jurisdictional limit for other small estates is \$20,000.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1888-78 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Baker and Fong.

SCRep. 571-78            Judiciary on H.B. No. 2894-78

The purpose of this bill is to amend Section 803-6 to allow an officer who issues a citation in lieu of an arrest to subscribe to the complaint under oath, administered by another police officer. The bill authorizes the chief of police to designate police officers to administer oaths, and their names must be submitted to the office of the prosecuting attorney.

Your Committee finds that Section 803-6, as presently written, does not make provisions for the officer issuing a citation in lieu of an arrest to subscribe to the complaint under oath administered by another police officer as is currently allowed where complaints result from the issuance of a traffic summons. As a result, officers must, after issuing such citations, locate a prosecuting officer and subscribe to the complaint under oath administered by the prosecuting officer. Your Committee further finds that because of the remoteness of some of the areas covered by the police and the variation in hours of assignment, that the procedure to be authorized will result in simplifying procedures and in making more efficient use of the policemen's time on duty.

Your Committee amended the bill for purposes of clarity.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2894-78, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2894-78, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Baker and Fong.

SCRep. 572-78            Judiciary on H.B. No. 2317-78

The purpose of this bill is to amend present law relating to investigations by the attorney general by amending Section 28-2.5 to provide that any books, papers, documents or objects, which have been produced pursuant to subpoena, may be retained by the attorney general's office for a reasonable period of time for purposes of examination, audit, copying, testing or photographing.

Your Committee finds that the present statute does not authorize retention of the subpoenaed materials, and that in the investigation of complex forms of crime involving voluminous records, the power to require production of materials, absent the power to retain them for a reasonable period, is an empty power. Your Committee believes that because of the potential scope of some investigations, retention of materials is necessary. However, your Committee is concerned that the term "reasonable period of time" is not definite enough and may require citizens to go to court to obtain their records. Therefore, your Committee has amended the bill to allow retention for a reasonable period of time, not to exceed 30 days. Your Committee believes that documents could be copied within such a period.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2317-78, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2317-78, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Baker, Fong and Medeiros.

SCRep. 573-78            Judiciary on H.B. No. 2242-78

The original purpose of this bill is to amend present laws relating to theft in the third degree by shoplifting by providing for a mandatory fine of not less than \$50 nor more than \$500 in cases involving adults, and the same mandatory fine in juvenile cases with the proviso that the court may require the child to perform public services in lieu of the fine.

Your Committee heard testimonies of the retail merchants of Hawaii expressing their deep concern with the problem of shoplifting. Your Committee is well aware of the proportion of the problem and the costs involved and finds that assessment of a fine may serve as a deterrent to shoplifting in the case of adults. However, with respect to minors, your Committee believes that some discretion should be left to the judge as to imposition of a fine, depending on the facts of each case. Accordingly, your Committee amended the bill to provide that the fine is not mandatory in cases involving minors and that the court may require the child to perform public services in lieu of the fine. Your Committee

recognizes that minors are entitled to the right to counsel and that their rights must be protected.

Your Committee further amended the bill by deleting Section 2 of the bill for the reasons mentioned above; that there should not be any mandatory fines. Accordingly, the sections of the bill were renumbered.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2242-78, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2242-78, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Baker and Fong.

SCRep. 574-78          Judiciary on H.B. No. 248

The purpose of this bill is to improve the penal code in dealing with the criminally insane.

Your Committee finds that there is a growing concern by the public where crimes are committed by persons who were previously found to be criminally insane and thus not competent to be adjudicated or to be held accountable for the earlier crime. A bifurcation system, where a determination of whether the defendant committed the act for which he was charged, leaving the determination of sanity until later, would be helpful in increasing the efficiency of determining innocence or guilt.

The bill provides that the defendant must plead not guilty by reason of insanity. If the defendant does not so plead, he shall be conclusively presumed to have been sane at the time of the commission of the offense charged.

The bill further provides that the defendant be committed for the purpose of examination with respect to physical or mental disease, disorder, or defect and with respect to fitness to proceed.

The bill also provides that the time of confinement in a hospital or other facility as a result of a commitment as mentally incompetent to proceed shall be credited to the term of imprisonment for which the defendant is sentenced in the criminal case which was suspended.

Your Committee amended the bill by making nonsubstantive technical changes to conform to the Ramseyer format.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 248, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 248, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Baker and Fong.

SCRep. 575-78          Judiciary on H.B. No. 3054-78

The purpose of this bill is to make it unlawful for anyone to exercise unauthorized control over vessels or other property that the Department of Transportation has taken into custody.

Your Committee was informed that on occasion, it is necessary for the Department to take derelict vessels, abandoned vessels, freight when charges due are not paid, and other articles into custody pursuant to Chapter 266 or 267A. The Department has experienced problems recently in obtaining legal action when the owners or others have, without authority, removed the vessels or other property in custody from the area where stored. In the past, such actions were treated as violations of Section 740-8. However, this section was repealed when the Hawaii Penal Code was enacted.

This bill proposes to add a section to Chapter 266. The penalty provisions of Section 266-25 would be applicable to violations of the new section.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 3054-78 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Baker.

SCRep. 576-78            Judiciary on H.B. No. 2286-78

The purpose of this bill is to reduce the blood alcohol level at which a person will be presumed to be under the influence of intoxicating liquor from .10% by weight of alcohol to .08%.

Your Committee was informed that both the American Medical Association and the National Safety Council recommend that .08% be the presumptive level for impairment, based on the following: Motor coordination is impaired at 0.035%, visual impairment begins at .05%, judgment is affected at 0.06%, reaction time is significantly impaired at 0.10% -- all tasks needed for safe driving. These figures are for non-alcoholic individuals who have not developed what is known as tolerance to ethyl alcohol. Some jurisdictions in the United States legally define 0.08% as evidence of driver impairment, as does Canada. As reported in "Alcohol and Health, New Knowledge," Second Special Report to the U.S. Congress by the DHEW in 1974, "Concentrations of 0.08% or higher are incompatible with safe driving and the higher the concentration, the greater the incompatibility. Small increases in BAL above 0.08% result in disproportionately large increases in crash risk.

Your Committee is aware of the problems associated with alcohol consumption and driving. Beverage alcohol was a contributing factor in 567 of all fatal traffic accidents in 1976 in Hawaii. Your Committee was informed that alcohol involvement in fatal crashes has remained at approximately the 50% level despite a lowering of the presumptive level from .15% to the present .10%.

Your Committee finds that reducing the presumptive level is a reasonable means of attempting to solve Hawaii's problems with drinking drivers. Your Committee realizes that enactment of this legislation alone will not be enough. Strict enforcement and the imposition of stringent and costly sanctions are also required.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2286-78 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Baker and Fong.

SCRep. 577-78            Judiciary on H.B. No. 2105-78

The purposes of this bill are to broaden the scope of offenses for which proof of financial responsibility is required under Section 287-20, to update the language of Sections 287-20, and to more accurately reflect the provision under which a minor's license may be suspended or revoked.

At present, Section 287-20 requires proof of financial responsibility of drivers convicted of offenses covered by Section 291-1 (reckless driving or reckless riding of animals) and 291-12 (inattention to driving). The descriptions and penalties of these offenses indicate that Section 287-20 is intended to pertain to the more serious and life threatening traffic offenses. Reckless driving provides for the maximum misdemeanor penalty of a \$1,000.00 fine and/or a one year prison sentence. An inattention to driving offense has a maximum penalty of a fine of not more than \$500.00 or imprisonment for not more than six months or both. Although a violation of any of the provisions of Chapter 291C (The Statewide Traffic Code) is also a misdemeanor, the maximum fine possible for a first offense under this chapter is a fine of not more than \$100.00 or imprisonment of not more than ten days.

The penalties for driving under the influence of liquor (Section 291-4) and driving under the influence of drugs (Section 291-7) are listed with reckless driving and inattention to driving under part I of the Hawaii Revised Statutes chapter on violations, and both of these offenses carry the maximum misdemeanor penalty. Furthermore, in Section 286-128, which established a point system for evaluating driver records based upon a graduated scale of points assessing relative values to the various traffic violations, driving while under the influence of intoxicating liquor is at the top of the list.

Traffic accident statistics indicate unquestionably that driving while under the influence of intoxicating liquor is the number one contributing factor in fatal traffic accidents. Both nationally and in Hawaii forty percent of all fatalities can be attributed to this offense. Although data regarding driving while under the adverse effects of drugs is not as readily

available, the description, "...to a degree which renders him incapable of operating a vehicle in a careful and prudent manner..." indicates that it is an equally dangerous offense worthy of inclusion under the proof of financial responsibility section.

In regard to the second purpose of the bill, in 1975, Section 291-1 contained the words "heedless", "careless" and "reckless". The terms "heedless" and "careless" were subsequently dropped. Since Sections 291-1 and 287-20 refer to the same offense, the possibility of confusion will be avoided if both sections have the same wording.

The modification of the reference to Hawaii Revised Statutes Section 571-11 (1) was suggested by the Office of the Attorney General. Sections 571-11 (1) does not refer to adjudication of a minor but only to the jurisdiction of family court. The suggested revision accurately reflects the provision under which a minor's license may be suspended or revoked.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2105-78 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Baker.

SCRep. 578-78      Judiciary on H.B. No. 1882-78

The purpose of this bill is to permit the Family Court to appoint as guardian of the person of a minor or incapacitated person, any competent person whose selection would be in the best interests of the minor or incapacitated person.

The Uniform Probate Code presently provides that a guardian of the person must be a Hawaii resident except that a non-resident nominated by the will of a parent may be appointed, and except that a minor age fourteen or older may nominate and the court may appoint any person whose appointment would be in the best interests of the minor. This bill would extend the policy applicable now to minors fourteen years of age and older to all minors and incapacitated persons, and would require that the nominee of a minor, fourteen years or older, be given priority. The court would not be required to appoint a non-resident but would be empowered to do so if it is in the best interests of the minor or incapacitated person.

Your Committee is aware that the state has an interest in maintaining jurisdiction over its citizens, but at the same time recognizes that in many cases it would be in the best interests of the child or incapacitated person to appoint a non-resident as the guardian of the person of those persons.

Your Committee wishes to emphasize that this bill does not affect the estate of the minor.

Your Committee amended the bill to conform to the statute.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1882-78, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1882-78, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Baker and Fong.

SCRep. 579-78      Judiciary on H.B.No. 2693-78

The purpose of this bill is to authorize the revisor of statutes, in printing any acts enacted by the legislature, to omit any brackets, bracketed material or underscoring which may have been included in the acts as a matter of drafting style. This bill would eliminate the need for including such instructions in bills which are introduced which involve amendments to the revised statutes.

Your Committee amended the bill to change the chapter and section references to conform to the statutes.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2693-78, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2693-78, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Baker.

SCRep. 580-78          Judiciary on H.B. No. 2822-78

The purpose of this bill is to make criminal the failure to return leased or rented personal property. Section 708-830, the theft section, would be amended to include the new offense.

The bill requires that written demand be made by certified or registered mail within thirty days after expiration of the lease or rental agreement. Failure to return the property within five days after the written demand is made would constitute theft. Demand sent to the address given at the time of making the lease agreement and to any other known address of the lessee or renter would constitute proper demand. Actual notice or receipt of the demand would not be required.

Your Committee amended the bill to specifically exclude rented motor vehicles which are covered by Section 708-837.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2822-78, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2822-78, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Baker and Fong.

SCRep. 581-78          Judiciary on H.B. No. 2146-78 (Majority).

The purpose of this bill is to allow the State to appeal adverse rulings on questions of law, procedure or jury instructions in criminal cases. The bill provides that such appeal may be made following an acquittal, conviction or mistrial, provided that no retrial would be allowed following an appeal in any case where the defendant was acquitted or where retrial is barred by jeopardy.

Under present law, the State is allowed to appeal from an adverse ruling on a question of law only where the defendant was convicted and appeals from the judgment. Your Committee finds that purpose of the law reflects the balancing of the interest of the State to obtain clarification of questions of law, procedure or judicial discretion with the defendant's right not to be twice put in jeopardy. However, your Committee was informed that many instances arise where an adverse ruling, not only on a question of law, but on procedures or jury instructions, may affect the outcome of the trial, resulting in an acquittal or mistrial. In such cases the State has no right to appeal an erroneous ruling of the court, and thus, no opportunity to clarify questions of law, procedure or judicial discretion. Your Committee believes that the State should be allowed to appeal in such cases, provided that there is no cost to the defendant who has been acquitted.

In order that the appeal be conducted under an adversary situation, your Committee has amended the bill to require the attorney general to represent the judge involved. Your Committee has further amended the bill for purposes of clarity.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2146-78, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2146-78, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Baker and Fong.  
(Representatives Ueoka and D. Yamada did not concur).

SCRep. 582-78          Judiciary on H.B. No. 2893-78

The purpose of this bill is to allow a police officer who issues summons or citation in lieu of arrest in misdemeanor, petty misdemeanor or violation cases to subscribe to the complaint under oath administered by another police officer or officers whose names have been submitted to the prosecuting officer and who have been designated by the chief of police to administer oaths. At present this procedure is authorized only when a complaint results from issuance of a traffic summons. In other cases, the complaint must be subscribed to under oath before a prosecuting officer.

Your Committee finds that the large geographical areas covered by the members of

the police departments makes this procedure impractical.

Your Committee amended the bill for purposes of clarity by referring to Section 803-6.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2893-78, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2893-78, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Baker and Fong.

SCRep. 583-78            Judiciary on H.B. No. 2130-78

The purpose of this bill is to provide that certain felony offenders against elderly or handicapped persons may be sentenced to an extended term of imprisonment where the court finds that commitment of the offender for an extended term is necessary for the protection of the public. The court would first have to find that serious bodily injury was inflicted upon an elderly or handicapped person; that such disability was known or reasonably should be known to the offender; and that murder, rape, robbery, felonious assault, burglary or kidnapping was attempted or committed. Under present law, offenders found to be persistent offenders, professional criminals, dangerous persons, and multiple offenders may be sentenced for extended terms of imprisonment.

Your Committee finds that crimes against the elderly and handicapped are a significant problem. Your Committee further finds that the elderly and handicapped are generally unable to protect themselves and are less able to withstand the effects of offenses committed against them. Your Committee believes that such crimes warrant more serious punishment.

Your Committee made technical amendments to the bill to correct typographical errors.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2130-78, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2130-78, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Baker and Fong.

SCRep. 584-78            Judiciary on H.B. No. 2592-78

The purpose of this bill is to define what is meant by "bicycle lane," "bicycle path," "bicycle route," and "bikeway" and to provide for appropriate traffic lane markings and traffic signs. Your Committee finds that clearly recognizable traffic lane markings will facilitate enforcement of the rules of the road relating to bicycles when supplemented by appropriate traffic signs and consequently provide greater protection for bicyclists traveling along marked bikeways. Your Committee agrees with testimony from the Honolulu Police Department, the Hawaii Cycling League, and the State Department of Transportation in support of H.B. No. 2592-78, H.D. 1.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2592-78, H.D. 1 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Baker and Fong.

SCRep. 585-78            Judiciary on H.B. No. 2593-78

The purpose of this bill is to provide for the safe and orderly operation of bicycles by requiring the uniform application of those rules of the road regulating the operation of bicycles on roadways, highway shoulders, bicycle lanes, and bicycle paths. Specifically, the bill provides exceptions to the existing requirement that bicyclists ride as near to the right hand curb or edge of the roadway as practicable and allows bicyclists to operate on the left side of one way streets. The bill also requires bicyclists to ride in single file within bicycle lanes where such lanes exist and provides exceptions to this rule. The counties may prohibit motor-driven bicycles, or mopeds, from using bicycle lanes and paths as well as prohibit left turns by bicyclists at high volume intersections or where left turns are hazardous. Your Committee agrees with testimony presented by the Hawaii

Bicycling League and the State Department of Transportation in support of this bill.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2593-78, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Baker and Fong.

SCRep. 586-78      Corrections and Rehabilitation and Judiciary on H.B. No. 1970-78

The purpose of this bill is to amend section 706-605, Hawaii Revised Statutes, (Hawaii Penal Code) by adding community service, under the supervision of a governmental agency or benevolent or charitable organization, to the present sentencing alternatives for convicted persons.

Testimony presented by the Department of Social Services and Housing states that the department is in favor of this bill because it would carry out one of the goals of the Hawaii Correctional Master Plan: to provide alternatives to incarcerating low-risk offenders. The State Judiciary has testified in favor of this bill because it would provide a meaningful sentence for convicted persons for whom fines or imprisonment may be inapplicable and because it would be an excellent sentencing alternative for first offenders.

During his testimony, the representative of the Judiciary discussed present usage by that department of community service as a sentencing alternative for offenders. Explaining that the present program is intended mainly for first offenders, many of whom have been convicted of traffic offenses and misdemeanors, he said that types of alternative service have included work assignments in hospitals, for the Salvation Army, and for the Nuuanu YMCA. Work alternatives are assigned by offenders' probation officers.

There ensued a discussion on the recidivism rate for offenders who have been assigned to community service. Your committees feel that a study of the recidivism rate after participants have been in the program for one year would be of assistance in evaluating the achievements of this sentencing alternative. Such a study should include information on whether the participants are first offenders, second offenders, incorrigibles, or in any other category. The suggestion was made that the appropriate agency to conduct such a study would be the Judiciary.

A request was made that this committee report include as an attachment a written opinion received from the Department of the Attorney General, stating that requiring convicted persons to do community service is an inappropriate exercise of judicial power and therefore legislation is needed to allow such a sentencing alternative.

Your joint committees on Corrections and Rehabilitation and Judiciary, are in accord with the intent and purpose of H.B. No. 1970-78 and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representative Baker.

SCRep. 587-78      Finance on H.B. No. 2066-78

The purpose of this bill is to adopt a statement of policy and priority governing general aviation in the State of Hawaii, as follows:

1. Utilization of the State Airport System is a privilege, not a right.
2. Every effort shall be made to utilize the State Airport System for the greatest good and number at all times.
3. Commercial general aviation for compensation or hire, such as air cargo shippers and air taxis, shall be given priority for the use of Honolulu International Airport over all other general aviation activities such as instructional, recreational and business flying which is not for compensation or hire.
4. With the exception of commercial general aviation activities which are for compensation or hire, all other general aviation activities shall be encouraged to utilize facilities located at airports other than Honolulu International Airport and fees and other charges should be levied accordingly.

5. When additional general aviation facilities are required, the State should seek joint use of military airfields.
6. Prior appropriations for land acquisition, plans and construction of an airfield for small planes shall be expended at one or more of the existing military airfields, excluding Bellows Field.
7. General aviation activities shall pay its fair share of the costs of constructing and operating the State Airport System.

Your Committee has reviewed House Standing Committee Report 393-78 and agrees with the findings expressed therein.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2066-78, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 588-78          Finance on H.B. No. 1893-78

The purpose of this bill is to amend Act 151, SLH 1975, as amended, by further defining an unemployed individual to mean an individual "who is a resident of the State of Hawaii."

The State Program for the Unemployed was created in 1975 as a supplement to the federal Comprehensive Employment and Training Act of 1973. The program is wholly State funded.

This bill would limit the eligibility requirements of enrollees in all programs under the State Program for the Unemployed (SPU) to residents of the State. This would have particular impact on enrollees who are hired in the private sector under two parts of the SPU: "State Assistance for Certain Employment" and the "State Loans for Certain Employment." By redefining "unemployed individuals," any business or private group receiving State assistance under the program would be limited to hiring unemployed residents of the State of Hawaii. This bill further seeks to promote the growth management strategy to decrease dependence on migration to provide for labor force needs and encourage the employment of residents.

Your Committee agrees that the determination of residency status of applicants for SPU should be reserved to the State Department of Labor and Industrial Relations, and your Committee further agrees that the department through its regulations should establish clear criteria designed to resolve residency and also withstand any challenge based on constitutionality.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1893-78 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 589-78          Ecology and Environmental Protection and Agriculture on  
H.R. No. 104

The purpose of this resolution is to encourage appropriate State agencies and Hawaii's Congressional Delegation to assist the sugar industry in meeting U.S. Environmental Protection Agency standards.

Your Committees find that unreasonable enforcement of environmental standards can result in large expenditures which provide minimal environmental benefits, at a time when the industry can ill afford to waste resources.

Your Committees have amended this resolution by deleting the sixth WHEREAS clause.

Your Committee on Ecology and Environmental Protection and your Committee on Agriculture concur with the intent and purpose of H.R. No. 104, as amended herein, and recommend its adoption in the form attached hereto as H.R. No. 104, H.D. 1.

Signed by all members of the Committees except Representative Naito.

SCRep. 590-78 Ecology and Environmental Protection and Agriculture on  
H.C.R. No. 30

The purpose of this resolution is to encourage appropriate State agencies and Hawaii's Congressional Delegation to assist the sugar industry in meeting U.S. Environmental Protection Agency standards.

Your Committees find that unreasonable enforcement of environmental standards can result in large expenditures which provide minimal environmental benefits, at a time when the industry can ill afford to waste resources.

Your Committees have amended this concurrent resolution by deleting the sixth WHEREAS clause.

Your Committee on Ecology and Environmental Protection and your Committee on Agriculture concur with the intent and purpose of H.C.R. No. 30, as amended herein, and recommend its adoption in the form attached hereto as H.C.R. No. 30, H.D. 1.

Signed by all members of the Committees except Representative Naito.

SCRep. 591-78 Finance on H.B. No. 1770-78

The purpose of this bill is to appropriate moneys out of the general revenues of the State for the payment of certain tax refunds, judgments and settlements, and other miscellaneous claims against the State.

Your Committee has reviewed the claims set forth in the transmittals from the Department of Budget and Finance and the Department of the Attorney General, and your Committee proposes that these claims be incorporated into this bill.

The bill appropriates the total sum of \$745,781.74 representing 43 individual claims for legislative relief pursuant to Section 37-77 and Chapter 662, Hawaii Revised Statutes. Your Committee recommends that payment of these individual claims be authorized by the Legislature.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1770-78, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1770-78, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 592-78 Judiciary on H.B. No. 1838-78

The purpose of this bill is to amend the Hawaii Penal Code by making it a felonious crime to promote pornography involving minors. The offense would be classified as a class A felony. The bill also amends the definition of minor contained in Chapter 712 by changing the age limits from less than sixteen to less than eighteen years of age. The bill further provides a conclusive presumption in prosecutions under the new section that if the person involved was in fact a minor at the time of involvement, the defendant is conclusively presumed to have known that the person was a minor.

Your Committee finds that the new section will fill a void in the criminal laws since the Hawaii Penal Code became effective in 1973. Your Committee believes that exploitation of children as objects of sexual avarice must be curbed. The advantages of freedom of information exchange should be weighed against the possibly irreparable psychological harm to the child-victim. Exploitation of children in sexual acts for public viewing is not in the interests of the children nor of a society of civilized persons.

Your Committee further finds that federal legislation was recently enacted making it a felonious federal crime to use children under sixteen in commercial pornographic material.

Your Committee amended the section heading to Section 712-1216 by adding the phrase "conclusive presumption" for purposes of clarity.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1838-78, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. 1838-78, H.D. 1.

Signed by all members of the Committee except Representatives Baker, Fong and Uechi.

SCRep. 593-78 Finance on H.B. No. 1779-78

The purpose of this bill is to provide supplemental funding to the Judiciary for the fiscal biennium July 1, 1977 to June 30, 1979.

The bill represents the proposed supplemental budget of the Judiciary adjusted for salary turnover savings, deletion of non-essential positions, and other minor adjustments. Some of the more significant items are: funds for the Hawaii Criminal Justice Information System Data Center, the establishment of two additional circuit court divisions to cope with the increase in civil cases in the First Circuit, and a full-time District Court Judge for the Kona District.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1779-78, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1779-78, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 594-78 Finance on H.B. No. 2166-78

The purpose of this bill is to transfer the functions of the Energy Resources Coordinator from the Office of the Governor to the Department of Planning and Economic Development. Testimony from both the public and private sectors of the community support this transfer as beneficial to the people of Hawaii.

At the present time the Energy Resources Coordinator lacks rule-making powers as defined in the Administrative Procedure Act (Chapter 91, Hawaii Revised Statutes). This bill adds an appropriate provision to grant rule-making power to the Energy Resources Coordinator. Your Committee has amended this bill (page 4, lines 4 and 5) to require submission of the rule for legislative review. Changes are also made (page 4, lines 10 and 16) to correct HRS references.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2166-78, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2166-78, H.D. 2.

Signed by all members of the Committee.

SCRep. 595-78 Finance on H.B. No. 2102-78

The purpose of this bill is to require that all vehicles subject to the vehicle weight tax levied by Section 249-2 shall also be subject to a \$1 state registration fee and a 0.45 cents per pound state motor vehicle weight tax, to be paid to the director of finance of the county in which the vehicle is located. The bill also provides for refunds and partial payment of taxes for vehicles removed from or brought into the State, and for junked vehicles. In addition, each motor carrier would be entitled to a credit against the gross weight fee levied under Section 286-215 if he has already paid the state motor vehicle weight tax imposed under Section 249-33.

Your Committee is in agreement with the state department of transportation that major revision of this bill is needed to assist the counties, the state and vehicle owners, in the payment and collection of fees and taxes.

Specifically, your Committee has amended Section 2, to provide that all vehicles, instead of just those subject to Section 249-2, shall be subject to a \$1 state registration fee payable to county directors of finance.

Your Committee has amended Section 3 to provide that all vehicles, except as otherwise provided in Section 249-3 through 249-6, shall be subject to a 0.45 cents per pound annual state vehicle weight tax. Your Committee has also specified that the tax shall not exceed \$36 per vehicle, the maximum amount currently payable under the gross weight fee, Section 286-215 which your Committee has deleted in Section 5 of this bill. Section 3 has also been amended to clarify that the owner of each vehicle shall pay the state vehicle tax together with all other taxes and fees levied by Chapter 249 to the director of finance of the county in which the vehicle is registered and not the county in which the vehicle is located. Vehicles with a net vehicle weight of 6,000 pounds or over used for agricultural purposes may be refunded all taxes imposed by Section 249-33 and the committee has amended the bill to provide for such refunds. Section 3 has also been amended to provide

that the counties shall be reimbursed the costs attributable to the collection of taxes and fees imposed under Section 249-31 and 249-33 as determined by the director of transportation, instead of a flat fee. Penalty provisions have been inserted in a new Section 4 of this bill.

A new Section 5 of this bill has been created amending Section 286-215 to delete the gross weight fee, which has been replaced by the state vehicle weight tax in Section 249-33.

A new Section 6 of this bill has been created to allow the department of transportation to expend funds from the state highway fund to defray the cost of the motor vehicle safety office.

A new Section 7 has been created to provide, that only for calendar year 1978, a refund of the gross weight fee may be granted to motor carriers who have paid such fee in addition to the state vehicle weight tax and to those vehicles with a net vehicle weight in excess of 6,000 pounds used for agricultural purposes.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2102-78, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2102-78, H.D. 2.

Signed by all members of the Committee.

SCRep. 596-78      Health on H.B. No. 2447-78

The purpose of this bill is to amend Section 321-193 of the Hawaii Revised Statutes by requiring the Department of Health to certify counselors and accredit programs effective December 31, 1979.

Your Committee finds that the Department of Health is required to annually submit to the Legislature required changes in the Controlled Substances Act to bring it in line to federal schedules.

Therefore, your Committee has amended this bill by changing Sections 3 and 4 to Sections 8 and 9 and adding Sections 3, 4, 5, 6 and 7 which will amend Chapter 329 of the Hawaii Revised Statutes by making additions, deletions and revisions in the Controlled Substances Act in accordance to changes in the federal law.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2447-78, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2447-78, H.D. 1.

Signed by all members of the Committee except Representatives Baker and Sutton.

SCRep. 597-78      Ocean and Marine Resources on H.B. No. 2402-78

The purpose of this bill is to permit the taking of small quantities of baitfish for recreational purposes in the Waikiki reclamation canal (Ala Wai Canal).

Your Committee finds that the present statutes unreasonably prohibit the taking of tabai, mosquito fish, o'opu or tilapia with a small net for recreational purposes.

Your Committee further finds that many citizens of all ages utilize the Ala Wai canal and other waters for recreational fishing. This activity is especially enjoyed by senior citizens and children.

Your Committee finds that the primary purpose of the existing statute is to prohibit commercial fishing of these areas. Canals and bays of our State provide essential nursery grounds for tabai, mosquito fish, o'opu, tilapia as well as for pua or young mullets, nehu, aholehole, awa, awa-awa, papio, Kaku, etc. While continued control of commercial activity to prevent a depletion of these young fish is desirable, limited recreational fishing in the Ala Wai Canal will pose no threat to this resource. In fact, testimony on House Bill 2402-78 indicated that an increase in the taking of tilapia might be beneficial for other species.

To clarify the purpose of this bill, your Committee has amended the original language, reducing the number of fish permitted per day to fifty, based on testimony by recreational fishermen. In addition, o'opu was further refined to o'opu akupa, since there are some forms of o'opu that need further protection. Also, reference to the taking of fish "for non-commercial purposes only" was included to clarify the intent. Specific reference to the use of a "small mesh net" was required to exempt this section from Chapter 188-29. "Regardless of the purpose of the attachment" was deleted because it added no new concept and served only to confuse the intent. All amendments to the law apply only to the Ala Wai Canal.

Your Committee on Ocean and Marine Resources is in accord with the intent and purpose of H.B. No. 2402-78, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2402-78, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Garcia and Naito.

SCRep. 598-78      Consumer Protection and Commerce on H.B. No. 2379-78

The purpose of this bill is to protect purchasers against fraud, misrepresentation and mistake in transactions involving the sale and purchase of artistic prints.

Presently, there are no laws governing the sales of artistic prints. Your Committee heard testimony that concomitant with the rise of consumer interest in the fine arts within the last 20 years has been the sale and purchase of a growing number of art counterfeits and worthless reproductions. This bill attempts to prevent further misrepresentation and fraud in the sale of these artistic prints by requiring that the seller thereof fully disclose relevant information about the print being sold and by providing an aggrieved purchaser the right to recover the consideration paid or three times such an amount depending on the intent of such seller.

Your Committee has amended the bill in the following manner in order to clarify its intent and purpose:

- Section -1:
  - a. expanded the definition of "fine print".
  - b. added definitions for "reproduction", "edition", and "proof".
- Section -2:
  - a. retitled the section "Exemptions".
  - b. added as another exemption, prints clearly described as reproductions.
- Section -3      retitled "Acts prohibited; disclosure".
- Section -4,      incorporated into section -3.
- Section -5:
  - a. renumbered ( -4)
  - b. clarified subsection (4) by eliminating the confusing reference to "prior states" of a print.
- Section -6:
  - a. renumbered ( -5)
  - b. retitled the section "Action for damages and penalties".
  - c. clarified the provisions relating to the rights of purchasers of artistic prints.

As amended, your Committee finds that the provisions of this bill will effectively reduce

the incidence of or potential for fraud, misrepresentation and mistake in the sale and purchase of artistic prints.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2379-78, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2379-78, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative BAKER.

SCRep. 599-78      Consumer Protection and Commerce on H.B. No. 3049-78

The purpose of this bill is to transfer the functions of the State Fire Marshal to the respective counties, to abolish the Office of the State Fire Marshal, and to place all functions relative to the protection of persons and property from fire with the respective county governments.

Your Committee finds that under existing law both the State Fire Marshal and the respective county councils have authority to establish standards relative to the protection of persons and property against fire loss. The Fire Marshal's rules and regulations constitute the standard. The county councils by ordinance may adopt different standards than those adopted by the Fire Marshal. Indeed the different jurisdictions have adopted different and inconsistent codes. The public, in order to comply fully with both the ordinance and the State rules and regulations, must refer to both.

Your Committee finds, however, that merely placing all authority to adopt standards in the respective county councils, while perhaps the simplest solution, is not in the public interest. Accordingly, your Committee, has amended the bill to provide a different procedure. This bill as amended provides for the adoption of a state-wide model fire code by a State fire council which is established by the bill. The fire council is composed of each of the county fire chiefs and the chief of the Fire Prevention Bureau of the City and County of Honolulu. One of the council's principal functions will be to develop a model state-wide fire code. The code then is to be submitted to the various county councils for adoption. The councils are given the latitude to adopt more stringent provisions relating to protection of persons and property from fire but shall not adopt provisions less restrictive than those of the model code without the prior approval of the State Fire Council. Your Committee believes that the fire chiefs who are the public officers with the greatest stake in preventing fire loss should establish the minimum standard. This is your Committee's view in the procedure which best insures, the public's safety.

The code adoption procedure provided in this bill, however, will facilitate the development of a uniform fire code which is consistent with and complementary to the uniform building code which is already in force in all of the counties. Under the bill the fire council is given specific direction to develop such a code so that architects, engineers and others who must comply with such requirements no longer will be forced to refer to two different and inconsistent codes providing fire prevention and protection standards. The fire council is to appoint an advisory committee consisting of building officials, architects, engineers, fire fighters, insurance experts and others to assist it in developing the model state-wide fire code. Until such time as this process is complete and the new code has been adopted by the county council, the current standards of the State Fire Marshal shall continue in full force and effect.

With regard to enforcement functions, your Committee finds that existing law divides the accountability of the respective fire chiefs. They are to some degree subject to the supervision and control of the State Fire Marshal and, of course, are subject to the control of the mayors and of the county councils. Your Committee believes this division of accountability is not in the public interest.

This bill revises the State Fire Marshal law to place his duties and functions with the respective fire chiefs. Under the bill all functions and records would be transferred to the respective fire chiefs and the State employees involved in fire protection work would be guaranteed employment.

The present appellate function which the State Fire Marshal serves with respect to appeal from orders of the fire chiefs is transferred to a county fire appeals board which under the bill the counties are obliged to establish by ordinance.

Although the bill provides a very general framework for the procedures to be followed in fire enforcement proceedings, the county councils are left wide latitude to adopt such

procedures as they see fit.

Your Committee finds that in Hawaii, where our respective counties are separated by water, there is not the compelling need for state-wide coordination of fire departments that exists on the mainland where fire departments within a particular region may need to coordinate in order to meet major conflagrations or disasters. The bill, however, does provide for a State fire council which will be empowered to adopt a state-wide model code and to serve as a single voice for the State with respect to procuring federal grants and other matters with the National Fire Prevention and Control Administration of the United States Department of Commerce.

Your Committee also points out that transfer of the State Fire Marshal's functions to the respective counties was recommended by the Government Organization Commission.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 3049-78, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3049-78, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Baker.

SCRep. 600-78      Consumer Protection and Commerce on H. B. No. 2005-78

The purpose of this bill is to curb unlicensed contracting activities through the use of building permits and thereby protecting consumers from individuals who represent themselves as contractors without the authority to do so.

Presently, while the statutes contain provisions for licensing of contractors, county building officials feel that they do not have the authority to verify the license of contractors or subcontractors since the licensing activity is regulated by the State. While the statute is clear as to the activities of licensing and regulation of unlicensed activity, effective enforcement must come through the county building official since that is where the permits are obtained and through the building inspectors who inspect and regulate the construction activities.

Your Committee also received considerable testimony which suggested that the homeowner/builder exemption has been abused to the extent where individuals are applying for building permits although the buildings involved are large condominiums and office buildings and other structures frequented by the public.

Therefore, your Committee has further amended the bill by clarifying the homeowner/builder exemption by clarifying the language to the effect that the homeowner/builder exemption applies only to those buildings or structures which are for personal use and not those buildings which are for use and occupancy by the general public.

Your Committee on Consumer Protection and commerce is in accord with the intent and purpose of H.B. No. 2085-78, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2085-78, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Baker.

SCRep. 601-78      Consumer Protection and Commerce on H.B. No. 2169-78

The purpose of this bill, as amended, is to establish energy efficient standards in the construction of all new buildings and all existing buildings undergoing substantial renovation in compliance with the federal requirements of PL 94-163.

Your Committee finds that since Hawaii is almost totally dependent on imported oil for its energy needs, it is critical that the State implement an energy conservation program to prevent excessive waste of energy. Failure to incorporate energy efficient standards by July 1, 1978 could result in the loss of up to \$1.5 million in federal funding over the next biennium. However, the federal Department of Energy has indicated that conformance by that date by the City and County of Honolulu, plus assurance of similar conformance in the near term on the part of neighbor island counties, would assure continued funding.

This bill, as amended, provides that the established standards would be based on those

developed by the American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE 90-75) and would be adopted in the building codes of each county. It would require that the standards be appropriately applied to all buildings, and not just public buildings. The bill also provides exemptions in the case of buildings without heating or cooling systems, those with low energy usage, those of historic interest, dwelling units with air-conditioning systems totaling less than 12,000 BTUH capacity, and those for special applications. The basis for the standards would be the model code developed by ASHRAE with specific requirements excluded so as to maintain flexibility in the standards to take advantage of Hawaii's unique climate and geography.

Your Committee is of the opinion, however, that as amended, this bill presents a statutory construction problem in that it no longer specifies to which buildings its provisions apply. As amended, the bill's provisions would apply in a negative manner, viz., to all buildings unless specifically exempted. As such, your Committee feels that their application is ambiguous and may be construed to include buildings which are not intended to be included. Accordingly, your Committee has further amended the bill to provide that its provisions apply only to new and renovated public buildings with certain public buildings exempted.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2169-78, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2169-78, H.D. 2.

Signed by all members of the Committee except Representative Baker.

SCRep. 602-78      Judiciary on H.B. No. 2469-78 (Majority).

The purpose of this bill is to amend the sentencing provisions of the Hawaii Penal Code by creating a new class of felonies designated Class "X" felonies, conviction of which would result in a mandatory minimum sentence of ten years subject to a maximum of twenty years. A sentence of a fine, probation, suspension of sentence in lieu of imprisonment would not be available to anyone convicted of a Class X felony. In addition, such person would not be eligible for parole until he has served at least ten years.

The Class X felonies are murder, assault in the first degree, kidnapping for ransom or reward, rape in the first degree, sodomy in the first degree, robbery in the first degree, promoting a dangerous drug in the first degree, and promoting a harmful drug in the first degree.

The bill further provides a mandatory life sentence without possibility of parole where a person, convicted of a Class X felony, has two prior convictions of any Class X felony in this or any other jurisdiction.

With respect to the offense of murder, the mandatory minimum sentence of ten years, but with a maximum term of life, would be imposed. However, a conviction of murder of a peace officer while in performance of his duties, of a person known by the defendant to be a witness in a murder prosecution, a person by a hired killer, (both the hired killer and the person hiring the killer would receive the same punishment) and a person while the defendant was imprisoned, would result in a sentence of a mandatory life term without possibility of parole.

Your Committee felt that Section 706-606.5 relating to repeat offenders should be amended to provide that a repeat offender need not be convicted of the same offense in order to come under the repeat offender mandatory minimum sentencing provisions. The bill was amended accordingly.

Your Committee also made technical changes which do not affect the substance of the bill.

Your Committee finds that there is a growing public concern with the American criminal justice system, in which nothing is certain. It has been said that: "It is a system that operates with few hard and fast rules, with only the most vague and undefined standards of conduct, either for the people who administer it or the people who are subject to it. The amorphousness of the criminal justice system is often the object of public outrage. Many members of the public want the bank robber, and other violent criminals, to go to prison; some even want him to go for 20 years. But no matter how much pressure is applied to make the system more certain and predictable, the effort seems to have no effect. The commitment of the officials who operate the system to the maintenance of their own, often total, discretion seems too strong for any reform effort to succeed."

Your Committee finds that it would be in the best interests of society to limit or control discretion: The discretion of prosecutors to choose charges and plea bargain; the discretion of the judges to choose any sentence within a broad range of time; the discretion of prison administrators to decide what kind of "treatment" a prisoner needs to make him law-abiding; the discretion of parole boards to release, or not release, prisoners without ever having to justify, or try to render consistent, their decisions.

Your Committee finds that the existence of such discretion is subject to abuse and inconsistency. Your Committee believes that with respect to certain serious crimes, determinate sentencing is particularly appropriate.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2469-78, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2469-78, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Baker.  
(Representative Naito did not concur).

SCRep. 603-78          Judiciary on H.B. No. 2054-78

The purpose of this bill is to require the tenant, in any legal dispute over the payment or nonpayment of rent, to pay into a court administered special fund any rent as it becomes due. Such payments are not an admission of nonpayment or wrongful withholding, but an expression of good faith on the part of the tenant.

Your Committee agrees with the Committee on Housing relative to the intent and purpose of H.B. No. 2054-78, H.D. 1, as contained in Standing Committee Report No. 42-78 and incorporates by reference said findings into this report.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2054-78, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Baker.

SCRep. 604-78          Judiciary on H.B. No. 2118-78

The original purpose of this bill is to regulate the conduct of begging and soliciting contributions in any public place or any place open to the public. The bill provides that "a person commits the offense of disorderly conduct if, with the intent to cause physical inconvenience or alarm by a member or members of the public, or recklessly creating a risk thereof, he stations himself or otherwise accosts other persons in a public place or in any place open to the public for the purpose of begging or soliciting alms."

The bill further provides that each council shall adopt by ordinance rules and regulations regulating conduct of persons licensed to peddle merchandise and that such rules and regulations "include prohibitions against accosting, impeding, or otherwise inconveniencing the public or any member in any public place or place open to the public."

Thirdly, the bill provides that a person in soliciting funds from the public shall not do so by accosting, impeding or inconveniencing the general public.

Your Committee heard testimonies from the Hawaii Hotel Association and the Hawaii Visitors Bureau that solicitation and peddling takes place in many visitor areas in the State. Your Committee also heard testimony from the Department of Transportation that there were numerous instances where solicitors accosted and badgered tourists in their aggressive demands for contributions.

Your Committee recognizes the First Amendment rights of an individual to freedom of expression and religion. The intent of the bill is not to infringe on these constitutionally protected rights. Thus, your Committee made several amendments to the bill.

Your Committee amended the bill by deleting the phrase "for the purpose of begging or soliciting alms" on page 2. Your Committee felt that the intent of the bill is to regulate the conduct of people accosting others in any public places or any place open to the public and that this conduct should not be limited to begging and soliciting alms. It is the conduct of accosting and harassing people and not the conduct of begging and soliciting alms which your Committee finds objectionable.

Your Committee also amended the bill by deleting the phrase "stations himself or otherwise" on page 1 and page 5. The conduct of stationing oneself alone is not offensive and may include constitutionally protected rights such as freedom of assembly. Thus, your Committee amended the bill to remedy the overbroadness of the language.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2118-78, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2118-78, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Baker and Fong.

SCRep. 605-78          Judiciary on H.B. No. 2434-78 (Majority).

The purpose of this bill is to make available to state and county law enforcement agencies an indispensable and invaluable tool to aid in the enforcement of the criminal laws of our State against the growing menace of organized crime.

The bill is similar to the portion of the Federal Omnibus Crime Control and Safe Streets Act of 1968, as amended, relating to wire interception. However, the bill incorporates added safeguards against unwarranted invasions of privacy. The most significant differences between the bill and the federal and most other state wire-tapping statutes are the complete prohibition of court-ordered bugging, the use of an appointed attorney to oppose the wiretap application, the limitation of wiretap orders to very serious crimes or to other specific serious offenses when the involvement of organized crime is shown, the rigorous notice, disclosure, and destruction provisions.

The National Commission for the Review of Federal and State Laws Relating to Wiretapping and Electronic Surveillance, Washington D.C., 1976, vigorously reaffirmed the finding of Congress--that electronic surveillance is an indispensable aid to law enforcement in obtaining evidence of crimes committed by organized criminals. The Commission recommended that states which have a significant rate of organized crime should enact wiretap legislation consistent with the federal legislation.

Article I, Section 5, of the Hawaii Constitution states in part as follows:

...and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized or the communications sought to be intercepted.

It is apparent that our state constitution authorizes the interception of communications by means of a warrant based upon probable cause.

At present, Section 711-1111 of the Hawaii Penal Code entitled, "Violation of Privacy", prohibits intentional eavesdropping and wiretaps except in the execution of a public duty or as authorized by law. Current wiretap operations are carried out by local law enforcement agencies only in conjunction with federal law enforcement agencies, and such activities are directed toward organized crime activities and federal crimes. The bill would authorize local law enforcement agencies to employ wire interception in investigating specific crimes not necessarily falling within federal jurisdiction.

Your Committee recognizes the fact that today's professional criminals are in many cases sophisticated and knowledgeable and that the collection of evidence in connection with many crimes is extremely difficult and hazardous, and in many cases impossible without the aid of wire intercept operations.

Your Committee further recognizes the evidentiary value of presenting intercepted communications of persons involved in planning or executing criminal offenses. The tape recording speaks for itself and has a decided advantage over human testimony, since it cannot be threatened, bribed or murdered. Fear or favor does not affect it.

Your Committee feels that the interest of privacy in our society is of great importance, but that it must be balanced by the compelling social need to enforce the penal laws in the area of organized crime.

In the interest of limiting invasions of privacy, the bill prohibits court ordered bugging. Consensual wiretapping is allowed without a court order with the consent of one of the parties to a conversation. However, bugging requires the consent of all parties entitled

to privacy in the place to be bugged as under present law. The bill also provides exceptions for wiretaps by telephone companies and by the Federal Communications Commission. The bill does not prohibit wiretapping authorized by federal law in order to avoid state interference with federal supremacy.

Since the primary purpose of the bill is to fight organized crime, the bill requires that court-ordered wiretapping be allowed only in cases where organized crime is involved except for a few very serious offenses.

The attorney general and the chief prosecuting attorney for each county may apply for wiretap orders. The Bill contemplates that the prosecuting attorney or attorney general would apply in person for the wiretap order. Application would be made to a designated circuit court judge in each circuit, appointed by the Chief Justice of the Supreme Court.

Emergency wiretaps are not allowed. Your Committee finds that wiretapping is too great an invasion of privacy without the safeguards imposed by judicial supervision at all stages of the wiretap.

In order to avoid decisions based on a one-sided view of the evidence and arguments supporting the applications, the bill provides for an adversary proceeding by the appointment of a "challenger". The hearing would be held in secret in the judge's chambers to protect the confidentiality necessary to a successful wiretap.

The duration of the wiretap would be for 30 days, and the bill allows extensions of 15 days each. However, the wiretap would terminate automatically if the evidence sought is obtained. The bill provided for an immediate report to the issuing judge when an incriminating statement is obtained. Your Committee amended the bill by deleting the requirement of immediate reports as being too burdensome. The bill already provides that reports are to be made at such intervals as the court requires.

The bill also requires that wiretapping be done so as to minimize the invasion of privacy. Your Committee amended the bill to provide that minimization be accomplished by means of intermittent monitoring of conversations in order to minimize invasion of privacy while at the same time allowing law enforcement officers to maintain reasonable surveillance. Your Committee further amended the bill by providing that one of the factors to be considered in determining whether incriminating statements are likely to occur is the subject matter rather than the initial subject matter of the conversation.

The bill requires that notice be given within 90 days after the wiretap to all known persons whose conversations were intercepted and to any persons named in the wiretap order. The period may be extended by the judge because wiretap investigations may be complex and may require additional follow-up investigation after completion of the wiretap. The bill further requires immediate notice upon the arrest or indictment of a person for an offense in which wiretap evidence was obtained.

The bill makes disclosure of the application, order, and a person's intercepted communications mandatory upon request of any person whose conversation was intercepted. The disclosure must be made at least 30 days before trial, but the period may be shortened or waived by the court if it finds that it was not possible to furnish the information and that the party will not be prejudiced by the delay in receiving the information. Your Committee amended this provision by making the requirement that the party not be prejudiced the only criterion for shortening or waiving the 30 day period.

The bill also provides for appeal by the applicant upon denial of an application and upon granting of a motion to suppress any wiretap evidence in a criminal case.

The bill makes criminal the illegal or unauthorized interception, use, or disclosure of private conversations and the possession, manufacture or distribution of wiretap or bugging devices.

A good faith reliance upon a court order is made a complete defense to any criminal charge. In a civil suit for illegal invasion of privacy, the bill allows recovery of actual damages or \$100 a day, whichever is greater, court costs and reasonable attorney's fees and punitive damages, if malice is shown. Good faith reliance upon a court order is also a defense to civil liability on the part of an individual but not on the part of the State. Your Committee amended the bill to provide the good faith reliance defense to the State because it was felt that a court order obtained after an adversary hearing can be reasonably relied upon.

Evidence obtained as the result of an illegal wiretap would be excluded.

The bill also requires that applicants and judges hearing applications report to the Administrative Director of the Court and the Administrative Office of the United States Courts annually in January. The Administrative Director would in turn report to the Legislature.

Your Committee amended the bill to provide a sunset provision terminating the act after six years. This was done in recognition of the fact that the effectiveness and effect of wiretapping are not accurately known and that such a substantial invasion should not continue unless it is effective in fighting crime.

Your Committee also made various amendments for purpose of clarity without affecting the substance of the Bill.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2434-78 as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2434-78, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Baker.  
(Representatives Fong, Uechi and D. Yamada did not concur).

SCRep. 606-78      Water, Land Use, Development and Hawaiian Homes on  
H.B. No. 2689-78

The purpose of this Act is to allow the needed flexibility for reasonable and equitable land use within the agricultural district by providing an exception to the minimum lot size as specified by law.

Your Committee finds there are often lots in agricultural districts having areas of less than the required one-acre size. These lots would be classified as nonconforming.

There is a need, from time to time, to create smaller lots such as county water reservoir sites, pump sites and similar utility-type lots. Additionally, in the public sector, owners of abutting nonconforming lots should enjoy the right to consolidate and subdivide their respective lands even though such consolidation and subdivision may result in new lots, each smaller in size than the required one acre if the net result is a move to greater conformity. However, your Committee would not want to see a move to a greater number of nonconforming lots than previously existed.

Your Committee has amended the bill to (1) provide that in no event shall any lot created by the aforesaid consolidation and resubdivision shall be less than one-half acre, and (2) allow subdivision of lots of less than the minimum lot size as specified by law for public, private, and quasi-public utility purposes and for the subdivision of abandoned roadways and railroad easements.

Also, your Committee feels effective land utilization should be considered as a factor in the creation of new lots less than one acre in size. Language has been included to address this concern.

Your Committee on Water, Land Use, Development and Hawaiian Homes is in accord with the intent and purpose of H.B.No. 2689-78, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2689-78, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Garcia and Naito.

SCRep. 607-78      Finance on H.B. No. 2459-78

The purpose of this Bill is to establish a job sharing pilot project in the Department of Education.

Job sharing, which would allow two half-time positions in place of one full-time position, in an innovation which will increase the available employment options so that people may have the opportunity to be employed on the basis of their financial and other needs, without, perhaps, the necessity of being employed on a full-time basis.

The merits of job sharing warrant systematic experimentation and that the Department

of Education, due to the possibility of expanding the number of jobs and its possible impact upon the disproportionate numbers of unemployed teachers in the State, is an appropriate agency within which to initiate a job sharing pilot project. Moreover, the implementation of a job sharing pilot project in the DOE may create more stimulating environments for teachers in their professional capacities, and may also provide additional educational stimulus for students. The augmentation of teachers' skills may also be a result of job sharing in the Department of Education, for teachers would have greater time available to them to pursue additional training and education, further benefiting the educational system of the State.

Your Committee concurs with the findings of House Standing Committee Report 218-78.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2459-78, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 608-78            Finance on H.B. No. 2191-78

The purpose of this bill is to assure that appropriate use or sales taxes are paid by consignees on motor vehicles shipped into the State.

Presently, the department of taxation attempts to collect the use or sales taxes on motor vehicles shipped into the State by contracting the consignees thereof using registration information provided by the various counties within which the vehicles are registered. Tax revenues are being lost because the present system does not adequately assure that such use or sales taxes are in fact being paid.

By prohibiting a common carrier of such a motor vehicle from releasing the vehicle unless the consignee can show that he has paid the applicable taxes, the inadequacies of the present means of collecting such taxes would be effectively eliminated and the State assured of receiving the tax revenues it is entitled to by law.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2191-78, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 609-78            Finance on H.B. No. 2296-78

The purpose of this bill is to allow the state director of finance to consider the safety and liquidity of the sums to be deposited in the depository and the yield offered by the depository prior to the selection of the depository. The intent of this bill is to grant authorization for the management of deposit of public funds. It is in accord with the current fundamental objectives of the State's investment program, which are safety, liquidity, and yield.

An amendment is also proposed to make all types of mortgages, not only those insured or guaranteed by the United States, pledgeable for collateral purposes. This provision would enable all types of residential mortgage loans to qualify as acceptable security for public deposits.

Your Committee on Finance is in accord with the intent and purpose of H.B. 2296-78 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 610-78            Finance on H.B. No. 2634

The purpose of this bill is to require beer and wine intended for military consumption to be so identified.

This bill will require each container of beer or wine sold within the State to components of the United States Armed Forces to be marked on the outside of the case with the words "For Military Use Only". Each bottle or can containing beer or wine sold within the State

to components of the United States Armed Forces is to be marked with an identification on the crown of the bottle or on the top or bottom of the can with the words "For Military Use Only". Penalties are imposed for violations.

Your Committee on Finance is in accord with the intent and purpose of H.B. 2634-78 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 611-78          Finance on H.B. No. 2444-78

The purpose of this bill is to authorize any county to issue general obligation bonds for the purpose of reducing or eliminating a deficit in the county general fund.

The intent of this bill is to restore and provide for the issuance and sale of \$10,000,000 principal amount of general obligation bonds originally authorized by the Honolulu city council. This amount from the general fund was irrevocably lost to the use of the city and county when it was used to retire the principal amount on certain general obligation bond anticipation notes on December 15, 1975. Under bond management procedure, this transaction reduced the authorization for the sale of unissued general obligation bonds.

Your Committee, after due consideration, deems it necessary to assist the city and county in maintaining its bond rating and your Committee approves this authorization, noting, however, that the bonds so authorized must be issued and sold prior to June 30, 1979. Your Committee has revised this bill to conform to bill style.

Your Committee on Finance is in accord with the intent and purpose of H.B. 2444-78, as amended herein and recommends that it pass Second Reading in the form attached hereto as H.B. 2444-78, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 612-78          Finance on H.B. No. 450

The purpose of this bill is to exempt certain residual pension payments from the inheritance tax when the residual proceeds are payable in periodic installments.

HRS 236-9.1 generally provides that the residual proceeds of pensions, allowances or stipends made by an employer to a deceased employee's surviving spouse, children, parents, brothers, or sisters in consideration of past services of a deceased person shall be exempt from all taxes imposed by this chapter; provided that the exemption allowed under this section shall not apply to amounts in excess of \$30,000.

As introduced, this bill would have exempted entirely the total amount of any annuity to a surviving spouse purchased under the retired serviceman's family protection plan or under the survivor benefit plan. Your Committee finds this provision to be limited and agrees that it should be deleted and new provisions added in its place.

Your Committee has amended this bill to extend the exemption if residual proceeds are payable in periodic installments over the life of the surviving spouse, children, parents, brothers, or sisters, with no right to commute to lump sum payment. The effective date is also amended.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 450, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 450, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 613-78          Finance on H.B. No. 2185-78

The purpose of this bill is to strengthen the statutory provisions of Chapters 346 and 321 of the Hawaii Revised Statutes by consolidating State oversight of licensed adult care and family boarding homes, and to extend licensure and monitoring to other similar institutions not currently licensed by the State.

Your Committee finds that the consolidation of functions within the Department of Social Services and Housing (DSSH) may be a premature move. Your Committee feels that, while the consolidation of functions may be cost-effective, it may also entail significant budgetary, financial, and administrative problems. Until the extent of these problems can be fully explored and considered, your Committee feels that the present division of responsibilities should be maintained.

Therefore, sections of the bill relating to the proposed consolidation of functions have been deleted. These include:

- (1) Section 3, which amended Section 321-11, Hawaii Revised Statutes, relating to the subjects which can be regulated by the Department of Health;
- (2) Section 4, which amended Section 321-15.5, HRS, relating to emergency placements in unlicensed care homes; and
- (3) Sections 7, 8, and 9, which provided for the transfer and personnel and equipment to effect the consolidation of functions.

The bill also provides for care and boarding home inspections, agency visitations, and expanded training of boarding and care home operators. Because the consolidation provisions of the bill have been deleted, the inspection, visitation, and training sections have been amended to reallocate these functions between the two agencies. To maximize use of resources and minimize duplication of activity, your Committee has further amended the bill to require coordination between DOH and DSSH in the training of boarding and care home operators. Your Committee has further provided that the DSSH should assume responsibility for maintaining an inventory and clearinghouse for placements in both care and boarding homes, as that agency is already responsible for placement.

Your Committee has also deleted Section 2 of the bill, which provided for exemption of care and boarding homes and other similar institutions from payment of general excise taxes. Your Committee believes that the purpose of the State general excise tax is for the privilege of conducting business in Hawaii. The Department of Taxation considers the boarding and care home operators to be engaged in "business" and cautioned that if the exemption were granted, other "similarly situated taxpayers" would also request similar tax relief.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2185-78, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2185-78, H.D. 2.

Signed by all members of the Committee.

SCRep. 614-78          Finance on H.B. No. 704

As amended, the purpose of this bill is to increase the employers' monthly contribution for Medical Plan Self Only and Family enrollments by \$1 and \$4.50, respectively.

Under the present law, public employers fund \$10 and \$30 for Medical Plan Self Only and Family enrollments, respectively. Employees are required to pay any remaining unpaid premium balance.

Each year as medical insurance rates increase by approximately 9-10%, public employers pay a lesser percentage contribution to the Health Fund for their employees' benefit plans because their contribution is fixed at \$10 and \$30 by type of enrollment. Conversely, employees are faced with higher percentage monthly premiums costs under this present law.

Your Committee believes that the responsibility for payment of health plan premiums is a joint one to be shared between the employer and the employee. Your Committee recommends increasing the amount of employer monthly contributions to \$11 for Self Only enrollments and \$34.50 for Family enrollments to maintain the intent of past Legislatures to fund approximately 50 per cent of the medical plan insurance premiums for employees.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 704, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 704, H.D. 1.

Signed by all members of the Committee.

SCRep. 615-78 Health on H.B. No. 3012-78

The purpose of this bill is to require returning United States citizens who have resided five or more years in a foreign country, territory, or possession of the United States with high occurrence of communicable diseases to submit an examination report to the Department of Health.

Presently, individuals who are citizens by birth but have lived abroad for several years and individuals who were born abroad but attain citizenship through United States parentage can enter or re-enter this State without going through the visa process which requires a health examination, including a chest x-ray. The Department of Health testified that when these individuals are screened by the department's tuberculosis screening program, the rate of incidents of this communicable disease was found to be similar with that of the immigrants.

Your Committee believes that this bill will help safeguard the health of our people by requiring certain individuals who have lived abroad in areas of high occurrence of communicable diseases submit a medical examination report to the Department of Health.

Your Committee has amended this bill by placing this section in Chapter 325; by clarifying that the report to be submitted is to be a medical examination report, including a chest x-ray report; and by requiring United States nationals to submit a medical report.

Other amendments by your Committee included nonsubstantive style changes for purposes of organization and clarity.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 3012-78, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3012-78, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Baker and Nakamura.

SCRep. 616-78 Judiciary on H.B. No. 2307-78 (Majority).

The purpose of this bill is to conform the provisions of Sections 134-8 and 134-9 to the Hawaii Penal Code. The sections provide for a sentence of two to five years without probation, but the courts have in practice been sentencing violators on the basis of a class C felony, based on the penal code. The bill also makes technical changes which do not affect the substance of the statute.

Your Committee, however, feels that the offenses covered by Section 134-8 and 134-9 are of such a serious nature that the imposition of mandatory prison terms without probation is appropriate. Your Committee has amended the bill to clarify that the sentencing provisions supercede any other provisions relating to sentencing.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2307-78, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2307-78, H.D. 1.

Signed by all members of the Committee except Representatives Baker and Nakamura.  
(Representative Naito did not concur).

SCRep. 617-78 Judiciary on H.B. No. 1857-78 (Majority)

The purpose of this bill is to provide for regulation and control of motor-driven bicycles or "mopeds" as they are more commonly known.

Your Committee finds that because of the ever increasing use and popularity of mopeds, regulation and control is necessary in the interests of safety and traffic efficiency.

The bill provides for a new "moped" classification; redefines the terms "bicycle," "vehicle" and motor vehicle; provides for registration and taxing of mopeds, seizure and sale of mopeds without the required tags or decals, and amends provisions of the traffic code relating to bicycles. The bill also amends Chapter 291C by adding a new part to be entitled "Special Rules for Mopeds" and which makes the following provisions:

- (1) Provides a penalty for violation of the

Rules and holds parents or guardians responsible for the actions of minors.

(2) Subjects moped drivers to traffic laws applicable to motor vehicles, except as noted.

(3) Requires a moped operator to have a valid driver's license which must be exhibited upon the demand of a police officer.

(4) Establishes a minimum age of fifteen years for moped drivers; prohibits the carrying of passengers and restricts the carrying of packages on mopeds.

(5) Regulates the driving of mopeds on roadways and prohibits driving of mopeds on sidewalks.

(6) Prohibits driving a moped on any roadway with an established speed limit of greater than 35 miles per hour.

(7) Requires mopeds to use bike lanes where provided unless prohibited by the director of transportation.

(8) Establishes a maximum operating speed of 35 miles per hour.

(9) Prohibits a moped operator from attaching himself or the vehicle to any other vehicle, bicycle, coaster, sled, toy vehicle or person on roller skates.

(10) Prescribes lighting requirements for mopeds.

(11) Provides requirements for renting or selling mopeds.

(12) Sets equipment requirements for mopeds.

(13) Requires moped sellers to furnish a certification showing compliance with equipment requirements.

(14) Prohibits the defacing, destroying, or altering of serial numbers or identifying marks on mopeds.

(15) Prohibits the possession of a moped or moped part on which the serial number or identifying mark has been changed, altered, erased or mutilated.

(16) Restricts the modification of a moped motor.

Your Committee made various technical amendments to the bill which do not affect the substance of the bill.

Your Committee amended the bill by deleting from the definition of "moped" the requirement that the moped have foot pedals to permit muscular propulsion. Your Committee was informed that such foot pedals are generally unnecessary and almost useless, and constitute a safety hazard.

Your Committee further amended the bill by deleting the tire specifications and requirements from the list of moped equipment requirements.

Your Committee heard testimony from the insurance industry and others concerning the cost and feasibility of insuring mopeds. Although cost estimates were based on motorcycle rates because of a lack of actuarial data relating to mopeds, your Committee believes that moped insurance should be available at reasonable cost, and that requiring moped operators to carry insurance would be in the best interests of the public.

Your Committee concurs with the intent of your Committee on Transportation that by including mopeds under the definition of motor vehicles, that the mopeds would be subject to the state's no-fault insurance law.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1857-78, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1857-78, H.D. 2.

Signed by all members of the Committee except Representatives Baker, Fong and Nakamura.  
(Representative Naito did not concur).

SCRep. 618-78          Judiciary on H.B. No. 2845-78

The purpose of this bill is to change the designation of state security officers to state law enforcement officers.

Your Committee was informed that because of the designation of security officers, LEAA funds have not been made available for additional training and equipment. Your Committee finds that the state security officers have the same powers as regular police officers, including the power of arrest, and are authorized to carry firearms.

Your Committee finds that redesignation of the security officers as state law enforcement officers is reasonable in order that they may qualify for LEAA programs. Your Committee specifically notes that it is not the intent of this bill to qualify the security officers for the same retirement privileges available to county policemen.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2845-78 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Baker and Nakamura.

SCRep. 619-78          Judiciary on H.B. No. 1879-78

The purpose of this bill is to decriminalize traffic offenses, other than those of a serious nature, to the status of violations.

Your Committee finds that by decriminalizing all but serious traffic offenses, the bill reserves the criminal penalties of imprisonment, probation and restitution for traffic offenses such as those concerning accidents involving death, personal injury or property damage, failure to give information and render aid, false reports, improper overtaking and other offenses enumerated in Section 291C-161(c).

Your Committee further finds that criminal penalties for lesser traffic offenses are harsh and unnecessary since the court may fine the violator. In addition, the imposition of criminal penalties for lesser traffic offenses contributes substantially to overburdening the court system.

Your Committee amended the bill to make it clear that where penalties are provided for in the bill, those penalties shall remain in effect.

Your Committee made non-substantive technical changes which do not affect the intent and purpose of the bill.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1879-78, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1879-78, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Baker and Fong.

SCRep. 620-78          Legislative Management

Informing the House that House Resolution Nos. 408 to 415 and Standing Committee Report Nos. 443-78 to 540-78 and 542-78 to 588-78, have been printed and distributed.

Signed by all members of the Committee.

SCRep. 621-78          Legislative Management

Informing the House that House Resolution Nos. 416 to 421 and Standing Committee

Report Nos. 589-78 to 619-78, have been printed and distributed.

Signed by all members of the Committee.

SCRep. 622-78      Finance on H.B. No. 3039-78

The purpose of this Supplemental Appropriations Bill is to amend the General Appropriations Act of 1977 as authorized by Article VI, Section 5 of the State Constitution.

#### FINANCIAL AND BUDGETARY OUTLOOK

In his budget message to the legislature on December 14, 1977, the governor stated that even under the condition of fiscal austerity being experienced by the State during the current fiscal biennium, a supplemental budget submission was considered necessary for the following purposes: to cover anticipated deficits in certain vital program areas; to continue to fund programs for which appropriations were not authorized for the fiscal year 1978-79; to cope with unforeseen program requirements; and to fund other urgent program requirements. The supplemental budget submitted by the governor called for additional appropriations of \$29.6 million for operating budget requirements and \$31.4 million for capital investment.

Your Committee agrees with the necessity for a supplemental appropriations bill for the purpose of considering and accommodating the governor's budgetary recommendations, reordering budgetary priorities, and amending appropriations previously made. However, your Committee issues a strong caution that the financial outlook, even for the imminent period of the remaining months of the current fiscal year, is far from certain and that, depending on tax collection trends, further amendments to the budget may still be necessary before the close of the legislative session.

To date, the revenue experience in the current fiscal year has been erratic, and there is little basis for making confident estimates of even short-term tax collections. The current fiscal year began ominously with a growth rate of only 1.7% in general fund tax revenues for the first two months. By the end of December, the mid-fiscal year experience showed an increase of 7.7% in general fund taxes over the corresponding period in the previous year. However, a month later, in January, general fund tax collections registered only a 5.1% increase over the previous January, for a cumulative seven-month increase of 7.3%. Against this experience should be kept in mind the governor's financial plan which is predicated on general fund tax revenues increasing by 8.3% in the current fiscal year over revenues realized in fiscal year 1976-77. It could well be that given, among other indicators, the early signs of a strong surge in tourism this spring, general fund tax collections may eventually reach the level estimated by the executive, but the collection fluctuations to date do not as yet permit safe estimates to be made around a clearly discernible trend.

Particularly worrisome has been the sluggish performance of the general excise and use tax, the State's largest revenue source, which is expected in the governor's financial plan to produce 53% of general fund tax revenues in the current fiscal year and to increase by 9% over the previous fiscal year. Thus far, however, in the cumulative seven-month experience up to the end of January, the general excise tax has shown an increase of only 6.6%. Therefore, even as your Committee recommends this bill as the most reasonable supplemental appropriations bill which can be passed at this time, it feels obliged to emphasize the cautionary note that new revenue information or changing conditions might require further revisions of the budget.

Your Committee has analyzed the budget recommendations of the governor, and, by and large, the recommendations have been incorporated in the supplemental appropriations bill. One significant and substantial executive request, for an additional \$2.5 million appropriation to fund the State's employment programs, is being provided for through separate legislation. In addition to reviewing and incorporating executive budget recommendations your Committee also reviewed existing appropriations for the current biennium. Where it seems reasonably clear that caseload or workload levels will not reach the levels originally anticipated, or where federal revenue sources are likely to exceed previous estimates, reductions in general fund appropriations have been made in order to accommodate the executive branch's request and to reorder other priorities.

In the remainder of this report, your Committee summarizes its major program recommendations.

### Economic Development

Tourism. Your Committee has provided \$2.5 million for Waikiki improvements. This supplements \$9 million provided by the legislature in 1971. The additional funds are for such improvements as underground utility wiring, sidewalk development and beautification, mini-park acquisitions, and traffic improvements.

Aquaculture. Your Committee recognizes the potential of aquaculture as one of the fastest growing industries in the State and has supported its development by providing funds for various research and development projects aimed at moving Hawaii to become a major center for aquaculture and related research.

Energy. Hawaii is blessed with natural energy sources including solar, wind, and geothermal. Past studies also indicate potential in other areas such as bioconversion and ocean thermal energy conversion. Your Committee believes that it is essential that Hawaii utilize these resources and attain a degree of self-sufficiency by meeting energy needs from natural sources. Accordingly, funds are provided to enable the State to plan, design, and construct facilities required in the research and development of alternate energy sources.

### Health

Vision and Hearing Screening. Your Committee believes that it is important to identify children with vision and hearing problems through systematic screening programs and to follow through by promptly referring all handicapped children for diagnosis and medical treatment. The budget supports and recommends continuation of the program for vision and hearing screening.

School Health Services. The provision of first aid and emergency care in the schools has been undertaken on a pilot basis since 1970, with gradual expansion in the number of schools with health aides. That expansion will now be completed, as your Committee has included funds for the coverage of all high schools.

Hospital Care. The upgrading of state-administered hospitals has received special attention, and funds have been included to provide improved medical facilities. Hilo and Kona hospitals have also been authorized additional positions required to further extend health care services in those areas. Maui Memorial Hospital has been the focus of a stepped-up recruitment program to meet the special needs in that community.

Community-Based Services for Mental Health. Your Committee has provided additional funds to continue contracts with private providers who render services to that segment of the public suffering from alcoholism or drug abuse.

### Social Problems

Income Maintenance. Welfare costs are increasing at an alarming rate. Current projections of expenditure requirements for the income maintenance and Medicaid programs show an urgent need for additional funds to continue the present level of services for the 1978-79 fiscal year. The expected caseloads, payment levels, patient loads, and costs for patient care are in excess of the estimates in Act 10, Special Session Laws of Hawaii 1977. While your Committee has provided supplemental funds at the level requested by the governor, your Committee intends to carefully review cost-savings proposals to determine what measures may be enacted to help curb soaring costs.

Welfare Eligibility and Payments. The department of social services and housing continues to be plagued by high error rates both in determining eligibility of welfare claimants and calculating payments to clients. Your Committee urges the department to pursue all available administrative measures to prevent abuses by claimants and errors by eligibility workers. To complement such action, funds and additional positions have been provided for the prevention, detection, and investigation of fraudulent claims, and to reduce the high error rates in eligibility determinations.

The Elderly. Funds to meet the needs and concerns of senior citizens in the areas of health, nutrition, education, and transportation have been provided.

### Lower Education

Special Needs Funds. Your Committee has continued its focus on individual schools through the appropriation of \$1.6 million in special needs funds for individual school programs for the second year of this biennium. Strong support for this approach to recognizing the unique needs of each school and the effective use of funds by schools convinced your Committee that it should be maintained by the same formula as last year, with the addition of special education students in regular schools. From all reports, the decisions on the use of the special needs funds were made in accordance with legislative intent to minimize paperwork and to provide schools with latitude in determining their own needs, and your Committee maintains this intent.

Special Education. Hawaii has been in the forefront in providing educational services to handicapped children, but with the enactment of P.L. 94-142, which mandates equal educational opportunity for all handicapped children, the State must provide services at a faster rate than it has. Accordingly, your Committee has greatly expanded the appropriation for special education to comply with the federal mandate and to fulfill the State's own commitment to equal educational opportunity.

Counseling. Your Committee last year recognized the need for additional counselors, especially at the elementary schools, in order to take a more preventive approach to students' problems with personal adjustment. To give greater stability to the program, your Committee this year has again provided for the additional 35 elementary counselors.

#### Higher Education

Extended Degree Program. Funds have been provided for the establishment of an extended degree program which would offer educational opportunities to those who find it difficult to enroll at regular campus-based facilities. Your Committee believes that the delivery of educational programs from community-based facilities is a trend with such tremendous potential that it intends to closely monitor the university's efforts to develop and implement the program.

Other Programs. Other new programs funded at the level requested by the university and the governor include the Marine Option Program, the Center for Labor Education and Research, the Joint Tsunami Research Project, and the Demonstration Project on Kona Coffee.

Student Help. Your Committee has encouraged the university to use student help wherever feasible by providing supplemental appropriations for this purpose. Compatible with this commitment is the need to recognize increases in the minimum wage and adjust student wages accordingly, and funds are provided to accommodate the increase in the minimum wage.

Athletics. Your Committee supports the university's athletic program as an integral part of the total educational process. Funds have been provided to support current services and expand the women's athletic program. In addition, \$10 million has been included for Phase I of the Physical Education, Intramurals and Athletics Facilities at the Manoa Campus.

#### Culture and Recreation

Public Television. Your Committee has provided funds for expansion and improvement of public television. These funds will be used for one of their T.V. towers which badly needs refurbishment to meet FCC and FAA requirements, and for a satellite inter-connection system to improve delivery of transmission.

#### Public Safety

Hawaii Commission on Crime. Funds are provided in the budget and in separate legislation to enable the crime commission to continue its operations until June 30, 1979.

Other Programs. Your Committee has also provided funds for Liliha House II, a program to assist inmates in making the transition to living in a community setting; the Furlough Release Program, which will permit inmates to participate in work and educational release programs; and temporary adult corrections officers, to operate the Hawaii State Prison Annex during the construction phase of the new correctional facilities.

Government-Wide Support

Overall State Planning. Funds to establish the Hawaii Community Development Authority to administer and oversee all project activities have been provided. Funds have also been provided to accommodate the operating requirements of the State Plan Policy Council. The funds will be used to implement the state plan and to monitor state and county actions to insure that the programs and activities conform to the stated goals and objectives of the State Plan.

Taxation. Assessment of real property by a common base will provide relief to taxpayers who are currently being taxed at different bases. Accordingly, funds have been provided to bring together the different real property bases into one base for uniform building appraisal. Funds have also been provided for an annual update of chapter 235, Hawaii Revised Statutes, for the purpose of conforming to changes in the Internal Revenue Code.

RECOMMENDATION .

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 3039-78, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3039-78, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 623-78      Health on H.R. No. 17

The purpose of this resolution is to request the Departments of Health and Education to implement the School Health Education Study in the public schools to insure that a minimum level of health education is insured. This resolution further requests the Departments of Education and Health to expand their visual media resources in the areas of alcoholism, drug abuse and venereal disease.

Your Committee finds that the problems of alcoholism, drug abuse and venereal disease are major health problems among Hawaii's youth which should receive greater attention and action. Health education and information on health maintenance in public schools are two significant areas which would help in addressing not only the existing health needs of today's youth but also their future health needs in adult life.

The current emphasis in the public schools on health education is such that there is no uniform approach to health education programs in the schools.

Your Committee finds that the School Health Education Study provides the minimum health education curriculum which could be implemented in the States' public schools.

Further, your Committee finds that any such health education curriculum can be made more effective through the particular use of visual media resources presently available through the Departments of Education and Health.

Your Committee on Health concurs with the intent and purpose of H.R. No. 17 and recommends that it be referred to the Committee on Education.

Signed by all members of the Committee except Representative Baker.

SCRep. 624-78      Culture and the Arts on S.B. No. 2599-78

The purpose of this bill is to amend Section 9-2 of the Hawaii Revised Statutes, to provide staggered expiration dates for the membership of the State Foundation on Culture and the Arts.

Your Committee on Culture and the Arts is in accord with the intent and purpose of S.B. No. 2599-78 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 625-78      Corrections and Rehabilitation and Judiciary on H.R. No. 97

The purpose of this resolution was to encourage Hawaii courts to sentence convicted defendants to make restitution or reparation to the victims of their crimes, as allowed by section 706-605 (1) (e), Hawaii Revised Statutes. Benefits that might result from this would include rehabilitating criminals by having them pay back their victims, and saving taxpayers some of the costs of crime.

Discussion on the resolution centered around the question of making probation for offenders conditional upon restitution, as also is allowed in Section 706-605 (1) (e), HRS. The representative of the Judiciary testified that, although the courts presently order restitution upon occasion, the Judiciary would hesitate to recommend that it be mandatory for probation. Testimony favoring making restitution mandatory for probation was given by the representative of the Department of Social Services and Housing and by a former federal judge.

Your committees both feel that, as provided in this resolution, the courts should encourage the use of restitution for the benefits that may accrue to both criminals and victims. However, during testimony, since the courts felt that the phrase "and to condition probation of criminals on their restitution of victims" could be interpreted as a mandate, your committees recommend the deletion of the above-mentioned phrase in the seventh paragraph of this resolution.

Your joint Committees on Corrections and Rehabilitation and Judiciary concur with the intent and purpose of H.R. No. 97, as amended herein, and recommend its adoption in the form attached as H.R. No. 97, H.D. 1.

Signed by all members of the Committee except Representative Baker.

SCRep. 626-78      Culture and the Arts on H.R. No. 76

The purpose of this Resolution as amended is to request the Congress of the United States to reinstate the category "Part-Hawaiian" in the U.S. Census forms.

Your Committee received testimony from the Department of Planning and Economic Development (DPED) in support of the resolution.

The resolution as originally drafted is erroneous in its assertion that the category "Hawaiian" has been eliminated. However, as the "Part-Hawaiian" classification was deleted in the 1970 census and will again be omitted from the 1980 forms, DPED addressed its favorable testimony to the reinstatement of this category.

According to DPED, in 1960 and before, persons were classified as Part-Hawaiian if they had any fraction of Hawaiian ancestry. In anticipation of the reparations, it is essential that this category be reinstated at this time.

Upon consideration of the testimony presented, your Committee has amended the resolution accordingly.

An amendment has also been made to allow for a certified copy of this resolution to be sent to the United States Secretary of Commerce where the Census Bureau is located.

Your Committee on Culture and the Arts concurs with the intent and purpose of H.R. No. 76, as amended herein, and recommends its adoption in the form attached hereto as H.R. No. 76, H.D. 1.

Signed by all members of the Committee.

SCRep. 627-78      Legislative Management

Informing the House that House Resolution Nos. 422 to 431 and House Concurrent Resolution Nos. 85 and 86, have been printed and distributed.

Signed by all members of the Committee.

SCRep. 628-78      Legislative Management

Informing the House that House Resolution Nos. 432 to 445, House Concurrent Resolution Nos. 87 and 88, and Standing Committee Report Nos. 622-78 to 626-78, have been printed

and distributed.

Signed by all members of the Committee.

SCRep. 629-78 Higher Education on H.R. No. 273

The purpose of the resolution is to request the University of Hawaii to conduct a feasibility study of computer-based education, including an examination of the benefit cost to the higher education budget, and to report its findings and recommendations to the Legislature ninety (90) days before the convening of the Regular Session of 1979.

The University of Hawaii itself supports the intent and purpose of this resolution and on its own had planned originally to review during the summer of 1978 its efforts in this direction. It will, therefore, include this review as part of the requested feasibility study, but requests that the reporting date be thirty (30) days before the convening and that the title of the Resolution be changed appropriately to include a University wide rather than a Manoa-only designation.

Your Committee is pleased with the University's efforts and supports the changes requested. Your Committee, therefore, recommends amending the reporting date of the findings and recommendations to thirty (30) instead of ninety (90) days before the convening of the Legislature's Regular Session of 1979 and amending the title of the Resolution by deleting "-Manoa", thereby having it read as follows: "REQUESTING A FEASIBILITY STUDY OF COMPUTER-BASED EDUCATION AT THE UNIVERSITY OF HAWAII".

Your Committee on Higher Education concurs with the intent and purpose of H.R. No. 273, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as H.R. No. 273, H.D. 1.

Signed by all members of the Committee.

SCRep. 630-78 Higher Education on H.R. No. 314

The purpose of this resolution is to request the 1978 Constitutional Convention to amend Article IX, Section I, of the Constitution of the State of Hawaii, so that public funds may be appropriated for the support or benefit of sectarian or private education institutions.

This request specifically affects the State Student Incentive Grant Program, administered by the State Postsecondary Education Commission, which provides tuition grants for substantially needy residents of the State who attend public and private colleges and universities within the State. Although the federal government has ruled that there is no immediate requirement for an amendment, your Committee supports this resolution to assure all our citizens complete access and choice of higher education alternatives without severe financial hardship on the student and the family.

Your Committee on Higher Education concurs with the intent and purpose of H.R. No. 314 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 631-78 Higher Education on H.R. No. 49

The purpose of this resolution is to direct the University of Hawaii to institute community programs which would involve students of the professional schools in the community, whether or not such programs utilize the students in a project which relates to their future profession. Further, the University of Hawaii shall report its progress in this area to the Legislature twenty days before the Regular Session of 1979.

According to Chancellor Douglas S. Yamamura of the University of Hawaii at Manoa, most of its professional schools are already involved in many such projects which have direct benefit to the general public. However, there could be projects, specifically with the Schools of Medicine, Law and Social Work, that would include assisting individuals in need of aid. There is, further, the possibility of developing other community programs with other units in the University. All of this could be provided at marginal costs.

Your Committee recognizes strongly the need for such programs that involve the professional

schools with the community and urges an expansion of them.

Your Committee on Higher Education concurs with the intent and purpose of H.R. No. 49 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 632-78 Higher Education on H.R. No. 240

The purpose of the resolution is to request the community colleges to give priority to developing plans for maximizing use of state and federal funds for vocational education with particular concern for the displaced homemaker. Further, it requests the State Director of Vocational Education to report on the development of such plan, the problems encountered in implementation, and the accomplishments made sixty (60) days prior to the convening of the 1979 legislative session.

The State Director of Vocational Education himself supports the resolution and points out that over \$10,200 has been budgeted for FY 1978 to provide for services towards this end in compliance with the Federal Vocational Education Act. He points out further that the resolution will now expand these concerns towards the use of State general funds, thus giving these services a new dimension.

He suggests, however, that certain technical changes are needed to make H.R. No. 240 coincide with the Educational Amendments of 1976, Title II, P.L. 94-482.

Your Committee agrees with these proposed technical changes and recommends the resolution be amended as follows:

1. that, in the first line of the fourth WHEREAS paragraph, the word "persons" be inserted after "are", thereby deleting "women";
2. that, in the second line of the fourth WHEREAS paragraph, the word "part" be inserted after "a", thereby deleting the phrase "substantial portion";
3. that, in the first line of the fifth WHEREAS paragraph, the word "individuals" be inserted after "these", thereby deleting "women"; and
4. that, in the sixth and last line of the BE IT RESOLVED paragraph, the phrase "and other special groups" be inserted after "homemakers".

Finally, your Committee agrees, since the Resolution addresses the community colleges for action, that it be then, in the first BE IT FURTHER RESOLVED paragraph, the Chancellor for Community Colleges rather than the State Director for Vocational Education who should be reporting to the Legislature.

Your Committee on Higher Education concurs with the intent and purpose of H.R. No. 240 as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as H.R. No. 240, H.D. 1.

Signed by all members of the Committee.

SCRep. 633-78 Agriculture and Water, Land Use Development and Hawaiian Homes on H.R.No. 393

The purpose of this resolution is to request the Governor of the State of Hawaii to declare the occurrence of a natural disaster due to the prevailing drought condition on the island of Hawaii pursuant to the provisions of section 234-2, Hawaii Revised Statutes, and to thereby initiate procedures for the provision of tax relief pursuant to the provisions of chapter 234, Hawaii Revised Statutes.

In a recent public hearing held by your Committees, testimony was received from a number of sources strongly attesting to the adverse consequences affecting and imperiling cattle and other production in Hawaii county. Testimony presented by the Hawaii Cattlemen's Council, Inc., includes the sobering finding that as a result of the current drought, "present and future calf crops will be reduced as much as 30-50 per cent. Other testimony includes

the observation that the current drought will (1) produce immediate increases in costs of light shipping weights, supplemental feeding, and prolonged feedlot feeding; and (2) produce a long range cost because the producing herd size is reduced. This condition is being further compounded by the lack of calf births in the year following the drought, and will result in major economic loss to the cattle industry in Hawaii county.

Still other testimony received by your Committees clearly document the fact that Molokai is also being adversely affected by drought conditions on the island, experiencing the lowest rainfall in recorded history during the past twelve month period.

Testimony received from the Chairman of the State Board of Agriculture points to the severity of the drought condition on the island of Hawaii and recommends the provision of every possible assistance. Similarly, testimony received from the College of Tropical Agriculture of the University of Hawaii notes that "the drought condition in both Kona and Ka'u remains critical for both crops and livestock" (emphasis added), and includes the recommendation for assistance to cushion the economic losses of cattlemen and others including the inclusion of Maui County in the resolution as a natural disaster area.

In summary, your Committees find that a severe drought condition does currently exist in Hawaii and Maui counties and relief as provided in chapter 234, Hawaii Revised Statutes, is clearly justified.

Your Committees have amended the resolution by:

- (1) Amending the title of the resolution to include the county of Maui, and
- (2) Amending language, where necessary in the body of the resolution, to include the county of Maui.

Your Committees on Agriculture and Water, Land Use Development and Hawaiian Homes concur with the intent and purpose of H.R. No. 393, as amended herein, and recommend that it be referred to the Committee on Finance in the form attached hereto as H.R. No. 393, H.D. 1.

Signed by all members of the Committee except Representatives Garcia, K. Yamada and Poepoe.

SCRep. 634-78      Agriculture on H.R. No. 43

The purpose of this resolution is to request the Office of the Legislative Reference Bureau to study the feasibility, giving special consideration to constitutional problems, if any, of reducing wharfage fees in the shipping of agricultural products, and the granting of a use tax exemption for interisland oceangoing vessels carrying agricultural cargo.

Your Committee finds that agriculture continues to be one of the State's three major industries and that its support out of practical necessity, if not by reason of constitutional mandate, is a matter of compelling state interest.

Your Committee further finds that agricultural production is occurring on each of the State's seven major islands with the attendant substantial shipment or transshipment of agricultural produce and commodities between and among the various islands producing agricultural products. Your Committee further finds that the substantial agricultural production on Oahu notwithstanding, the various Neighbor Islands are responsible for a significant share of the total agricultural production in the State. Given the high costs associated with agricultural production in Hawaii generally, it should be readily apparent that any measure which contributes directly to a reduction of producer costs will ultimately strengthen the State's important agricultural industry.

In summary, your Committee finds and believes that any program or allied activity which can lead to a reduction of overall agricultural production costs will aid in stabilizing the viability of the agricultural industry and materially strengthen the ability of local agricultural products to compete effectively in the local market place with imported agricultural commodities.

Your Committee in a public hearing held on March 6, 1978 received testimony from several sources, all supporting the objective of the resolution and recommending adoption of the resolution.

Your Committee on Agriculture finds that the Office of the Legislative Reference Bureau

may require the cooperation and assistance of other agencies of the State including the State Departments of Transportation, Agriculture, Taxation, and Regulatory Agencies, the Public Utilities Commission, and the College of Tropical Agriculture of the University of Hawaii. Your Committee has accordingly amended the resolution by inserting an additional "BE IT FURTHER RESOLVED" clause requesting the aforementioned agencies to cooperate with and assist the Office of the Legislative Reference Bureau in performing the requested study. In addition, your Committee has amended the final "BE IT FURTHER RESOLVED" clause to furnish certified copies of the resolution to the heads of the various departments and agencies and the Governor of Hawaii.

Your Committee on Agriculture concurs with the intent and purpose of H.R. No. 43, as amended herein, and recommends that it be referred to the Committee on Energy and Transportation in the form attached hereto as H.R. No. 43, H.D. 1.

Signed by all members of the Committee except Representative Garcia.

SCRep. 635-78          Tourism and State General Planning on H.R. No. 339

The purpose of this resolution is to request the Hawaii Visitors Bureau, the Hawaii Sightseeing Association, and CATRALA to include the designation of Honokaa on maps and other materials and literature produced and made available for use by tourists.

Testimony presented before your Committees by the Hawaii Visitors Bureau and the Hawaii Hotel Association was in support of H.R. No. 339. The Hawaii Visitors Bureau (HVB) noted that Honokaa was already shown on their itinerary maps and brochures of the Island of Hawaii. The HVB also stated that the present macadamia nut farm shown elsewhere in their existing maps and brochures will be re-designated to the Honokaa area.

Your Committees find that the designation of Honokaa on maps and other materials as a center of macadamia nut production would recognize the contributions of Honokaa to the State of Hawaii and give more exposure of Honokaa to Hawaii's visitors.

Your Committee on Tourism and your Committee on State General Planning concur with the intent and purpose of H.R. No. 339 and recommend its adoption.

Signed by all members of the Committee.

SCRep. 636-78          Legislative Management

Informing the House that House Resolution Nos. 446 to 461 and House Concurrent Resolution No. 89, have been printed and distributed.

Signed by all members of the Committee.

SCRep. 637-78          Energy and Transportation on S.B. No. 1598-78

The purpose of this bill is to promote energy conservation by banning the sale and installation of gas appliances equipped with conventional pilot lights, excluding gas water heaters.

A large portion of the consumer's gas bill can be attributed to consumption by pilot lights. New, more gas efficient appliances which operate with electronic ignition systems are available on the market.

The Department of Planning and Economic Development presented testimony in favor of this bill. A representative of GASCO, Inc. voiced the company's concern over the impact this bill may have on distributors and dealers with large inventories of gas appliances equipped with conventional pilot lights, and recommended that the effective date of this bill be changed from December 31, 1979 to June 30, 1980.

Your Committee has amended this bill as follows:

- 1)            changing the effective date to June 30, 1980, and
- 2)            correcting a clerical error on page 2, subsection (c) (1), line 15; changing "light cycle cost" to "life cycle cost".

Your Committee on Energy and Transportation is in accord with the intent and purpose of S.B. No. 1598-78, S.D.1 as amended herein and recommends that it be referred to the Committee on Consumer Protection and Commerce in the form attached hereto as S.B. No. 1598-78, S.D.1, H.D. 1.

Signed by all members of the Committee.

SCRep. 638-78 Energy and Transportation on S.B. No. 1596-78

The purpose of this bill is to request that the Energy Resources Coordinator conduct a study to obtain basic information needed to initiate a used oil recycling program in Hawaii.

It is believed that a significant amount of unrecycled used oil is probably used or disposed of in a manner which is wasteful and which contributes to the pollution of the water, land, and air and the endangerment of the health and welfare of the public.

The proposed study would investigate:

- (1) Any impediments to the development and implementation of a used oil recycling program,
- (2) the feasibility of utilizing the reprocessed oil by state and county governments,
- (3) other potential uses or markets for the recycled product including measures to develop such markets,
- (4) possible health and safety problems associated with the use of reprocessed oil, and

Testimony presented to your Committee favored the passage of this bill. The Department of Planning and Economic Development stated that this study would be funded by the U.S. Department of Energy through the State Energy Conservation Program. The Department of Public Works of the City and County of Honolulu and the Shell Oil Company recognized the need to investigate the possibility of recovering used oil and testified in support of the measure.

Your Committee on Energy and Transportation is in accord with the intent and purpose of S.B. No. 1596-78, S D. 1 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 639-78 Energy and Transportation on H.R. No. 110

The purpose of this resolution is to request construction of an overpass over Haleakala Highway in order that pedestrians may have safe passage between Pukalani Terrace and the Makani Subdivision.

Testimony presented by the Department of Transportation indicates that construction of the overpass will not accomplish the intent of this resolution and suggests alternate roadway and walkway improvements.

Accordingly, your Committee has amended the resolution to request the Department of Transportation to provide safe passage for pedestrians crossing Haleakala Highway in the vicinity of Pukalani Street and to submit a progress report on the various alternatives before the convening of the 1979 Regular Session.

The title has also been amended to conform to the amended purpose of the resolution.

Your Committee on Energy and Transportation concurs with the intent and purpose of H.R. 110 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 640-78 Energy and Transportation on H.C.R. No. 32

The purpose of this concurrent resolution is to request construction of an overpass over Haleakala Highway in order that pedestrians may have safe passage between Pukalani Terrace and the Makani Subdivision.

Testimony presented by the Department of Transportation indicates that construction of the overpass will not accomplish the intent of this concurrent resolution and suggests alternate roadway and walkway improvements.

Accordingly, your Committee has amended the concurrent resolution to request the Department of Transportation to provide safe passage for pedestrians crossing Haleakala Highway in the vicinity of Pukalani Street and to submit a progress report on the various alternatives before the convening of the 1979 Regular Session.

The title has also been amended to conform to the amended purpose of the concurrent resolution.

Your Committee on Energy and Transportation concurs with the intent and purpose of H.C.R. No. 32 as amended herein and recommends that it be referred to the Committee on Finance in the form attached hereto as H.C.R. No. 32, H.D. 1.

Signed by all members of the Committee.

SCRep. 641-78      Energy and Transportation on H.C.R. No. 63

The purpose of this concurrent resolution is to request that the energy resources coordinator conduct a study of the feasibility of utilizing electric motor vehicles for various specialized use in Hawaii and to submit a report of his findings and recommendations to the Legislature prior to the convening of the Regular Session of 1979.

The Department of Planning and Economic Development testified in favor of this resolution during a public hearing of your Committee on February 11, 1978, noting that it is prepared to undertake such a study. Mention was made of the U.S. Postal Service experimentation with electric vehicles.

Representatives of the Hawaiian Electric Company discussed difficulties the company encountered in its experiments with electric vehicles.

Your Committee on Energy and Transportation concurs with the intent and purpose of H.C.R. No. 63 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 642-78      Education on H.R. No. 184

The purpose of this Resolution is to request the Committee on Education to review and to submit its recommendations on the report of the Interim Subcommittee on Student Nutrition and Physical Well-Being.

#### COMMITTEE APPROACH

On September 23, 1977 the Interim Subcommittee on Student Nutrition and Physical Well-Being was appointed. The Subcommittee consisted of members from the House Education Committee and included Representatives Ken Kiyabu, Chairman; Ben Cayetano; Richard Kawakami; Kathleen Stanley; and Andrew Poepoe. The Subcommittee was charged with the following tasks:

- (1) Determine the adequacy of instruction on nutrition and physical well-being in the public schools;
- (2) Determine the scope of the effects of students' poor nutritional habits in Hawaii; and
- (3) Determine the adequacy with which the physical well-being of participants in intramural and athletic programs is being protected.

The Subcommittee also included a review of the School Lunch Services program as part of the scope of its work.

Your Committee has found that the Subcommittee conducted a public hearing to receive testimony from the Department of Education, Department of Health, University of Hawaii, Hawaii Parent-Teacher-Student Association, Hawaii Public Health Association, Hawaii Emergency Medical Services, and private citizens. The Subcommittee also visited Palolo Elementary and Kaimuki High Schools on two separate days to observe each school's lunch operations.

#### BACKGROUND

The Foundation Program of the Department of Education sets forth eight objectives considered to be basic and important areas of achieving student competency. Objective V targets the development of physical and emotional student health. To accomplish this objective, public school instructional programs include health education, physical education, intramural sports, athletics, with the school lunch services as an integral support activity.

Health Education in the public schools is based on School Health Education Study (SHES), which is a national program adopted by the Department of Education in 1970. In the health education curriculum, food nutrition is emphasized in grades 2 and 5 and 8 or 9. At the high school level, food nutrition course is offered as an elective.

Physical Education in the public schools involves basic skills instruction through movement and rhythmic activities at the elementary level, the appreciation of these skills to team and individual sports at the intermediate level, and the further development of these fundamental skills along with greater awareness of physical fitness and appreciation for lifetime sports at the high school level. Physical education is a requirement for all students from grades K to 8 with one year or one credit of physical education in grades 9 to 12.

Intramural Sports are those physical activities offered to strengthen the use of skills learned in physical education class in a recreational setting during the after-school hours. Funds for intramural activities are provided for all high school and intermediate schools with enrollments of at least 100 in grades 7 and above and which conduct year round intramural programs at least twice a week. Each school's program is administered by an intramural supervisor who is usually a teacher or other certified personnel. Extra compensation is provided for the additional administrative and supervisory duties.

Athletic Program is designed to develop athletically inclined students in grades 9 to 12 through sports and at the same time, encourage healthy competition and good sportsmanship among the schools. Athletic programs are organized into five public school leagues involving 38 high schools in geographic proximity to each other. It is funded through State general funds and the sale of activity books, concessions, fund raising, advertising and gate receipts especially for boys football and basketball. The program involves the following sports activity groupings: Recreation-Lifetime (golf, bowling); Individual (track); Team (volleyball, football); Aquatics (diving); and Combative (wrestling). Each sport is divided into varsity and junior varsity teams. The establishment of a sport in a school is determined by the availability of participants, coaching personnel, funds, facilities and equipment and supplies.

The School Lunch Program serves students and faculty at all public schools Type A lunches at reasonable costs as designated by the United States Department of Agriculture regulations. Type A lunches are designed to provide 1/3 of the daily nutritional requirements of a student consisting of 1/2 pint whole fluid milk, 2 ounces protein-rich food, 3/4 cup fruits and/or vegetables, and one slice of bread. It is administered by the Department of Education's Food Services Branch and funded by State general funds, special funds, federal cash subsidy and federal commodities. Student participation in the school lunch program is at 88 percent. The cost per meal in terms of food, labor and other expenditures is approximately 93¢ of which students pay 25¢.

#### SUBCOMMITTEE'S FINDINGS

Although there seems to be general agreement that the curriculum content of health education in the public schools is adequate, there has been no test of its adequacy and effectiveness. One of the major problems in nutrition instruction is its being only one component of the overall health education curriculum, along with subjects such as safety, personal growth and development at the elementary level and drug abuse and sex education at the secondary level. The problem is compounded by "grossly inadequate" teacher training in the subject of nutrition as cited by the University of Hawaii, Department of Food and Nutritional Sciences. It was also found that instruction in food and nutrition, as with other health education components, is heavily influenced by individual teacher interest, training, and priorities.

In physical education, the Department of Education has adopted a New Physical Education concept which has been designed to go beyond the development and exercise of young bodies by placing primary emphasis on the child and his individual needs. Although the new concept was initiated in 1970, the Department indicated that the program's installation has been haphazard. Instructional guides were developed but there was no provision for training teachers to use them effectively. As a result, the traditional physical education program still operates in the public schools today.

Intramural sports were found operating in twelve public schools, eight intermediate and four high schools. The Department of Education readily admits that there are too few schools offering an intramural program but described the difficulty of obtaining intramural supervisors to administer the program in each school. The Department of Education school code requires that an intramural supervisor be certificated personnel who receives extra compensation for administering the program during the after-school hours. According to the department, there has been little interest in the position in many schools.

The Department of Education's athletic program shows an increase from 11,240 students to 17,857 in 1976-77 over the past five years. It should be noted that these figures include duplicate counts where one athlete participates in more than one sport and that the most significant increase is in the area of girls' sports. Although the Department of Education testified on the importance of athletics in the Foundation Program, the Hawaii Parent-Teacher-Student Association indicated that the program has been financially neglected by the department. Other concerns focused on the need for in-service training of physical education instructors and coaches in First Aid and Cardiopulmonary Resuscitation (CPR) and the need to be continually informed on new data relating to nutritional requirements for students participating in competitive and individual sports activities.

The School Lunch Services Program was discussed as an integral support activity of food nutrition education and in this regard, concern was expressed over the excessive use of red meat in the school lunch menu and the diminished teacher and parental involvement in the program. Although there was agreement that poultry and fish may be more desirable in students' diets, the department reported that high costs, federal subsidies, and federal food commodities make it difficult to decrease the use of red meat in the school's menu.

Other testimony revealed the need for more teacher and parental involvement with the lunch program especially in the elementary grades. Since teachers are no longer required to eat with students under the terms of their collective bargaining agreement, there is less opportunity to educate students on social graces and reinforce classroom learning. It was also suggested that there be more parental and student involvement in school menu planning which is currently being done by a thirteen-member committee composed of cafeteria managers and supervisors throughout the State.

The Hawaii Parent-Teacher-Student Association stressed greater support of local agriculture products and ethnic foods in student lunches.

No comprehensive study has been undertaken on the pattern of food consumption among Hawaii's school children. According to testimony received, the incidences on malnutrition among school children has been and will continue to be conjecture unless a statewide study is conducted.

#### SUBCOMMITTEE'S RECOMMENDATIONS

After due consideration, the Subcommittee made the following recommendations:

(1) The Department of Education should strengthen and expand health and safety teacher in-service training. Although the adequacy of the health curriculum may be difficult to assess and its effectiveness difficult to systematically test, the department nevertheless should proceed with improving in-service teacher training, especially in regard to nutrition. It is prudent for our public schools to step up counter measures to the increasing dependency on fast foods by students and stress the value and far-reaching effects of making proper food and health choices.

(2) The Department of Education should consider the deployment of one nutritionist to directly assist the teachers and schools with health and nutrition concerns. Currently, there are two nutritionists in the Department of Education's School Food Services Branch. The Subcommittee feels that the transfer of one nutritionist to the Office of Instructional Services would offer a wider range services to the teachers and schools by providing consultation and in-service education to teachers, close communication with the Department of Health on health, safety, and nutrition curriculum planning and better coordination on health activities.

(3) The Legislature should support the new physical education concept of lifetime sports activities and physical fitness training. Physical education should allow students to develop individual talents with some degree of success and a sense of accomplishment. The Subcommittee believes that the Department's efforts to extend physical education beyond the exercise and recreation curriculum is moving closer towards individualized physical education of lifetime value for each child. However, the Subcommittee feels that the Department has been remiss in providing proper teacher training to effectively implement the new concept. This is an instructional shortcoming which the Department should correct immediately.

(4) The Department of Education's intramural sports program should seek to increase student participation, especially in the intermediate schools where it can be an important element in facilitating the maturation process of students from elementary to high school levels. There are more opportunities for a wider range of students to participate in intramural team sports rather than the sports activities of the athletic program. The Department of Education should overcome administrative inconveniences and exert greater efforts in developing intramural sports which could provide students with healthy outlets in the form of after-school hour recreation, competition and school pride.

(5) More in-service training for physical education instructors and coaches, especially in the area of emergency care, should be provided. Athletic medicine, nutrition information and other pertinent health and safety matters have been neglected in the implementation of school athletic programs. The Subcommittee was informed that in the past workshops have been conducted with the Hawaii Medical Association on athlete medicine to assist coaches. However, participation on the part of instructors and coaches has been voluntary. It is imperative that the Department of Education personnel involved in sports related activities be trained to properly handle emergency situations. The Subcommittee also suggests that the Department of Education seek the assistance of the University of Hawaii coaching staff as well as from the Hawaii Medical Association to sponsor in-service training for instructors and coaches on a regular basis. In addition, the Subcommittee recommends that in-service training workshops be open to community athletic organizations such as Pop Warner, Policemen's Association League and Little League.

(6) Health education and the school lunch program should be directly linked to each other. More coordination is needed at the instructional level between what is learned in the classroom and what is eaten in the lunchroom. In the past, the school lunch services branch has been looked at primarily as a business rather than an important instructional support activity. This condition should be changed so that instruction in food habits, nutrition and eating patterns are reinforced by the school lunch program.

The Subcommittee also suggests that the Department link the school lunch program with other instructional programs, if possible. For example, using crops grown by students in agriculture class in the school lunches can effectively complement each other.

(7) The Department of Education should provide for vending machines with nutritious snacks. The Subcommittee believes that vending machines on school campuses should be an extension of proper eating habits taught in the classroom and reinforced in the lunchroom. Thus, the Department of Education should make a conscious effort to maintain vending machines containing nutritious snacks such as fresh fruit, nuts and milk.

(8) The idea of centralized food purchasing with other State agencies should be explored by the Department of Education. A 1971 audit of the school lunch program recommended that the School Food Services Branch and the Department of Accounting and General Services review the possibility of combining food purchases to optimize purchasing capabilities. The Department of Education has done very little in this area. Centralized purchasing with other governmental agencies can bring cost savings benefits based on lower prices for larger quantities of food. The Department of Education should also work with the Department of Agriculture in providing a greater variety of food and supporting local food products and food commodities in the State through centralized food purchasing. The Department of Education should continually strive to achieve more economical ways of administering and operating the school lunch program in the public schools.

(9) The Department of Education should strive to reduce quantities of red meat in the school lunch menu. In February 1977, the Select Committee on Nutrition and Human Needs of the United States Senate released its dietary goals for Americans. A major goal is to decrease the consumption of meat and increase the consumption of poultry and fish. In reviewing the uniform school lunch menu for a one month period, the frequency of red meat was found to be inordinately high. It is strongly recommended that the department look into the purchasing of more poultry and fish. If cost is a factor, the Subcommittee

believes that the department should find ways to economize through methods such as centralized purchasing thereby allowing for the purchase of more fish and poultry.

(10) The University of Hawaii, in cooperation with the Department of Education, should conduct an in-depth study on the nutritional habits of Hawaii's school children and their effects on our children's health. The Subcommittee finds it disturbing that the health status of Hawaii's school children has not been determined. There is a dearth of information in this area and yet such data are necessary in the development of an effective health program.

#### SUBCOMMITTEE'S CONCLUSION

More emphasis on food nutrition and physical well-being in the public schools is long over due. Good eating habits and proper diet have become critical public concerns and steps should be taken by families, educators, and health professionals to promote sound nutritional principles. Therefore it is incumbent on the school as one of the community's primary institutions to do its part in supporting the physical well-being of students.

Your Committee on Education has adopted the Interim Subcommittee Report on Student Nutrition and Physical Well-Being. The information contained in the Subcommittee's Report has been included within this Standing Committee Report.

Your Committee will pursue the recommendations of the Subcommittee during this legislative session, resources permitting.

Your Committee on Education is in accord with the intent and purpose of H.R. No. 184 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 643-78      Education on H.R. No. 183

The purpose of this Resolution is to request the Committee on Education to review and to submit its recommendations on the report of the Interim Subcommittee on Violence in the Schools.

#### COMMITTEE APPROACH

On September 23, 1977 the Interim Subcommittee on Violence in the Schools was formed. The Subcommittee consisted of members from the House Committee on Education and included: Representatives Charles Campbell, Chairman; Gerald Machida; Calvin Say; Yoshito Takamine; Charles Ushijima; and John Carroll. The Subcommittee set out to accomplish the following tasks:

- (1) Determine the current scope of violence in the schools, including property damage, and whether there are any discernable trends;
- (2) Identify, if possible, exemplary programs and techniques which appear to be achieving some success in curbing school violence; and
- (3) Follow up on Department of Education documents and plans on school violence, particularly the superintendent's plan to improve school and library environments.

Your Committee has found that the Subcommittee conducted four public hearings including one at McKinley High School and one at Radford High School to maximize participation from students, teachers and the community. At these hearings, the Subcommittee received testimony from the Department of Education, the Family Court, the Hawaii State Teachers Association, the Hawaii Parent-Teacher Association, the Health and Community Services Council, school administrators, teachers, students and concerned private organizations and citizens.

#### BACKGROUND

School violence and vandalism have not always been a major problem in Hawaii's public schools. In the 1960's, the State Board of Education maintained rules and regulations relating to "student safety," reflecting the view at that time of ensuring a student's personal safety and well being within the context of enhancing his or her learning environment. With increasing incidences of school arson, theft, hijacking, drug abuse, and vandalism,

the Department of Education strengthened its efforts in dealing with social, emotional and economic alienation among students, viewing this as one major cause of increasing school violence.

This included renewed emphasis on its Compensatory Education section's drop out program, the allocation of additional staff to schools with critical problems, expansion of its work study program, campus counselors for all secondary schools, and revisions to the basic educational objectives of the department's foundation program to incorporate curriculum relevance to contemporary society. Relationships between the department and the Family Court were improved through the establishment of a liaison position between the Family Court and the Department of Education to coordinate programs for delinquent students, and the development of procedures for working with adjudicated students and the identification of potential cases.

In 1974, the Legislature took action by adopting Act 186, which established a statewide security patrol pilot project. The project was intended to prevent "...on-campus vandalism, hijacking, drug sales and use, and other activities inimical to academic pursuits in the public schools." The implementation of this Act has involved contractual professional services which are being supplemented by CETA and SCET workers as additional security aides.

The Department of Education's "A Plan to Improve School and Library Environments," released in 1976, is presently utilized as guidelines in approaching school violence and vandalism. As cited in the report, the department assumes responsibility for maintaining an effective learning environment as mandated either by statute or by public trust. It also defines school violence as those anti-social behaviors resulting in assault/fights, disorderly/disruptive behavior, intimidation/threats, extortion, gambling, and drug sales and use.

The school districts have been directed to develop plans which conform to these statewide guidelines and consist of at least five components: (1) administration and coordination to ensure smooth implementation of school plans developed within the guidelines; (2) personal security measures to prevent and deal with anti-social behavior which may result in physical or emotional harm to another person; (3) plant security measures which will safeguard classrooms, libraries, administrative offices and other physical facilities from damage; (4) student safety measures to prevent accidents and injuries; and (5) campus beautification projects to make schools and libraries aesthetically pleasing. Some of the programs and activities initiated under this directive include a Campus Beautification Contest in the Windward School District, regularly conducted "rap sessions" between school administrators and students, and the establishment of alternative learning centers for alienated students and those having a marginal interest in school.

#### SUBCOMMITTEE'S FINDINGS AND RECOMMENDATIONS

The Subcommittee found that incidences of school violence appear to be caused by a lack of cultural understanding among students involved, students' perception of education as lacking relevance to contemporary life situations, and feelings of emotional, social, and economic alienation on the part of the student. Organizations, individuals and other parties presenting testimony before the Subcommittees concurred that school programs designed to counteract school violence should emphasize cultural interchange and understanding, relevance to contemporary life situations such as work-study activities and other methods of reinforcing adult responsibilities, individualized and intensified student counseling and guidance and parental and community involvement.

The Subcommittee was informed by the district superintendents and school administrators that school violence in the current year has decreased, and they cited the following approaches to be the most effective in achieving this decrease: (1) additional numbers of campus safety and security staff through the use of the federal comprehensive employment and training act (CETA) and the state comprehensive employment and training program (SCET); (2) the School Security Patrol Pilot Project authorized by Act 186, SLH 1974 which has continued to receive annual operational funds; (3) greater campus visibility of school administrators to maximize opportunities for increased student communication; and (4) community and parental involvement programs.

However, the Subcommittee found that statistics on school violence and vandalism were not maintained by the department prior to 1975, thereby precluding the possibility of any progressive, comparative, or demographic analysis of the problem. Each school has maintained its own records and have not been required to file this information on a regular basis to district or state offices. Without such data collected over a sufficient period of time, significant trends cannot be identified, the scope and severity of the

problem cannot be determined, and proper and necessary program planning for this area cannot take place.

In order to gain some insight into the nature of recent incidences of school violence, the Subcommittee requested the department to present an update of statistics. Data for the period between September 6, 1977 to November 23, 1977 revealed a statewide total of 53 serious acts committed upon school property or at school sponsored activities which would, if committed by an adult, constitute a violation of federal, state or local criminal law. For the same period, a statewide total of 817 lesser incidents occurred where formal reports were not necessarily submitted. These incidents include such acts as fighting, hijacking, and teacher threats. Discussions with school administrators confirmed that guidelines for handling incidents vary from school to school. From this information, it is clear that the department needs to establish standards and procedures for schools to record and report incidents of school violence, and that schools should have consistent procedures for handling such situations.

The Subcommittee recognizes the need for flexibility in certain administrative procedures to accommodate the individual needs and concerns of each school but the Subcommittee strongly believes that basic guidelines should be established for all schools to adhere to. Also, school administrators, teachers, and other pertinent staff should be aware of these procedures in order to act quickly to quell any incidences of violence.

Thus, the Subcommittee recommends that the Department of Education set, issue and distribute to all involved school personnel, administrative procedures relating to the handling of on-campus violence to ensure that uniform minimum standards would be maintained. Further, the Subcommittee strongly recommends that the department proceed to establish a comprehensive system of data collection on incidences of school violence as soon as possible, including a regular internal reporting system as well as regular reports to the Legislature.

The Subcommittee learned that the position of Director of Safety and Security of the Department of Education has been vacant since the resignation of its first director and there are some indications that the department has no intentions of filling this position. The Subcommittee strongly recommends that the position be filled to effectuate a more coordinated and effective statewide program to combat school violence and vandalism including a system of data collection, coordination, analyses, and evaluation.

The Subcommittee learned that various community organizations and professional associations have already taken steps to assist the schools in dealing with campus violence. In 1974, the Hawaii Congress of Parents and Teachers sponsored a workshop on school violence and developed a number of recommendations on the subject. The recommendations call for programs to promote cultural interchange, support of early childhood education with emphasis on ethnic understanding, and more programs tailored to give students school credits for working outside the school environment.

The Hawaii State Teachers Association (HSTA) has initiated and funded a program during the 1976-77 school year designed to curb school violence and vandalism. The project, entitled Hawaii Schools That Achieve, took place in five targeted schools and employed such strategies as teacher training, student involvement, parent involvement and community involvement programs. The association reported that the project succeeded in reducing violence and vandalism in the piloted schools during the aforementioned school year by an overall average of 62.1 percent.

The Health and Community Services Council co-sponsored with the Windward District PTA, a September meeting on school violence. The discussion at this meeting concluded that cultural misunderstanding and student frustration with the academic environment are key problems in the schools and that the department should develop and emphasize a more preventive approach.

The Subcommittee recommends that efforts on the part of organizations and associations such as the Hawaii Congress of Parents and Teachers, the HSTA and the Health and Community Services Council to curb school violence be commended and encouraged in the community. It is further recommended that the suggestions made by these various organizations be reviewed by the full committee at the 1978 regular session as part of its review of the Department of Education's budget, and whenever fiscally possible incorporate those suggestions that meet the department's budgetary requirements.

McKinley and Radford High School students who testified felt that school violence has been magnified out of proportion since the majority of students do not participate nor condone acts of violence or vandalism. However, these students did agree to the value

of community and parental involvement in the schools. Students from Nanakuli High School described the concerted efforts being made among students, parents and the community to foster positive attitudes toward the school. Waianae Elementary School parents also informed the Subcommittee of the efforts of volunteer parents in policing school grounds. District superintendents and school principals have been directed to develop plans to counter school violence with the assistance of advisory groups composed of students, parents, staff, community representatives, and private citizens. Consultation with student leaders have resulted in the scheduling of school assemblies to develop more school spirit and pride, campus clean-up events, ethnic festivals, and generally, more opportunities for students to interact with school administrators.

Although the Subcommittee was pleased to hear reports of student involvement in combating school violence and vandalism, the Subcommittees found that generally, departmental efforts to solicit student involvement has been limited. Therefore, the Subcommittee recommends that the Department of Education proceed immediately to develop a program for student involvement on every school campus in its efforts to curb school violence and vandalism.

The Subcommittee discovered that prior to the violent stadium incident of November 1977, no definitive long-range procedures had been devised to handle violence at school athletic events. The Subcommittee views school athletic activities as an important component of Hawaii's public schools for which the department is responsible for student safety.

Therefore, the Subcommittee strongly recommends that the Department of Education review and revise, if necessary, the recently adopted guidelines for handling violence at school-related events. The task should be approached with the objective in mind of setting up a permanent and long-range program designed to prevent violence similar to that which occurred at the Farrington-Kaiser football game in November 1977.

The Subcommittee agrees with the department's view that present school security patrol activities should serve only as an interim measure until other programs are fully implemented. These types of policing measures should be only temporary, and other activities with greater long term value should be pursued such as those promoted by student leaders, community organizations and parents.

The Subcommittee recommends that the Department of Education pursue attitudinal changes among students, parents, teachers, school administrators, and community about the school as an integral societal institution. The Subcommittee believes that the department's emphasis on educational measures to improve the learning environment instead of policing measures is conceptually moving in the right direction. The Subcommittee supports the department in its efforts but cautions the department in attempting to deal with school violence alone. The department should seek the background, experiences and talents of the Family Court and other concerned public and private organizations and individuals. The Subcommittee recommends that the Department of Education make use of the Family Court's willingness to assist school administrators in improving their capabilities in identifying and developing alternatives to school violence. Dealing with school violence effectively requires the concerted effort of all people.

Your Committee has adopted the Interim Subcommittee report on Violence in the Public Schools. The information contained in the Subcommittee's Report has been included within this Standing Committee Report.

Your Committee will pursue the recommendations of the Subcommittee during this legislative session, resources permitting.

Your Committee on Education is in accord with the intent and purpose of H.R. No. 183 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 644-78      Agriculture and Ecology and Environmental Protection on H.R. No. 42

The purpose of this resolution is to urge the United States Environmental Protection Agency to authorize the continued use of ethylene dibromide as a fumigant in papaya production.

It is a well-known and established fact that effective control of the fruit flies, including the Mediterranean Fruit Fly, the Oriental Fruit Fly, and the Melon Fly is crucial to the viability of local papaya production. Perhaps a lesser known reality is the finding that

Hawaii is currently the only area in the world known to be simultaneously infested with these major fruit fly species.

The use of ethylene dibromide (EDB) over the past 25-year period has demonstrated without doubt that it is the most effective and currently the only commercially viable fumigant.

Your Committees find that United States Department of Agriculture regulations require that all fresh papayas intended for export markets must be treated with EDB; hence, highlighting the crucial significance of EDB to the growth and stability of the State's papaya industry.

Your Committees find that despite the commitment of intensive research activities through a cooperative effort between the United States Department of Agriculture and the College of Tropical Agriculture of the University of Hawaii, an adequate alternative fumigant to EDB has not yet been developed.

Your Committees find that should the Federal Environmental Protection Agency withdraw authorization for the continued use of EDB, Hawaii's papaya producers stand to lose a minimum of \$10,000,000 through loss of export opportunity.

During a public hearing held on March 6, 1978, your Committees learned that EDB is among the few brominated fumigants which has proven effective as a nematocide in controlling nematodes in Hawaii's pineapple production.

In summary, your Committees find that ethylene dibromide is indeed vital, if not critical to the viability, stability, and growth of the State's papaya, pineapple, and other subindustries in Hawaiian agriculture. The discontinuance of its use may well spell the demise of not only our papaya and pineapple industries but other agricultural producers who are also utilizing EDB as a fumigant. In addition, your Committees find that EDB is being used in strict adherence with application procedures established by federal and state law and that in the nearly twenty-five years of EDB use, there have been no concrete indications of adverse effects upon the environment or human health.

Your Committees have amended this resolution by:

- (1) Amending the title of the resolution to include pineapple and other agricultural commodities;
- (2) Inserting appropriate language to reflect the fact that EDB is also used in pineapple and other agricultural production in the State; and
- (3) Amending the term "nearly three years" to "25 years" to reflect a more accurate time period of ethylene dibromide use.

Your Committees on Agriculture, and Ecology and Environmental Protection concur with the intent and purpose of H.R. No. 42, as amended herein, and recommend its adoption in the form attached hereto as H.R. No. 42, H.D. 1.

Signed by all members of the Committees except Representatives Garcia and Fong.

SCRep. 645-78      Agriculture and Ecology and Environmental Protection on H.C.R. No. 8

The purpose of this resolution is to urge the United States Environmental Protection Agency to authorize the continued use of ethylene dibromide as a fumigant in papaya production.

It is a well-known and established fact that effective control of the fruit flies, including the Mediterranean Fruit Fly, the Oriental Fruit Fly, and the Melon Fly is crucial to the viability of local papaya production. Perhaps a lesser known reality is the finding that Hawaii is currently the only area in the world known to be simultaneously infested with these major fruit fly species.

The use of ethylene dibromide (EDB) over the past 25-year period has demonstrated without doubt that it is the most effective and currently the only commercially viable fumigant.

Your Committees find that United States Department of Agriculture regulations require that all fresh papayas intended for export markets must be treated with EDB; hence, highlighting the crucial significance of EDB to the growth and stability of the State's papaya industry.

Your Committees find that despite the commitment of intensive research activities through a cooperative effort between the United States Department of Agriculture and the College of Tropical Agriculture of the University of Hawaii, an adequate alternative fumigant to EDB has not yet been developed.

Your Committees find that should the Federal Environmental Protection Agency withdraw authorization for the continued use of EDB, Hawaii's papaya producers stand to lose a minimum of \$10,000,000 through loss of export opportunity.

During a public hearing held on March 6, 1978, your Committees learned that EDB is among the few brominated fumigants which has proven effective as a nematocide in controlling nematodes in Hawaii's pineapple production.

In summary, your Committees find that ethylene dibromide is indeed vital, if not critical to the viability, stability, and growth of the State's papaya, pineapple, and other subindustries in Hawaiian agriculture. The discontinuance of its use may well spell the demise of not only our papaya and pineapple industries but other agricultural producers who are also utilizing EDB as a fumigant. In addition, your Committees find that EDB is being used in strict adherence with application procedures established by federal and state law and that in the nearly twenty-five years of EDB use, there have been no concrete indications of adverse effects upon the environment or human health.

Your Committees have amended this resolution by:

- (1) Amending the title of the resolution to include pineapple and other agricultural commodities;
- (2) Inserting appropriate language to reflect the fact that EDB is also used in pineapple and other agricultural production in the State; and
- (3) Amending the term "nearly three years" to "25 years" to reflect a more accurate time period of ethylene dibromide use.

Your Committees on Agriculture, and Ecology and Environmental Protection concur with the intent and purpose of H.C.R. No. 8, as amended herein, and recommend its adoption in the form attached hereto as H.C.R. No. 8, H.D. 1.

Signed by all members of the Committees except Representatives Garcia and Fong.

SCRep. 646-78 Higher Education on H.R. No. 313

The purpose of this resolution is to have the House Higher Education Committee review the Master Plan for Postsecondary Education and report to the House of Representatives on its findings.

This Master Plan was developed by a steering committee appointed by the State Postsecondary Education Commission in September, 1976. The Commission itself comprises representation from all the institutions of higher learning, public and private, within the State. Its primary task, as included in the terms of a federal grant provided for in the Higher Education Act of 1965, is to coordinate, improve, expand or alter postsecondary educational resources so that it is available to all people in the state. In 1975, a survey was made of these resources. The Master Plan was based upon the resulting inventory of this survey.

While the plan makes many recommendations that can be implemented, other recommendations raise policy questions and require executive and legislative consideration.

Your Committee believes it essential to have more time to study the plan, therefore, the resolution has been changed in the following manner:

- 1) that this review be made during the interim;
- 2) that the report on this review be made thirty days prior to the convening of the Regular Session of 1979;
- 3) that copies of this resolution be transmitted to the Speaker of the House of Representatives.

Your Committee on Higher Education concurs with the intent and purpose of H.R. No.

313, as amended herein, and recommends its adoption in the form attached hereto as H.R. 313, H.D. 1.

Signed by all members of the Committee.

SCRep. 647-78 Higher Education on H.R. No. 75

The purpose of this resolution is to request the University of Hawaii College of Education to study whether special education courses should be made a requirement in the bachelor of education degree granting program.

Your Committee finds that the degree of effectiveness of special education programs is partly dependent on early detection of youths requiring special attention. As such, it is vitally important that all regular classroom teachers be provided with appropriate training to be able to identify possible exceptionalities among students.

The College of Education is currently involved in two projects that are intended to develop a program which will provide all elementary and secondary preservice teacher graduates of the College with competencies to work with mildly handicapped children and youth in regular classrooms. One program, the Alternative Teacher Education Program (ATEP), intends to recommend how elementary preservice teachers may best receive the training to work with mildly handicapped children in so-called "mainstreamed" classrooms. The other program, a grant application to the federal Bureau for the Education of the Handicapped, would enable the College to redevelop the preservice secondary teacher education degree program to provide for special education competencies for the regular secondary education teachers.

Your Committee on Higher Education concurs with the intent and purpose of H.R. No. 75 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 648-78 Corrections and Rehabilitation and Judiciary on H.R. No. 140

The purpose of this resolution was to request the Department of Social Services and Housing and the Department of Labor and Industrial Relations to study the possibility of alternative sentencing for convicted persons that would allow them to work on necessary public projects.

Testimony given by the Department of Social Services and Housing took the position that, although the department concurs with the intent of this resolution, it believes this matter to be the logical concern of the judicial branch of government which has jurisdiction over the sentencing of convicted defendants. The Department of Labor and Industrial Relations stated in its testimony that it does not have the expertise to judge whether such alternatives to sentencing would be feasible and that their feasibility would be best decided by the Judiciary and the Corrections Division of the Department of Social Services and Housing, but would be willing to cooperate in such a study if it were undertaken by these agencies.

The representative of the Judiciary stated that the cost of this study could be absorbed internally and, therefore, there would be no financial implications or personnel constraints to carry out the proposed study.

Your committees both agree that this study of other alternatives to sentencing should be the responsibility of the Judiciary and, therefore, recommend that the seventh paragraph of this resolution be reworded to read thus: "that the Judiciary, with the assistance and cooperation of the Department of Social Services and Housing and the Department of Labor and Industrial Relations, study the possibility of alternate sentencing," etc.

Also, your committees recommend that the eighth paragraph of this resolution be reworded to read thus: "BE IT FURTHER RESOLVED that the Judiciary complete its study and submit its findings and recommendations", etc. Also, your committees recommend that the ninth and last paragraphs be reworded thus: "BE IT FURTHER RESOLVED that certified copies of this Resolution be transmitted to the Administrative Director of the Courts, the Director of Social Services and Housing and the Director of Labor and Industrial Relations."

Your joint committees on Corrections and Rehabilitation and Judiciary, concur with the intent and purpose of H.R. No. 140, as amended herein, and recommend its adoption

in the form attached hereto as H.R. No. 140, H.D. 1.

Signed by all members of the Committees except Representative Baker.

SCRep. 649-78 Corrections and Rehabilitation on H.R. No. 280

The purpose of this resolution is to review the Hawaii Correctional Master Plan and in particular to have the Department of Social Services and Housing reexamine the proposed elimination of certain workshops.

Testimony given by the representative of the Department of Social Services and Housing revealed that it is not the department's intention to eliminate work activities in the prisons but to seek out the most meaningful activities that can be made available to inmates, combined with academic and vocational training. Current plans call for the Hawaii Correctional Master Plan to implement more work activities, including work furloughs, within the community for low-risk inmates, thus increasing the number of outside work opportunities for them.

Your Committee feels that there are insufficient programs available to inmates of a social, cultural, academic or religious nature and there is not enough emphasis upon vocational training and skills and work release. More programs of this nature would enable inmates to help support their families on the outside, thereby saving on welfare costs, would help them to make restitution to their victims, and would teach them the skills necessary to get jobs upon being paroled from prison.

Your Committee agrees that there is a need for a review of the Hawaii Correctional Master Plan, its philosophy and implementation; however, your Committee believes that the review should also include other relevant areas needing reexamination. Your Committee has thus amended the resolution to expand the scope of the review to include an evaluation of other programs and services provided to persons incarcerated in the State of Hawaii and of the philosophy of the Hawaii Correctional Master Plan, its implementation, and how the philosophy and implementation relate to the current needs and resources of the people of the State of Hawaii.

Your Committee has also amended this resolution to create an independent Task Force which would study these correctional problems and which would be appointed by the Dean and the Professors of Constitutional and Criminal Laws of the University of Hawaii School of Law. However, corrections division administrators and professionals and certain other knowledgeable persons would provide advisory support. Your Committee feels that this will allow for a more objective analysis.

Your Committee on Corrections and Rehabilitation concurs with the intent and purpose of H.R. No. 280, as amended herein, and recommends its adoption in the form attached hereto as H.R. 280, H.D. 1.

Signed by all members of the Committee except Representatives Baker and Garcia.

SCRep. 650-78 Health on S.B. No. 1641-78

The purpose of this administration bill is to amend Section 321-11, Hawaii Revised Statutes, by updating the name identification of health care facilities listed in subparagraph 10 to modernize the nomenclature and make it synonymous with the federal terminology used in Medicare/Medicaid legislation. Clearer authority is given to the Department of Health in its regulation of special treatment and rehabilitation services for mentally ill persons, persons suffering from substance abuse, socially or emotionally distressed persons or develop mentally disabled persons.

Your Committee finds that the State is already licensing all of the facilities named in S.B. No. 1641-78 with the exception of free-standing surgical outpatient facilities and special treatment facilities, although Act 108 of the 1977 Legislative session requires the Department of Health to certify certain aspects of substance abuse programs.

Your Committee concurs with the request of the Department of Health that free-standing surgical outpatient facilities be subject to Department of Health regulation under Hawaii Revised Statutes 321-11 to protect the public health while also providing conditions conducive to the development of this increasingly popular service. Your Committee received testimony from the Department of Health stating that approximately one-fourth to one-third of all

hospital operative procedures could be performed on a "same day" basis in a free-standing surgical outpatient facility resulting in significant savings in cost of health care delivery.

Exempt from this provision would be surgical outpatient facilities located within, and owned and operated by hospitals. These facilities are already included within the hospital license provisions. Also exempt would be private offices of practicing physicians and dentists where primary care is delivered and where minor surgical procedures are performed for which admission to a hospital is not usual, customary or common practice in the community.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 1641-78, S.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Baker.

SCRep. 651-78 Ecology and Environmental Protection on H.R. No. 106 (Majority)

The purpose of this resolution is to put the Hawaii State House of Representatives on record as being opposed to extending landing rights at the Honolulu International Airport to supersonic transports.

Your Committee finds that the noise generated by supersonic transports exceeds EPA standards and will increase noise levels in urban areas to unacceptable levels.

Your Committee further finds that supporting energy inefficient aircraft such as the present generation of supersonic transports would be inconsistent with State and National energy policies.

Your Committee further finds that supersonic transports deplete the earth's protective ozone layer.

Your Committee finds, however, that while these shortcomings are found in the British-French Concorde, they may not apply to future supersonic transports.

Your Committee has amended the title of this resolution to read: "HOUSE RESOLUTION OPPOSING LANDING RIGHTS FOR THE CONCORDE". Your Committee has further amended this resolution by substituting "Concorde" where reference was originally made to supersonic transports.

Your Committee on Ecology and Environmental Protection concurs with the intent and purpose of H.R. No. 106, as amended herein, and recommends that it be referred to the Committee on Energy and Transportation, in the form attached hereto as H.R. 106, H.D. 1.

Signed by all members of the Committee except Representative Poepoe.  
(Representatives Inaba, Naito, Uechi and K. Yamada did not concur.)

SCRep. 652-78 Legislative Management

Informing the House that House Resolution Nos. 462 to 468, House Concurrent Resolution Nos. 90 to 93, and Standing Committee Report Nos. 629-78 to 635-78, have been printed and distributed.

Signed by all members of the Committee.

SCRep. 653-78 Energy and Transportation on S.C.R. No. 2

The purpose of this resolution is to encourage the development of closer ties between Alaska and Hawaii that will be of mutual social, economic, and political benefit to both states.

Testimony was presented by both public and private sectors of the community in support of this resolution.

Your Committee on Energy and Transportation concurs with the intent and purpose of S.C.R. No. 2, S.D. 1 and recommends that it be referred to the Committee on Water, Land Use, Development and Hawaiian Homes.

Signed by all members of the Committee.

SCRep. 654-78      Energy and Transportation on H.R. No. 386

The purpose of this resolution is to request the State Department of Transportation to replace the existing yellow-orange range lights with blaze orange range lights at the entrance of Ala Wai Harbor to improve the navigability of the channel at night.

The yellow-orange range lights currently marking the entrance of the harbor often blend in with the similarly colored tiki-torch lights which line the shore at Waikiki and with the hundreds of other background lights in the area. Often-times, inexperienced boat owners experienced navigators unfamiliar with the harbor become disoriented, unable to distinguish between shore lighting the navigational beams used to safely enter the harbor. This potentially dangerous situation could result in the loss of human life and in the grounding of vessels on the reefs bordering the harbor entrance.

Your Committee received testimony from the Department of Transportation and Mike Doyle, a marine surveyor, both in favor of this resolution. A simple change in color of the lights to provide maximum contrast with the surrounding lights would help make navigating the harbor entrance at night safer.

Your Committee is in accord with the intent and purpose of H.R. No. 386 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 655-78      Ecology and Environmental Protection on H.C.R. No. 55

The purpose of this concurrent resolution is to request that Congress prohibit the use of plastic containers.

Although the problem of plastic waste disposal is not currently of "public health" proportions, society's continued use of plastic will greatly compound and increase the problem if adequate and feasible means of disposal are not found. Plastic is a necessary commodity but, unfortunately, the more feasible and currently utilized means of plastic waste disposal are by burning and landfill. With increasing consciousness of air pollution, burning as a means of disposal may be ecologically unsound and undesirable. Further, plastic is not biodegradable so that waste cannot be used as organic nutrients and it is not conducive to future use for landfill. Thus, currently, there are no means of plastic waste disposal which are desirable long-term solutions.

Your Committee feels that the plastic waste disposal problem is of national concern and should be addressed before it reaches critical proportions. Thus, action by Congress is appropriate because of the nationwide implications and the federal technological and legal research capability.

Your Committee has amended the purpose of the concurrent resolution. Instead of requesting a ban of plastic containers, Congress is requested to address and seek solutions to the problem of plastic waste disposal. This change still addresses the basic problem, but recognizes the necessary and beneficial aspects of plastic. To conform to this change, the concurrent resolution is amended in the following manner:

(1) The title is amended to read: "HOUSE CONCURRENT RESOLUTION REQUESTING CONGRESS TO ADDRESS AND SEEK SOLUTIONS TO THE DISPOSAL OF PLASTIC WASTE";

(2) The first "WHEREAS" is amended by positively declaring, instead of negatively implying, that plastic containers are in some respects as useful as glass or metal containers;

(3) The eighth "WHEREAS" is amended to state that the use of plastic containers without adequate disposal is socially dysfunctional. Previously, it stated that the use of plastic containers is detrimental and deleterious. The amendment is made for consistency to the declaration that plastic is necessary and beneficial;

(4) The ninth and tenth "WHEREAS" clauses are deleted because they are inconsistent with the change in purpose;

(5) The "BE IT RESOLVED" clause is amended so as to request Congress to actively address and seek solutions to the problem of disposal of plastic waste rather than ban

plastic containers; and

(6) A "BE IT FURTHER RESOLVED" clause is added to further specify your Committee's desires.

Your Committee on Ecology and Environmental Protection concurs with the intent and purpose of H.C.R. No. 55, as amended herein, and recommends that it be referred to the Committee on Consumer Protection and Commerce, in the form attached hereto as H.C.R. No. 55, H.D. 1.

Signed by all members of the Committee.

SCRep. 656-78      Health on H.R. No. 71

The purpose of this resolution is to request the Department of Health to: (1) seek funds from the National Institute of Mental Health for use in preventive mental health programs in this State, and (2) prepare and submit a report to the Legislature prior to the convening of the Regular Session of 1979, reflecting an inventory of the primary prevention programs related to mental health in the State, programs funded by the Department and the criteria used in the selection of programs for such funding.

Your Committee recognizes that the State, in its financial planning, should take every opportunity to seek available federal funds for badly needed preventive programs. In this regard, your Committee is aware that the National Institute of Mental Health provides funds for various types of mental health programs including programs dealing with preventive mental health.

Your Committee finds that this resolution emphasizes the development of primary and other preventive mental health programs in a positive direction.

Your Committee on Health concurs with the intent and purpose of H.R. No. 71 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Baker.

SCRep. 657-78      Health on H.R. No. 204

The purpose of this resolution is to urge the Mental Health Division of the Department of Health to develop at the division levels, training programs designed to help women cope with mental health problems.

Your Committee finds that women in this State and in this society face unique physical and emotional challenges in light of their changing societal roles. Statistics show that women today are admitted to psychiatric hospitals and receive private therapy twice as often as men and account for 62 per cent of all adults in psychiatric out-patient clinics. This increasing need for services demands an equal awareness of these unique problems faced by women.

While these alarming statistics correctly indicate the need for an awareness of the problems of women, your Committee finds that such statistics are not necessary in this resolution. Your Committee recommends an amendment for the purpose of deleting the unnecessary statistics regarding the incidence of mental health problems among women. For this purpose the following phrase should be deleted:

"WHEREAS, women use 50 per cent more prescription drugs than men, use 72 per cent of all anti-depressants, 76.5 per cent of the minor tranquilizers and the majority of major tranquilizers prescribed; and"

Your Committee on Health concurs with the intent and purpose of H.R. No. 204, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as H.R. No. 204, H.D. 1.

Signed by all members of the Committee except Representative Baker.

SCRep. 658-78      Energy and Transportation on H.R. No. 301

The purpose of this resolution is to urge the State Department of Transportation to

correct road hazards on Farrington Highway on the Waianae Coast, making every effort to secure federal funds for this purpose. The Department of Transportation is also requested to submit a progress report before the convening of the 1979 Regular Session.

Your Committee finds that an increase in both visitor and resident traffic in the area has been accompanied by an increase in the number of motor vehicle accidents. To promote public safety, your Committee finds that certain corrective measures can be implemented, including additional pedestrian crosswalks, traffic signals and road signs.

Your Committee on Energy and Transportation concurs with the intent and purpose of H.R. No. 301 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 659-78      Energy and Transportation on H.C.R. No. 61

The purpose of this concurrent resolution is to urge the State Department of Transportation to correct road hazards on Farrington Highway on the Waianae Coast, making every effort to secure federal funds for this purpose. The Department of Transportation is also requested to submit a progress report before the convening of the 1979 Regular Session.

Your Committee finds that an increase in both visitor and resident traffic in the area has been accompanied by an increased in the number of motor vehicle accidents. To promote public safety, your Committee finds that certain corrective measures can be implemented, including additional pedestrian crosswalks, traffic signals and road signs.

Your Committee on Energy and Transportation concurs with the intent and purpose of H.C.R. No. 61 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 660-78      Higher Education on H.R. No. 395

The purpose of the resolution is to have the University of Hawaii, with the assistance and cooperation of the Commander-in-Chief of the Pacific Fleet, Pearl Harbor, conduct a feasibility study on having a Naval Reserve Officer Training Program at the University of Hawaii.

Further, this study, which has the support of the University of Hawaii administration, is to be completed and its findings reported to the Legislature ninety (90) days before the convening of the Regular Session of 1979.

Your Committee on Higher Education concurs with the intent and purpose of H.R. No. 395 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 661-78      Higher Education on S.B. No. 2380-78

The purpose of this bill is to empower the Board of Regents of the University of Hawaii to appoint the Secretary of the Board of Regents to serve its pleasure rather than to elect the Secretary for a fixed term.

Presently, the Secretary of the Board of Regents who shall not be a Regent is elected annually by the members of the Board of Regents, while all positions at the University of Hawaii are appointed by the Board of Regents including the President. Other State, County boards and commissions and department heads appoint their executive secretaries rather than elect them. The change provided by this bill will make it consistent with other appointments in the University of Hawaii system and with other boards and commissions.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 2380-78 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 662-78      Culture and the Arts on S.B. No. 2599-78

The purpose of this bill is to amend Section 9-2 of the Hawaii Revised Statutes, to provide staggered expiration dates for the membership of the State Foundation on Culture and the Arts.

Your Committee on Culture and the Arts is in accord with the intent and purpose of S.B. No. 2599-78 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 663-78      Health on S.B. No. 1660-78

The purpose of this bill is to eliminate the U.S. citizenship requirement or declaration of intention under oath to become a U.S. citizen for individuals seeking to be licensed as a speech pathologist or audiologist.

Your Committee finds that the U.S. citizenship requirement in Section 468E-5, Hawaii Revised Statutes, should be eliminated because it has no bearing on the academic, experimental and moral qualifications of the licensee.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 1660-78, S.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representative Baker.

SCRep. 664-78      Health on S.B. No. 1643-78

The purpose of this bill is to enable the department of health to issue certified copies of vital records by whatever system appears simplest and least expensive in cost and clerical time.

Your Committee is in agreement that this change in the existing statute would allow the department enough flexibility to overcome the increased demands for information in this area.

A further provision of this bill would enable the department to withhold issuance of certified copies of vital statistics until all information called for on the health information records has been provided to the best knowledge of the citizen requesting the certified copy.

Your Committee is of the opinion that such a procedure is unwarranted and that it would unnecessarily interfere with a citizen's right to have access to certified copies of his vital records. For this purpose, your Committee recommends that this bill be amended by deleting lines 2 through 6, page 2 of Section 1.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 1643-78, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1643-78, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Baker.

SCRep. 665-78      Ecology and Environmental Protection and Water, Land Use,  
Development and Hawaiian Homes and Ocean and Marine  
Resources on H.R. No. 123 (Majority)

The purpose of this resolution is to request that the Secretaries of Interior and Commerce declare a moratorium on federal encroachment on the territorial waters of Hawaii until acceptable boundaries for the monk seal's habitat and the Northwest Hawaiian Islands Wildlife Refuge are negotiated. It also requests that the Committee on Interior and Insular Affairs exclude the Hawaiian Islands Wildlife Refuge from consideration as a wilderness area under H.R. 1907.

Your Committees find that federal encroachment could preempt State's rights.

Your Committees also find that the State of Hawaii and the federal government have entered into a cooperative agreement to undertake an investigation of the resources of the Northwestern Hawaiian Islands.

Your Committees find that there exists a dispute between the State and Federal Government with respect to jurisdiction and control over the inland waters of the State and the nearshore waters within the Northwestern Hawaiian Islands.

Your Committees have amended this resolution by adding the eighth "WHEREAS" clause which acknowledges the cooperative agreement under which the State and the Federal Departments of Commerce and Interior are presently engaged in a resource assessment survey of the Northwestern Hawaiian Islands. Your Committees have further amended this resolution to reflect the dispute over jurisdiction in the following manner:

- (1) The second "WHEREAS" clause is amended to say that the State has jurisdiction and control over waters lying between the Hawaiian Islands.
- (2) The third "WHEREAS" clause is amended to reflect the dispute between the State and the Federal Government with respect to jurisdiction.
- (3) The fourth "WHEREAS" clause is amended to include areas extending three miles from certain islands, atolls, shoals, and reefs of the Northwestern Hawaiian Islands within the monk seal habitat and preclude fishing in these areas.
- (4) The sixth "WHEREAS" clause is amended by expanding the definition of H.R. 1907.
- (5) The first "RESOLVED" clause is amended by adding a request for the moratorium to continue until the dispute between the State and the Federal Government regarding jurisdiction is settled.

Your Committee on Ecology and Environmental Protection, your Committee on Water, Land Use Development and Hawaiian Homes, and your Committee on Ocean and Marine Resources concur with the intent and purpose of H.R. No. 123, as amended herein, and recommend its adoption in the form attached hereto as H.R. No. 123, H.D. 1.

Signed by all members of the Committees except Representative Poepoe.  
(Representative Carroll did not concur.)

SCRep. 666-78      Finance on H.C.R. No. 43

The purpose of this House Concurrent Resolution is to request the United States Department of Health, Education and Welfare to consider favorably the Hawaii Department of Education Application for a Fiscal Year 1978-79 Community Education Federal Grant under the Community Education Act.

Federal grants are available that would assist the State in achieving the following goals:

1. To develop general knowledge, awareness and acceptance of community education;
2. To provide training and technical assistance related to community education to districts, schools, community agencies and the general public;
3. To design, develop and pilot test a statewide systematic procedure for identifying documenting community needs; and
4. To develop a long range state plan for incorporating community education into the existing organizational structure of the Hawaii Department of Education.

Your Committee on Finance concurs with the intent and purpose of H.C.R. No. 43 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 667-78      Finance on H.C.R. No. 78

The purpose of this concurrent resolution is to request the Congress of the United States to prepare and submit an amendment to the Constitution of the United States which will require, in the absence of national emergencies, that the total of all federal appropriations

made by Congress for any fiscal year shall not exceed the total of all estimated federal revenues for that fiscal year.

A balance budget was common practice prior to 1961 and the Congress and the executive branch generally adhered to this practice except during times of war. However, since 1961, deficit spending became the rule rather than the exception and the federal deficit between 1961 and 1978 reached \$355 billion.

The present federal administration has expressed a commitment to balancing the budget. This objective is in keeping with the practice of most of the states of the Union, including Hawaii, for it is a fiscally responsible policy which reduces unnecessary expenditures and eliminates waste. It is a policy with which your Committee agrees.

Your Committee on Finance concurs with the intent and purpose of H.C.R. No. 78 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 668-78 Finance on H.R. No. 67

The purpose of this House Resolution is to request that the United States Congress amend the Soldiers' and Sailors' Civil Relief Act to permit the imposition of local motor vehicle weight taxes on nonresident military personnel stationed in Hawaii.

There are currently 53,000 vehicles privately owned and operated by military personnel in Hawaii, which are exempt from state and county motor vehicle taxes, resulting in lost county revenues of about \$500,000 annually.

Your Committee agrees that the exemption was adopted during a period of national crisis for purposes and circumstances which no longer exist.

Your Committee received testimony citing the problems of automobile dealers who are required to pay taxes on inventoried vehicles which are subsequently sold to military personnel.

The vehicle weight taxes are directly related to the use and ownership of motor vehicles and provide for the construction, maintenance and operation of Hawaii's roads, used by the general public, including military personnel who should contribute their fair share to the highway fund for use of the roads.

Your Committee on Finance concurs with the intent and purpose of H.R. No. 67 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 669-78 Energy and Transportation on H.R. No. 112

The purpose of this resolution is to request that the state department of transportation expedite construction of the Waimea-Kawaihae Highway project.

Your Committee finds the present Waimea-Kamuela/Kawaihae Highway is now unable to adequately and safely accommodate the increasing volume of commuter and commercial traffic.

Testimony presented by the department of transportation concurs with the purposes of the resolution and indicates efforts are being made in the design, additional archaeological survey and salvage works and right of way phases of the new highway project.

Your Committee on Energy and Transportation concurs with the intent and purpose of H.R. 112 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 670-78 Energy and Transportation on H.C.R. No. 28

The purpose of this resolution is to request federal assistance in meeting costs associated with port of entry activities such as agriculture, customs, immigration, and public health.

Your Committee received testimony which pointed out two changes that have occurred since this resolution was first drafted. The Coast Guard previously paid rent for space in the Aloha Tower. They have since been relocated to the Federal Building. Your Committee has amended this resolution accordingly. Your Committee has also amended this resolution to reflect the change in the administration of the state Department of Transportation.

Your Committee on Energy and Transportation concurs with the intent and purpose of H.C.R. No. 28 as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 28, H.D. 1.

Signed by all members of the Committee.

SCRep. 671-78      Energy and Transportation on H.R. No. 109

The purpose of this resolution is to request the department of transportation to plan for early construction of a new highway which would serve to connect the lower lying Kihei-Makena coastal areas with the upper Kula-Keokea areas.

Testimony presented by the Department of Transportation supports the intent of the resolution and notes that construction plans are being prepared for extensions of Piilani Highway (Route 31) and Kula Highway (Route 37). It was also noted that right of way acquisition will be required before construction can begin.

Your Committee on Energy and Transportation concurs with the intent and purpose of H.R. No. 109 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 672-78      Energy and Transportation on H.C.R. No. 33

The purpose of this concurrent resolution is to request the Department of Transportation to plan for early construction of a new highway which would serve to connect the lower lying Kihei-Makena coastal areas with the upper Kula-Keokea areas.

Testimony presented by the Department of Transportation supports the intent of the resolution and notes that construction plans are being prepared for extensions of Piilani Highway (Route 31) and Kula Highway (Route 37). It was also noted that right of way acquisition will be required before construction can begin.

Your Committee on Energy and Transportation concurs with the intent and purpose of H.C.R. 33 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 673-78      Energy and Transportation on S.C.R. No. 28

The purpose of this concurrent resolution is to request President Carter and the Congress to provide Hawaii its rightful share of the U.S. Department of Energy's proposed budget for the Strategic Petroleum Reserve, as a safeguard against the consequences of a possible interruption of the petroleum supply.

Hawaii is especially vulnerable to such energy crises due to its almost total dependence on imported petroleum for its energy needs as recognized by the Energy Policy and Conservation Act of 1975 (Public Law 94-163).

The decision of the U.S. Department of Energy Secretary James R. Schlesinger to deny Hawaii an emergency oil storage facility appears to be in conflict with Public Law 94-163 which provides that "each non-contiguous area of the United States which does not have overland access to domestic crude oil products has its component of the Strategic Petroleum Reserve within its respective territory."

Testimony presented to your Committee by the Department of Planning and Economic Development and the Hawaiian Electric Company expressed support for this resolution.

Your Committee on Energy and Transportation concurs with the intent and purpose of S.C.R. No. 28, S.D. 1, and recommends its adoption.

Signed by all members of the Committee.

SCRep. 674-78 Finance on H.R. No. 372

The purpose of this House Resolution is to specifically exempt public pension plans from federal taxation and reporting requirements.

This statutory exemption is sought to change the policy of the United States Internal Revenue Service which has subjected public pension plans to qualification requirements and taxation of investment income. Prior to 1972, the investment income of state and local public pension plans were implicitly exempt from federal taxation and former public employees receiving public pension benefits were allowed preferential tax treatment. However, since 1972, the Internal Revenue Service has changed this policy and furthermore, in 1977, the Internal Revenue Service stated its intention to require public pension plans to file annual returns containing certain required financial information.

This resolution requests that either H.R. 9118 or S. 1587 be enacted into law by the Congress and the President to change this policy of the Internal Revenue Service regarding public pension plans.

Your Committee on Finance concurs with the intent and purpose of H.R. No. 372 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 675-78 Finance on H.R. No. 33

The purpose of this resolution is to request the Office of Children and Youth to study the need for after-school programs for school-aged children, to determine the extent and nature of the need, and to consider the appropriateness of such programs as a solution to the needs of children and families. This study is to be a joint undertaking of the Departments of Education and Social Services and Housing with the Office of Children and Youth which is requested to submit a report of its findings and recommendations to the legislature prior to the convening of the Regular Session of 1979.

Your Committee agrees that there is a need for programs to provide school-aged children with a variety of after-school-hour activities. Your Committee supports this resolution as a positive step toward assessing after-school programs as a solution to the needs of children and their families. Your Committee further recognizes the efforts of the Delta Kappa Gamma Society and your Committee requests that this study by the Departments of Education and Social Services and Housing and the Office of Children and Youth give full consideration to the society's project entitled "A Survey of After-School Activities of Elementary School-Age Children on School Days". Your Committee agrees that appropriate county agencies that can provide after-school activities should be consulted during the course of this study.

Your Committee on Finance concurs with the intent and purpose of H.R. No. 33 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 676-78 Housing on H.R. No. 325

The purpose of this resolution is to request the Hawaii Housing Authority to prepare and submit to the Ninth Legislature a report concerning security and emergency system problems which allegedly exist at Makua-Alii housing and to suggest solutions for those problems.

Testimony from a Makua-Alii resident indicated that there are problems with emergency systems. It was noted that persons summoning after-hours emergency aid, such as fire, police, or ambulance, are expected to go to the ground floor of the 19-story building to open the door to permit entry.

Tenants also reported that although a maintenance person is supposed to reside at Makua-Alii, the present maintenance person has been on sick leave for some time, thus requiring tenants to leave word with an answering service for after-hours emergencies.

Hawaii Housing Authority testified that although present emergency systems are inadequate, the cost of installing adequate systems, which would include, of necessity, the rewiring of the entire structure, would be \$103,000.

Your Committee finds that, in light of the testimony received, there is need for a thorough report on the problems at Makua-Alii.

Your Committee has amended this resolution to provide that the report to be prepared by the Hawaii Housing Authority be submitted no less than 20 days prior to the convening of the Tenth Legislature, 1979. Your Committee feels that this extension is justified in view of the in-depth analysis of the situation required of the report.

Your Committee on Housing is in accord with the intent and purpose of H.R. No. 325, as amended herein, and recommends its adoption in the form attached hereto as H.R. No. 325, H.D. 1.

Signed by all members of the Committee except Representative Baker.

SCRep. 677-78                      Education and Health on H.R. No. 182

The purpose of this Resolution is to request the Committee on Education and the Committee on Health to review and make recommendations on the reports of the Joint Health and Education Interim Subcommittee on Diagnostic Teams and Health Services to Students.

#### APPROACH TAKEN

On September 23, 1977 the Education Interim Subcommittee on Diagnostic Teams and Health Services to Students was formed. The Subcommittee consisted of members from the House Committee on Education and included: Representatives Mitsuo Shito, Chairman; Neil Abercrombie; James Aki; Herbert Segawa; Charles Toguchi; and Faith Evans. The Subcommittee set out to accomplish the following tasks:

- (1) Review and assess the delivery of special education programs of the Department of Education;
- (2) Review and assess the functional responsibilities of the Department of Education's diagnostic teams and the Department of Health's children's mental health service teams; and
- (3) Review the status and implementation of the school health aide program.

In September, 1977 the Health Interim Subcommittee on School Health Services was also formed. The Subcommittee consisted of members of the House Committee on Health and included: Representatives Herbert Segawa, Chairman; James Aki; Mitsuo Shito; Dennis Yamada; and Tony Narvaes. The Subcommittee set out to accomplish the following tasks:

- (1) Review and assess the planning and implementation of school health education curricula;
- (2) Review and assess the state school health program which includes school nurse and health aide services; and
- (3) Review and assess other school health programs such as vision and hearing screening and diagnostic testing which identify physiological handicaps and learning disabilities in school children.

Your Joint Committees have found that the Subcommittees conducted two joint public hearings and have heard testimony from private and public agencies and organizations involved in the planning and implementation of special education and school health programs and services.

#### REPORT OF THE EDUCATION INTERIM SUBCOMMITTEE

##### BACKGROUND

Special Education. Under Sections 301-21 and 301-22, Hawaii Revised Statutes, the Department of Education (DOE) is required to provide instruction, special facilities, and special services for education, therapy, and training for handicapped persons under age twenty. The DOE must also comply with the requirements of Public Law 94-142, the Education for All Handicapped Children Act of 1975, in order to receive federal funding for education-related programs and services for handicapped children. Public Law 94-142 specifically requires the State education agency to: establish goals and annually update its timetable to provide for full educational opportunities to all handicapped children;

identify and assist all children with handicapped conditions; provide each handicapped child with an appropriate and individualized education program; and insure that a free, appropriate public education is available 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.

A recent Hawaii Circuit Court consent agreement and order (Silva et al., vs. Board of Education, State of Hawaii, et al., Civil No. 41768) eeducational opportunities to all handicapped children and for developing an adequate educational program in this regard. This program is to include: early identification of children having handicapped conditions; early and prompt special educational programs and services; individualized program plans for each handicapped student; and career and vocational education for handicapped students. 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. It mandated that DOE initiate a program to identify and evaluate handicapped children by October 1, 1978, and that appropriate public education be available for each handicapped child between ages three and twenty not later than September 1, 1980. Because the provisions of the court order prevailed over federal and state law and any department policy, the department has accelerated its efforts to identify and place such children in appropriate programs.

Another special education guideline used by the DOE is its State Plan for Special Education and Services in Hawaii adopted by the State Board of Education in 1975. This document defines handicapped children as those persons under age twenty who suffer from mental retardation, loss of hearing, speech impairment, loss of sight, orthopedic impairment, being emotionally disturbed, learning disabilities, or a combination of these conditions. It also outlines responsibilities for the various agencies involved: DOH--medical and health services; DSSHsocial 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.

The plan designates the DOE Special Needs Branch as being responsible for the planning, implementation, and coordination of special education programs and services and the development of policies, regulations, and standards for special education. Each school district superintendent is directly 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. Teachers are responsible for providing instruction and annually evaluating the progress of each special education student, and the special education teacher is further responsible for developing an individualized education plan for each student. The plan also recommends that career and vocational education be a cooperative effort of the DOE and other State agencies which provide career and vocational education services for special education students such as DOH and DSSH.

The evaluation and placement of students in DOE special education programs is governed by DOE Regulation 49 which assures due process to handicapped children and their parents during testing, evaluation and placement procedures. It also 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.

Special education is provided at regular and special education schools. At a regular school, a special education student can be assigned to: a full-time, self-contained class and receive instruction from a special education teacher for the entire school day; 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. In addition, DOE special education schools, such as the Hawaii School for the Deaf and Blind, Jefferson School Orthopedic Unit, and Pohukaina School provide intensive specialized services not available through district programs. Private special education schools, such as 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, also provide educational and other services that are not available in the public school district programs.

Diagnostic Teams and Mental Health Services. To implement federal and state laws, the recent court order and its special education plan, the DOE extensively utilizes its diagnostic testing program to identify and assess children with handicapped conditions

and has expanded its special education program in public and special education schools. The diagnostic testing program is part of 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 are utilized on a school district basis and consist of a psychological examiner, speech and hearing specialist, school social worker, and a diagnostic-prescriptive teacher. The teams make referrals to other public agencies and private organizations through cooperative agreements and contractual agreements for further diagnosis, intensive treatment and therapy, and follow-up services.

Special needs for pre-school children, ages three to five who are developmentally disabled are handled through the Children's Health Services Division, DOH. This division has been contracted (Title XX Master Contract) by the DSSH to screen, evaluate and provide comprehensive developmental training for those type of children. DOH services on Oahu are provided through centers at Wahiawa, Pearl City, Aina Haina, and Leahi and on Hawaii at Kona. Contracts between the DOH and private agencies provide these services to other parts of Hawaii, Maui, Kauai, and Waianae and Honolulu. The Learning Disability Clinic, which is part of the Children's Health Services Division, 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 a interdisciplinary team on an itinerant basis. Children's Health Services Division also provides one occupational therapist and one physical therapist in each school district through a contract with the DOE.

Identification, diagnosis, treatment, and rehabilitative services for persons up to age seventeen is provided by the DOH Children's Mental Health Services Branch. Children's mental health services teams have been established within State community mental health centers. 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.

School Health Aide Program. The school health services program started out as a pilot project under Act 130, Session Laws of Hawaii 1970. The project called for first aid emergency care and preventive health care services at a limited number of schools. A school health aide was utilized at each test school and a school nurse at each test school complex. The project is operated through an interdepartmental agreement between DOE and DOH with a Governor's School Health Services Advisory Committee providing coordination, guidance and evaluation of the program.

Services include first aid, emergency care, and preventive care such as health screening and follow-up services. The planning, development, and implementation of school health services and other support services are conducted by the DOH school health and public nursing branches. The responsibility for the day-to-day operation of this program in the schools lies with DOE school principals.

#### SUBCOMMITTEE'S FINDINGS

While there is a State Plan for special education programs and services, and the DOE has expanded its efforts to meet the increasing demand for special education services as well as to meet federal and state requirements, it is necessary to highlight some of the major needs in this area. The Subcommittees found that there are shortages in resources and teaching staff for special education, a need to increase staff capabilities and interagency coordination, inadequate transportation services, and clarification of staffing roles in the school health program.

Shortage of resource and teaching staff. According to the DOE, as of September 1977, 8,416 students were identified as being in need of special education services. This includes 2,469 children that have been identified in a new DOE handicapped category for those with speech impairments. By the end of this school year, 1977-78, the total number of children requiring special education and related services is expected to increase to 11,960. For the following school year, 1978-79, this number is projected to increase to 14,823, largely due to the increasing number of children (4,469) identified as having speech impairments. For the 1979-80 school year, this number is expected to increase to 17,028 which will include 6,043 children with speech impairments.

Several factors are responsible for this rapid increase in handicapped students. The most significant factor is the response to Public Law 94-142 and the recent State court order to identify, locate and evaluate all handicapped children in need of special education and related services. Both require the DOE to expand its services to pre-school children, especially in the three to five year old category. This alters the existing age range served of five to twenty years to an age range of three through twenty. Both also require the

DOE to identify children with speech impairments as a major category of handicapped students and to provide services for such children. This new population is expected to be a major contributor to the significant increases in special education needs in the coming years.

To meet this increase the DOE has projected the following staffing and resource needs for special education and services FY 1977-78 and FY 1978-79:

<u>Category</u>	1976-77 (actual)	1977-78	1978-79
Teachers of Special Classes	374	390	424
Resource Room Teachers	197	209.5	214.5
Itinerant/Consulting Teachers	3	3	8
Psychologist	6.5	6.5	6.5
School Social Workers	31	31	31
Occupational Therapists	6.5	13.5	13.5
Home-Hospital Teachers	3	3	3
Speech Pathologists	42	86	110
Audiologists	1	1	1
Teacher Aides	69	112	121
Work Study Coordinators	7	7	7
Diagnostic Staff	64	64	64
Supervisors	2	2	2
Other Non-Instruction Staff	8	29	29
Total	814	957.5	1034.5

A related problem is the large special education student-teacher ratio in secondary schools. Departmental policy calls for 26 special education students to one resource teacher and 12 to 1 ratio for a special education teacher in a self-contained class. Resource teachers work with those handicapped children who receive the majority of their instruction in a regular classroom setting and receive special education assistance during the remaining instructional time. According to the Hawaii State Teachers Association Special Education Teachers Affiliate, there have been instances where secondary school resource teachers have served as many as 50 students at one time. There have also been instances where special education students who should be receiving assistance from resource teachers are, instead, receiving assistance from special education teachers. This affects the 12 to 1 ratio for special education teachers and further affects the quality of services for those handicapped students placed under the special education teachers.

Staffing Capabilities. The level and type of pre-service and in-service training conducted for special education personnel and work requirements placed upon these individuals significantly affect the quality of services to special education students. Public Law 94-142 requires the development of an individualized education program (IEP) for each special education student by October 1, 1977. DOE school districts have conducted IEP workshops during teacher preparation periods, supplemented by voluntary workshops. Federal guidelines also require each State education agency to have a program of incentives such as instructional release time and additional compensation to achieve full participation at IEP workshops. The development of an IEP for each handicapped child must comply with lengthy federal and DOE guidelines. Parental participation in the development of a child's IEP through parent-teacher conferences is also a significant part of federal and DOE guidelines. However, parent-teacher conferences generally are restricted to non-instructional time under Article VI, Section AA of the State teachers' contract. Teachers have therefore used teacher preparation periods and pre- and post-school hours for such conferences.

The Subcommittee found a lack of uniformity among schools and school districts in the preparation and implementation of IEP's and in the use of incentives at IEP workshops as required by federal guidelines. This appears to be related to inconsistent attendance at supplemental IEP workshops producing different types and levels of training among special education teachers. Another major finding is the lack of sufficient time for the preparation of IEP's because of stringent federal and DOE guidelines and competition with parent-teacher conferences during teacher preparation periods.

The Subcommittee found in regard to pre-service training programs, that if regular education teachers have some degree of college preparation in special education, they can supplement the continuing search for children suspected of having special education disabilities and more effectively serve these students in a regular classroom. While special education pre-service training at the University of Hawaii College of Education is available to all students, special education courses are not a mandatory graduation requirement for a baccalaureate in education.

Another finding of the Subcommittee is that the lack of uniformity in the personnel classification for the DOE diagnostic teams has contributed to the lack of uniform quality educational related services to handicapped students. These teams play an integral role in providing diagnostic and evaluative services to handicapped students. At the present time, a diagnostic team staff consists of both certified personnel (i.e. teachers) and classified personnel (i.e. DOE and district administrators). The result is certified members of the diagnostic team are not available to provide services during certain periods of the year (i.e. summer, Easter vacation). According to the DOE, they are hiring only classified personnel as new diagnostic team personnel to ensure year round staffing.

Interagency Coordination. The Subcommittee found that while agencies involved with the delivery of special education and related services have attempted to coordinate their activities to ensure effective and full implementation of federal and State special education guidelines, there is still a need for greater interagency coordination and the adoption of interagency agreements. The State Plan for Special Education Programs and Services (1975), recommended that the DOE be the primary agency responsible for ensuring the delivery of special education services, and as such, should establish a comprehensive set of interagency agreements with other public and private agencies providing supportive services. For example, the plan recommended that joint agreements between the DOE and the DOH be established in the areas of diagnostic services for the handicapped, physical and occupational therapy, mental health services, and school health services. It also recommended that formal agreements be established between: the DOE and Department of Accounting and General Services (DAGS) in the area of transportation services for handicapped students; the DOE and the DSSH in the area of vocation counseling, evaluation, and training; and the DOE and the UOH in the area of pre-service and in-service training for teachers and support personnel.

The Subcommittee found that in most cases these agreements have been reached. One of the major joint agreements not yet achieved is between the DOE and DOH for diagnostic and mental health services. The adoption of this agreement is important since the DOH, through its children's mental health teams in the State mental health centers provides diagnostic and medical service to children referred by the DOE. One of the major factors preventing an interagency agreement is the charge of a fee based on income by DOH children's mental health teams for services. This practice is contrary to federal guidelines mandating the DOE to ensure free, appropriate special education and related services, including diagnostic services to identified handicapped children.

While the DOE and DOH maintain identification and monitoring systems for identified handicapped children, your Subcommittee found that there is no systematic interagency exchange of information on the number and type of handicapped children and whether such children are receiving the necessary services in an appropriate and timely manner.

A 1975 House Interim Health Subcommittee on the DOH's Children Mental Health Teams identified the need for a more cooperative effort by the DOE and DOH in identifying and servicing children with mental health and related assistance, and recommended that a reporting system be established to ensure that the DOH and DOE would regularly receive information of handicapped children in need of mental health and other related services.

Transportation Services. Transportation services for handicapped children attending public and private schools are provided by the DOE through contractual arrangements with the DAGS. The Subcommittee found these transportation services identified to be inadequate and unsafe by parents of handicapped students. Parents have informed the Subcommittee of specific problems such as the absence of adult supervision on school buses, excessive waiting and riding time on buses and an inadequate system of ensuring

proper safety and convenience measures for handicapped school children.

Another finding of the Subcommittee is the fiscal implications of federal and DOE guidelines requiring the State to provide transportation to private schools for handicapped students when public programs are not available. Transportation services such as school vans for handicapped students have become increasingly expensive due to increases in vehicle operating and maintenance costs.

School Health Services Program. The Subcommittee found the school health nurse and health aide program to be well utilized by school students. A 1975 Legislative Audit found the program to be cost-effective. The project has been expanded over the years, and presently, is available to all public schools through the services of 219 health aides and 27 school nurses. The Subcommittee learned that the program faces a possible reduction in services for the following 1978-79 school year.

The Subcommittee also found that a potential problem lies in the unclear delineation of responsibility between the DOH and DOE in the development and management of health aide services at each school. While the DOH establishes the role and responsibilities of the school health aide, the day-to-day administration and management of the school health services program is the responsibility of the school principal. Under this arrangement, the health aide is under the supervision of the principal and both the principal and health aide must cooperatively work together in the planning and implementation of the school health aide program.

#### SUBCOMMITTEE'S RECOMMENDATIONS

The Subcommittee, after reviewing the State special education program and services, and the school health services program, recommends that the full Committee on Education at the 1978 session pursue the following courses of action:

Special Education. Closely review the impact of anticipated departmental requests for increased special education staffing and resources to meet its September 1, 1980 estimates of handicapped students. Given the State's limited financial resources, an evaluation of special education classroom size and workload should be conducted to determine the cost of varying levels of services and to establish priorities for budget planning purposes.

Staffing Capabilities. Review the DOE special education in-service training program to ensure that all DOE special education staff receive the necessary assistance in carrying out their responsibilities and are provided with opportunities to supplement existing knowledge and skills in special education. Furthermore, the DOE should be requested to examine ways including incentives, to encourage special education or regular personnel enrollment in in-service training. Release time during the instructional day for teachers involved with special education students, compensation to teachers for attending workshops during non-working hours, and the use of educational television for in-service training presentations should be considered.

The Education Committee should also review the DOE policy prohibiting the use of instructional time for IEP parent-teacher conferences and develop alternatives to provide special education teachers with more time during school hours to develop and complete IEPs.

The University of Hawaii College of Education should be requested to determine the feasibility of including special education courses as part of its mandatory graduation requirements for a baccalaureate degree in education.

A review of the impact of mixed diagnostic team staffing should be conducted by the committee and a request made of the DOE to continue the current practice of hiring classified personnel as new diagnostic team personnel.

Interagency Coordination. Monitor and review the progress of the DOE and DOH in reaching a joint agreement for diagnostic and related services for handicapped school children. The feasibility and impact of establishing a systematic reporting system for children mental health services as well as a reporting system between the DOE and the DOH should also be examined.

Transportation Services. Request the DOE and DAGS to explore ways to minimize waiting and riding time for handicapped children. The possibility and cost of employing bus aides to ensure safe and convenient transportation services for handicapped school children should also be considered. Furthermore, the committee should review and determine the fiscal impact of providing transportation services to handicapped students attending

private schools.

School Health Aide Program. Conduct a joint review with the House Committee on Health and the House Committee on Education to determine the impact of any reduction in school health services and explore alternatives to maintain current levels of service for those school health programs that may be affected by a reduction in funds. The Education Committee should also examine the DOH-DOE interagency agreement for school health services to ensure that clear guidelines have been established to resolve any present or future jurisdictional problems relating to the management and operation of the school health aide program.

#### REPORT OF THE HEALTH INTERIM SUBCOMMITTEE

##### BACKGROUND

The Subcommittee's focus was on four major health programs presently operating in Hawaii's schools: health education; school health services; and two testing programs, vision and hearing screening and diagnostic testing.

Health Education. In 1969, the State Board of Education adopted a State Health Education Study (SHES) which incorporates a conceptual approach for the planning and development of a state health education program. It has since served as a framework for the development of K-12 health education curriculum in Hawaii's public schools as well as teacher in-service education and program evaluation. This health education program stresses ten major areas: (1) and (2) Child Growth and Development; (3) Community Health; (4) Safety; (5) Disease and Environment; (6) Family, including sex education; (7) Developing Health Values; (8) Consumer Health; (9) Mood Modifiers, including drug education; and (10) Nutrition. Mental health education is included as part of each area. Seven of the ten areas have been implemented, with Community Health, Developing Health Values, and Consumer Health scheduled for implementation between 1977 and 1979.

The health education program consists of a beginning program for grades kindergarten to six, an advanced program for grades seven to twelve, and a support service program which include faculty in-service training and program evaluation. In grades K-6, health education is taught by the classroom teacher on a sequential basis. At the intermediate school level it is offered as a one semester requirement and in high school, a one semester course conducted by a health education teacher is required.

In 1974, the University of Hawaii graduated its first students from a degree program in health education and in 1976, DOE health education certification for secondary school teachers began. Also in 1976, a comprehensive evaluation of the SHES program was conducted, with an emphasis on the family life and drug education components of the program.

School Health Services Program. The school health services program is a cooperative effort of the Department of Health (DOH), Department of Education, and other agencies such as the Red Cross and the Hawaii Heart Association. It is intended to provide first aid, emergency care, and preventive care such as health screening and follow-up service. The DOH, through its school health and public nursing branches, provides the planning, development, and implementation of school health services and other support services as required. The day-to-day direction and operation of this program in the schools is the responsibility of DOE school principals.

The school health services program started out as a pilot project under Act 130, Session Laws of Hawaii 1970. First aid emergency care, and preventive health care was provided at a limited number of schools. The project utilized a school health aide at each test school and a school nurse at each test school complex. The project is operated through an interdepartmental agreement between DOE and DOH. A Governor's School Health Services Advisory Committee provides coordination, guidance and evaluation of the program.

Other School Health Services. The Department of Health provides two health testing services in the schools. One is vision and hearing screening and the other is diagnostic testing. All public schools, including special education classes, receive these services. In the private schools, vision screening is conducted by teachers and volunteers and hearing screening is conducted by the DOH.

Both the Department of Education and the Department of Health provide diagnostic testing for children. Under Section 301, Part II, HRS, the DOE is to provide instruction, special facilities and special services for the education, therapy and training of handicapped persons under the age of 20. The DOE's diagnostic testing is part of the department's special education program and consists specifically of identification, referral, diagnosis

and educational evaluation for children between the ages of 3 to 19. It also includes students in the department's special education program. Diagnostic teams are utilized on a school district basis and include a psychological examiner, speech and hearing specialist, school social worker, and a diagnostic-prescriptive teacher. The diagnostic teams make referrals to other public agencies and private organizations through cooperative and contractual agreements for further diagnosis, intensive treatment and therapy, and follow-up services.

In the Department of Health, the Children's Health Services Division provides: (1) diagnostic assistance to the DOE for children with developmental and learning disabilities from ages 5 to 10 who require multi-disciplinary assessment and observation; (2) screening and evaluation services for children from ages 3 to 4 who are suspected of having specific learning disabilities; and (3) occupational and physical therapy services to each school district through a contractual agreement with DOE.

The Children's Mental Health Services Branch provides identification, diagnosis, treatment and rehabilitative services for persons up to age 17. Children's mental health services teams have been established within state community mental health centers. 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.

#### SUBCOMMITTEE'S FINDINGS AND RECOMMENDATIONS

(1) Health Education. While the Department of Education has implemented a state-wide school health education program based on the SHES approach, the 1976 evaluation of SHES highlighted the need for teacher and administrator health education in-service training in all school districts. One problem seems to be that health education in-service training is an option rather than a requirement. The result is an uneven quality in the delivery of health education in our public schools. The evaluation also cited the lack of administrative emphasis on school health education as another major factor contributing to the absence of a fully implemented school health program. Strong emphasis and direction from state office, district, and school administrators towards the full implementation of the school health education program has not occurred. Without close monitoring and strong guidance by administrators, the schools are not implementing the health education program as designed.

It is recommended that the Health Committee request the DOE to establish an active, continuing health education in-service training program in all school districts for teachers and administrators. The DOE should also be encouraged to extensively utilize the services and resources of the DOH and private community health agencies specializing in specific health concerns as part of this overall effort. It is also recommended that DOE administrators and school principals be requested to actively promote the full implementation of the health education program through the exercise of strong leadership.

(2) School Health Services Program. The Subcommittee found the school health nurse and health aide program to be well utilized by school students. A 1975 Legislative Audit found the program to be cost-effective. The project has been expanded over the years, and presently, is available to all public schools through the services of 219 health aides and 27 school nurses.

However, a potential problem lies in the unclear delineation of responsibility between the two departments in the development and management of health aide services at each school. While the DOH establishes and determines the role and responsibilities of the school health aide, the day-to-day administration and management of school health programs and health aides are the responsibility of the school principal.

The most recent expansion of the program is scheduled to terminate at the end of the fiscal year, with an expected reduction in services without funding for the following fiscal year.

It is recommended that the Committee request the DOE and to establish clear guidelines in resolving any present or future jurisdictional problems relating to the management and operation of the school health aide program. The Health Committee should also closely review the impact of any reduction in school health services and explore alternatives to maintain current levels of service for those school health programs that may be affected by a reduction in funds.

(3) Other School Services.

Vision and Hearing Screening. The vision and hearing screening program was found

to be an important health care preventive program. It has received strong community support. However, it is not available to all school students during the current school year due to budget restrictions. Vision screening is presently provided to public students in preschool, kindergarten to 6, grade 7, grade 10, and in special education classes. Hearing screening is provided to public and private students in special education classes, preschool, kindergarten, and grades 2, 5, 8, 11.

Because of the large number of students to be tested at the beginning of each school year, some students do not get tested until the second half of the school year. Under these circumstances, those with hearing or vision defects must continue to operate with these handicapped conditions until detected.

It is recommended that the Health Committee request the DOH develop alternatives for the vision and hearing screening teams to overcome this problem. The use of volunteers and health aides for simple vision screening testing should be encouraged. This practice is employed by private schools which receive the services of volunteers and teachers for vision screening.

Diagnostic Testing. The Subcommittee found that there is need for further clarification of DOH and DOE interagency cooperative agreements which define the role and responsibilities of the two departments in providing diagnostic and related services to handicapped children. For example, although DOE and DOH have agreed to provide support services to each other, it is not clear whether the DOE should inform and consult with the DOH in referring certain cases to private health care providers. There have been instances where DOE, without DOH consultation, have referred cases to private health care providers. Since the DOH, through its mental health centers, is responsible for identifying and providing for the mental and health needs of our State, it is recommended that the DOE be required to inform DOH of its private referrals. It is further recommended that the House Committee on Health, during the 1978 session, closely review the language and implementation process of interagency cooperative agreements and contracts to ensure a coordinated and effective delivery of diagnostic services.

A lack of uniformity in personnel classification for the DOE diagnostic teams was also found. At the present time, a diagnostic team staff consists of both certified personnel (i.e. teachers) and classified personnel (i.e. DOE and district administrators). The result is certified members of the diagnostic team are not available to provide services during certain periods of the year (i.e. summer, Easter vacation). Although the DOE is hiring classified personnel as new diagnostic team personnel to ensure year round staffing, it is recommended that the DOE be asked to continue this classified personnel hiring policy for its diagnostic teams. It is further recommended the House Committee on Health, during the 1978 session, determine the impact of the current mix of certified and classified personnel on district diagnostic teams.

Your Joint Committees on Health and Education have adopted the Health Interim Subcommittee Report on School Health Services and the Education Interim Subcommittee Report on Diagnostic Teams and Health Services to Students. The information contained in the Subcommittees' Reports have been included in this Standing Committee Report.

Your Committees on Health and Education will pursue the recommendations of the Subcommittees during this legislative session, time and resources permitting.

Your Joint Committees on Health and Education are in accord with the intent and purpose of H.R. No. 182, and recommends its adoption.

Signed by all members of the Committees.

SCRep. 678-78      Higher Education on H.R. No. 337

The purpose of the resolution is to have the president and the director of athletics of the University of Hawaii investigate the compliance with Title IX by the University of Hawaii in its athletic programs and to report their findings to the Legislature prior to the close of the 1978 legislative session.

Totally aware that full compliance with Title IX is required by July 21, 1978 (and not July 1, 1978, as noted in the Resolution). The University administration is pleased with the legislature's concern regarding this compliance, especially, as cited, in the area of compensation of coaches. In June, 1976, the administration did undertake a review and found, at that time, no instances of violations of Title IX. The administration, further, would be happy to conduct again a review and report its findings to the Legislature prior

to its closing.

Your Committee on Higher Education, in support of the Resolution, proposes that it be amended to correct the deadline for compliance from July 1, 1978, to July 21, 1978, and to include all the directors of athletics on the University of Hawaii campuses in lieu of the "director of athletics of the University of Hawaii."

Your Committee on Higher Education concurs with the intent and purpose of H.R. No. 337, as amended herein, and recommends its adoption in form attached hereto as H.R. No. 337, H.D. 1.

Signed by all members of the Committee.

SCRep. 679-78      Public Employment and Government Operations on S.B. No. 1129

The purpose of this bill is to amend Sections 147-7 and 147-58, Hawaii Revised Statutes, to provide that coffee inspectors employed by the Department of Agriculture shall be exempt from the provisions of Chapters 76 and 77.

Your Committee finds that presently, coffee inspectors are employed on an exempt renewal basis requiring annual review and approval by the Department of Personnel Services. Testimony presented by the Department of Agriculture indicated that inspectors have been employed on an exempt basis because the seasonal nature of the work involved is not conducive to the normal recruitment practices of the civil service. The need for services of coffee inspectors generally begins in July and is at its peak during the harvest months (October through March), tapering off through January. Moreover, the hours of work, especially during the peak period are very erratic, ranging between twenty and sixty hours per week. Under this bill, the employment of coffee inspectors would be clearly exempted from the civil service, thereby eliminating the need for annual approval by the Department of Personnel Services for employment of such inspectors on an exempt basis.

Your Committee has made technical and stylistic amendments to this bill which do not affect its substance.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of S.B. No. 1129, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1129, H.D. 1.

Signed by all members of the Committee.

SCRep. 680-78      Public Employment and Government Operations on S.B. No. 1772-78

The purpose of this bill is to amend Section 88-51, Hawaii Revised Statutes, to include prior service rendered as a full-time employee of the Pioneer Mill Hospital, Maui, in the definition of membership service for purposes of the Employees' Retirement System.

Your Committee finds that in January, 1961, Pioneer Mill Hospital closed down its operations and that subsequently, some of its former employees have entered State employment in the health care field. Under this bill, these employees would be allowed to purchase service credits in the Employees' Retirement System for the period during which service was rendered as an employee of Pioneer Mill Hospital. The Department of Health reported in its testimony that one employee at Kula Hospital and three employees at Maui Memorial Hospital would benefit from the proposed amendment to Section 88-51. Because of the minimal number of employees, the Employees' Retirement System testified that such amendment would entail no actuarial cost to the System.

Your Committee believes that enactment of this bill is consistent with Act 151, Session Laws of Hawaii 1976, and Act 51, Session Laws of Hawaii 1977, which allowed former employees of Puunene Hospital, Haliimaile Dispensary and Paia Hospital on Maui, and Waimea Hospital on Kauai to make similar credit purchases in the Employees' Retirement System.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of S.B. No. 1772-78 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

## SCRep. 681-78      Legislative Management

Informing the House that House Resolution Nos. 469 to 476, House Concurrent Resolution Nos. 94 and 95, and Standing Committee Report Nos. 637-78 to 651-78, have been printed and distributed.

Signed by all members of the Committee.

## SCRep. 682-78      Energy and Transportation on H.C.R. No. 64

The purpose of this concurrent resolution is to request that the United States Congress amend the Soldiers' and Sailors' Civil Relief Act to permit the imposition of local motor vehicle weight taxes on non-resident military personnel stationed in Hawaii.

There are currently 53,000 vehicles privately owned and operated by military personnel in Hawaii, which are exempt from state and county motor vehicle weight taxes, resulting in lost county revenues of about \$500,000 annually.

Your Committee finds that the exemption was adopted during a period of national crisis for purposes and circumstances which no longer exist.

Testimony presented before your Committee by the Hawaii Automobile Dealers' Association cited the problem of dealers who are required to pay taxes on inventoried vehicles which are subsequently sold to military personnel.

The vehicle weight taxes are directly related to the use and ownership of motor vehicles and provide for the construction, maintenance and operation of Hawaii's roads, used by the general public, including military personnel.

Your Committee finds that imposition of the vehicle weight taxes would allow non-resident military personnel to contribute their fair share to the highway fund for use of the roads.

Your Committee on Energy and Transportation concurs with the intent and purpose of H.C.R. No. 64 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee.

## SCRep. 683-78      Housing on S.B. No. 1619-78

The purpose of this bill is to clarify the legislative intent behind Chapter III, Hawaii Revised Statutes, by explicitly stating that compensation for persons displaced by State or county government action is to be paid only when such persons are lawfully residing on or lawfully occupying real property. The phrase "lawfully residing on or lawfully occupying" was not intended to include those persons who are trespassers or squatters.

Testimony received from the Office of the Attorney General indicated that the bill is necessary to clarify the original legislative intent. Squatters and trespassers are demanding compensation under the present Chapter III, Hawaii Revised Statutes, on the grounds that they are not specifically excluded from receiving funds.

Your Committee finds that S.B. No. 1619-78 does not amend Chapter III, Hawaii Revised Statutes, but merely clarifies the original legislative intent. Your Committee further finds that this clarification is necessary to prevent abuse.

Your Committee further finds that S.B. No. 1619-78, as it does clarify the original legislative intent, is applicable retroactively.

Your Committee has amended page 2, line 2 of this bill to clarify that the rights and benefits which are vested at the time of displacement are not subsequently lost or relinquished due to a person's refusal to vacate the real property, as in the case of the present Chinatown eviction controversy involving the City and County of Honolulu, or the person's challenge of a state agency's determination concerning eligibility or the amount of relocation payments authorized by Chapter III, Hawaii Revised Statutes.

Your Committee has amended page 3, lines 20 and 23, and page 4, line 1 of this bill to provide, as in similar cases involving State land, that those persons who are issued revocable permits on County land which they had previously occupied as tenants or occupiers of private land which is subsequently acquired by the County, by virtue of which acquisition

the revocable permits are issued immediately upon acquisition, shall be entitled to assistance as displaced persons upon displacement at the termination of the revocable permit.

Your Committee has further amended page 4, line 5 of the bill to specifically exclude from the definition of "displaced person" any person who is conducting any unlawful activity upon any real property. Your Committee believes that this amendment is necessary to conform to the legislative intent that persons engaging in unlawful activity, as well as persons unlawfully occupying property, should be barred from compensation.

The Office of the Attorney General testified that the "unlawful activity" provision would not affect those businesses which, although in violation of current county ordinances, were in operation prior to the date of those ordinances and are therefore permitted.

Your Committee on Housing is in accord with the intent and purpose of S.B. No. 1619-78 as herein amended, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1619-78, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Baker.

SCRep. 684-78      Employment Opportunities and Labor Relations and Public  
Employment and Government Operations on H.R. No. 50

The purpose of this resolution is to request the Department of Planning and Economic Development with the cooperation of the Departments of Taxation and Budget and Finance to study the effects of government policies on employment including:

- (1) Expansion of governmental investment and other financial credits;
- (2) Increased tax allowances for depreciation;
- (3) Increased technical assistance from governmental agencies;
- (4) Review of restrictive governmental rules and standards on industry to cut costs;
- (5) Increased state support of marketing and promotion of Hawaii products and services;
- (6) More timely release of government CIP appropriations to stabilize construction industry;
- (7) Tax credits or wage subsidies to employers for hiring unemployed; and
- (8) Concentration of government incentives to stimulate selected sectors of the economy or areas which are acutely depressed or have high unemployment, e.g., construction.

The department is to report its findings and recommendations to the House of Representatives prior to the convening of the 1979 State Legislature.

Your Committees further acknowledge one of the purposes of the Department of Planning and Economic Development is to "encourage the promotion of the products of agriculture and the development and promotion of industry and tourism, through the gathering and dissemination of information of use to enterprisers, the offering of expert consultative services, the planning of fairs, the administering of business credit programs" (H.R.S. 2618).

Your Committees find that unemployment in the State is still at a very high level. Efforts need to be directed to facilitate employment in the private sector by increasing productivity and stimulating economic development.

To carry out this purpose the Department must have on-going studies to evaluate the effects of government policies on employment as stated in this resolution. Your Committee therefore request that the Department of Planning and Economic Development submit these studies to the Legislature for its review. It is also your Committees understanding that as on-going projects there is no need for additional funds to carry out this purpose.

Your Committees on Employment Opportunities and Labor Relations and Public Employment and Government Operations concur with the intent and purpose of H.R. No. 50, and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committees.

SCRep. 685-78 Ecology and Environmental Protection on H.R. No. 281

The purpose of this resolution is to encourage coordinated enforcement of noise laws by the State and the counties.

While State laws and county ordinances both address themselves to noise control, the concurrent jurisdiction has led to a lack of strict, thorough, and organized enforcement. Your Committee finds that in order to improve compliance with noise control laws and ordinances, the director of health and the police officers of the counties should be requested to strictly enforce existing noise control laws. Further, the director of health and the chiefs of police of the counties are requested to devise an overall plan relating to the enforcement of noise control laws.

Your Committee recommends an amendment to request that the director of health and the chiefs of police decide whether state laws or county ordinances can be more effective in specific noise categories where both the State and counties have promulgated similar or substantially similar type of noise control. Several nonsubstantive grammatical and style amendments have been made.

Your Committee on Ecology and Environmental Protection concurs with the intent and purpose of H.R. No. 281, as amended herein, and recommends that it be referred to the Committee on Judiciary, in the form attached hereto as H.R. No. 281, H.D. 1.

Signed by all members of the Committee.

SCRep. 686-78 Ecology and Environmental Protection and Water, Land Use, Development and Hawaiian Homes on H.R. No. 315

The purpose of this resolution is to request the Department of Land and Natural Resources to study the water circulation problem along Waikiki Beach.

Due to the action of ocean waves along the world famed Waikiki Beach, ocean and sand barriers have been constructed to form man-made lagoons to stem the movement and loss of sand along the shoreline. However, the lagoon water tends to become stagnant and polluted. Since it is imperative that Waikiki Beach be properly maintained to preserve its beauty and utility, a thorough study of the water circulation problem is in order.

The resolution has been amended by the addition of the eighth WHEREAS clause. The amendment requests that the Department of Land and Natural Resources conduct their study not only for their own use but also for the use of all government agencies.

Your Committee on Ecology and Environmental Protection and your Committee on Water, Land Use Development and Hawaiian Homes concur with the intent and purpose of H.R. No. 315, as amended herein, and recommend that it be referred to the Committee on Finance, in the form attached hereto as H.R. No. 315, H.D. 1.

Signed by all members of the Committees.

SCRep. 687-78 Water, Land Use, Development and Hawaiian Homes on H.R. No. 312

The purpose of this resolution is to request the department of land and natural resources to begin negotiations with the Federal Government for acquisition of all or a portion of the Navy's Waikolea Branch lands since portions of the tract are suitable for agricultural use.

The land in question was listed in the Navy's report of excess property submitted to Washington about six months ago but has not yet been passed over by all Federal agencies. Your Committee feels the more than 700 acres of land involved in the Waikolea Branch are suitable for agricultural use.

Your Committee on Water, Land Use, Development and Hawaiian Homes concurs with

the intent and purpose of H.R. No. 312 and recommends its referral to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 688-78      Employment Opportunities and Labor Relations and Public  
Employment and Government Operations on H.R. No. 378

The purpose of this resolution is to request the Department of Labor and Industrial Relations to study the feasibility of adopting legislation along the lines of the federal Freedom of Information Act with emphasis on providing all employees access to their employment records. The department is to submit its findings and recommendations to the House of Representatives prior to the convening of the 1979 State Legislature.

Presently, employees in the public sector have access to their employment records through their collective bargaining agreements. However, many employees in the private sector have no such agreement. The federal Freedom of Information Act may be a feasible guideline for legislation to provide employees access to their personal records.

Your Committees find that a survey must be conducted to evaluate the records maintained and the record-keeping system employed by large and small private sector employers. At the present time, the Department of Labor and Industrial Relations does not have sufficient staff or funds to conduct such a study. However, your Committees believe that the study would be of great value in protecting the employees' individual rights and liberties and therefore should be conducted.

Your Committees have amended the resolution to limit the scope of the study by deleting public sector employees.

Your Committees on Employment Opportunities and Labor Relations and Public Employment and Government Operations concur with the intent and purpose of H.R. No. 378, as amended herein, and recommend that it be referred to the Committee on Finance, in the form attached hereto as H.R. No. 378, H.D. 1.

Signed by all members of the Committees.

SCRep. 689-78      Tourism on H.R. No. 365

The purpose of this resolution requests the House Committee on Tourism to detailedly study and evaluate the findings of the Department of Planning and Economic Development and the effectiveness of the hotel reservations project.

Your Committee is further requested to seek alternative measures to the present system of hotel reservations by which "overbooking" may be alleviated or prevented.

Your Committee notes that a legislative review in 1976 revealed that the "overbooking" problem is a very complex one and that such incidents are often an outgrowth of the interactions of the operations of hotels, tour operators, and airlines serving the industry. Furthermore, in recent years, the visitor industry has been adversely affected by the occurrences of incidents where visitors to Hawaii are denied accommodations in hotels for which advanced reservations have been made prior to their arrival.

Your Committee on Tourism will report their findings, conclusions, and recommendations to the House of Representatives not less than twenty days prior to the convening of the Regular Session of 1979.

Your Committee on Tourism concurs with the intent and purpose of H.R. No. 365 and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee except Representative Uwaine.

SCRep. 690-78      Tourism on H.R. No. 403

The purpose of this resolution is to provide for the review and evaluation of the state tourism plan and cost-benefit analysis formulated pursuant to legislation enacted in 1976. The House Committees on Tourism and Finance are requested to conduct this review and report its findings twenty days prior to the convening of the Regular Session of 1979.

Testimony received by your Committee generally favored the adoption of the resolution. However, upon further consideration, your Committee found that the full membership of both the Finance and Tourism Committees would be too unwieldy in size and has amended the resolution to provide for a subcommittee to undertake this review to be comprised of members from both committees as appointed by the Speaker of the House. A question was also raised on whether the House Committee on State General Planning should also be involved in this review. It was explained that the same members made up the membership of the Committees on Tourism and State General Planning and that it was anticipated that the Speaker would appoint the chairmen of all three committees to the subcommittee.

Your Committee on Tourism concurs with the intent and purpose of H.R. No. 403, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as H.R. No. 403, H.D. 1.

Signed by all members of the Committee except Representative Uwaine.

SCRep. 691-78      Public Employment and Government Operations on S.B. No. 1757-78

The purpose of this bill is to amend Section 76-31 of the Hawaii Revised Statutes by deleting the pre-condition that provisional appointments may be extended beyond 180 days only if an examination has failed to secure qualified eligibles. The bill proposes to allow the Director of Personnel Services greater flexibility in the extension of provisional appointments through the promulgation of rules and regulations.

Testimony by the Director of Personnel Services, on behalf of the Conference of Civil Service Commissioners and Personnel Directors, was in favor of this bill. The testimony presented indicated that the present law is too stringent, as in such situations where an eligible has been appointed, but is unable to start work until after the 180th day.

Your Committee has made technical and stylistic amendments to the bill which do not affect its substance.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of S.B. No. 1757-78, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1757-78, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 692-78      Public Employment and Government Operations on S.B. No. 1759-78

The purpose of this bill is to repeal Section 79-23, and to amend Section 79-24 of the Hawaii Revised Statutes.

Chapter 43, Title 38 of the U.S. Code presently protects the reemployment rights of State and county employees who have taken leaves of absence for National Guard, reserve duty, and other periods of training or service.

As federal law takes precedence over State law in this area, Section 79-23 is unnecessary, and the bill proposes its repeal. For consistency, the bill also proposes to amend Section 79-24, so that reemployment of protected State and county employees would be in accordance with applicable federal laws.

Based upon testimony presented, your Committee finds that this bill will not adversely affect any rights and benefits currently enjoyed by State and county employees who may be affected by its provisions.

Your Committee has made technical amendments to the bill which do not affect its substance.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of S.B. No. 1759-78, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1759-78, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 693-78      Public Employment and Government Operations on S.B. No. 1756-78

The purpose of this bill is to amend Section 76-23, Hawaii Revised Statutes, to clarify the provision for non-competitive promotions of civil service employees.

Section 76-23 provides that an appointing authority may fill a vacant position by promoting any regular employee in the department without examination, if the employee meets the minimum qualifications of the position to which he is to be promoted. This section provides further, that when there is no material difference between the qualifications of the employees under consideration for the promotion, the employee with the "longest government service" shall receive first consideration for promotion.

Your Committee finds that the phrase "longest government service" is ambiguous and open to various interpretations. It can be interpreted to mean, service not only with the State or counties, but with the federal government, including military service. Your Committee believes, however, that the intent of this provision was to recognize an employee's long and faithful service with the specific State or county jurisdiction granting the promotion, and to exclude, for example, any federal civil service employment as a factor in determining the length of government service with respect to non-competitive promotions. Under Senate Bill No. 1756-78, the term "longest government service" is clarified to mean longest continuous civil service employment within the State or county granting the promotion.

Your Committee has made technical amendments to this bill which do not affect its substance.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of S.B. No. 1756-78, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1756-78, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 694-78      Public Employment and Government Operations on S.B. No. 1799-78

The purpose of this bill is to improve the effectiveness of volunteer programs and to aid in their continuing development throughout State government by establishing a State policy on the utilization of volunteer services.

Presently, there is no statutory authority for the establishment of volunteer programs in State government. Testimony heard by your Committee revealed that the potential volunteer force is one of the State's great and underutilized assets. Experience clearly demonstrates that the development and implementation of policy and programs which result in effective utilization of volunteers can significantly enhance services in fields such as health, environment, corrections and education. If enacted, Senate Bill No. 1799-78 would define the role and status of a volunteer, establish the authority for State agencies to utilize volunteers, define the rights and responsibilities of both volunteers and agencies, provide for volunteer benefits, and establish agency reporting requirements with respect to volunteer programs.

Your Committee has amended Section 1 of the bill to reflect the accurate designations of departments of the State, and has also made several stylistic and technical amendments to the bill which do not affect its substance.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of S.B. No. 1799-78, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1799-78, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 695-78      Finance on H.C.R. No. 76

The purpose of this House Concurrent Resolution is to specifically exempt public pension plans from federal taxation and reporting requirements.

This statutory exemption is sought to change the policy of the United States Internal Revenue Service which has subjected public pension plans to qualification requirements and taxation of investment income. Prior to 1972, the investment income of state and local public pension plans were implicitly exempt from federal taxation and former public

employees receiving public pension benefits were allowed preferential tax treatment. However, since 1972, the Internal Revenue Service has changed this policy and furthermore, in 1977, the Internal Revenue Service stated its intention to require public pension plans to file annual returns containing certain required financial information.

This concurrent resolution requests that either H.R. 9118 or S. 1587 be enacted into law by the Congress and the President to change this policy of the Internal Revenue Service regarding public pension plans.

Your Committee on Finance concurs with the intent and purpose of H.C.R. No. 76 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 696-78      Energy and Transportation on H.R. No. 336

The purpose of this resolution is to request the City and County of Honolulu to expedite the implementation of plans for an express bus service.

Your Committee finds that implementation of an express bus service will help to alleviate the severe traffic congestion experience by these areas during peak periods.

Your Committee on Energy and Transportation concurs with the intent and purpose of H.R. No. 336 and recommends its adoption.

Signed by all members of the Committee except Representative Takamine.

SCRep. 697-78      Health on H.R. No. 18

The purpose of this resolution is to request the Department of Health and short-term acute mental health treatment facilities to review jointly the referral system utilized by mental health patients in seeking treatment. Such a review would evaluate the efficiency of the system now in effect and determine what referral areas need support.

Your Committee finds that the existing systems of referring mental health patients are limited in number and scope. In order to provide the best and most appropriate care for these patients, an efficient referral system is necessary.

Your Committee on Health concurs with the intent and purpose of H.R. No. 18 and recommends its adoption.

Signed by all members of the Committee except Representative Baker.

SCRep. 698-78      Employment Opportunities and Labor Relations on S.B. No. 1682-78

The purpose of this bill is to make it unlawful to discharge an employee solely because the employee is cooperating as a witness in the prosecution or defense of a criminal charge.

Similar provisions protecting the employment of persons participating in activities such as jury duty and elections are in the Statutes. This bill will further the improvement of criminal justice generally in this State and will protect employees from loss of employment when carrying out their obligations to the criminal justice system.

Your Committee amended the bill to read: "Sec. 621 - Unlawful suspension or discharge from employment; penalty; right of action" and included suspension from employment as a violation of subsection (a) to clarify the intent of the bill.

Your Committee on Employment Opportunities and Labor Relations is in accord with the intent and purpose of S.B. No. 1682-78, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1682-78, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 699-78 Finance on S.B. No. 1623-78

The purpose of this bill is to require that all moneys received from the transfer of vacation credits and the sale of any personal property by state agencies funded from the general fund be regarded as realizations to the general fund.

Currently, moneys received from the transfer of vacation credits, under authority of HRS 79-5, and from the sale of any personal property by state agencies, under authority of HRS 106-22, are credited to the current appropriation accounts of the state agencies. This bill amends both sections to provide that such moneys be regarded as realizations of the general fund.

HRS 106-22 is further amended to clarify that in the case of special fund agencies, proceeds shall be credited to the respective special fund.

These amendments are consistent with HRS 103-2, which provides that all revenues of the state agencies not specifically appropriated to other purposes (i.e., special fund purposes), be regarded as general realizations of the state.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 1623-78 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 700-78 Finance on S.B. No. 2612-78

The purpose of this bill is to amend HRS 39-53, 39-54, and 39-54.5 to provide the Department of Transportation with greater flexibility in the management of revenue bonds.

The amendment to HRS 39-53 will allow the cost of insurance on revenue bonds to be included as an element of cost of an undertaking and paid out of the proceeds of such bonds. This provision will give the state agency with the authority to issue revenue bonds greater flexibility in deciding whether or not it wishes to have these bonds insured by various municipal bond insurance programs. The insurance often enhances the marketability of such bonds.

The amendment to HRS 39-54 changes the maximum discount rate at which revenue bonds may be sold to five per cent.

The amendment to HRS 39-54.5 will correct an apparent clerical error in this section relating to CUSIP identification numbers. The proposed amendatory language in this portion of the proposed bill was apparently omitted when HRS 39-54.5 was enacted into law and this portion of the proposed bill constitutes strictly a housekeeping amendment.

This bill is identical to H.B. No. 3053-78, H.D. 1 (House Standing Committee Report 436-78), which passed Third Reading and has been transmitted to the Senate.

Your Committee on Finance is in accord with the intent and purpose of S.B. 2612-78, S.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 701-78 Water, Land Use, Development and Hawaiian Homes and Agriculture on H.C.R. No. 27

The purpose of this concurrent resolution is to seek and recommend an overall philosophy and policy pertaining to the availability and cost of water for agricultural purposes, and in so doing take into account the supply of this limited resource, the needs of the community, the costs of meeting these needs and the allocation of the finite amount of water commensurate with the goals, objectives and policies of the Hawaii State Plan.

Agriculture generally, and diversified agriculture in particular, is dependent upon favorable climate, nourishing soils, capable management efficient production and marketing systems, and adequate supply of irrigation water at equitable cost. Traditionally and historically, the availability and cost of water for agricultural purposes were influenced

less by competitive factors and more by its abundance and ease of development, transmission, and distribution. However, more recent studies point toward critical policy problems attendant to increasing the supply of water for future demand.

As the state looks toward the expansion of diversified agriculture to make Hawaii less dependent and more self-sufficient in agricultural products, your Committees feel it appropriate to investigate the relationship of this scarce commodity, water, to the protection and conservation of other scarce resources, land in particular with a view toward encouraging or even ensuring the survival of diversified agriculture in Hawaii.

Your Committees feel this concurrent resolution is one of the key efforts of selective growth management in Hawaii.

Your Committees on Water, Land Use, Development and Hawaiian Homes, and Agriculture, concur with the intent and purpose of H.C.R. No. 27 and recommend its adoption.

Signed by all members of the Committees.

SCRep. 702-78 Water, Land Use, Development and Hawaiian Homes on H.C.R. No. 10

The purpose of this concurrent resolution is to request the department of planning and economic development to submit a report on the status of the capital infusion promotion program including recommendations for legislative action to facilitate the department's efforts in this program.

Your Committee has amended the date of submission for the status report.

Your Committee on Water, Land Use, Development and Hawaiian Homes concurs with the intent and purpose of H.C.R. No. 10, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 10, H.D. 1.

Signed by all members of the Committee.

SCRep. 703-78 Water, Land Use, Development and Hawaiian Homes on H.R. No. 25

The purpose of this resolution is to request the department of planning and economic development to submit a report on the status of the capital infusion promotion program including recommendations for legislative action to facilitate the department's efforts in this program.

Your Committee has amended the date of submission for the status report.

Your Committee on Water, Land Use, Development and Hawaiian Homes concurs with the intent and purpose of H.R. No. 25, as amended herein, and recommends its adoption in the form attached hereto as H.R. No. 25, H.D. 1.

Signed by all members of the Committee.

SCRep. 704-78 Water, Land Use, Development and Hawaiian Homes on H.R. No. 111

The purpose of this resolution is for the review by the House of Representatives on action taken by the board of land and natural resources on land exchanges.

This one exchange of land between the State of Hawaii and Waianae Development Company, Ltd. is to straighten the boundaries of state land. The land will be conveyed to the department of Hawaiian Home Lands to be incorporated into a planned houselot subdivision.

Your Committee on Water, Land Use, Development and Hawaiian Homes concurs with the intent and purpose of H.R. No. 111 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 705-78 Water, Land Use, Development and Hawaiian Homes on H.R. No. 35

The purpose of this resolution is to request the governor's committee for Hawaii as a regional center to submit a progress report of committee activities including recommendations

for legislative action to attract multi-national regional headquarter operations to Hawaii.

Your Committee feels Hawaii's central location, multi-ethnic population, climate and advanced infrastructure in communications, education, government, culture, and social development makes our State a very attractive place for multi-national regional headquarter operations. The influx of more regional headquarters into Hawaii would provide additional diversity to our economic base which is heavily reliant upon tourism, agriculture, and government spending.

Your Committee has amended the date of submission for the report.

Your Committee on Water, Land Use, Development and Hawaiian Homes concurs with the intent and purpose of H.R. No. 35, as amended herein, and recommends its adoption in the form attached hereto as H.R. No. 35, H.D. 1.

Signed by all members of the Committee.

SCRep. 706-78      Water, Land Use, Development and Hawaiian Homes on H.R. No. 119

The purpose of this resolution is to request the Secretary of Commerce and Secretary of State to establish, in parity with the continental coasts of the United States and in concurrence with WESPAC's Billfish Advisory Sub-Panel Group's recommendations, that in the Preliminary Management Plan for Pacific Billfish, a 200-mile FCZ be established around the entire Hawaiian Archipelago in which foreign retention of billfish be prohibited.

Also, that the federal government demonstrate support of regional planning by the inclusion in appropriate management plans of recommendations by the WESPAC Council which effectuate the developmental needs of Hawaii and the other American Pacific Islands by the requirement of fishing permits for all entering foreign fishing vessels, and by the active prosecution of any violators.

The regional councils are delegated the duty of developing management plans for each significant fishery that are particularly suited to the region's economic and biological needs. However, the Secretary of Commerce, in consultation with the Secretary of State, may overrule regional council recommendations resulting in either less restrictive or non-restrictive guidelines for foreign exploitation contrary to the best interests of the region.

Your Committee recommends that the United States enforce the restriction of all foreign effort within the 200 miles of the Hawaiian archipelago including over pelagic fishery resources. Exception would be made only for reciprocal fishing rights and upon approval of the regional councils affected. Enforcement should be given particular emphasis in banks and seamount areas. Also, your Committee feels the State must set a policy to develop local fishing capability to harvest the optimal yield of the 200 mile regime and assure the coordinated phase out of foreign effort that conflicts with such development. It is essential to the development of island-based fishing capability in Hawaii that adequate management and enforcement policies be promulgated to limit the intrusion of distant water fishermen and to conserve the fish stocks.

The resolution has been amended to be more specific in regards to Pacific blue marlin.

Your Committee on Water, Land Use, Development and Hawaiian Homes concurs with the intent and purpose of H.R. No. 119, as amended herein, and recommends that it be adopted in the form attached hereto as H.R. No. 119, H.D. 1.

Signed by all members of the Committee.

SCRep. 707-78      Finance on H.R. No. 122

The purpose of this Resolution is to request the director of the Department of Planning and Economic Development to prepare a conceptual master plan on island-based fisheries development for the State with specific recommendations for government and private industry and the master plan is to focus on the following developmental components: harbor facility requirements, financing of fleet expansion, conservation and management policies, bait production, marketing, and personnel training.

Your Committee has also reviewed the following resolutions in conjunction with this



and could contribute to a rearrest or revocation of his parole. Assistance provided by unemployment or disability benefits could result in savings for society in terms of a reduction in the incidence of crime, fewer imprisonments and costs associated with criminal proceedings and incarceration. California and Maryland which have such provisions have experienced a significant reduction in recidivism, especially with persons formerly convicted of property-related crimes.

Testimony presented by the Department of Labor and Industrial Relations stated the department could conduct the study within their present staff and budget.

Your Committee on Employment Opportunities and Labor Relations concurs with the intent and purpose of H.R. 61, H.D. 1, and recommends its adoption.

Signed by all members of the Committee.  
(Representatives Dods, Kiyabu, Kunimura, Say, Suwa and Ikeda did not concur.)

SCRep. 709-78 Ecology and Environmental Protection on H.R. No. 19

The purpose of this resolution is to seek a solution to the problems of tour bus impact on residents along their routes.

Tour buses must pass through residential neighborhoods to get from pickup points to destination areas. Residents of these neighborhoods complain because of the noise, air pollution, and general nuisance of tour buses. The problem involves more than isolated neighborhoods, it involves our economy. The interests must be reconciled. Because it cannot be done to the total satisfaction of both parties, it will involve compromise. It is apparent that an impartial regulatory body should take the lead role.

Your Committee has amended the resolution to request the Public Utilities Commission to conduct a study of regulation of tour bus routes from the point of passenger pickup to tour destination and back and to implement the regulation by rule, if possible under current enabling statutes. The resolution requests the determination and approval of tour bus routes and regulation requiring tour buses to use only those routes. The resolution requests the Public Utilities Commission to implement the regulation by the adoption of rules; and, if current enabling statutes are insufficient for such regulation, to submit statutory amendment recommendations to the legislature.

Because of this amendment, your Committee has amended the title to read: "HOUSE RESOLUTION REQUESTING THE PUBLIC UTILITIES COMMISSION TO STUDY AND IMPLEMENT REGULATION OF TOUR BUS ROUTES". Furthermore, your Committee has deleted the tenth "WHEREAS" which mentions the City Council. Since the City Council is no longer requested to study the tour bus problem, the clause was deleted as inappropriate.

Your Committee on Ecology and Environmental Protection concurs with the intent and purpose of H.R. No. 19, H.D. 1, as amended herein, and recommends its adoption in the form attached hereto as H.R. No. 19, H.D. 2.

Signed by all members of the Committee.

SCRep. 710-78 Legislative Management

Informing the House that House Resolution Nos. 477 to 488, House Concurrent Resolution Nos. 96 to 100, and Standing Committee Report Nos. 653-78 to 680-78, have been printed and distributed.

Signed by all members of the Committee.

SCRep. 711-78 Public Employment and Government Operations on S.B. No. 2614-78

The purpose of this bill is to amend Section 224-3, Hawaii Revised Statutes, to provide for exemption of the Executive Secretary of the Commission on Population and the Hawaiian Future from the provisions of Chapters 76 and 77.

Testimony received by your Committee indicates that the Commission is primarily concerned with formulating and recommending population growth and distribution, and related policies to the Governor. Moreover, the Commission is mandated to examine, evaluate and recommend

program emphasis in education, family planning services, environmental protection, data collection and information systems, etc., as they relate to population and the effects on Hawaii's future.

Your Committee finds that the role of Executive Secretary is especially sensitive to the specific inclinations of the Executive Branch as well as to those of the Commission. Therefore, the selection of an Executive Secretary and the tenure of office should not be constrained by the provisions of Chapters 76 and 77. Under this bill, the Commission would be authorized to appoint and fix the compensation of its Executive Secretary without regard to the civil service and compensation laws of the State.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of S.B. No. 2614-78 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 712-78      Water, Land Use, Development and Hawaiian Homes and Culture  
and the Arts on H.R. No. 334

The purpose of this Resolution is to request the Governor to direct the Board of Land and Natural Resources to initiate negotiations to exchange available State lands for the historic Kamo Point complex on the shores of Holualoa Bay in Kona.

The complex contains a total of 48 historic sites, and has qualified for the State Register of Historic Sites and has been nominated for the National Register of Historic Sites.

Your Committees feel the preservation of these sites would serve as a means of interpreting and understanding many of the prehistoric concepts of Hawaiian warfare, religion and way of life. The maintenance and preservation of the integrity and character of ancient Hawaiian sites is in the best interest of all the people of Hawaii.

Your Committees on Water, Land Use, Development and Hawaiian Homes, and Culture and Arts, concur with the intent and purpose of H.R. No. 334 and recommend it be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Segawa and Evans.

SCRep. 713-78      Water, Land Use, Development and Hawaiian Homes on  
S.B. No. 2617-78

The purpose of this bill is to establish a Conservation and Resources Enforcement Program within the Department of Land and Natural Resources, for enforcement of laws, rules and regulations under Title 12, of the Hawaii Revised Statutes. This bill is intended to consolidate and coordinate the enforcement of all rules and regulations covering all State lands and any other lands and waters subject to the jurisdiction of the Department of Land and Natural Resources.

The bill will also allow the consolidation of service to the public by placing responsibility within the Conservation and Resources Enforcement Program for advice, guidance and permits for hunting and fishing, for camping and park use and for hiking and similar recreational activities on State lands.

Your Committee has amended this bill for technical reasons without affecting any of the substantive provisions therein.

Your Committee on Water, Land Use, Development and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 2617-78, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2617-78, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Garcia and Larsen.

SCRep. 714-78      Water, Land Use, Development and Hawaiian Homes on  
S.B. No. 2084-78

The purpose of this bill is to raise the ceiling on the additional receipts portion of the Hawaiian Homes Commission Act from \$5 million to \$10 million in order to provide a continued source of funds to the department's loan, development and education programs.

Your Committee on Water, Land Use, Development and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 2084-78, S.D. 2 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Garcia and Larsen.

SCRep. 715-78 Higher Education on S.B. No. 1673-78

The purpose of this bill is to exclude University of Hawaii bookstores from the requirement of advertising for bids, and in this manner, provide the retail establishments with sufficient flexibility to provide the desired materials and supplies and to operate at a profit.

Your Committee received slightly conflicting testimonies from the University and the Department of Accounting and General Services and had requested the two departments to work on an agreeable amendment. Subsequently, President Matsuda submitted, to your Committee, a memorandum containing the agreed upon language to clarify the bill.

Your Committee has agreed to the amendments in this bill which clearly exclude the University of Hawaii bookstores from the bidding requirement of Hawaii Revised Statutes section 103-22. The new language would delete the University Bookstores from the political subdivisions of the State from which state agencies may make purchases under the exemptions in section 103-22, by addition of the words "...other than University of Hawaii bookstores..." and would add a new section which reads "Notwithstanding any other provisions, purchases of materials, supplies and books by the University of Hawaii bookstores for resale shall be exempt from public bidding requirements of this chapter."

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 1673-78, S.D. 1 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 716-78 Higher Education on H.R. No. 394

The purpose of the resolution is to have the Board of Regents of the University of Hawaii examine the University's investments in American corporations active in South Africa, Rhodesia and Namibia in order to determine whether such investments are with corporations supportive of the "Sullivan Statement".

Further, the Board of Regents is directed to formulate a policy concerning future financial investments in corporations active in racially segregated nations before the convening of the Regular Session of 1979.

Testimony presented indicates that the University of Hawaii Endowment Funds do contain stocks in American companies which are currently commercially active in South Africa. Whether all these corporations are supportive or not of the Sullivan Statement, however, has not yet been determined.

The Sullivan Statement itself refers to a commitment on the part of these American corporations to a policy of non-segregation in their facilities, equal pay and fair employment practices, training programs to help non-whites advance, and improvement of employees' lives outside of work. The Statement, developed by Rev. Leon Sullivan, a member of the board of directors of General Motors, had the support, as of December 19, 1977, of officials of more than fifty major corporations.

It has been pointed out, however, that there are more than 375 American corporations investing in South Africa. As of this date, thirty of them have decided to freeze their investments there for the next five years, while another seven are in the process of withdrawing theirs.

Pressure for such re-examination exists within our religious and educational institutions. The National Council of Churches has even gone to the point of divestment. Institutions of higher learning now re-examining their investments include not only the University

of Oregon and the University of Minnesota (as cited in the resolution) but the University of Wisconsin, University of Massachusetts, and smaller private colleges like Smith and Amherst. For this reason, your Committee proposes an amendment to the last WHEREAS paragraph to insert the names of these other educational institutions mentioned.

Your Committee believes, further, apropos to the moral issue of racial segregation and the fact that Hawaii is a racially cooperative society, that such a re-examination of investments is surely an appropriate request to make of the University of Hawaii.

Your Committee on Higher Education concurs with the intent and purpose of H.R. No. 394, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as H.R. No. 394, H.D. 1.

Signed by all members of the Committee.

SCRep. 717-78      Education on S.B. No. 2616-78

The purpose of this Bill is to eliminate the Governor as an ex-officio member of the Hawaii Educational Council. This Bill also enables the Governor to designate a substitute to represent him, although it does not relieve him of his duties specified in Section 311-5, Hawaii Revised Statutes.

Your Committee finds that under existing statutes, the Governor appears on the Hawaii Educational Council as a member as well as an ex-officio member. This Bill amends Section 311-3, HRS, to correct this technical error. Your Committee further finds that the Governor should be allowed to designate a substitute to represent him at Council functions. This will allow the Governor to be kept informed of and provide necessary input to Council matters during his absence.

Your Committee has amended this Bill to eliminate from the Hawaii Educational Council the head of a State agency or institution who is designated to serve by the Governor. This amendment corrects the present situation in which the head of a State agency or institution who is appointed by the Governor, appears on the Hawaii Educational Council as a member as well as an ex-officio member.

Your Committee has further amended this Bill to allow the head of a State agency or institution to designate a substitute to represent him at Council functions. Your Committee feels that the participation of this appointed position is important and therefore he should be allowed to participate through an appointed substitute if he cannot attend the Council's functions.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2616-78, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2616-78, H.D. 1 and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 718-78      Education on S.B. No. 2602-78

The purpose of this Bill is to grant statutory authority to secondary schools to transfer funds from inactive student activity accounts of graduated classes to the non-appropriated local school fund account, five years following graduation of the class. The graduating class may donate, in writing, such funds to the school within the five year period.

Your Committee finds that secondary schools now lack the statutory authority to transfer funds from the inactive accounts of graduating classes to the non-appropriated local school fund accounts. As a result, the schools are required to maintain these funds indefinitely, unless the graduating class donates, in writing, such funds to the school.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2602-78 and recommends it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 719-78      Education on S.B. No. 113

The purpose of this Bill is to amend the statutes relating to expenses to be paid to members

of the Board of Education while attending meetings on outer islands or while traveling abroad on official business. The rate was last set in 1970 and is not in line with the most recent provision for State officials generally, which is contained in Section 78-15, Hawaii Revised Statutes. The amendment would relate the Board of Education expense rate to Section 78-15.

The Bill would further amend the statutes to allow for the payment of expenses to board members for trips involving official business other than board meetings.

The Bill would also correct the inequity that now exists, in some cases, for those board members representing the neighbor islands who are not receiving payments for expenses while on board business that is off of their island of residence.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 113, S.D. 1 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 720-78      Housing on S.B. No. 389

The purpose of this bill is to coordinate the State housing policy with the development of housing projects by the creation of a planning mechanism, implemented by a housing development plan, which phases housing project financing over a two-year fiscal period.

The bill creates a housing development plan which the Hawaii Housing Authority will use to identify available financing, immediate needs, and other resources. This plan will also provide quarterly recommendations on the allocations of funds.

This bill, in addition, establishes an application, rating, review, and disposition process for requests made to the authority for housing project assistance.

Your Committee finds that this bill would help improve the quality of housing projects and decrease the price of housing units by providing a more competitive process for selecting State funded housing projects through simultaneous review and implementation.

Your Committee has amended the bill to delete line 22, page 4, and lines 1-5, page 5. Your Committee believes that this portion of the bill imposes a time frame which is too restrictive for the solicitation of requests for project assistance.

Your Committee has amended the bill to delete subsections (f) and (g), line 21, page 6, through line 20, page 7, in their entirety. Your Committee believes that subsection (f), like the solicitation of requests provision in subsection (c), is far too restrictive in establishing project deadlines. Your Committee also believes that the automatic clearance provision created by subsection (g) is likely to be the subject of abuse, and has, therefore, deleted that section accordingly.

Your Committee has made further amendments, without substantive change, for the purpose of redesignating the sections.

Your Committee on Housing is in accord with the intent and purpose of S.B. No. 389, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 389, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Baker.

SCRep. 721-78      Housing on H.R. No. 265

The purpose of this resolution is to require your Committee on Housing to hold public hearings on the status of the Kalakaua Homes project and to submit a report containing findings and recommendations resulting from that hearing twenty (20) days prior to the adjournment of the Ninth Legislature, Regular Session 1978.

Hawaii Housing Authority testified that the Kalakaua Homes are presently in severely dilapidated condition and that demolition, and new construction, rather than rehabilitation of the existing structures, is the most viable alternative. The authority reported that it has been working with residents for the past year to receive input and to ease possible relocation problems. The authority also stated that due to a delay by the Washington D.C.

office of the Office of Housing and Urban Development (HUD) in approving demolition of the old buildings, any possible new construction will be behind schedule.

Tenants of Kalakaua Homes testified that, while they do not desire to have their present homes demolished, they recognize that new structures are necessary due to termite damage and faulty electrical wiring. All residents reported that they would like to be given priority to return to their neighborhood when the new homes are completed. Hawaii Housing Authority stated that it is attempting to work out provisions to give priority to returning residents. However, testimony from the local HUD office indicated that no guarantee of priority is possible under federal regulations.

HUD further testified that, as a result of a shift in policy by HUD Secretary Patricia Harris, demolition is not regarded favorably if the structure is susceptible to rehabilitation. Although the local HUD office has recommended demolition, the Washington D.C. office is deferring the approval of such demolition pending receipt of further information.

Your Committee finds that sufficient issues of public concern are raised by the fate of the Kalakaua Homes project to warrant public hearings on the matter.

Your Committee has amended H.R. No. 265 to provide for the formation of a House Interim Committee, composed of, but not limited to, members of the Committee on Housing, to review the Kalakaua Homes project, hold hearings, and to report its findings and recommendations at least 20 days prior to the convening of the Regular Session of 1979. Your Committee on Housing feels that the amendment establishing such an Interim Committee is justified in light of testimony received from both Hawaii Housing Authority and the local office of HUD that a decision regarding the status of Kalakaua Homes will not be made by the Washington D.C. office until May or June, after the session has ended.

Your Committee on Housing is in accord with the intent and purpose of H.R. No. 265, H.D. 1, and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee except Representative Baker.

SCRep. 722-78 Energy and Transportation on H.R. No. 445

The purpose of this resolution is to establish an interim subcommittee of the House Committee on Energy and Transportation to review the implementation of the 1995 Honolulu Harbor Master Plan.

Your Committee finds that improvements to Honolulu Harbor should have priority over all other harbor projects in the State. Certain aspects of the Master Plan will require further analysis and legislative oversight during implementation. These include the efficient relocation of harbor users and Sand Island residents, the construction of a second bridge at Sand Island; the consideration of more intensive uses for the Sand Island container handling facility, the coordination of Honolulu Harbor and waterfront redevelopment efforts with other planning authorities and other elements of the 1995 Honolulu Harbor Master Plan.

Testimony received from the State Department of Transportation was in favor of this resolution.

Your Committee on Energy and Transportation concurs with the intent and purpose of H.R. No. 445 and recommends it be referred to the Committee on Legislative Management.

Signed by all members of the Committee.

SCRep. 723-78 Health on S.B. No. 2386-78

The purpose of this bill is to establish and maintain a State comprehensive emergency medical services system by providing a framework for the implementation of a fully integrated, cohesive network of components designed to assure the provision of emergency medical services consistent with the needs of the people of this State.

The proposed system, to be established, implemented, and administered by the Department of Health, is designed to take advantage of particular expertise in emergency services which has developed in the State of Hawaii, and to ensure the continuation of the development of appropriate and adequate services.

Your Committee has made various amendments to the bill.

Your Committee has amended this bill clarifying and defining "Advanced life support" which means initiating all basic life support care as well as invasive patient care to stabilize and support a patient's condition due to sudden illness or injury. The care rendered, excluding basic life support, constitutes the practice of medicine. Your Committee has defined "Basic life support" to mean initiating non-invasive emergency patient care designed to optimize the patient's chances of surviving the emergency situation. The care rendered consists of all first aid procedures needed, but does not include invasive procedures which constitute the practice of medicine.

Your Committee has further amended this bill to clarify the responsibilities of the State Emergency Medical Services Advisory Committee by having the committee advise the Department of Health to formulate a master plan for emergency medical services, including medicom, the "911" system, and other components necessary to meet the emergency medical needs of the people of the State, to be submitted to the Legislature. This bill further provides that the advisory committee shall consist of fifteen voting members of which three will be ex-officio members (the director of transportation, the adjutant general, and the administrator of the State Health Planning and Development Agency); twelve public members, including four from a panel of physicians nominated by the Hawaii Medical Association, four consumers of health care, who shall represent each of the counties, and four members of allied health professions related to emergency medical services.

This bill will further provide that the State, through the Department of Health, will set the standards for the State emergency medical services and the system, including emergency ambulance services. The counties and any other person required to provide emergency medical services by contract with the State must conform to the State system and with the standards established by the Department of Health.

Your Committee further amends this bill by providing that the Department of Health may contract to provide emergency medical services or any necessary component of a county emergency services system in conformance with the State system. Where a county applies to the Department to operate emergency medical ambulance services within the county, the Department shall so contract with the county. Where the county does not apply with the Department to operate such services, the Department shall assume these responsibilities to contract with private agencies. It is the intent of your Committee that the Department shall consider contracting with private non-profit hospitals to operate emergency medical ambulance services wherever possible.

Based on testimony presented by the Hawaii Medical Service Association, this bill does not adequately provide for the collection of fees assessed for ambulance services. Your Committee has therefore amended the bill to require the Department of Health to make every reasonable effort to collect the fees.

Your Committee is in accord with the appropriation of \$787,372.33 as a grant-in-aid to the Hawaii Medical Association, as provided in S.B. No. 2386-78, S.D. 2. The Hawaii Medical Association has been administering the Emergency Medical Services program on Oahu for several years and has also contributed to the development of emergency medical services on the neighbor islands. The Hawaii Medical Association testified that the City and County of Honolulu will no longer be eligible for federal funding as of June 30, 1978, and further testified that another source of funding is needed if the Emergency Medical Service program is to be continued. Your Committee felt it appropriate to provide a one-year grant-in-aid to the Hawaii Medical Association to ensure the continued operation of the program until additional funding can be secured.

Other amendments effected by your Committee include non-substantive style changes.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 2386-78, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2386-78, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Baker and Nakamura.

SCRep. 724-78

Health on S.B. No. 1752-78

The purpose of this bill is to repeal Section 46-14, Hawaii Revised Statutes, thus enabling those jurisdictions responsible for the provision of ambulance services to either continue to provide free service or charge reasonable fees.

Your Committee feels that no unit of state or county government, in the case of an emergency, shall deny ambulance service to any person unable to pay, or make any inquiry regarding ability to pay prior to the rendering of ambulance service to the person in need.

Your Committee has amended the effective date of this bill to July 1, 1979, so that it will coincide with the effective date of S.B. No. 2386-78, S.D. 2, H.D. 1.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 1752-78, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1752-78, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Baker.

SCRep. 725-78      Legislative Management

Informing the House that House Resolution Nos. 489 to 497, House Concurrent Resolution No. 101, and Standing Committee Report Nos. 682-78 to 709-78, have been printed and distributed.

Signed by all members of the Committee.

SCRep. 726-78      Finance on S.B. No. 2200-78

The purpose of this bill is to update the conformance of the Hawaii Income Tax Law with the federal Internal Revenue Code and to change the method of such conformance.

Your Committee finds that the present method of conformity with the Code has been used for 20 years and that the present state law is a maze of references to the Code and sections of federal Public Laws amending the Code. The present income tax law contains 22 pages of references to federal Public Law sections and few individuals or tax practitioners have easy access to such Public Laws. Due to the lengthy period in which this present method of adopting the Code changes has been in existence and the present difficulty of determining which provisions of the Code have been adopted by the State, the Office of the Legislative Reference Bureau, and the Department of Taxation with the assistance of the private sector were requested by the Legislature in 1977 to review the Hawaii Income Tax Law and to suggest amendments thereto and the adoption of a new method of conformance. This bill is the culmination of the joint effort between the public and private sector to create a bill which would be acceptable to all parties. Your Committee commends the many persons responsible for the accomplishment of this joint effort and your Committee agrees that this bill will go a long way toward simplifying the administration of the Hawaii Income Tax Law and making compliance with the law easier for taxpayers.

Conformity with the Code has been the express intent of the state income tax law since it was first adopted by the 1957 Legislature. However, over the ensuing years, only certain amendments to the Code have been adopted. As a result at the present time there is substantial and numerous differences existing between the two income tax laws. This measure proposes to correct this situation by benefiting both the tax administration and the taxpayers who will now not have to keep abreast of difference in the two tax systems.

This bill does not alter the state tax rate schedules or the provisions for standard deduction and personal exemptions. It retains the interest exemption on government bonds issued by Hawaii state or its subsidiaries. Also retained is the exemption of pensions for past services, the dependent care credit, the excise tax credit, and the renter's credit for low income taxpayers. Certain sections of chapter 235, Hawaii Revised Statutes, have been repealed to avoid redundancy in the statutes from the adoption of the Code as proposed in this measure.

The adoption of the Code provisions for the treatment of partnerships and small business corporations will greatly facilitate the preparation of returns by these taxpayers.

Generally speaking, the changes proposed in this bill should not materially affect the amount of tax revenue to be derived from the state income tax law. Some differences in income tax liability will, of course, occur with the decreases by and large balanced out by increases in other areas. For example, the taxing of unrelated business income of tax exempt organizations as provided in this bill will tend to increase tax revenue.

The provision for the Department of Taxation to submit to each regular session of the Legislature a bill to adopt subsequent amendments to the Code as of the preceding December

31 will assure that the nonconformity issue will no longer be a problem.

While this measure does not fully conform to the Code, the amendments made by this measure substantially updates Hawaii Income Tax Law to reflect the numerous changes made to the Code since 1957 when Hawaii first adopted the Code as the basis for its income tax law. In doing so, this measure also establishes a new method for the future updating of Hawaii's Income Tax Law by adopting the Code as it exists at the end of each calendar year whereby the Code would be adopted by exception. In other words, Chapter 1 of Subtitle A of the Code is adopted except for the sections listed in subsection (b) of the new section added to chapter 235, Hawaii Revised Statutes.

This new method of adoption will simplify compliance for both the taxpayer and the tax administrator. Present law adopts amendments to the Code by Public Law citation. This method has made compliance difficult as reference must be made to 20 years of public laws. This has resulted in many errors on the part of taxpayers, practitioners, and tax administrators in filing and auditing returns based on assumptions of operative federal law for Hawaii income tax purposes.

This measure if enacted and complied with in future years should obviate many of the problems that have existed during the past 20 years.

The new method of adoption provides that the Code as a whole is adopted by the State as of December 31, 1977 and, except for a few references to Public Law provisions, makes specific reference to the Code itself. Such references either state that certain sections of the Code are not operative in this State, or that they are operative as limited by the language contained in the bill. To assist the individual in using the Hawaii Income Tax Law, where sections of the Code are not operative due to conflicting provisions of the state law, clear reference is made to the appropriate state law provision. This bill will allow an individual to easily determine whether a section of the Code is operative in the State, and if its operation is limited.

Your Committee finds that this bill does not adopt provisions of the Code which the Legislature has long felt to be unnecessary to this State, nor does this bill provide for automatic conformance. Each year the Department of Taxation with the assistance of the Office of the Legislative Reference Bureau is to propose legislation to update the state law to the Code by providing for total operation of the Code amendments or by adding to the listing of provisions not to be operative or limited in operation.

Your Committee heard lengthy testimony in support of this bill from the Office of the Legislative Reference Bureau, the Department of Taxation, the Tax Foundation of Hawaii, the Chamber of Commerce of Hawaii, and members of the private sector. The expression was made to your Committee that this bill will have no adverse impact upon the revenues of the State. Advantages should become appreciably noticeable to the taxpaying public in the preparation of returns and to the Department of Taxation in the routine income tax administration.

The revisions proposed by this bill may be summarized as follows:

1. Amends chapter 235, Hawaii Revised Statutes, by adding a new section to part 1 defining "Internal Revenue Code" to mean subtitle A, Chapter 1 of the federal Internal Revenue Code of 1954 as amended as of December 31, 1977, insofar as it applies to the determination of gross income, adjusted gross income, ordinary income and loss, and taxable income with specific exceptions spelled out in detail.
2. Excluded provisions of the Code include those relating to determination of tax liability, interest on certain government bonds, partial exclusion of dividends received by individuals, amounts received under a qualified group legal services plans, certain reduced uniform services retirement pay, personal exemptions, pollution control facilities, contributions to candidates for public office, etc.
3. Also excluded are provisions referring to foreign corporations generally not applicable to Hawaii and those referring to the treatment of exempt organizations and the treatment of income from sources within or without the United States.
4. Provides that the present provisions for standard deduction in the Hawaii Income Tax Law shall be retained.
5. Adopts the federal provisions for the taxation of employee annuities except those related to employees of certain educational organizations.

6. Adopts the federal provisions for the taxation of business income of certain exempt organizations, including the Code definition of "unrelated business taxable income." Adopts the Code capital loss carrybacks and carryforwards except the capital loss carryback provisions are not operative and the capital loss carryforward is limited to 5 years, except for individuals for whom there is no carryforward limit.

7. Adopts the provisions relating to small business corporations except that all shareholders must be residents of the State of Hawaii. Also provides for the termination of the election to be taxed as a small business corporation if in any taxable year the corporation derives more than 80 per cent of its gross receipts from sources outside of the State. To qualify as a small business corporation in any taxable year the corporation must also have, in effect, an election for federal tax income purposes for the same taxable year.

8. Provides that the capital gains of small business corporations shall be taxed at 3.08 per cent of the amount by which the net capital gain of the corporation exceeds \$25,000.

9. Further, amends chapter 235, Hawaii Revised Statutes, to adopt the Code definition of "employee," "husband and wife," "paid or accrued," "stock," "shareholder," and amends the definitions of "gross income," and "taxable income" to include ordinary income, and ordinary loss.

10. Amends the definition of "partnership" to conform to the Code and provides that corporations carrying on business in partnership shall be treated in the same manner as by the Code.

11. Amends section 235-7(d), Hawaii Revised Statutes, to include a new paragraph limiting the net operating loss carryback to each of 3 taxable years preceding the taxable year of the loss. A net operating loss carried over is limited to the 5 taxable years following the taxable year of the loss. Also permits an election to relinquish the entire carryback period with respect to a net operating loss allowed.

12. Amends section 241-4, Hawaii Revised Statutes, to provide that Code section 582 (c) with respect to bonds, etc., losses and gains of financial institutions shall apply under the taxation of banks and other financial corporations in Hawaii.

13. Repeals the following sections of the Hawaii Revised Statutes, which would otherwise be redundant with the adoption of this measure: 235-10 (unrelated business income of exempt persons and organizations), 235-58.1 (treatment of amounts distributed by a trust), 235-58.2 (special rule for gain on property transferred to a trust at less than fair market value), 235-60 (treatment of partnerships), 235-81 to 89 (election by small business corporation), and 235-91 (accounting basis for a taxable year).

14. Provides that the Department of Taxation shall submit to each regular session of the Legislature a bill to amend the state income tax law as may be necessary to adopt the Code as it exists on December 31 preceding such regular session.

Your Committee has amended this bill to incorporate changes recommended and approved by the Legislative Reference Bureau and the Department of Taxation as follows:

1. The first full paragraph on page 4 of the bill as received and in H.D. 1 concerning the effect of existing sections adopting amendments to the Internal Revenue Code has been amended to clearly state that such provisions shall continue to be used (A) to determine the basis of property, if the basis of property was first determined thereunder and (B) to determine income for the taxable years to which they presently apply, if such taxable years begin before the effective date of this bill. These changes are necessary to provide for the transition between this bill and prior law, particularly as to the determination of basis, since it is not the intent of this bill that taxpayers recompute basis as a result of this bill.

2. Paragraph (16) on page 6 of the bill as received has been deleted. This paragraph related to the imposition of tax on estates and trusts and the determination thereof. As originally drafted it appeared that this section of the Internal Revenue Code should be inoperative, although at the time of drafting it was not a hard position. Further consideration by the Department and the Bureau indicate that it more properly should be operative in this State with limitation. Thus, your Committee deleted paragraph (16) and added a new subsection (h) to section 235- of section 2(1) of H.D. 1, which provides for its operation in the manner therein limited. This amendment also allows the repeal of section 235-58, Hawaii Revised Statutes, in section 2(11) of H.D. 1 of this bill, as redundant. This amendment does not change the method of taxing estates and trusts now followed

by the State.

3. Subsection (c) on page 7 of the bill as received, also page 7 of H.D. 1, has been amended to conform its language to the other language of the section, but does not constitute a substantive change.

4. Subsection (l) on page 13 of the bill as received, now subsection (m) on page 14 of H.D. 1, has been rewritten to further provide that references to time limits and other administrative provisions of the Internal Revenue Code in the operative provisions of the Code as adopted by this bill are deemed references to the existing administrative provisions contained in chapter 235, 231, or 232, Hawaii Revised Statutes. If there are not such applicable statutory provisions, then such references are deemed to be references to rules of the director of taxation adopting such provisions of the Code. Under the present law it has never been clear whether or not the administrative provisions of the Code were adopted by the State when Hawaii adopted the Code in 1957. This bill is clear in that such provisions have not been adopted, although the bill provides in the next subsection that the director may adopt such administrative provisions as necessary. This amendment clarifies how references in operative sections of the Code to administrative provisions are to be treated.

This subsection is also amended to provide that transitory and savings provisions in federal Public Laws, if they relate to sections or amendments to the Code operative in this State, are also operative. Your Committee finds that with the adoption of Code amendments, such transitory provisions and savings provisions may be necessary for such amendments to take effect. An example thereof is section 4 of the bill as received which with the adoption of this language is deleted from H.D. 1 of this bill as unnecessary. The subsection further provides that provisions in state law shall control in cases of disagreement.

5. Subsection (m) on page 13 of the bill as received, now subsection (n) on page 15 of H.D. 1, has been amended to further allow the director of taxation to adopt rules and regulations relating to operative sections of the Code promulgated by the Secretary of the Treasury or delegate thereof, except where such rules and regulations are in conflict with or similar to state law. The reference to administrative provisions in the Code has also been clarified by inserting the appropriate references to subtitle and sections of the Code.

6. Subsection (n) on page 13 of the bill as received, now subsection (o) on page 15 of H.D. 1, has been amended to require the department of taxation to submit with the bill required by that subsection, a digest and explanation of the provisions of the Code recommended for adoption by the legislature and also of those sections not being recommended for adoption. Further a revenue impact statement is also required. Your Committee finds that such information is necessary for the proper consideration of adopting yearly amendments to the Code.

The second paragraph of this section has been amended to clearly state that in considering the adoption of amendments to the Code the legislature may choose not to adopt any of the amendments made by Congress or recommended for adoption by the department. Your Committee finds this amendment clarifies the ability of the legislature not to act in this area in order to retain the independence of this State in the area of income taxation.

7. A new section 2(6) has been added to the bill on page 18 of H.D. 1, to amend section 235-5(c). Present law allows the deduction from gross income of alimony and separate maintenance payments and payments to IRAs and Keough plans, however, it is unclear that such deductions should be attributed only to income or compensation earned in this State. This amendment clearly provides that such deductions may only be taken if they relate to instate income or compensation.

8. Section 2(9) on page 21 of the bill as received, now section 2(10) on page 24 of H.D. 1, amends section 235-51(c) to conform the wording of the treatment of capital gains under the alternative tax to the Code. The amendments in the bill as received attempted to rewrite existing law to conform to the Code. Upon review, it appeared to the Department and the Bureau that the better method would be to repeal existing language and substitute the language of the Code. Such substitution will be easier for the department and the public to use, since there will be little variance between the Code and the state law. The language suggested by the Department and the Bureau has been changed by your Committee to delete the provision taxing capital gains over \$50,000 or more at ordinary income tax rates.

9. Section 7 of the bill as received containing an appropriation of \$36,674 for the Department of Taxation to carry out this bill has been deleted, that appropriation

has been placed in the Supplemental Budget bill earlier reported by your Committee.

10. The effective date of the bill has been amended to provide that the provision of the new section being added to chapter 235, Hawaii Revised Statutes, relating to subchapter S corporations earning more than 80 per cent of their gross receipts from sources outside the State shall take effect on January 1, 1979. This prospective effective date will allow affected corporations which stand to lose a beneficial income tax status time to take appropriate steps to avoid the impact of this particular provision.

11. Other minor technical changes have also been made.

Your Committee on Finance is in accord with the intent and purpose of S.B. 2200-78, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2200-78, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 727-78 Finance on S.B. No. 2302-78

The purpose of this bill is to amend HRS 47-7, relating to the issuance, interest rate, denominations, maturities, places payable, registration, redemption, medium of payment, sale, or other disposal of county bonds authorized for issuance by the governing body thereof and HRS 47-52, relating to the refunding of bonds authorized.

The bill allows the use of the True Interest Cost (TIC) method of determining best bidder on bonds in addition to the presently allowed Net Interest Cost (NIC) method. The TIC method is difficult to compute, but because it considers the time value of money it renders a more meaningful measure than the NIC method.

The bill permits the private sale of bonds to the United States or the State of Hawaii or to any of their boards, agencies, or instrumentalities, such as the Farmers Home Administration.

Finally, the bill permits the private sale of refunding bonds. This gives the issuer the flexibility of tailoring a plan. Coupon rate can be compared to market rate to determine reasonableness.

Your Committee has amended this bill to restore the statutory requirement for notice of bond sale, and your Committee recommends that publication be in a newspaper circulating in the County (page 4, lines 13 and 14).

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 2302-78, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2302-78, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 728-78 Finance on S.B. No. 2414-78

The purpose of this bill is to allow the State Employees Retirement System to increase the maximum amount made under an 80 per cent value loan from \$50,000 to \$75,000.

The present statutes require a loan-to-value ratio of 80 per cent on loans of \$50,000 and below and 75 per cent loan-to-value ratio on loans in excess of \$50,000.

The Board of Trustees of the System has no objection to this proposal to increase the \$50,000 limitation to \$75,000.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 2414-78, S.D. 2, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 729-78 Finance on S.B. No. 350

The purpose of this bill is to establish a mandatory certification program for operators of wastewater treatment plants.

This program would set forth the required qualifications in terms of experience and academic achievement of operating personnel for different levels of operation. A board of certification is to be established to carry out the purpose of this bill. A mandatory certification program is needed for the following reasons:

1. Public investment in Hawaii for the construction of wastewater treatment works from 1973 to 1977 has been at least \$150 million. This bill will provide protection of that investment by assuring efficient operation and maintenance of the treatment facilities.
2. This bill should also help to assure adequate operation and maintenance of private treatment plants which are, in most cases, inadequately operated and maintained at the present time, and have caused the creation of several public health hazards.
3. There is a renewed effort under the 1977 Amendments of the Water Pollution Control Act to give high priority to wastewater reclamation reuse. To do this, there must be strong efforts to increase the reliability of the treatment plant performance through operation and maintenance.

After due consideration of this bill, your Committee proposes that the following amendments be made:

1. Change the word "of" to "in" in the chapter title (page 2, line 3).
2. Change item (4) on page 3 to read:
  - (4) "Wastewater treatment plant" means the various facilities used in the treatment of wastewater, including a wastewater reclamation plant, but excluding a private sewage treatment plant with actual flows greater than 2.0 million gallons per day, with a valid discharge permit issued pursuant to chapter 342, and without a record of adjudged violations of any permit conditions at any time for the life of the permit.
3. Change the word "ones" to "programs" at the end of item (5) on page 3.
4. Change the section references on page 3, item (7) and page 7 (lines 2, 3, and 19).
5. Change the criminal penalty to a petty misdemeanor (page 9, lines 1 to 3).
6. Delete the appropriation section (page 12).
7. Renumber Sections 4, 5, and 6 of the bill as Sections 3, 4, and 5.
8. Change the section references in the renumbered Section 5.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 350, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 350, S.D. 2, H.D. 2.

Signed by all members of the Committee.

SCRep. 730-78      Public Employment and Government Operations on S.B. No. 1533-78

The purpose of this bill is to eliminate the functional duplication that exists among the three units of State government involved in the development and operation of statewide and multi-departmental in-service training and staff development programs for public employees.

Your Committee finds that presently, the Hawaii Institute for Management and Analysis in Government (HIMAG) of the Department of Budget and Finance; the Training and Safety Division of the Department of Personnel Services; and the Center for Governmental Development of the University of Hawaii, share in the responsibility of providing in-service training and staff development services for State and county government employees.

During the Regular Session of 1977, the Legislature, by resolution, requested these three State agencies to review and evaluate their functions, responsibilities, and authorities with specific attention directed toward eliminating the duplication of in-service training and staff development efforts. In November, 1977, the agencies submitted a report of their findings and recommendations as summarized in the preamble of this bill. Your Committee believes that implementation of the intent of these recommendations, as contained in the provisions of this bill, can effectively curtail the functional duplication which presently exists, and result in an improved approach to the planning, coordination and delivery of in-service training and staff development programs.

Under this bill, the Center for Governmental Development is abolished. Your Committee finds that under the current statutory arrangement, the Center is under dual management; the budgetary controls rest with the University of Hawaii, while program control lies within the purview of the Director of Personnel Services. Abolishment of the Center will pave the way for the transfer of its functions, powers and duties to the Department of Personnel Services as provided for in Sections 4 and 5 of the bill. Your Committee believes that by consolidating the heretofore separate training resources of the University and the Department of Personnel Services, the State's in-service training programs will be strengthened. Your Committee wishes to emphasize, however, that abolishment of the Center should not preclude participation by the University in training programs for government employees. The University should be consulted and utilized as a resource in the development and implementation of such programs.

This bill also provides for the establishment of an advisory committee on training, made up of representatives from the specified departments and agencies concerned with training and staff development programs, and three representatives from among the exclusive representatives of collective bargaining units 1, 2, 3, 4, 9, 10 and 13. The committee shall meet at least quarterly, and shall act as an advisory, as opposed to a policy-making body to recommend program plans and strategies for an overall state training plan, assist in coordinating course offerings, and recommend changes in the state training manual. With respect to selection of the employee representatives to serve on the committee, it is your Committee's intent that the exclusive representatives acting in concert, shall submit the names of three individuals to the committee chairman for appointment to the committee. Your Committee wishes to emphasize the importance of employee involvement and participation in the planning and operation of in-service training and staff development programs. Such involvement is necessary to insure that training needs are identified and that programs and course offerings are structured so as to be meaningful to employees.

Your Committee has amended this bill by adding a new section, 81-3, to provide for the financing of in-service training operations. Your Committee has also made technical amendments to the bill which do not affect its substance.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of S.B. No. 1533-78, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1533-78, S.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 731-78

Public Employment and Government Operations on S.B. No. 2559-78

The purpose of this bill is to allow a State or county employee who is an elected delegate to the Constitutional Convention, the option of taking accumulated vacation leave in lieu of taking a leave of absence without pay. An employee who elects to take vacation leave would not be entitled to the delegate's salary as provided for by Act 17, First Special Session Laws of Hawaii, 1977.

Your Committee finds that the delegate's salary established by Act 17 has tended to discourage State and county employees from seeking election as delegates to the Constitutional Convention. Testimony received from the Hawaii Government Employees' Association indicated that for employees presently earning in excess of \$1,000 a month, service to the State as a Convention delegate can represent a significant financial loss. Testimony also revealed that many private businesses are allowing their employees to receive vacation with pay benefits while they are serving as delegates to the Convention. Presumably, they will also receive the salaries and allowances provided to delegates.

While this bill does not permit public employees to simultaneously receive earned vacation benefits and delegate salaries, it does allow public employee-delegates the option of receiving one or the other as compensation during the period of service as a Convention delegate.

In the event that an employee who elects to take vacation leave subsequently exhausts all such earned leave during the period of the Convention, it is the intent of your Committee that the employee would then be granted a leave of absence without pay and would be entitled to receive the delegate's salary as established under the provisions of Act 17. Your Committee believes that the Constitutional Convention is an important event which will undoubtedly affect the future of Hawaii, and that to the extent possible, incentives to facilitate the participation of concerned citizens should be provided.

Your Committee has amended this bill to provide for the applicability of its provisions to employees of the Judiciary who are elected delegates to the Convention. This bill has been amended further, to provide for protection of the seniority rights of those employees who elect to take leaves of absence in order to serve as delegates. Your Committee has also made technical amendments to the bill which do not affect its substance.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of S.B. No. 2559-78, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2559-78, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 732-78      Employment Opportunities and Labor Relations on S.B. No. 1985-78

The purpose of this bill is to amend Act 151, Session Laws of Hawaii 1975, as amended, to continue the State comprehensive employment and training (SCET) component of the state program for the unemployed.

Act 151, Session Laws of Hawaii 1975, established the State program for the unemployed (SPU) which was designed as a oneyear program to alleviate the effects of the State's high unemployment rate through public service jobs and other employment programs. In 1976, the Legislature extended and funded SPU for an additional year through Act 134. Act 3, Special Session Laws of Hawaii 1977 extended and funded SPU for an additional year, through June 30, 1978.

Your Committee finds that unemployment in the State is still at a very high level, and believes that the State program for the unemployed must be continued as one effort to alleviate the problem of the unemployed.

The executive budget contains an appropriation of \$2.5 million for the continuation of the SCET program in fiscal year 1979. The department also anticipates receipt of an additional \$2.5 million in federal funds through the Public Works Employment Act of 1976 (PEWA), Title II.

Your Committee on Employment Opportunities and Labor Relations is in accord with the intent and purpose of S.B. No. 1985-78, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 733-78      Agriculture on S.B. No. 2005-78

The purpose of this bill is to provide supplementary loans to be expended by the department of agriculture to independent sugar growers by amending Act 19, Special Session Laws of Hawaii 1977. However, no appropriation have been made and the determination of appropriation have been left to the Committee on Ways and Means, as a part of the supplemental budget.

Your Committee has amended this bill by amending Section 1, and by adding a new Section 3.5 by providing an appropriation of \$1,000,000 to provide additional funds necessary for the purposes of making farm loans to independent sugar growers.

Your Committee also has amended Section 2 by amending phrase "section 3" to read "section 3.5".

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 2005-78, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2005-78, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Fong and Poepoe.

SCRep. 734-78      Agriculture on S.B. No. 2279-78

The purpose of this bill is to amend Section 155-13, subsection (c), Hawaii Revised Statutes, by extending the time within which the installment of principal may be paid from two to five years.

Your Committee finds that the present limitation of two years within which installments of principal payments can be extended maybe too restrictive. Conditions such as depressed prices, high production costs, extended poor weather conditions, and spiraling inflation make it difficult for an otherwise reliable borrower to make his loan payment. The federal government has recently given the U.S. Department of Agriculture Farmers Home Administration the option of deferring payments for up to five years to alleviate the current farmers' plight resulting from inadequate farm incomes and increase production costs.

Your Committee intent of extension of time will be limited to only extraordinary cases and not to be extended for all loans.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 2279-78, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2279-78, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Fong and Poepoe.

SCRep. 735-78      Ecology and Environmental Protection on H.R. No. 148

The purpose of this resolution is to congratulate the U.S. Army on preparing an environmental impact study relative to the Army's impact on Hawaii, and to encourage the Army to continue similar activities.

There is an ever increasing concern over the rapid proliferation of water and air pollution and accumulation of solid wastes. The Army is aware of the environmentally damaging effects of its bombs and other ordnances and has attempted to develop an environmental impact statement. The Army should be congratulated on its efforts and encouraged to continue similar activities.

The resolution has been amended by deleting the fifth WHEREAS clause and adding three additional WHEREAS clauses. The additional amendments state that the study currently being undertaken may produce information of interest not only to the U.S. Army but also to the general public. An additional RESOLVED clause has been added requesting the U.S. Army to make its findings available to the general public.

Your Committee on Ecology and Environmental Protection concurs with the intent and purpose of H.R. No. 148, as amended herein, and recommends its adoption in the form attached hereto as H.R. No. 148, H.D. 1.

Signed by all members of the Committee.

SCRep. 736-78      Energy and Transportation on H.R. No. 429

The purpose of this resolution is to request the State Department of Transportation to answer questions raised in Special Committee Report No. 5, 1978 Regular Session, concerning the plans for construction of Barbers Point Deep Draft Harbor.

Specifically, these questions relate to the Harbor's impact on the State's controlled growth policy; projected operating and maintenance costs and revenues; fuel berthing needs of major carriers; petroleum cargo forecasts; problems of surge, tsunami and wave amplification; and the harbor's ability to accommodate the larger vessels expected to be built in the future.

Testimony received from the State Department of Transportation, the University of Hawaii Environmental Center and various community groups was in support of this resolution. Your Committee finds that the questions it raises are important and should be answered

prior to construction of the Harbor, especially these questions which relate to surges, operating and maintenance costs and petroleum projections.

Your Committee on Energy and Transportation concurs with the intent and purpose of H.R. No. 429 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 737-78 Energy and Transportation on H.R. No. 364

The purpose of this resolution is to request the Federal Aviation Administration (FAA) to reroute general aviation traffic, including helicopters, to avoid direct flights over St. Louis Heights, Palolo Valley, Maunalani Heights and Kahala Heights.

Your Committee finds that flights of small aircraft are noisy and disruptive to the peace and quiet of these neighborhoods, interfere with television reception and are potentially hazardous to the safety of the community.

Your Committee finds further that the communities of Moliili, Kapahulu and Hawaii Kai are also adversely affected by the flight patterns of helicopter and small aircraft and has amended the resolution accordingly.

Testimony presented to your Committee recommends increasing the minimum altitude limit from 1000 feet to 2000 feet for general aviation flights over populated areas. The resolution has been amended to include this request to the FAA.

Your Committee on Energy and Transportation concurs with the intent and purpose of H.R. No. 364 as amended herein and recommends its adoption in the form attached hereto as H.R. No. 364, H.D. 1.

Signed by all members of the Committee.

SCRep. 738-78 Housing on S.B. No. 71 (Majority).

The purpose of this bill is to recodify, without substantive amendments, Hawaii's housing laws.

Additionally, this bill seeks to limit the cash contribution required of subdividers, in lieu of the dedication of land for park and playground space, and thereby reduce the cost of home ownership in Hawaii.

It is your Committee's intent to restructure the existing housing laws in order to eliminate repetition, anachronism, and possible internal conflict.

Your Committee has made numerous changes to the S.D. 3 of this bill. The bill, in its House draft form, does the following:

1. Section 356-1 has been amended to delete archaic language, and to delete reference to "low income" in consonance with the Hawaii State Constitutional amendment which was ratified by the electorate in November, 1976.
2. The definitions of "State", "Governor", "Lieutenant Governor", "political subdivisions", and "commissioner" in Section 356-2 have been deleted since these terms are either defined by general law or are self-explanatory.

The definition of "housing project" in Section 356-2 has been amended to delete reference to "persons of low income."

The definition of "obligee" has been added.

3. Section 356-3 has been repealed and its provisions have been incorporated into Section 356-2.

4. Section 356-5 has been amended to include the provision in Section 359G-3 allowing the authority to hire persons on a contractual basis where services are "unique and essential." There is no need for administrative provisions such as staff hiring authority to be scattered among various chapters. Thus, the enabling language in Section 359G-3 has been consolidated

into Section 356-5.

The provisions regarding holdover commission members, the filing of vacancies to the commission, the filing of a certificate of appointment of a commission member, and the appointment of an acting commission member have been deleted. Article IV, Section 6 of the constitution of the State, Section 26-34, and Section 26-36 incorporate these provisions as standard procedures; thus, such language in Chapter 356 is now unnecessary.

5. Section 356-6, which confirms the actions of the commission made prior to May 17, 1949, need not be contained in statute. Thus, this provision has been repealed and included in the bill to be set out in the session laws instead.

6. Section 356-7, which requires the authority to comply with statute and contractual provisions, has been deleted as unnecessary.

7. Section 356-8, which requires disclosure of interest and prohibits conflict of interest has been repealed. Chapter 84, the State Ethics Law, enacted under Act 163, SLH 1972, supersedes this section. Chapter 84 applies to all State boards and commissions, offers a more modern approach to conflict of interest problems is more comprehensive, and provides penalties for violation.

8. Section 356-9, regarding the removal of authority commission members, has been repealed. Section 26-34, which delineates general language for removal of members of boards and commission, is adequate.

9. Section 356-10 has been amended for style. Additionally, the powers to construct housing projects, investigate housing conditions, and study and make recommendations concerning the government's plans for providing housing have been deleted from this section and have been incorporated in other sections in the chapter.

10. Section 356-11 has been amended to provide that acquisition of real property by exchange shall be in accordance with Section 171-50.

The provision exempting property owned by the authority from "mechanics or materialmen's liens and from levy and sale by virtue of an execution" has been transferred to this section from Section 356-25 which has been deleted under this bill.

The provision exempting the authority from all taxes and assessment has been transferred to this section from Section 356-24.

The provision allowing the authority "to conduct investigations or to make surveys or soundings" has been transferred to Section 356-13 which provides investigatory powers.

The provision regarding procurement of "insurance or guarantees from the federal government of the payment of any debts...secured by mortgages...on...any housing project" has been transferred to Section 356-12.

11. Section 356-12 has been amended by transferring the provisions of Section 356-16(2), 356-38, 358-1, and a portion of Section 358-2.

12. Section 356-13 has been amended by transferring portions of Section 356-10 and 356-11.

13. Section 356-14 has been amended for style.

14. Section 356-16 has been repealed, and the provisions have been transferred to other sections.

15. Section 356-18 has been amended to include the eminent domain provision contained in Section 357-3.

16. Section 356-19, which provides powers for the acquisition of real property, and allows the authority to convey title to such property to the government, has been deleted since these powers have been provided in Sections 356-11 and 356-18.

17. Section 356-20 has been amended to include the provision in Section 359-64(a).

18. Section 356-21(a) has been amended to include provisions formerly included in Section 356-11 and 356-16. Subsection (b) has been added to include provisions contained

in Section 356-37.

19. Section 356-22 has been amended as to style.

20. Section 356-24 has been repealed. The provision on exemption from all taxes and assessments has been transferred to Section 356-11(b). The provision exempting bonds from all taxes and declaring issuance as a public purpose has been transferred to Section 356-28(b).

21. Section 356-25 has been repealed. The provisions of this section have been transferred to Section 356-11(b).

22. Section 356-27 has been amended by transferring the provision in Section 356-16(3) as subsection (d).

23. Section 356-28(b) has been created by transfer from Section 356-24. The provision in 356-28(c) has been created by transfer from Section 356-28(a).

24. Section 356-31 has been redesignated as Section 356-24.

25. Section 356-32 has been redesignated as Section 356-25.

26. Section 356-36 has been repealed since the provision of Section 356-21(6) adequately states the intent.

27. Section 356-37 has been repealed and the provision transferred to Section 356-21(b).

28. Section 356-38 has been repealed and the provision has been transferred to Section 356-12(a)(4).

29. Section 356-15 has been redesignated as Section 356-31.

30. Section 356-17 has been redesignated as Section 356-32.

31. Section 359G-14.1 has been redesignated as Section 356-6.

Section 3 of the bill allows the authority to conduct housing research. Section 356-7(a) encompasses the provisions of Section 356-10; subsection (b) is from Section

Section 4 of the bill provides housing counseling. Items (1) and (2) have been transferred from Section 359G-3.1. Item (3) is from Section 356-16(4). Item (4) has been taken from Section 356-18(8). Item (5) has been transferred from Section 356-16(5).

Section 5 of the bill provides a new section on development of property. Section 356-15(a) has been transferred from Section 356-11. Subsections (b) and (c) have been transferred from Section 356G-5. Subsection (d) has been transferred from Section 356-16(9).

Section 6 of the bill repeals chapter 357 and 358. All of the provisions of the chapter have been added to sections contained in Chapter 356.

Section 7 of the bill repeals Section 359G-3. Since this administrative hiring provision has been included in Section 356-5, this section is not necessary. It is the intent of your Committee that the authority's ability to contract for staff under the Act 105 program not be affected in any manner by this recodification.

Section 8 of the bill confirms actions taken by past commission members as deleted under Section 356-6.

Section 9 of the bill limits the cash contribution required of a subdivider in lieu of the dedication of land for park or playground space under Section 46-6(b), Hawaii Revised Statutes, to reduce housing costs.

Your Committee on Housing is in accord with the intent and purpose of S.B. No. 71, S.D. 3, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 71, S.D. 3, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Baker.  
Representative Sutton did not concur).