

SCRep. 400-80

Education on H.B. No. 3047-80

The purposes of this bill are:

(1) To amend Section 298-23, Hawaii Revised Statutes, relating to the use of school facilities for recreational and community purposes, so that (a) not only public school buildings, facilities and grounds, but also school equipment, shall be available for recreational and community uses and (b) the Department of Education is expressly empowered or authorized to charge fees for the use of public school facilities, equipment, and grounds and to deposit such fees or charges into a special fund from which expenditures will be made under rules adopted by the Department; and

(2) To repeal Section 298-24, Hawaii Revised Statutes, relating to public use of public school buildings.

Presently, Section 298-23, Hawaii Revised Statutes, requires all public school buildings, facilities, and grounds to be available for general recreational uses, and for public and community use, whenever these activities do not interfere with the normal and usual activities of the school and its pupils. Section 298-23 also authorizes the Department of Education to adopt rules relating to the public use of such school facilities and grounds.

The Department of Education, which testified in support of the bill, informed your Committee that the Department has adopted rules governing the use of school facilities and grounds by the public, including the payment of fees for the public use of such facilities and grounds and the depositing of such fees into a special fund or account of the Department of Education. Recently, however, the Department of Budget and Finance notified the Department that its practice of depositing such funds into a special account was not proper since Section 103-2, Hawaii Revised Statutes, requires that unless otherwise provided by law, all revenues collected by State agencies are general fund realizations which must be deposited into the State Treasury. Accordingly, the Department of Education testified in support of a statutory amendment to section 298-23 specifically authorizing the Department to establish a special fund in connection with fees charged for the use of school facilities and grounds.

In regard to adding the word "equipment" to Section 298-23, Hawaii Revised Statutes, your Committee believes that the inclusion of this term is a positive step towards ensuring that as much of our public resources as possible are available for community use.

Section 2 of the bill repeals Section 298-24, Hawaii Revised Statutes, relating to public use of school buildings. Your Committee is in agreement with such a repeal because the provisions of Section 298-23, Hawaii Revised Statutes, relating to the use of school buildings, facilities, and grounds is sufficient or inclusive enough to provide for the public use of public school buildings.

Your Committee on Education is in accord with the intent and purpose of H.B. No. 3047-80 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives
Andrews, Kawakami and Kiyabu.

SCRep. 401-80

Education on H.B. No. 2611-80

The purpose of this bill is to appropriate \$10,000 to expend alternative education services, including supplies, instructor home visits, part-time workstudy, and a comprehensive education advisor at Kohala high and elementary school.

The Department of Education testified in support of the bill, provided that appropriate priority is given to programs requested in the Department's Supplementary Budget Request.

Your Committee on Education is in accord with the intent and purpose of H.B. No. 2611-80 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives
Andrews, Kawakami and Kiyabu.

SCRep. 402-80 Education on H.B. No. 2664-80

The purpose of this bill is to appropriate \$55,000 for the purchase and installation of equipment which will convert the kitchen at Wilcox Elementary School from conventional cooking method to steam cooking.

Your Committee on Education is in accord with the intent and purpose of H.B. No. 2664-80 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Andrews, Kawakami and Kiyabu.

SCRep. 403-80 Education on H.B. No. 2686-80

The purpose of this bill is to appropriate \$26,000 to provide public library services with books, supplies and personnel and equipment at Kihei Community Public Library, Maui.

The Department of Education testified in support of the bill. The Department indicated that at present, library service in Kihei is provided by two (2) bookmobile service stops every other week. The funds will enable half-time library services until a permanent library facility is constructed in Kihei.

Your Committee on Education is in accord with the intent and purpose of H.B. No. 2686-80 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Andrews, Kawakami and Kiyabu.

SCRep. 404-80 Education on H.B. No. 2652-80

The purpose of this bill is to make an appropriation to establish sign language classes at public high schools in the state, and to amend Chapter 296, Hawaii Revised Statutes, by adding a new section which would require the Department of Education to establish sign language classes in public high schools.

The Department of Education testified in support of making an appropriation for the establishment of sign language classes. However, they testified against the statutory amendment which would require the department to establish sign language classes in public high schools. They recommended that funds be appropriated to establish a pilot project which would determine the effectiveness of sign language classes. Information provided by the department indicated that the sum of \$42,700 would be required to hire one casual temporary teacher for each of the seven school districts, and to purchase necessary supplies and equipment for the purpose of this program.

The Commission on the Handicapped also testified against the statutory amendment which would require the establishment of sign language classes. However, they indicated that there is a need for sign language classes at the high school level and recommended that a pilot project be established for sign language classes at one public high school per district.

Based on the aforementioned testimonies, Your Committee has amended the bill (1) by specifying that \$42,700 be appropriated for establishing sign language classes, and (2) by deleting the statutory amendment which would require the Department of Education to establish sign language classes at public high schools.

Your Committee on Education is in accord with the intent and purpose of H.B. No. 2652-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2652-80, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Andrews, Kawakami and Kiyabu.

SCRep. 405-80 Education on H.B. No. 2551-80

The purpose of this bill is to implement Article X of the Constitution of the State of

Hawaii as amended by the Hawaii Constitutional Convention of 1978 and pertaining to the power of the Board of Education.

Under this bill, the Board of Education shall have the power, as provided by law, to formulate policy, to exercise control over the public school system, and to have jurisdiction over the internal organization and management of the public school system through the Superintendent of Education.

The Board of Education testified in full support of the bill.

Your Committee on Education is in accord with the intent and purpose of H.B. No. 2551-80, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Andrews, Kawakami and Kiyabu.

SCRep. 406-80

Health on H.B. No. 2517-80

The purpose of this bill as originally drafted is to provide a grant for the transportation expenses to and from day care or day activity centers operated by the Department of Health for mentally retarded persons not less than twenty years of age who are unable to use the public mass transit system. This purpose has been amended so as to (1) give the funds appropriated to the Department of Health to enable it to provide expanded transportation services for the mentally retarded; (2) to eliminate the age limitation; and (3) allow the Department of Health to provide transportation services for mentally retarded persons attending day care or day activity centers funded by the department as well as those which are actually operated by the department.

Your Committee finds that the transportation needs of and services for mentally retarded persons must be addressed. Testimonies presented to your Committee indicate that such persons are often prevented from attending day care or day activity centers due to the lack of adequate existing transportation services for them.

Accordingly, your Committee has amended the bill in the following major respects:

(1) The bill, as presently worded, mandates the Department of Health to provide grants to mentally retarded persons, who are at least twenty years of age and older, unable to use a public mass transit system, and attend day care or day activity centers, in order to alleviate the financial burden of transportation expenses to and from the persons' residences and the centers. The bill further states that the grant is to be based on the income of the household in which the mentally retarded person resides or on the individual income of the mentally retarded person if such person lives independently.

However, your Committee agrees with the opinion expressed by the agencies concerned, that the existing transportation system in the State should be supplemented with additional vehicles, such as handivans, rather than providing direct grants to adult mentally retarded persons. Accordingly, your Committee has deleted the provisions which require the Department of Health to provide grants for transportation expenses as well as other pertinent provisions relating to these grants. The amended bill permits the Department of Health to provide suitable transportation services to and from these centers.

(2) Your Committee believes that transportation services should not be limited to a specific age group of mentally retarded persons, especially since testimonies indicate that the Department of Education plans to eliminate transportation services for preschool children who attend the Department of Health's Child Development Centers, Diagnostic Observation Center and private schools which contract for services from the Department of Health.

Your Committee has therefore amended this bill by eliminating one of the prerequisites a mentally retarded person must meet in order to receive transportation services. On line 8, page 1 of the bill, your Committee has deleted the age limitation and replaced it with a provision stating that mentally retarded persons may receive transportation services if they are not receiving such services from any other public or private agency including but not limited to the State Department of Education.

(3) The original bill provides that in order for mentally retarded persons

to receive a grant, such persons must attend day care or day activity centers that are operated by the Department of Health. However, your Committee heard testimony that many of these persons needing transportation services attend private non-profit centers, such as the Ruger Center, which receive funds from the Department of Health. As a result, your Committee has amended line 13, page 1 of the bill by deleting the word "operated" and replacing it with the word "funded."

(4) Although your Committee recognizes that it would be too cumbersome for the Department of Health to develop and implement a system for administering and distributing money to defray transportation expenses, your Committee believes that the department can assume supervisory and administrative functions for providing transportation services for mentally retarded persons. Your Committee has therefore amended the bill to include a provision which requires the department to adopt such policies, procedures, and programs necessary in order to provide suitable transportation services. The adoption of rules to carry out the administration and enforcement of providing such services are to be made in accordance with Chapter 91, Hawaii Revised Statutes.

(5) Your Committee has further amended this bill by inserting a general state revenue appropriation of \$240,000 for the purpose of providing transportation services for mentally retarded persons.

(6) Other technical amendments have been made in order to carry out the purposes of the bill as amended.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2517-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2517-80, H.D. 1 and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Honda.

SCRep. 407-80

Health on H.B. No. 2648-80

The purpose of this bill is to appropriate the sum of \$30,000 for the hiring of a clinical psychologist for the Mental Health Division of the Department of Health.

Your Committee heard testimony from the Department of Health, Hawaii Center on Deafness, Deaf Action Group, Hawaii Services on Deafness and others in support of this bill to provide services for the hearing-impaired clients and/or their families.

Your Committee finds that there is a need for a specialized clinical psychologist whose major responsibility would be to service hearing-impaired and deaf clients and their families.

Your Committee heard testimony from the Department of Health stating that it expects to be able to fill this position despite the difficulty of recruitment for this specialized type of work. Although there are many other clinical psychologist vacancies within the Mental Health Division, your Committee feels that this particular position should receive high priority.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2648-80 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Honda.

SCRep. 408-80

Health and Education on H.B. No. 3027-80

The purpose of this bill is to appropriate the sum of \$10 million for the removal or containment of asbestos-containing material in public schools.

Your Committees heard testimony from the Department of Health in support of efforts to remedy the problem of asbestos in public schools. The Department of Health conducted a survey in 1979 which concluded that "an unacceptable risk of asbestos exposure exists in our public schools". The survey found that 66 public schools in the State of Hawaii contain asbestos. The department further testified that the risk is a "potential for hazard posed by the mere presence of asbestos material".

Asbestos fibers have been shown to cause cancer and other diseases, often as long as 30 years after exposure. Asbestos-containing materials in the work and school environment are a major concern of several Federal agencies including the Environmental

Protection Agency and the Occupational Safety and Health Administration.

Your Committees heard testimony from various organizations, teachers, students and several parents, expressing their concern for the protection of children and teachers from exposure to asbestos-containing materials. Testimony indicated several schools and classrooms with asbestos materials in the ceilings. Some of these ceilings have deteriorated from a lack of maintenance, storm damage and vandalism, causing leaks, cracks and holes which expose the asbestos materials.

Your Committees are concerned that the proper method be applied to remedy this situation, whether by removal of the asbestos materials or by encapsulation. Your Committees are aware that the best method is removal, however your Committees are also aware of the high cost involved to remove and replace the ceilings.

Your Committee on Health and your Committee on Education are in accord with the intent and purpose of H.B. No. 3027-80 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Andrews and Honda.

SCRep. 409-80 Health and Education on H.B. No. 2215-80

The purpose of this bill is to amend the classification level of the school nurses as provided in Section 321-243, Hawaii Revised Statutes.

Supportive testimony was presented by the Department of Health, Department of Education, Maui District Liaison Specialist, Molokai, Hawaii Government Employees Association, Hawaii Nurses Association and representatives from various School Health Advisory Committees.

Your Committees find that the level of school nurses should be eliminated to give the administration the responsibility and flexibility of determining the entry level of the school nurse.

Your Committees have amended this bill to make technical changes for the purpose of clarification.

Your Committee on Health and your Committee on Education are in accord with the intent and purpose of H.B. No. 2215-80, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 221580, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Andrews and Honda.

SCRep. 410-80 Transportation on H.B. No. 2831-80

The purpose of this bill is to establish a special planning position in the Department of Transportation whose duties include planning, promoting, and coordinating bicycle use and bicycle related projects and promoting safe bicycling practices and bicycle education programs.

Your Committee believes that in addition to the planning, promoting, and coordinating of bicycle use and bicycle related activities, the use of county bikeway funds should also be monitored by the State Department of Transportation to promote the coordinated development of bikeways and roads and highways under State jurisdiction. Your Committee also believes that the proposed position in the State Department of Transportation should be paid for with State funds.

Consequently, your Committee has amended this bill by inserting a new section 2 to provide that the planner's duties shall also include promoting of county bikeway fund expenditures. Section 2 was also amended to allow the Director of Transportation to appoint this planner without regard to Chapters 76 and 77 at a salary within the range of salaries paid planners in State departments.

Your Committee has also amended this bill by adding a new section 3 which appropriated funds for this position for fiscal year 1980-1981. A June 30, 1981 lapsing provision for the appropriated funds was also included in the new section 3.

For purposes of consistency, your Committee has renumbered the original section 3 of this bill to section 4.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2831-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2831-80, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Andrews and Medeiros.

SCRep. 411-80 Transportation on H.B. No. 2457-80

The purpose of this bill is to appropriate a grant-in-aid to the City and County of Honolulu out of the general fund revenues of the State of Hawaii the amount of \$730,000 for resurfacing, reconstruction, street lighting of selected portions and other minor improvements on Waianae Valley Road, Haleahi Street, Kuwale Road, Lualualei Homestead Road, Maililili Road, Puhawai Road, Puuhulu Road, Halona Road and Hakimo Road.

Thereafter the maintenance and improvement of these roadways shall be performed by the City and County of Honolulu.

Your Committee is aware that there remains a jurisdictional question between the State of Hawaii and the City and County of Honolulu on the roadways mentioned in Section I of this bill, but feels that by appropriating the monies the roadways will properly be maintained, once the jurisdictional question is answered.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2457-80 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Andrews and Kiyabu.

SCRep. 412-80 Transportation on H.B. No. 2222-80

The purpose of this bill is to amend Chapter 261, Hawaii Revised Statutes, by adding a new section providing for a system of enforcement of airport rules pertaining to vehicle parking at airports.

According to the department of transportation, abandoned vehicles on airport roads, in airport parking lots and other areas of property within airport jurisdiction are becoming an increasingly difficult problem, creating serious traffic hazards and marring the visual environment.

Your Committee has amended this bill by deleting the provisions beginning on page 1, line 8, and ending on page 2, line 5, dealing with towing, storage and public auction of vehicles. In place of the original language of this provision, your Committee has substituted new subsections (b) through (g) which deal with the subject matter in greater detail by specifying procedures for each step in the process of removal and disposition of vehicles illegally parked on airport property. The purpose of these amendments is to meet due process requirements by providing procedural safeguards for deprivation of property. These new subsections are as follows:

- (1) The new subsection (b) deals with notice to the owners of any vehicle removed, including provision for immediate written notice sent by registered or certified mail to the legal and registered owner;
- (2) The new subsection (c) provides procedures for disposition by public auction of vehicles unclaimed within thirty days, and provides for alternate means of disposition in cases where no bid is received or where the value of the vehicle is less than \$100. The original bill provided only that "any vehicle towed away and unclaimed thirty days thereafter shall be sold at public auction by the department", without specifying procedures to be followed;
- (3) The new subsection (d) allows any person entitled to the vehicle to repossess the vehicle prior to the day of auction upon payment of all expenses incurred

by the department in connection with the vehicle, and provides for the posting and return of security by any person repossessing the vehicle under claim of entitlement other than the legal or registered owner. The original bill stated only that "the owner of any vehicle towed away shall be responsible for all costs incurred in the towing and storage", and did not specifically provide for repossession;

- (4) Subsection (e) provides for the transfer of title and interest in a vehicle sold pursuant to this section; no provision was made by the original bill for such transfer;
- (5) Subsection (f) deals with the disposition of proceeds from the sale of vehicles. It provides that all such proceeds be deposited into the airport revenue fund. The original bill provided that the owner was to be paid the balance remaining after the department was reimbursed for its expenses; H.D. 1 makes the same provision but specifies that "owner" is to include the legal or registered owner. H.D. 1 also adds that "The registered owner shall receive priority of payment to the extent of his lien on the vehicle", and clarifies that the department shall have a cause of action against the legal or registered owner or person with an unrecorded interest for the deficiencies between the sale proceeds and expenses.
- (6) Section (g) adds the category "derelict vehicle", which includes vehicles whose legal and registered owner is either unknown and undiscoverable, or who have disclaimed ownership; section (h) provides, for purposes of efficiency, that such vehicles may be disposed of without notice and without being required to be advertised for sale.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2222-80, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.B. No. 2222-80, H.D. 1.

Signed by all members of the Committee except Representatives Andrews, Kiyabu and Medeiros.

SCRep. 413-80 Transportation on H.B. No. 2453-80

The purpose of this bill is to appropriate a grant-in-aid to the City and County of Honolulu for the remaining cost of construction and design in completing improvements of Hamakua Drive, extending from Hahani Street to Akoakoa Street.

The appropriated amount of \$850,000 will be taken out of the general revenues of the State of Hawaii.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2453-80 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Andrews and Kiyabu.

SCRep. 414-80 Transportation and Water, Land Use, Development and Hawaiian Affairs on H.B. No. 2500-80

The purpose of this bill is to appropriate grants-in-aid to the County of Hawaii from the State of Hawaii general fund for aid in areas of road improvements, flood control and various facilities in the county.

Your Committees on Transportation and Water, Land Use Development and Hawaiian Affairs are in accord with the intent and purpose of H.B. No. 2500-80 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Andrews, Kiyabu, Uechi and Medeiros.

SCRep. 415-80 Transportation and Consumer Protection and Commerce on H.B. No. 2647-80

The purpose of this bill is to clarify truck size and weight laws.

This bill will aid the courts in the enforcement and proper judgement of truck size and weight laws.

Your Committees have made eleven amendments to this bill which are listed as follows:

- (1) Page 3, line 4 has been amended to clarify the formula used in computing the total gross weight allowed on interstate highways.
- (2) Page 4, lines 11, 12 has been amended to delete "any group of two or more consecutive axles on", to clarify the application of the formula.
- (3) Page 6 has been amended by deleting the proposed Section 2 and inserting a new Section 2 which adds a new subsection (j) of Section 291-36.
- (4) Page 7, lines 1-10 has been amended to add language to allow application of the penalty range to citations covered by the tables. Your Committees have retained provisions that the person penalized may be fined the minimum prescribed in Section 291-37.
- (5) Page 8, lines 10-12 has been amended to eliminate dimensional overlap.
- (6) Page 8, line 20 has been amended by adding a new paragraph (a). The amendment provides the mailing of minimum fines when the citation or penalty is not contested, including provisions for the owner of the vehicle or combination of vehicles to request operators to be held harmless and citations to be transferred to the owner of the vehicle or combination of vehicles.
- (7) Page 8, lines 21 through page 9, line 16 has been deleted. Your Committees notes that this problem is to be solved by the truckers and shippers.
- (8) Page 9, lines 18-19 has been amended to delete renumbering Section 231-39.
- (9) Page 9, line 19 has been amended to add a sentence to provide police power to motor carrier safety officers and the Director of the Department of Transportation.
- (10) Page 11, line 13 has been amended to change "subsection (c)" to "Section 291-39(c)".
- (11) Page 11, line 19 has been amended to retain the penalty section of Section 291-37.

Your Committees on Transportation and Consumer Protection and Commerce are in accord with the intent and purpose of H.B. No. 2647-80, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2647-80, H.D. I, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Andrews, Hagino, Honda, Silva and Uechi.

SCRep. 416-80 Transportation and Energy on H.B. No. 2599-80

The purpose of this bill is to appropriate \$750,000 out of the general revenues of the state to the County of Hawaii for two construction projects.

Your Committees find that \$250,000 is to be used for plans, land acquisition, and construction of a road connecting state highway and existing Kalapana coastal road and feels that such an appropriation would be of benefit to the county.

Your Committees also find that \$500,000 is to be used to construct a second well in Pohoiki to further investigate the geothermal potential in the Puna area and feels that such an appropriation would be of vital importance to continuing our alternative energy research.

Your Committees on Transportation and Energy are in accord with the intent and purpose of H.B. No. 2599-80 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committees except Representative Holt.

SCRep. 417-80 Transportation and Health on H.B. No. 1890-80

The purpose of this bill is to amend Section 235, Hawaii Revised Statutes, to provide a transportation tax credit for resident individual taxpayers filing a State income tax return, who are handicapped or who claim one or more dependents who are handicapped.

Your Committees have renumbered Section 2 as Section 1 and have amended the new Section 1 by deleting Sub-sections 2 and 3 of the proposed amendment to Section 249-6.1 of the Hawaii Revised Statutes. Your Committees have deleted these two Sub-sections so as to not provide a tax exemption for agencies or persons providing motor vehicle transportation services for the handicapped operating under a government contract.

Your Committees on Transportation and Health are in accord with the intent and purpose of H.B. No. 1890-80, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.B. No. 1890-80, H.D. 1.

Signed by all members of the Committees except Representatives Andrews, Honda, Kiyabu, Ushijima and Ikeda.

SCRep. 418-80 Transportation on H.B. No. 2643-80 (Majority)

The purpose of this Act is to amend Chapter 239, Hawaii Revised Statutes, to exempt passenger cruise ship operators, between the islands of Hawaii, from public service company taxes.

This bill was originally a short form bill which was introduced as a vehicle to exempt passenger cruise ships from public service company taxes. Your Committee has amended the bill to provide the substantive contents of the bill in long form so that a public hearing may properly be held on its substantive provisions.

Your Committee has further amended this bill by eliminating the terms "water" and "or water" from Section 239-2(4) and Section 239-2(6)(B) respectively, thereby exempting passenger cruise ship operators, between the islands, from public service company taxes.

The intent of your Committee in exempting passenger ships from public service company taxes is to make Hawaii ports more favorable to passenger cruise ship operations and enhance the Visitor Industry in Hawaii. Your Committee hopes this measure will aid in developing regular cruise ship service between the islands.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2643-80, H.D. 1, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.B. No. 2643-80, H.D. 2.

Signed by all members of the Committee except Representative Andrews.
(Representative Ikeda did not concur.)

SCRep. 419-80 Transportation on H.B. No. 2897-80

The purpose of this bill is to broaden the power of the Department of Transportation over harbors and maritime operations by allowing the Department of Transportation to enter into a lease of a special facility and to issue special facility revenue bonds.

Your Committee agrees with the Department of Transportation's testimony and recommends amending the bill to include a new section under Chapter 266 of the Hawaii Revised Statutes relating to special facilities projects.

The new section authorizes the Department of Transportation to engage in and issue revenue bonds up to \$20,000,000 for special facilities projects relating to water transportation. Section 1 is patterned after Sections 261-51 through 261-55 of the Hawaii Revised Statutes, which authorizes the Department of Transportation to engage in and to issue

\$25,000,000 in revenue bonds for special facility projects related to aeronautics.

As in the case of special facility revenue bonds for aeronautics, these maritime special facility revenue bonds will be payable from and secured by lease rentals from the project.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2897-80, H.D. 1, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.B. No. 2897-80, H.D. 2.

Signed by all members of the Committee except Representatives
Andrews, Kiyabu, Kunimura, Ikeda and Medeiros.

SCRep. 420-80 Transportation and Consumer Protection and Commerce on
H.B. No. 2153-80

The purpose of this bill is to limit the number of pedicabs which may be operated within any county.

Your Committees have held two hearings on this measure and received testimony both supporting and opposing the concept of limiting the number of pedicabs which may operate in any county. Your Committee finds that the unregulated operation of pedicabs may have an adverse impact on Hawaii's visitor industry, particularly in the City and County of Honolulu.

Your Committee was informed that the Council of the City and County of Honolulu passed Ordinance 78-74, relating to pedicabs and horse-drawn vehicles. Ordinance 78-74 provides for the regulation of pedicabs, including a limitation on the number of pedicabs for hire in the City and County of Honolulu. The limitation was to be set by the Council prior to July 1, 1979 and annually updated each July 1st thereafter. Ordinance 78-74 also requires the Director of Transportation Services of the City and County of Honolulu to recommend to the Council a limit on the number of pedicabs by May 1, 1979 and annually update the recommended limitation by May 1st of each year thereafter. The Ordinance also provided that no business license shall be issued for pedicabs for hire until the City Council takes action on the recommended limitation on the number of pedicabs for hire made by the Director of Transportation Services.

Your Committees were informed that the Director of Transportation Services has interpreted the Ordinance requirement that he recommend a limit on the number of pedicabs to mean that he may recommend no limit on the number of pedicabs. The Director has recommended to the City Council that the number of pedicabs not be limited. Consequently, the City has not set a limitation on the number of pedicabs, as required by Ordinance 78-74, and the licensing and regulation of pedicabs has not been implemented.

Your Committees have amended this bill by deleting the original section 1 of this bill and by inserting a new section 1 which amends Chapter 445, Hawaii Revised Statutes, "County Licenses," by adding a new subtitle "Pedicabs For Hire." The new subtitle contains the following 12 new sections:

- (1) Providing for the definition of "pedicab."
- (2) Requiring the adoption of County ordinances for the annual issuance of a business license for each pedicab, reasonable fees for such, and the surrender and cancellation of such licenses.
- (3) Requiring the adoption of county ordinances providing for the annual issuance to and display by the owner of every licensed pedicab of a business license decal.
- (4) Requiring that every pedicab owner comply with the requirements of section 249-14, Hawaii Revised Statutes.
- (5) Requiring the adoption of County ordinances requiring each pedicab owner, or operator, or both to furnish evidence of financial responsibility.
- (6) Requiring the adoption of County ordinances for the issuance of an operator's certificate for each pedicab operator.
- (7) Requiring the adoption of County ordinances to insure the compliance

of pedicabs with County and statewide traffic codes.

- (8) Requiring the adoption of County ordinances regulating pedicab fares.
- (9) Requiring each County to provide for the establishment and use of roadside pedicab stands.
- (10) Allowing each county to limit the number of pedicabs for hire in each county.
- (11) Requiring the adoption of County ordinances to establish standards for safety, cleanliness, aesthetics, and mechanical maintenance for all pedicabs for hire.
- (12) Providing for the enforcement of the provisions of this subtitle and prohibiting the operation of a pedicab for hire in any County which has not adopted ordinances pursuant to this subtitle.

Your Committees have also amended this bill by inserting a new section 2 which appropriates \$5,000 for fiscal year 1980-1981 for the purposes of this bill, to be expended by the Department of Transportation. A lapsing date of June 30, 1981 for this appropriation has also been included. A new section 3 has been added to this bill authorizing any county to adopt any ordinance, rule, or regulation not inconsistent with this subtitle. A new section 4 has been added to require that each county with a population in excess of 250,000 shall adopt ordinances as required by this bill within 180 days of the effective date of this bill. A new section 5 has been added to limit the application of this bill to counties in which pedicabs for hire shall be in operation. For purposes of consistency your Committees have renumbered the original sections 2 and 3 to sections 6 and 7 respectively.

Your Committee on Transportation and your Committee on Consumer Protection and Commerce are in accord with the intent and purpose of H.B. No. 2153-80, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2153-80, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives
Aki, Andrews, Honda, Uechi and D. Yamada.

SCRep. 421-80 Legislative Management

Informing the House that House Resolution Nos. 253 to 264, House Concurrent Resolution Nos. 77 to 85, and Standing Committee Report Nos. 266-80 to 310-80, have been printed and distributed.

Signed by all members of the Committee.

SCRep. 422-80 Finance on H.B. No. 2193-80

The purpose of this bill is to provide for the orderly transfer of all functions, powers, and duties relating to the taxation of real property, including the transfer of personnel, records, and equipment to the counties.

Your Committee finds that this bill is necessary to implement the 1978 amendments to Article VIII, section 3, and Article XVIII, section 6, of the State Constitution. The Department of Taxation, Tax Foundation of Hawaii, and the Chairman of the Real Property Tax Committee of the Hawaii State Association of Counties testified on the bill.

The State Association of Counties suggested several amendments, some of which have been made by your Committee. The Association suggested that there was a need to place a statement in the bill regarding the county's power to place liens on properties and subpoena authority. Your Committee does not find any statement to be necessary as all necessary power regarding the taxation of real property is to be found in the State Constitution and the transfer provisions of this bill. Regarding the question raised concerning whether tax rate setting should be by ordinance or resolution, your Committee feels that this is a question to be resolved by the counties. Your Committee also does not agree with the Association that access to income tax records should be provided at this time.

Your Committee has amended the bill as follows:

1. A sentence has been added to the purpose clause indicating the legislature's finding that all necessary statements of power concerning the taxation of real property are to be found in the constitution and that no further statement thereof is necessary.

2. Section 2 has been amended by making a reference to Article XVIII, section 6, of the State Constitution which concerns the transition provisions of the real property taxation transfer.

3. Section 3 has been amended to clarify that only full-time personnel at the district level are transferred by the provisions of the bill. It has been further provided the less than full-time personnel at the district level shall be transferred in the same manner as personnel whose functions, duties, powers, and authority are performed on a statewide basis, through a plan to be developed by the governor and the chairman of the respective county councils.

4. Section 5 has been clarified to provide that pending proceedings include the collection of any delinquent real property taxes, whether or not proceedings have been instituted to collect such taxes. Under this amendment the right to collect such delinquencies will be vested in the appropriate county.

5. Section 6 has been clarified to provide that appeals filed with the state board of review before July 1, 1981, the transfer date of real property functions under the constitution, shall be heard by the board before which it was filed. Further provision has been made to provide that appeals from assessments, denial of exemptions, or denial of dedication may be made under an appeals process established by county ordinance or may be made to the appropriate state court as is now the law. It is the feeling of your Committee that the counties not only have the power to establish such an appeals process, but that they are mandated to do so by the provisions of this bill and the constitution transferring the real property tax function to the counties.

6. Other minor technical and grammatical changes have also been made to this bill.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2193-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2193-80, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 423-80 Finance on H.B. No. 1864-80 (Majority)

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.

The claims for refunds, reimbursements, and other payments were filed with the state director of finance who transmitted all the claims with supporting data to the legislature.

The large number of miscellaneous claims approved by the departments remains a matter of considerable concern to your Committee. Your Committee finds that some departments have not developed clear policies and guidelines for reviewing and processing claims.

Your Committee agrees that those claims which have been barred by law and others for which the State does not appear to be clearly liable should not be granted relief at this time. Your Committee has therefore amended this bill by deleting most of the miscellaneous claims. The claims approved by your Committee are set forth in the amended bill.

The bill as amended by your Committee appropriates \$181,511.40 representing 24 claims under section 37-77 and chapter 662, Hawaii Revised Statutes.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1864-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1864-80, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 424-80 Finance on S.B. No. 1115

The purpose of this bill is to require that the state insurance commissioner publish annually a list of all motor vehicle insurers and their premiums.

The intent of this bill is to benefit consumers by providing a reference from which their decisions on the purchase of no-fault insurance can be based.

Your Committee agrees that requiring the commissioner to publish the information in a newspaper should communicate the idea of comparative shopping to the public. It is anticipated that the commissioner will publish the required information in an appropriate manner and format designed to reach the greatest number of readers.

Your Committee has amended this bill to delete the appropriation section. The remaining sections of the bill are accordingly renumbered.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 1115, 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. 1115, S.D. 2, H.D. 2.

Signed by all members of the Committee.

SCRep. 425-80 Employment Opportunities and Labor Relations and Consumer Protection and Commerce on H.B. No. 2179-80

The purpose of this bill is to add a new chapter which will establish the purpose, scope and authority for the safety inspection program for boilers, pressure vessels, elevators, amusement rides and related equipment.

The statutory basis for the existing boiler, elevator and amusement ride inspection program is incorporated in Chapter 396, which has as its focus safety and health in workplaces. The focus of boiler, elevator and amusement ride safety inspection is public safety. The jurisdiction within Chapter 396 is limited to places of employment. This is inadequate jurisdiction to cover all boilers, elevators, amusement rides and other equipment since such equipment is often housed in locations not qualifying as places of employment.

Chapter 396 forbids advance notice of inspection except under tightly controlled conditions. The boiler and elevator inspections are calendar-based; advance notice is usually required and often necessary to coordinate required tests with elevator maintenance companies and to avoid massive disruption in public transport systems Chapter 396 provides right of access only to places of employment. Boiler and elevator inspectors must have access to any facility that houses equipment requiring inspection. The Department of Labor and Industrial Relations testified that the means of enforcing compliance with established codes and standards are inadequate and are now limited to withholding operating permits, "jawboning" or, as a last resort, lodging a complaint with the occupational safety inspectors against operations without a permit. If, however, the offending facility is not a place of employment, no enforcement power exists. This bill incorporates civil penalties as a means of enforcement.

Your Committees have amended the bill to add three new sections which repeal certain sections of the Hawaii Occupational Safety and Health Law, Chapter 396, Hawaii Revised Statutes, which are rendered unnecessary or superseded by the new chapter on the "Boiler and Elevator Safety Law" enacted by the bill. These unnecessary sections are:

- (1) Section 396-4(b)(4) relating to periodic inspections of amusement rides at carnivals, circuses, fairs, or amusement parks;
- (2) Section 396-5 relating to fees which the director of labor and industrial relations may charge, among other things, for inspections of elevators, personnel hoists, boilers, and related devices; and
- (3) Section 396-5.5 relating to the requirement that safety inspections, among other things, of elevators, dumbwaiters and workmen's or personnel hoists be conducted by qualified labor department elevator inspectors.

These sections are respectively repealed through Sections 2, 3, and 4 of the attached bill.

The department of labor and industrial relations confirmed that the three sections being repealed are rendered unnecessary by the new chapter being enacted.

Your Committees have also renumbered Sections 2, 3, 4, and 5 of the bill as Sections 5, 6, 7, and 8 respectively.

Your Committees have also made minor nonsubstantive changes to the bill to comply with the requirements of the Ramseyer format.

Your Committees on Employment Opportunities and Labor Relations and Consumer Protection and Commerce are in accord with the intent and purpose of H.B. No. 2179-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2179-80, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees .

SCRep. 426-80 Ecology and Environmental Protection and Transportation
on H.B. No. 2428-80

The purpose of this bill is to allow the Director of Transportation to regulate or prohibit entry, departure, mooring, or berthing of vessels containing nuclear materials when such a prohibition is necessary to prevent an imminent danger to public health and safety.

In the past there have been numerous instances where it has been necessary for the harbors division of the Department of Transportation to delay entry of a ship into Honolulu Harbor and to provide for extra safety precautions relative to dangerous cargo. Your Committees agree that this bill would further provide for control of this problem by law rather than by regulation.

Your Committees adopted the recommendation of the Department of Transportation by also amending Sec. 266-3(d) by adding, "or dangerous" after the word "nuclear" and before the word "materials" on line 21 of page 4.

Your Committees on Ecology and Environmental Protection and on Transportation are in accord with the intent and purpose of H. B. No. 2428-80, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H. B. No. 2428-80, H. D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees .

SCRep. 427-80 Ecology and Environmental Protection and Water, Land Use,
Development and Hawaiian Affairs on H.B. No. 1977-80

The purpose of this bill is to bring the State water pollution law into conformity with federal requirements on the pretreatment of waters introduced into publicly owned treatment works.

The State is not now legally authorized to inspect or enforce directly against contributors to publicly owned treatment works who violate pretreatment requirements set out by the Federal Clean Water Act as amended in December of 1977. Testimony from the Director of the Department of Health stated that pretreatment regulations are necessary for the abatement of problems associated with toxic industrial pollutants.

Your Committees on Ecology and Environmental Protection and on Water, Land Use, Development and Hawaiian Affairs are in agreement with the intent and purpose of H. B. No. 1977-80 and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees .

SCRep. 428-80 Water, Land Use, Development and Hawaiian Affairs on
H.B. No. 2183-80

The purpose of this bill is to provide for greater control in terms of enforcement of land use within the conservation district.

Under the present law the penalty provision of a maximum fine of \$500 has not been a deterrent in terms of land use within the conservation district. Your Committee finds that the past four fiscal years have resulted in 126 reported land use violations, compared to 33 the previous four fiscal years. The effect of this bill would be to change the maximum fine of a land use violation from \$500 per violation to \$500 per day.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 2183-80 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 Garcia.

SCRep. 429-80 Transportation on H.B. No. 2853-80

The purpose of this bill is to amend section 266-2, Hawaii Revised Statutes, in order to clarify the law relating to the authority of the state to plan, construct, operate, and maintain harbors.

The present law gives the Department of Transportation authority to perform all duties pertaining to the control and management of harbors throughout the state. This centralized authority is necessary to assure consistent planning and development of a statewide harbors system.

The counties, however, are able to undermine the efforts of the Department of Transportation by denying zoning, subdividing, or permit requests for the lands deemed necessary for the planning, construction, and maintenance of harbors. While the counties, being creatures of the state, may not have legal grounds to thwart the efforts of the Department of Transportation, the proposed statutory amendment will place beyond contention any conflict between the counties and the Department of Transportation, with regard to harbor facilities.

Your Committee is in agreement with the intent and purpose of H.B. No. 2853-80, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 430-80 Transportation on H.B. No. 2195-80

The purpose of this Act is to amend existing HRS Sections 261-12 and 261-21 to eliminate possible Constitutional challenges to airport rules and regulations.

Your Committee notes that in a recent Circuit Court case, the court ruled that present airport security regulations were defective in that they were made by the Department without proper guidance by existing statutes. The court further questioned airport rules regarding improper delegation of power.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2195-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 431-80 Transportation and Judiciary on H.B. No. 2002-80

The purpose of this bill is to prohibit the parking, placing, erecting, or storing of materials or structures within the state highway right-of-way, except by permit.

According to the Department of Transportation, the Hawaii Revised Statutes does not address the problem of structures parked, stored, or abandoned within the right-of-way of state highways. The department further testified that the unauthorized placement of structures and materials on the right-of-way of state highways is a recurring problem which could be remedied by passage of this bill. Testimony was also presented by private construction firms suggesting that firms awarded contracts by the department for the performance of work on state highways be exempted from the application and fee requirement imposed by this bill.

Your Committees are in agreement that Section 264-6, Hawaii Revised Statutes, should

be amended to prohibit the unauthorized placement, erection, abandonment, or storage of structures and materials in the right-of-way of state highways. Your Committees have amended this bill by adding a new section 2 which amends Section 264-7, Hawaii Revised Statutes, to provide that the Director of Transportation, or his authorized representative, shall automatically issue the permit required by Sections 264-6, Hawaii Revised Statutes, upon the awarding of any contract by the department which requires any of the activities enumerated in Section 264-6(1) and (2).

For purposes of consistency, your Committees have also amended the bill by renumbering sections 2 and 3 to sections 3 and 4 respectively.

Your Committees on Transportation and Judiciary are in accord with the intent and purpose of H.B. No. 2002-80, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2002-80, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representative Garcia.

SCRep. 432-80 Health and Education on H.B. No. 1979-80

The purpose of this bill is to amend the present law so as to assure better control of active tuberculosis in Hawaii's schools.

The State Department of Health and the Department of Education have testified that the present law regarding immunization is ambiguous and can be interpreted to permit school entry on a provisional 90-day basis without tuberculosis clearance. The proposed amendment of sections 298-42 and 298-43, Hawaii Revised Statutes, will clarify the requirement for tuberculosis clearance and assure better control of active tuberculosis in Hawaii's schools.

In view of Department of Health testimony received at the hearing, your Committees have amended the bill by retaining the requirement for a tuberculin test or x-ray, in addition to the proposed amendment.

Your Committees on Health and Education are in accord with the intent and purpose of H.B. No. 1979-80, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1979-80, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 433-80 Judiciary on H.B. No. 2161-80

The purpose of this bill is to make the election process more efficient and realistic in the filling of vacancies of candidates and offices.

Section One of the bill provides a minimum period of 30 days for election officials to prepare ballots for the General Election when vacancies occur in candidacies or in offices which must be filled by election. Present law requires that names be placed on ballots when vacancies occur as late as ten days before the General Election.

Your Committee received testimony that given printing deadlines, the present ten-day period is not realistic and while such a situation has never yet occurred, presumably substantial additional overtime and rush charges would be incurred. Moreover, section 11-119 requires that absentee ballots be placed in the hands of the Clerks no later than ten days before an election and given the complicated ballot preparation process, a minimum period of 30 days before an election is required would appear more than reasonable.

Section Two of the bill amends section 17-3 relating to the manner of filling vacancies in the Senate by providing that nonpartisan persons may be appointed and nominated to fill vacancies, a provision not contained in the present law.

Sections Three and Four of the bill amends in a similar fashion those sections of the Hawaii Revised Statutes dealing with vacancies in membership of the Board of Education and the Board of Trustees of the Office of Hawaiian Affairs.

Your Committee received additional testimony, with which it agreed, that portions of the bill did not adequately remedy the problems faced by election officials. Accordingly,

your Committee has amended Section Two of the bill in order to deal with the four different situations which could occur when there is a vacancy in the Senate of a member who has more than two years remaining to serve, to wit:

1. It occurs with sufficient time for the normal nominating process;
2. It occurs too late for the normal nominating process, but with sufficient time for the names of candidates to be placed on the primary election ballot;
3. It occurs too late for the names of candidates to be placed on the primary election ballot but with sufficient time for the names of nominees to be placed on the general election ballot; and
4. It occurs too late for the names of nominees to be placed on the general election ballot.

Moreover, your Committee amended Section Three of the bill because as presently drafted, the bill does not take into account the fact that the terms of office of School Board members are not staggered as are those of Senators and members of the Board of Trustees, Office of Hawaiian Affairs.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2161-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2161-80, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 434-80

Judiciary on H.B. No. 2258-80

The purpose of this bill is to amend sections 706-627(3) and 706-628(1) and (2) of the Hawaii Revised Statutes, by mandating revocation of probation or suspension of sentence and resentencing following a hearing if the defendant has inexcusably failed to comply with the requirements of his sentence of probation or suspension of sentence.

Under present law, revocation of probation or suspension of sentence is discretionary with the court.

Your Committee feels that the court's decision of whether a defendant's failure to comply with the requirements of his probation or suspension of sentence was excusable or inexcusable is a fairer and more equitable method of determining revocation of probation or suspension of sentence and resentencing.

However, your Committee further feels that mandatory revocation should also be based upon the defendant's inexcusable failure to comply with a "substantial" requirement imposed as a condition of the order and not just on the grounds of and insignificant or minor infraction.

Accordingly, to clarify this position, your Committee has amended this bill by retaining the term "substantial" in section 706-628(1), which was originally intended for deletion.

In addition, your Committee has further amended this bill by requiring that the court revoke a person's suspension or probation if such person is convicted of a felony, rather than another crime, inasmuch as a "crime" may be a petty misdemeanor and to mandate revocation for such a crime is not equitable in your Committee's opinion.

Finally, your Committee has amended this bill by providing that the granting of the period of tolling, currently mandatory if the court refuses to revoke probation, be left to the court's discretion inasmuch as the present situation gives defendants an unfair advantage by allowing them, in essence, to be given "credit" toward their sentence for a period of time when they are not abiding by the terms of such sentence.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. 2258-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. 2258-80, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Lee.

SCRep. 435-80 Judiciary on H.B. No. 2324-80

The purpose of this bill is to prevent or reduce the incidence of spouse abuse by making the law regarding temporary restraining orders with respect thereto more effective and efficient.

This bill does the following:

1. Allows the Family Court to issue a temporary restraining order to protect a person who had been abused if the victim lived with the person to be restrained when the abuse occurred by deleting the present statutory language which allows the court to issue a restraining order against a perpetrator who lived with the victim in the past, but who did not live with the victim when the abuse occurred;
2. Allows the Family Court to extend the effective period of the restraining order for multiple thirty-day periods if necessary to prevent violence, or a recurrence of violence;
3. Allows a police officer to arrest a perpetrator who violated a restraining order on probable cause regardless of whether the violation occurred in the presence of the officer;
4. Provides that a police officer making an arrest under the statute would be made immune from civil liability if the officer acted with probable cause, in good faith, and without excessive force in making the arrest; and
5. Provides that a police officer prosecuted for unlawful imprisonment in the second degree due to an arrest made under the statute would be able to use as an affirmative defense the fact that the officer acted in good faith, and with probable cause.

Your Committee is in agreement with favorable testimony received regarding the proposed amendments (2) through (5) referred above in that these all tend, in your Committee's opinion, to reduce the incidence or severity of spouse abuse.

However, with respect to the proposed amendment to section 585-1 of the Hawaii Revised Statutes, referred in (1) above, your Committee feels that the opposite result could occur. That is, your Committee received testimony that in many instances it is necessary to have a restraining order issue notwithstanding the fact that the victim and perpetrator no longer live together, e.g., where violent harassment is directed at an ex-spouse. Thus, your Committee has amended this bill to remove the requirement that the parties involved are residing together at the time the above occurred and required only that they were previously residing together.

Your Committee in Judiciary is in accord with the intent and purpose of H.B. No. 2324-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2324-80, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 436-80 Judiciary on H.B. No. 2241-80

The purpose of this bill is to make spouse abuse proceedings more efficient by allowing the Circuit Court to issue temporary restraining orders to prevent spouse abuse.

Under present law only the family court is authorized to issue restraining orders to cease and desist from any further spouse abuse. This bill would empower both the family court and the circuit court to issue such restraining orders.

Your Committee feels that allowing the circuit court to issue restraining orders to prevent spouse abuse is desirable and essential given the severity of the problem of and the increase in spouse abuse. Your Committee is not without strong empathy for the so-called battered spouse and the frustration encountered in dealing with the present system.

However, your Committee finds that inasmuch as the crimes being dealt with in this bill are misdemeanors, the district, not the circuit court should be empowered to issue the restraining orders. Accordingly, your Committee has amended this bill by changing all references to the circuit court to the district court.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2241-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2241-80, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 437-80 Judiciary on H.B. No. 1919-80

The purpose of this bill is to amend section 706-667, Hawaii Revised Statutes, to provide for different maximum terms of imprisonment for young adult defendants for the different degrees of felonies included in the Penal Code.

The present provision of law recognizes no difference between an individual who commits rape or sodomy and an individual who steals an automobile.

Your Committee feels that an individual who commits a crime of armed robbery, kidnapping or rape presents a much greater danger to society than someone who commits auto theft. Accordingly, your Committee feels that inasmuch as this bill establishes a more equitable and just sentencing structure by relating the severity of the penalty with the severity of the felony, its passage is recommended.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1919-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 438-80 Consumer Protection and Commerce on H.B. No. 2066-80

The purpose of this bill is to add a new section to Chapter 271G, Hawaii Revised Statutes, requiring a water carrier to obtain approval of the Public Utilities Commission prior to issuing stocks, bonds or other indebtedness, and prior to entering into long-term or leverage leases.

Presently, there is no requirement of this nature in the water carrier law although a similar provision exists under Chapter 269 relating to public utilities.

Your Committee recognizes the fact that water carriers play an integral role in the economy of the State and affect the well-being of all residents. Your Committee therefore agrees with the intent of this bill to provide a mechanism whereby the Public Utilities Commission is placed in a position to monitor a water carrier's financial condition and prevent any transactions that may impair future operations.

Your Committee recognizes the fact that rates paid by the public for water carrier service in the State are at least partly dependent on the amount of indebtedness of the water carrier. Your Committee therefore finds that this bill would prevent the unwise issuance of indebtedness, or entry into a long-term lease which would otherwise result in unnecessary rate increases to the general public by the water carrier.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2066-80, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 439-80 Consumer Protection and Commerce on H.B. No. 2043-80

The purpose of this bill is to amend both Chapters 558 and 467, Hawaii Revised Statutes, to clarify that a real estate license is required for a real estate salesperson to sell a beneficial interest in a land trust.

Under present law, a beneficial interest in a land trust is defined by Chapter 558, Hawaii Revised Statutes, as personal property. Section 467-1(4), Hawaii Revised Statutes, defines real estate as simply, "lands, the improvements thereon, leaseholds, and all other interests in real property." Your Committee finds that some confusion has arisen as to the status of interests in land trusts.

Your Committee agrees with the testimony presented that this uncertainty should be clarified and further that Chapter 558 itself need not be changed to reflect this. Your Committee has therefore amended the bill accordingly, and has, in addition, amended Section 467-2(1) to conform to the bill.

Your Committee has also added a new section to the bill requiring that trustees of land trusts disclose the contents of their records pursuant to official inquiries by the State or any agency thereof. Your Committee feels that this will provide necessary regulation and will facilitate investigatory functions.

Your Committee has also made technical, non-substantive amendments to the bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2043-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2043-80, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 440-80 Consumer Protection and Commerce on H.B. No. 2042-80

The purpose of this bill is to amend Section 416-59, Hawaii Revised Statutes, with regard to the issuance of stocks without par value.

This bill amends Section 416-59(a) to make clear that the rights, restrictions and qualifications of a series of any class or a class of stock issued without par value are to be provided for in the acts of incorporation.

This bill also amends Section 416-59(e) to allow a corporation to issue stocks without par value in one series of a class with rights, restrictions and qualifications different from those of another series of no-par value stock issued from the same class. Your Committee has heard testimony from counsel for Castle and Cooke, Inc. that the present requirement that all such no-par value stock whether or not issued from the same series of a class have the same rights, restrictions and qualifications serves no useful purpose and that distinctions between different series of no-par value stock are great enough to allow different rights and restrictions.

Your Committee has made technical form amendments.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2042-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2042-80, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 441-80 Consumer Protection and Commerce on H.B. No. 1422

The purpose of this bill is to amend Section 467-3, Hawaii Revised Statutes, by deleting the quorum requirement for the Real Estate Commission.

Presently, Section 467-3 provides that four members of the Commission shall constitute a quorum to do business. In 1978, the Legislature increased the number of members on the Commission from seven to nine by adding two lay persons representing the public. This bill would eliminate the statutory requirement that four members constitute a quorum.

Your Committee finds that if a quorum is not specified by statute for a board of commission, Section 92-15, which specifies that quorum shall be a majority of all the members when not otherwise specified, shall apply. Your Committee finds that this provision will effectively eliminate any problems of quorum for the Real Estate Commission.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1422 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 Masutani.

SCRep. 442-80

Consumer Protection and Commerce on H.B. No. 2151-80

The purpose of this bill is to protect the public against exaggerated warranties issued by roofing contractors by requiring that a bond be obtained on all roofs which are guaranteed for a period of more than seven years.

Your Committee notes that some roofing contractors operating in the State are offering warranties for extremely long periods of time for construction work on roofs. Your Committee finds from the testimony presented that as a matter of good business practice in the construction industry, roof warranties should not be offered for more than two years and that the offer of unreasonably long warranties may be a deceptive advertising scheme. Your Committee is therefore in agreement with the bill insofar as it is directed toward preventing such practices. Your Committee feels that the requirement of a bond will deter only those contractors who have no intention of honoring long-term warranties and will still allow contractors to offer legitimate long-term warranties if they wish, provided that a bond for the cost of materials and labor is obtained.

While in accord with the intent of the bill, your Committee has amended the bill for clarification by deleting reference to the rules and regulations of the Department of Regulatory Agencies. Your Committee has also amended the bill to provide that any violation of the section or failure to comply shall be deemed an unfair and deceptive act or practice.

Your Committee feels that this bill will provide the necessary safeguards for consumers from unscrupulous business practices.

Your Committee on Consumer Protection and Commerce is in accord with the purpose of H.B. No. 2151-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2151-80, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 443-80

Consumer Protection and Commerce on H.B. No. 2359-80

The purpose of this bill is to eliminate unnecessary regulation and simplify the administration of and compliance with the partnership law.

Present law contains several provisions that experience has shown to contain unnecessary requirements which unduly complicate administration of partnership.

First, Section 425-8, Hawaii Revised Statutes, presently requires a partnership to file a statement with the Department of Regulatory Agencies within 30 days after a partner is admitted, withdraws, or dies. Administration of this requirement has proven to be burdensome and not commensurate with the benefits of regulation provided and has therefore been deleted. An annual statement, however, will retain the listing of names of any partner admitted, withdrawn or has died during the year under Section 425-1.

Second, all references to acknowledgements by notary publics have been deleted in order to streamline preparation and checking of documents. All documents need only be certified and penalties have been provided for falsification.

Third, a new provision has been added allowing the reservation of a partnership name. Under present law, this cannot be done which sometimes forces applicants to refile their documents of partnership when it is found that their chosen name is unavailable.

Fourth, several clarifications are made by the bill to the present partnership law. A distinction has been made between a dissolution and a termination by requiring that a statement of dissolution be filed only when the business is not carried on by the same partnership even though a technical dissolution may have occurred through a change in partners. This bill also clarifies uncertainties in present law by specifically allowing partnerships themselves to be the partners and that a partnership is dissolved upon the retirement, death or incapacity of the sole remaining general partner even though the limited partners desire to continue the partnership. Other non-substantive changes have been made by the bill.

Your Committee feels that the changes proposed by this bill will lessen unnecessary government regulation of partnerships and streamline the registration of partnerships

and other aspects of partnership law.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2359-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 444-80 Consumer Protection and Commerce on H.B. No. 1877-80

The purpose of this bill is to permit small liquor licensees to purchase liquor as a group.

Present law is silent with respect to whether such purchases are allowed.

This bill would specifically permit small liquor licensees to pool their resources and purchase liquor as a group thus enabling them to take advantage of maximum quantity purchase discounts offered to purchasers of large quantities. Your Committee finds from the testimony presented that the liquor commissions of the Counties of Honolulu and Hawaii will not permit such pool buying unless specifically authorized by statute. Your Committee feels that this bill, if enacted, would help smaller liquor establishments better compete with the larger establishments which have greater purchasing power.

While in accord with the intent of this bill, your Committee further finds from testimony presented by the Antitrust Division of the Attorney General's office that requiring the approval of the liquor commission of the jurisdiction without specifying what such approval entails may lead to ambiguities and possible escape from coverage of the bill to delete the requirement of approval. Your Committee has further amended the bill to make clear that pool buying agreements contemplated by this bill shall not constitute exemption from any antitrust laws.

Your Committee has also made technical corrections to the bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1877-80, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. 1877-80, H.D. 2.

Signed by all members of the Committee.

SCRep. 445-80 Judiciary on H.B. No. 1911-80

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

Your Committee received testimony that presently there are numerous errors within the HRS that should be corrected and clarified.

This bill does the following:

Section 1 amends HRS, chapter 11, subpart XII.B., to correct technically inaccurate language.

Section 2 amends HRS, sec. 11-200, to make the paragraph grammatically correct, without changing the meaning thereof.

Section 3 amends HRS, sec. 11-209, to correct clerical errors, style, and clarify language.

Section 4 amends HRS, sec. 91-12, to clarify the language used in describing the duties of the agency discussed.

Section 5 amends HRS, sec. 142-14, to categorize the offense of petty misdemeanor consistent with the provisions of the Penal Code.

Section 6 amends HRS, sec. 144-10, to correct apparent clerical errors.

Section 7 amends HRS, sec. 149A-11, to correct an erroneous reference.

Section 8 amends HRS, sec. 271-32, to conform to references implemented by constitutional

amendments.

Section 9 amends HRS, sec. 271G-23, to correct clerical errors.

Section 10 amends HRS, sec. 271G25, to correct erroneous references.

Section 11 amends HRS, sec. 281-92, to correct an erroneous reference.

Section 12 amends HRS, sec. 286-56.5, to have the title reflect the expanded coverage of the privileges discussed.

Section 13 amends HRS, sec. 286-201, to correct a clerical error.

Section 14 amends HRS, sec. 290-11, to correct changes in style and clerical errors.

Section 15 amends HRS, sec. 296-10, to include departmental school districts in provisions concerning school board districts.

Section 16 amends HRS, sec. 329-14, to correct spelling errors.

Section 17 amends HRS, sec. 33E-3, to reinsert language which was inadvertently dropped in previous revisions and to reflect changes in style.

Section 18 amends HRS, sec. 338-20, to include underscored language that was inadvertently dropped when it was typed.

Section 19 amends HRS, sec. 351-31, to correct inadvertent omissions when typed.

Section 20 amends HRS, sec. 383-62, to omit language unrelated to the subject and to correct clerical errors.

Section 21 amends HRS, sec. 386-23.6, to correct grammatical errors.

Section 22 amends HRS, sec. 387-15, to conform to current statute numbering.

Section 23 amends HRS, sec. 437-1.1, to reenact paragraphs which were deleted by using an incorrect lead-in paragraph. Corrections of typographical errors have also been made.

Section 24 amends HRS, sec. 490:9-403, to correct erroneous referencing.

Section 25 amends HRS, sec. 490:11-105, to correct erroneous referencing.

Section 26 amends HRS, sec. 558-6, to correct language enabling the section to be consistent with the balance of the chapter.

Section 27 amends HRS, sec. 571-14, to correct erroneous references and to reflect proper grammar.

Section 28 amends HRS, sec. 571-50, to conform with previous legislative changes.

Section 29 amends HRS, sec. 571-52.1, to conform with previous amendments to the statutes.

Section 30 amends HRS, sec. 571-84, to conform with previous legislative amendments.

Section 31 amends HRS, sec. 633-27, to eliminate redundant language.

Section 32 amends HRS, sec. 634-11, to eliminate unnecessary and redundant language.

Section 33 amends HRS, sec. 652-9, to eliminate unnecessary references.

Section 34 amends HRS, sec. 657-8, to include language inadvertently omitted.

Section 35 amends HRS, sec. 663-1.5, to correct a clerical error.

Section 36 amends HRS, sec. 671-4, to correct an apparent clerical error.

Section 37 amends HRS, sec. 706-603, to reenact the amendments made by Session Laws 1979, Act 3.

Section 38 amends HRS, sec. 707, part VII, to correct errors in language.

Section 39 amends HRS, sec. 707-763 to reflect proper designation of subdivisions.

Section 40 amends HRS, sec. 708-814, to reenact an inadvertently deleted subsection.

Section 41 amends HRS, sec. 708-834, to reenact a subsection deleted by clerical error.

Section 42 amends HRS, sec. 853-1, to reenact subsections inadvertently deleted due to incorrect legislative drafting.

Your Committee finds that the above corrections proposed in this bill will ease and facilitate the future use of the Hawaii Revised Statutes by clarifying any ambiguities that presently exist.

Your Committee has amended this bill to correct typographical errors.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1911-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1911-80, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 446-80 Ecology and Environmental Protection and Water, Land Use,
Development and Hawaiian Affairs on H.R. No. 40

The purpose of this resolution is to oppose any plans to store or to dispose of nuclear wastes, by-products, or spent nuclear fuel in the Pacific Basin, and to request the U. S. government to consider alternatives to using the Pacific Basin as a storage and disposal site.

Your Committees heard testimony on this and other resolutions regarding the subject of nuclear waste storage and disposal in the Pacific Basin, as well as on the effects of radiation on humans and on the environment. The siting of interim spent-fuel storage facilities on Palmyra or other Pacific islands is being proposed and discussed by Congress. This, along with the continuing possibility of using the Pacific seabed as a permanent disposal site, has raised serious questions among Hawaii's people concerning the safety of these facilities. In addition, grave concern has been expressed as to the dangers these radioactive materials may impose on the environment and on the health and safety of the people of Hawaii and the entire Pacific area should leakage occur due to accident, sabotage, deterioration of containers, or other circumstances.

Your Committees also amended this resolution to incorporate the concerns of all the resolutions introduced regarding the storage and disposal of nuclear waste materials in the Pacific Basin. Therefore, four new WHEREAS clauses have been added, relating to: the amount of wastes, the possibility of increased storage sites, the depositing of wastes by the U. S. Navy from 1963 to 1968, and the danger of cancer and genetic damage due to exposure to radiation. Your Committees feel that the inclusion of these clauses more thoroughly fulfills the intent of the resolution, and better reflects the concerns that have been expressed regarding the hazards of nuclear radiation.

Your Committees on Ecology and Environmental Protection, and on Water, Land Use, Development and Hawaiian Affairs concur with the intent and purpose of H. R. 40 as amended herein and recommend its adoption in the form attached hereto as H. R. 40, H. D. 1.

Signed by all members of the Committees except Representative Garcia.

SCRep. 447-80 Ecology and Environmental Protection and Water, Land Use,
Development and Hawaiian Affairs on H.C.R. No. 13

The purpose of this resolution is to oppose any plans to store or to dispose of nuclear wastes, by-products, or spent nuclear fuel in the Pacific Basin, and to request the U. S. government to consider alternatives to using the Pacific Basin as a storage and disposal site.

Your Committees heard testimony on this and other resolutions regarding the subject of nuclear waste storage and disposal in the Pacific Basin, as well as on the effects of radiation on humans and on the environment. The siting of interim spent-fuel storage facilities on Palmyra or other Pacific islands is being proposed and discussed by Congress. This, along with the continuing possibility of using the Pacific seabed as a permanent disposal site, has raised serious questions among Hawaii's people concerning the safety of these facilities. In addition, grave concern has been expressed as to the dangers these radioactive materials may impose on the environment and on the health and safety of the people of Hawaii and the entire Pacific area should leakage occur due to accident, sabotage, deterioration of containers, or other circumstances.

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Your Committees on Ecology and Environmental Protection, and on Water, Land Use, Development and Hawaiian Affairs concur with the intent and purpose of H.C.R. 13 as amended herein and recommend its adoption in the form attached hereto as H.C.R. 13, H. D. 1.

Signed by all members of the Committees except Representative Garcia.

SCRep. 448-80 Legislative Management

Informing the House that House Resolution Nos. 265 to 268, House Concurrent Resolution No. 86, Standing Committee Report Nos. 312-80 to 420-80, and Conference Committee Report Nos. 1 and 2, have been printed and distributed.

Signed by all members of the Committee.

SCRep. 449-80 Consumer Protection and Commerce on H.B. No. 377

The purpose of this bill is to add a new chapter to the Hawaii Revised Statutes which establishes a voluntary used oil recycling program.

Your Committee notes that a large quantity of used oil is generated each year in Hawaii which could be recycled to replace a similar amount of imported petroleum products.

Your Committee believes that current methods of used oil disposal constitute a danger to public health and welfare. The carcinogenic properties and heavy metal content of used oil require the State to promote public awareness of the dangers to our fragile environment and to residents inherent in the improper disposal of used oil. Your Committee finds that it is economically attractive and environmentally responsible to promote used oil collection points, for the collection and recycling of used oil which would otherwise pollute our land and water and which could reduce Hawaii's dependence on imported petroleum if properly treated.

While in accord with the intent of this bill to encourage as much as possible the recycling of used oil, your Committee agrees with the testimony presented by the Department of Planning and Economic Development and the Office of Environmental Quality Control that the objectives of the bill are best met by requiring retail sellers of more than 100 gallons of motor oil annually to accept used oil. Past practice has shown that the voluntary approach has met with only marginal success. Your Committee notes that mandatory collection has the potential, according to testimony, of recycling up to 50,000 barrels of used oil annually which would otherwise have been disposed of. Your Committee has therefore amended Section -5 of the bill accordingly.

Your Committee has also amended the effective date to be January 1, 1981 in order to allow retail sellers of motor oil adequate time to prepare its facilities for the collection of use oil.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 377, H.D. 1, as amended herein, and recommends that it

pass Third Reading in the form attached hereto as H.B. No. 377, H.D. 2.

Signed by all members of the Committee except Representatives Masutani and Medeiros.

SCRep. 450-80 Agriculture and Water, Land Use, Development and Hawaiian Affairs on H.R. No. 143

The purpose of this resolution is to request the Department of Land and Natural Resources to study the feasibility, including legal considerations as applicable, of converting wetlands of the Pearl Harbor Area into an agricultural park, and that a report of findings and recommendations be submitted prior to the convening of the Regular Session of 1981.

Your Committees find 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 Committees in a public hearing held on February 26, 1980 received testimony from several sources, all supporting the objective of the resolution and recommending adoption of the resolution.

Your Committees on Agriculture and Water, Land Use, Development and Hawaiian Affairs concur with the intent and purpose of H.R. No. 143, and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committees.

SCRep. 451-80 Consumer Protection and Commerce on H.B. No. 1976-80

The purpose of this bill is twofold; first, to permit an individual, partnership, corporation or other organization to represent itself at an administrative hearing without an attorney, and second, to establish criteria which must be met by a reviewing court in order to stay an administrative decision.

First, your Committee finds that there is confusion in the present law whether or not an attorney is required to represent a party before an administrative body. This confusion is caused in part by the Supreme Court's decision in Oahu Plumbing and Sheetmetal Ltd. vs. Kona Construction, Inc., 60 Haw. , 590 P.2d 570 (1979), which held that a corporation must be represented by an attorney in judicial proceedings. This bill will make clear that an attorney is not required to represent any party at an administrative hearing. Your Committee feels that because the rules of evidence and procedure are much less stringent in an administrative hearing than in a court, an attorney is not needed to ensure that a party's evidential and procedural rights are protected.

Second, past cases appealing administrative decisions to the Circuit Courts show that stay orders have been granted almost automatically. Your Committee agrees with the testimony presented that the public interest is sometimes not served by permitting, for example, a licensee to practice while his or her case is being determined, a process that can take as long as several years. Your Committee feels that the criteria stated in the bill, which are based on legal standards for the issuance of a court imposed injunction, should operate to ensure that stay orders are permitted in only those cases which are meritorious.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1976-80 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 Nakamura.

SCRep. 452-80 Consumer Protection and Commerce on H.B. No. 2026-80

The purpose of this bill is to amend the commercial employment agencies law by amending the placement fee regulation procedure and by increasing the current fee maximum that may be charged by employment agencies.

Under present law fees that an employment agency may charge and collect are established by the rules and regulations of the director of labor and industrial relations pursuant to administrative agency procedure. This bill would, in addition to retaining the fee prescribing function of the director, set the maximum fee allowable at 40% of the applicant's gross earnings for the first 60 days of employment.

After hearing the testimony presented, your Committee feels that fees should be set by the open competitive market-place with each employment agency required to file its schedule of fees with the director. Sanctions have been provided for the charging of fees greater than that stated on said schedules.

Your Committee feels that sufficient regulation is provided in the bill to adequately protect consumers and prevent unfair practices.

Your Committee has therefore amended the bill accordingly.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2026-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2026-80, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Masutani.

SCRep. 453-80 Consumer Protection and Commerce on H.B. No. 2334-80

The purpose of this bill is to prevent purchasers of new motor vehicles from retaining possession of the dealer license plates for unreasonably long periods of time while the vehicle is being registered.

Under present law, purchasers of new motor vehicles take possession of the vehicle with dealer license plates and return the plates when permanent license plates are available after registration. Testimony presented shows that this period can be as long as six months.

This bill would authorize the director of finance to issue to new motor vehicle dealers temporary motor vehicle plates which will be attached to newly purchased motor vehicles. This bill would also require the purchaser to register the motor vehicle within 20 days of purchase and the director of finance to issue permanent license plates within 30 days of registration. Upon registration of the vehicle and issuance of the permanent plates, the temporary plates are destroyed.

Your Committee feels that this plan will eliminate the problems encountered by dealers under the existing statutory scheme.

Your Committee has changed the fine for an expired temporary number plate from \$500 to read not more than \$100.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2334-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2334-80, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 454-80 Judiciary on H.B. No. 2096-80

The purpose of this bill is to amend section 571-61(b)(1)(F), Hawaii Revised Statutes, concerning termination of parental rights, to be identical with the language used in subsection (b)(1)(E).

In the present law, subsection (b)(1)(E) provides that parental rights may be terminated if the parent is found "to be unable to provide now and in the foreseeable future the care necessary for the well-being of the child." Subsection (b)(1)(F) of the same section provides that parental rights may be terminated if the parent is mentally ill or mentally retarded, and unable to provide "adequate care to the child."

Your Committee feels that the use of different language to describe the degree of care that the parent must provide to continue parental rights implies that a different standard

regarding care should be applied depending on the person's mental condition. Accordingly, your Committee finds that the language describing the degree of care required should be the same in both subsections. Any parent, regardless of mental state, should be able to keep their children so long as they can provide the same care required for all other parents. Therefore, adoption of this amendment is recommended.

Your Committee has also made technical amendments to correct typographical errors.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2096-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2096-80, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 455-80 Employment Opportunities and Labor Relations on H.B. No.
2351-80

The purpose of this bill is to amend Chapter 378 by adding a new section to provide a limitation period for the filing of a "fair representation" suit and to make it easier to determine when such a cause of action accrues. The bill proposes a sixty-day limitation period and also clearly sets forth when a cause of action accrues under given circumstances.

Since the U. S. Supreme Court's decision in Vaca v. Sipes in 1967, unions, as well as employers, have been subject to numerous suits based on what has become known as the "fair representation" doctrine. These suits are premised on allegations that a union has engaged in conduct toward a bargaining unit member that is "arbitrary, discriminatory or in bad faith" or that a union has been negligent in representing a member. While most of these suits have been unsuccessful, labor organizations and employers nevertheless have been compelled to expend substantial resources in defending themselves. Employers are beset with the foregoing problem because suits almost invariably involve back pay and reinstatement in employment as the relief sought.

Among the unsettled matters in this area of concern is whether the actions are properly breach of contract or tort actions or whether they should be deemed strictly statutory in nature. This has also left unsettled all questions related to when the actions must be filed. The federal courts, including the Court of Appeals for the Ninth Circuit, have held that state limitation statutes apply to "fair representation" suits. However, they have not said which statute of limitations is applicable.

The enactment of this bill will settle most of the foregoing questions and provide all parties concerned, employers, unions, and employees, with a desirable certainty as to when a claim should be asserted and will also enable the disputes to be expeditiously determined.

The bill properly proposes that Chapter 378 be amended to effectuate its purpose. The chapter covers unlawful employment practices of both employers and labor organizations and Part 1 thereof specifically invalidates discriminatory practices. As the essence of a "fair representation" suit is a union's breach of its duty through conduct that is arbitrary, discriminatory or in bad faith, it would be logical to also place limitations related thereto in Chapter 378. There appears to be no other H.R.S. chapter that could logically accommodate the bill's proposals.

The department of labor and industrial relations has expressed a concern related to a possible enforcement burden. The measure, however, does not create or establish a new unlawful practice enforceable by the department; it merely prescribes a limitation period for actions based upon alleged breaches of the duty of "fair representation". These are pursued through civil suits brought directly in the courts by individuals without intervention by the department or other government agencies.

Since claims of unlawful discrimination under other provisions of Chapter 378 must now be filed within ninety days after accrual, your Committee is of the opinion that a "fair representation" claim should also be subject to a similar limitation period. Thus, H.B. No. 2351-80 has been amended to also provide a ninety-day limitation period rather than the sixty-day period originally proposed.

Your Committee on Employment Opportunities and Labor Relations is in accord with the intent and purpose of H.B. No. 2351-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2351-80, H.D. 1, and

be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 456-80 Water, Land Use, Development and Hawaiian Affairs on
H.B. No. 2734-80

The purpose of this bill is to extend the responsibility of the property owner to continuously maintain and keep clean, passable, and free from weeds and noxious growths the whole of the sidewalk and now to include the gutter that may abut or adjoin the owner's property.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 2734-80 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 Garcia.

SCRep. 457-80 Water, Land Use, Development and Hawaiian Affairs
on H.B. No. 2078-80 (Majority)

The purpose of this bill is to add a new chapter to the Hawaii Revised Statutes to regulate roller skating on streets, sidewalks and on other public lands.

The bill defines "public land" as land owned or reserved by the State or County government and prohibits roller skating on such land unless the managing agency having jurisdiction over the land authorizes it by a rule adopted under Chapter 91.

Your Committee on Water, Land Use, Development, and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 2078-80 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 Garcia.
(Representatives Anderson and Narvaes did not concur.)

SCRep. 458-80 Transportation and Consumer Protection and Commerce on
H.B. No. 2623-80

The purpose of this bill is to amend Section 291-34 of the Hawaii Revised Statutes to change the total length of truck-tractors and semitrailers from fifty-five feet to fifty-eight feet.

The State Department of Transportation and the City Department of Transportation Services are in support of this bill. The city, however, intends to purchase a number of sixty foot articulated buses in the future and requested that an exception be made for the maximum length of city buses.

Your Committees have amended this bill to exempt articulated buses for public transit.

Your Committees on Transportation and Consumer Protection and Commerce are in accord with the intent and purpose of H.B. No. 2623-80, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2623-80, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representative Andrews.

SCRep. 459-80 Higher Education on H.B. No. 2698-80

The purpose of this bill, as amended, is to repeal Sections 304-45 to 304-49, Hawaii Revised Statutes.

Sections 304-45 to 304-49 relate to the integration of the programs for overseas operations and Asian studies.

At the hearing conducted by your Committee it was stated that, while the original bill's purpose to avoid legislative concern with curriculum is laudable, the proposed change only has the effect of combining two programs into one program. It was suggested

that a larger perspective be applied by reviewing not only Section 304-49 but also reviewing all five sections, 304-45 to 304-49, which relate to the overseas operations program and the Asian studies program. It was recommended that all five sections be deleted since most academic programs at the University do not have a statutory basis for their existence other than through the appropriation of funds for their continued operation. Just as Sections 304-50 to 304-53 relating to the Land Study Bureau were repealed in 1975, it is not inappropriate to delete Sections 304-45 to 304-49 relating to the overseas operations and Asian studies programs. Your Committee agrees with the recommendation and has therefore amended the bill to reflect the repeal of Sections 304-45 to 304-49.

Your Committee on Higher Education is in accord with the intent and purpose of H.B. No. 2698-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2698-80, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 460-80 Higher Education and Employment Opportunities and Labor Relations on H.B. No. 2702-80

The purpose of this bill is to clarify the language in Section 304-36, Hawaii Revised Statutes, as recommended by the 1978 Constitutional Convention.

Section 304-36 relates to the Labor Education Advisory Council. The bill amends the section by replacing the word "assist" with "advise".

Your Committees find that the issue is an exercise in semantics and recommend that the section read "...shall assist and advise...". Therefore, the bill has been amended by inserting "and advise".

Your Committees on Higher Education and Employment Opportunities and Labor Relations are in accord with the intent and purpose of H.B. No. 2702-80, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2702-80, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 461-80 Agriculture on H.B. No. 2745-80

The purpose of this bill is to establish an economic formula to determine the minimum price for milk to be paid to producers and producer-distributors or the quotas for the production of milk in a milk shed or both.

Your Committee finds that at present time there are 25 dairies in the State. Nineteen are on Oahu, four on Hawaii and one each on Kauai and Maui. Hawaii's dairy production has become highly specialized and efficient in recent years with the introduction of modern techniques.

Your Committee finds up to about 4 years ago, feed cost represented about 48 to 50 percent of milk production. Currently, instability of the grain market makes any meaningful prediction of price levels a difficult if not impossible task.

50th State Dairy Farmers Cooperative in their testimony stated that during a period of rapid increase in the cost of producing milk some kind of economic formula to adjust milk price at specific intervals would be adjunct to the Milk Control Act. Such a provision is urgently needed especially during a period of rapid increase in the cost of producing milk. For a sound economical operation of a dairy farm, as in any other business, any increase in the cost of production must be reconciled as it occurs, otherwise it would become a serious threat to the industry.

Your Committee agrees with the intent behind this bill and to further clarify the board's duties, your Committee has amended the bill requiring the board to review the economic formula and adjust minimum prices of milk accordingly. Further, public notice is required on any price change.

In addition, your Committee has amended this bill by also amending section 157-31, Hawaii Revised Statutes, to include within the public hearing requirement of said section the establishment of an economic formula to determine the minimum price for milk to be

paid to producers and producer-distributors or the quotas for the production of milk in a milk shed or both.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 2745-80, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2745-80, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 462-80 Finance on H.B. No. 1981-80

The purpose of this bill is to increase the fees charged by the registrar of conveyances for recording various instruments, for searching of records, and for copies.

This bill will revise the recording fees collected by the registrar that have remained constant since 1951. Your Committee agrees that the increase in fees will offset the spiraling cost of supplies needed in the recording processes of each document as well as the equipment needed to store, maintain, and preserve the State's public land records.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1981-80 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 463-80 Higher Education and Education on H.B. No. 2703-80

The purpose of this bill, as amended, is to clarify the language in Section 304-20 and to repeal Sections 304-21 and 304-22, Hawaii Revised Statutes.

In an opinion given by the Attorney General's Office on April 3, 1979, as to the constitutionality of Section 452-2 (2), Hawaii Revised Statutes, which relates to the Board of Regents' authority over curricula, the office deemed it to be in conflict with Article IX, Section 5, of the State Constitution. Article IX, Section 5, vests in the Board of Regents of the University of Hawaii the power, in accordance with law, to formulate policy and to exercise control over the University of Hawaii. Article IX, Section 5, was renumbered as Article X, Section 6, after the 1978 Constitutional Convention and the constitutional amendment relating to the Board of Regents does not alter this interpretation.

Your Committees are in agreement that the word "shall" should be replaced by "may" and that the term "as far as possible" in Section 304-20, Hawaii Revised Statutes, should be deleted as set forth in this bill. The University's stand is that it has the complete authority to set the curriculum of studies without external interference.

Section 304-20 is entitled "Teachers College". Teachers College (replaced by College of Education) is a term no longer used by the University of Hawaii. Therefore, the term has been deleted, along with references made to it, from this section and College of Education inserted in its place.

Section 304-21 is repealed in H.D.1. The section requires the University of Hawaii to recognize the credits received by graduates and students of the territorial normal and training school which became the Teachers College, now the College of Education. The problem is now moot.

Section 304-22 is also repealed because it is also moot. The section preserves the employment status of public school teachers who were employed on September 1, 1931.

Your Committees on Higher Education and Education are in accord with the intent and purpose of H.B. No. 2703-80, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2703-80, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 464-80 Legislative Management

Informing the House that House Resolution Nos. 269 to 271, House Concurrent Resolution

No. 87, and Standing Committee Report Nos. 422-80 to 447-80, have been printed and distributed.

Signed by all members of the Committee.

SCRep. 465-80 Tourism on H.R. No. 14

The purpose of this resolution is to request the Visitor Industry Education Council, the Hawaii Visitors Bureau, and the Hawaii Hotel Association to develop a program to educate local residents regarding the benefits of tourism.

Your Committee finds that visitors to the State are not only impressed by the natural beauty of our islands but also by the warmth and hospitality of our people, or what is commonly referred to as the "aloha spirit." The Committee believes that the aloha spirit is one of the greatest assets of the State and is extremely important to the maintenance of a healthy visitor industry.

Your Committee further finds that tourism is one of Hawaii's major sources of jobs and income, employing over 90,000 people directly and indirectly, generating approximately \$2.2 billion in visitor expenditures in 1978, and contributing thirty-one percent of state and county tax revenues.

Your Committee is concerned about reports that there appears to be an increase in negative sentiments amongst local residents toward visitors and the visitor industry in general. These sentiments are evidenced by news media reports regarding attacks on visitors.

The Committee recognizes the importance of maintaining Hawaii's reputation as the "Aloha State" since it is aware of the substantial negative impact on Jamaica's economy resulting from media reports regarding violence directed toward visitors.

Therefore, your Committee believes that it is imperative that the state inform the local residents of the benefits of tourism in order to maintain the aloha spirit and avoid the negative impacts similar to those experienced by Jamaica.

Your Committee has adopted the recommendation of the Hawaii Hotel Association by deleting from the first "BE IT RESOLVED" clause the words, "particularly in those areas where visitors go at risk."

Your Committee on Tourism concurs with the intent and purpose of H.R. No. 14, as amended herein, and recommends its adoption in the form attached hereto as H.R. No. 14, H.D. 1.

Signed by all members of the Committee.

SCRep. 466-80 Agriculture on H.R. No. 142

The purpose of this resolution is to request the Congress of the United States to move as quickly as possible to enact enabling legislation for the effectuation of the recently negotiated International Sugar Agreement.

Your Committee finds that in the public interest, the preservation and strengthening of the agricultural economy of this state as well as the economic welfare of the thousands of people directly sharing in the growing of and producing sugar would be furthered by the action that would keep Hawaiian sugar industry competitive.

The International Sugar Agreement was negotiated in Geneva in 1977 by about 58 participating nations. The participants in the Agreement consist of both exporting and importing nations.

Your Committee learned that the International Sugar Agreement is the only major effort we have today in the field of legislation controlling the world sugar trade. Therefore, your Committee believes that it is more important now than ever that the United States becomes a full-pledged member of the International Sugar Agreement as soon as possible.

Your Committee in a public hearing held on February 26, 1980 received testimony from several sources, all supporting the objective of the resolution and recommending adoption of the resolution.

Your Committee on Agriculture concurs with the intent and purpose of H.R. No 142 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 467-80 Agriculture on H.C.R. No. 45

The purpose of this resolution is to request the Congress of the United States to move as quickly as possible to enact enabling legislation for the effectuation of the recently negotiated International Sugar Agreement.

Your Committee finds that in the public interest, the preservation and strengthening of the agricultural economy of this state as well as the economic welfare of the thousands of people directly sharing in the growing of and producing sugar would be furthered by the action that would keep Hawaiian sugar industry competitive.

The International Sugar Agreement was negotiated in Geneva in 1977 by about 58 participating nations. The participants in the Agreement consist of both exporting and importing nations.

Your Committee learned that the International Sugar Agreement is the only major effort we have today in the field of legislation controlling the world sugar trade. Therefore, your Committee believes that it is more important now than ever that the United States becomes a full-pledged member of the International Sugar Agreement as soon as possible.

Your Committee in a public hearing held on February 26, 1980 received testimony from several sources, all supporting the objective of the resolution and recommending adoption of the resolution.

Your Committee on Agriculture concurs with the intent and purpose of H.C.R. No. 45 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 468-80 Agriculture on H.R. No. 165

The purpose of this resolution is to urge the State Department of Agriculture to stimulate the initiation of greater efforts to preserve and expand the taro industry in Waipio Valley, Hawaii, with cooperation with the various federal, state and county agencies, farmer organizations, including the taro producer group.

Testimony presented by the University of Hawaii, College of Tropical Agriculture and Human Resources has stated, "at a meeting on January 18, 1980, the Institute of Tropical Agriculture and Human Resources, assisted the taro industry in the State to conduct a comprehensive analysis of their industry." Your Committee learned that the analysis of the taro industry and an action plan for the achievement of its potential is expected to be presented by industry representatives to the Governor's Agricultural Coordinating Committee in late February or early March, 1980.

Your Committee finds that in order to keep the taro industry's future viable, it is imperative that government agencies pull their resources to accelerate research efforts on market development to expand the taro industry.

Your Committee on Agriculture concurs with the intent and purpose of H.R. No. 165 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 469-80 Agriculture and Water, Land Use, Development and Hawaiian Affairs on H.R. No. 175

The purpose of this resolution is to urge the Department of Land and Natural Resources, the Department of Agriculture, and other agencies of the state government and of the County of Hawaii sharing responsibility for the agricultural parks program, to use all necessary means to expedite completion of the Panaewa Agricultural Park, County of Hawaii.

Your Committees find 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.

The Hawaii Farm Bureau Federation, in its testimony have stated, "the development of Agricultural Parks is an important step in promoting diversified agriculture, increased agricultural self-sufficiency and the preservation of agriculturally suitable lands."

The State Department of Agriculture testified that the Department of Land and Natural Resources has recently taken steps to expedite completion of both the Panaewa and the Pahoehoe Agricultural Parks by pursuing the construction and lease disposition stages simultaneously. This should accelerate the availability of lots to farmers by approximately four to six months, so that both agricultural parks could be occupied by the summer of 1981.

Your Committees on Agriculture and Water, Land Use, Development and Hawaiian Affairs concur with the intent and purpose of H.R. No. 175 and recommend its adoption.

Signed by all members of the Committees.

SCRep. 470-80 Judiciary on H.B. No. 2058-80

The purpose of this bill is to protect from unwise sale real property in the estate of a decedent or real property belonging to a protected person by amending sections 531-29, 560:5-424 and 560:5-425, Hawaii Revised Statutes.

Presently, guardians of the property of protected persons are required by section 560:5408(4) to obtain a determination by the court that the sale of the real property is in the best interests of the protected person, but are not required to comply with sale confirmation proceedings pursuant to section 531-29, Hawaii Revised Statutes, which provide court supervision of the bidding and a determination that the sale price is fair and just prior to the transfer of the property.

Your Committee received testimony that real property in a decedent's estate is now subject to sale confirmation proceedings pursuant to section 531-29, Hawaii Revised Statutes, but presently it is not clear that the court must determine that the sale is in the best interests of the estate.

Your Committee feels that because real property is a unique and irreplaceable resource, the court should determine whether the sale of the real property would be in the best interests of the protected person or of the decedent's estate.

Accordingly, your Committee finds that this bill will make sales of real property in both guardianship estates and decedents estates subject to the same kinds of protection: a determination by the court that the sale is in the best interest of the protected person or the estate, and a confirmation of the sale by the court.

Your Committee has amended this bill to correct typographical errors.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2058-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2058-80, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 471-80 Finance on H.B. No. 2181-80

The purpose of this bill is to reduce the amount of unemployment compensation payable to an individual for any week after March 3, 1980 by the amount of pension or retirement pay the individual is receiving from either a government pension plan or a non-contributory pension plan which is reasonably attributable to such week. This bill proposes to reduce compensation on a pro rata basis where payments are being received under a contributory plan.

The State must enact legislation to amend its Employment Security Law before April 1, 1980 to conform to the pension reduction requirement of Section 3304(a)(15) of the Federal Unemployment Tax Act (FUTA) as a condition for certification of its law for tax credit and for federal grant for administration of the unemployment insurance

program. The proposed new section provides for different contingencies if Congress amends Section 3304(a)(15) FUTA. Paragraph (3) of the proposed new section is intended to meet the requirements of federal law if no amendments are made. Paragraphs (1) and (2) of the proposed new section provide for a less stringent reduction if the federal law is amended to limit reduction to pensions contributed by base-period employees only and permit States to take into account pension contributions made by employees. The proposed new section also contains provision if Section 3304(a)(15) FUTA is repealed or if Congress postpones the effective date of that section.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2181-80 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 472-80 Finance on H.B. No. 2361-80

The purpose of this bill is to provide for a maximum shelter allowance for public assistance recipients residing in a residential treatment facility to be determined by the director of social services.

Currently, the method for determining the amount of public assistance payments for recipients in residential treatment facilities is inequitable. Basically, these facilities provide shelter and treatment to alcohol or drug abusers, mentally ill, and socially/emotionally distressed individuals.

Recipients in these facilities are receiving amounts of public assistance according to two very different criteria: (1) Some receive up to the maximum shelter allowance of \$175 plus the basic needs allowance of \$122 per month, as provided by law, for single recipients in non-domiciliary shelter; and (2) Some receive a flat monthly amount of \$191 to meet both shelter and basic needs. Thus, inequities exist because recipients residing in some facilities may receive up to \$106 more per month than recipients residing in other similar facilities.

The rate of payment for recipients in domiciliary care, which is determined by the Director of Social Services does not apply. Thus the Department of Social Services and Housing established a flat monthly amount, currently \$191, for recipients residing in residential treatment facilities. The Department believes that the maximum shelter allowance of \$175 may be too high for recipients residing in residential treatment facilities because it may not truly represent the shelter cost of these facilities.

This bill would improve the public assistance program by: (1) providing a uniform criteria for determining the amounts of maximum shelter allowance for recipients in residential treatment facilities; and (2) providing the Director the opportunity to determine reasonable amounts of shelter allowance for recipients in residential treatment facilities.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2361-80, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 473-80 Finance on H.B. No. 2071-80

The purpose of this bill is to permit the Department of Social Services and Housing to establish rules and regulations for licensing, enforcement and monitoring of Independent Group Residences for elderly, disabled or handicapped adults.

In order that maximum funds as available through the federal Housing and Development agency (HUD) can be realized for the elderly, handicapped and disabled adults who require care in Independent Group Residences, it is essential that the Department of Social Services and Housing be empowered to establish, maintain and enforce licensing and monitoring standards for Independent Group Residences.

Your Committee has amended this bill to make minor technical and style changes. Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2071-80 as amended herein and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2071-80, H.D. 1.

Signed by all members of the Committee except Representatives Holt and Narvaes.

SCRep. 474-80 Finance on H.B. No. 1998-80

The purpose of this bill is to permit the Director of Transportation to operate a lost and found program for articles found on the premises of airports operated by the Department of Transportation.

Present law prevents the Department of Transportation from operating a lost and found program because all recovered items are required to be turned over to the county police. This bill would require that such items be delivered to a lost and found office at the airport.

Your Committee finds that operating a lost and found office at the airport terminal which would allow direct and almost immediate access to the traveling public is a far more logical and efficient means of getting lost items back to owners than requiring that such items be turned over to the county police.

Your Committee has amended this bill by deleting the words "reported or" from page 1, line 7 and page 3, line 14 as being unnecessary for the purpose of this bill.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1998-80, as amended herein and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1998-80, H.D. 1.

Signed by all members of the Committee.

SCRep. 475-80 Consumer Protection and Commerce and Judiciary on
H.B. No. 2668-80

The purpose of this bill is to amend Chapter 480, Hawaii Revised Statutes, relating to the granting of immunity from prosecution.

Your Committees find from testimony presented by the Antitrust Division of the Department of the Attorney General that the present provisions relating to immunity from prosecution in antitrust proceedings, Section 480-23(a) and (b), Hawaii Revised Statutes, can be construed to be a grant of automatic immunity to any witness called to testify by the Attorney General. Your Committees agree that this result was not intended by the statute.

Your Committees further find that the Legislature enacted the present general immunity statute, Chapter 621C, in 1978, and repealed various other immunity provisions similar to Section 480-23 in 1971 when the predecessor of Chapter 621C was enacted. Your Committees therefore agree that the witness immunity provisions of Chapter 480 should be made consistent with the other witness immunity provisions and further, that the unintended interpretation of Section 480-23 heretofore mentioned should be prevented. Your Committees have amended the bill accordingly.

Your Committees have further amended the bill to clarify a potential and serious uncertainty in the jurisdictional aspect of antitrust litigation. In Illinois Brick Co. v Illinois, 431 U.S. 720 (1977), the United States Supreme Court held that consumers who are indirect purchasers of products, as opposed to direct or first purchasers, from an antitrust violator, do not have the right to sue under the Clayton Act in federal court. Your Committees recognize that strict application of the holding of this case to our State's antitrust laws will deprive numerous present and potential victims of antitrust violations and will effectively frustrate the intent of antitrust legislation.

Your Committees heard testimony that the State is presently involved in many antitrust cases with the possibility of large recoveries for consumers and these cases may be substantially delayed or even dismissed as to indirect purchasers because of justiciability problems created by Illinois Brick. Your Committees are satisfied that providing indirect purchasers standing to sue will not result in duplicative recoveries which require defendants to compensate both direct and indirect purchasers, since there are no reported cases prior to Illinois Brick where defendants complained of multiple recovery. Your Committees therefore agree that the existing rights under state antitrust laws of indirect purchasers should be specifically codified to allow them to recover damages from antitrust violators and have amended section 480-14, Hawaii Revised Statutes, accordingly.

Your Committees have also amended Section 480-13(a)(1) to make it clear that the minimum \$1,000 recovery shall not apply to class action lawsuits in order to prevent

the possibility that small businesses may be bankrupted by class action suits based on the minimum recovery amount.

Your Committees on Consumer Protection and Commerce and Judiciary are in accord with the intent and purpose of H.B. No. 2668-80, as amended herein, and recommend that it be recommitted jointly to the Committees on Consumer Protection and Commerce and Judiciary in the form attached hereto as H.B. No. 2668-80, H.D. 1.

Signed by all members of the Committees.

SCRep. 476-80 Legislative Management

Informing the House that House Resolution Nos. 272 to 282, House Concurrent No. 88, and Standing Committee Report Nos. 449-80 to 463-80, have been printed and distributed.

Signed by all members of the Committee.

SCRep. 477-80 Health on H.R. No. 174

The purpose of this resolution is to request the Department of Health to convene a panel of experts to review and determine the suitability in the adoption of the Suggested State Regulations for Control of Radiation.

Your Committee finds that the present regulations as contained in Public Health Regulations, Chapter 33, Relating to Radiation Protection, are out-of-date and have not been revised since 1960, despite the technological advances and increased knowledge in the field of radiation.

Testimony by the Department of Health states that there is a need to amend Chapter 33 to meet current conditions. The department intends to reestablish the State Radiological Health Advisory Committee, to review and amend Chapter 33.

The Department of Health further testified that they would not be prepared to submit a total report of the panels findings by January 1, 1980. Therefore, your Committee on Health has amended this resolution to request the Department of Health to submit a "progress" report of the panels findings by January 1, 1980.

Your Committee on Health concurs with the intent and purpose of H.R. No. 174, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as H.R. No. 174, H.D. 1.

Signed by all members of the Committee.

SCRep. 478-80 Health on H.C.R. No. 50

The purpose of this concurrent resolution is to request the Department of Health to convene a panel of experts to review and determine the suitability in the adoption of the Suggested State Regulations for Control of Radiation.

Your Committee finds that the present regulations as contained in Public Health Regulations, Chapter 33, Relating to Radiation Protection, are out-of-date and have not been revised since 1960, despite the technological advances and increased knowledge in the field of radiation.

Testimony by the Department of Health states that there is a need to amend Chapter 33 to meet current conditions. The department intends to reestablish the State Radiological Health Advisory Committee, to review and amend Chapter 33.

The Department of Health further testified that they would not be prepared to submit a total report of the panels findings by January 1, 1980. Therefore, your Committee on Health has amended this concurrent resolution to request the Department of Health to submit a "progress" report of the panels findings by January 1, 1980.

Your Committee on Health concurs with the intent and purpose of H.C.R. No. 50, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as H.C.R. No. 50, H.D. 1.

Signed by all members of the Committee.

SCRep. 479-80 State General Planning, Transportation and Finance on H.R. No. 29

The purpose of this resolution is to request the House Committee on Finance, Committee on Transportation, and Committee on State General Planning to jointly study the feasibility of the use of mutual telecommunication systems by private and public employers as alternatives to the necessity of commuting between homes and businesses.

Your Committees find that the use of telecommunications systems could conceivably alleviate Hawaii's transportation and land use problems by transcending the need to commute great distances to and from work. Telecommunications systems provide rapid, accurate, and cost-efficient transmission and retrieval of information, as well as enable people in widely scattered geographical areas to work on projects concurrently.

A two-way telecommunications system is already being utilized in a demonstration project in Japan whereby people can conduct their work or personal business via computer terminals located in their residences. In Hawaii, the Hawaiian Telephone Co. is utilizing telecommunications systems with nation-wide application and is presently considering the possibility of having their Oahu operators work from remote job sites, thus eliminating the need to travel to downtown Honolulu to work.

Your Committees on State General Planning, Transportation, and Finance concur with the intent and purpose of H.R. No. 29 and recommend that it be referred to the Committee on Legislative Management.

Signed by all members of the Committees.

SCRep. 480-80 State General Planning and Water, Land Use, Development and
Hawaiian Affairs on H.R. No. 27

The purpose of this resolution is to request the Hawaii Community Development Authority (HCDA) and the Department of Planning and Economic Development (DPED) to study the feasibility of utilizing mutual telecommunications in the planned redevelopment of the Kakaako Community Development District.

As indicated in the DPED's testimony, technological breakthroughs will allow advanced telecommunication systems to be employed during this century and will significantly impact traditional behavior patterns of our society. For example, with the use of telecommunication systems, people may no longer need to commute great distances to work, to conduct personal business, or to be educated.

Telecommunication systems enable the rapid, accurate, and cost-efficient transmission and retrieval of information and are already being utilized in the private sector, notably by Hawaiian Telephone Co. To eliminate the need to travel to downtown Honolulu for work, Hawaiian Telephone Co. is presently considering the possibility of having their Oahu operators work from remote job sites.

The HCDA is now entering Phase III of its work whereby alternative strategies for the redevelopment of the Kakaako district are being formulated. In the formulation of these alternative strategies, it is the Committees' desire that the use of telecommunication systems and their impact on development proposals be examined.

Your Committees on State General Planning and Water, Land Use Development, and Hawaiian Affairs concur with the intent and purpose of H.R. No. 27 and recommend that it be referred to the Committee on Finance.

Signed by all members of the Committees.

SCRep. 481-80 State General Planning and Water, Land Use, Development and
Hawaiian Affairs on H.C.R. No. 9

The purpose of this concurrent resolution is to request the Hawaii Community Development Authority (HCDA) and the Department of Planning and Economic Development (DPED) to study the feasibility of utilizing mutual telecommunications in the planned redevelopment of the Kakaako Community Development District.

As indicated in the DPED's testimony, technological breakthroughs will allow advanced telecommunication systems to be employed during this century and will significantly impact traditional behavior patterns of our society. For example, with the use of telecommu-

nication systems, people may no longer need to commute great distances to work, to conduct personal business, or to be educated.

Telecommunication systems enable the rapid, accurate, and cost-efficient transmission and retrieval of information and are already being utilized in the private sector, notably by Hawaiian Telephone Co. To eliminate the need to travel to downtown Honolulu for work, Hawaiian Telephone Co. is presently considering the possibility of having their Oahu operators work from remote job sites.

The HCDA is now entering Phase III of its work whereby alternative strategies for the redevelopment of the Kakaako district are being formulated. In the formulation of these alternative strategies, it is the Committees' desire that the use of telecommunication systems and their impact on development proposals be examined.

Your Committees on State General Planning and Water, Land Use Development, and Hawaiian Affairs concur with the intent and purpose of H.C.R. No. 9 and recommend that it be referred to the Committee on Finance.

Signed by all members of the Committees.

SCRep. 482-80 Consumer Protection and Commerce on H.B. No. 1991-80 (Majority)

The purpose of this bill is to amend Chapter 452, Hawaii Revised Statutes, relating to the regulation of the massage industry, to: (1) change the terms masseuse and masseur to massage therapist, (2) change the term massage parlor or salon to massage therapist, (3) add a new section to regulate out-call massage service, (4) increase license fees, and (5) provide for application and examination fees.

Your Committee heard testimony to the effect that the integrity of the legitimate massage industry has suffered because of occasional links to illegitimate establishments. Various parties have testified, including a representative of the Board of Massage, that these amendments will help the industry improve its public image.

This bill will also regulate out-call massage services which are presently unregulated, by providing for registration with the board.

Your Committee, however, has amended the present form of the bill to delineate the various changes to Chapter 452 for ease of review by re-drafting in Ramseyer format.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1991-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1991-80, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 483-80 Consumer Protection and Commerce and Energy on
H.B. No. 2535-80

The purpose of this bill is to require a disclosure of fuel movements into, out of, and within the State in order to obtain accurate and current data for energy planning and management actions on the part of the State.

The proposed amendments to Chapter 486E of the Hawaii Revised Statutes would broaden the reporting requirements to include all types of fuel and provide that data be reported to the Director of Planning and Economic Development rather than the Director of Regulatory Agencies.

Your Committees on Consumer Protection and Commerce and Energy are in accord with the intent and purpose of H.B. No. 2535-80 and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 484-80 Consumer Protection and Commerce and Judiciary on
H.B. No. 2189-80

The purpose of this bill is to provide the Director of Regulatory Agencies with a general subpoena power in the course of the department's investigations and also to provide investigators of the department with the power and authority of a police officer or deputy sheriff.

Under present law, only the hearings officer of the Department of Regulatory Agencies may issue subpoenas and then only during the conduct of hearings. This bill would provide that authority to the director at the investigation stage of cases and complaints brought before the department.

Your Committees find that the Department of Regulatory Agencies is required under statute to protect the interests of consumers, depositors and investors within the State. Your Committees feel that investigations of consumer complaints are an integral part of that mandated responsibility and that addition of a subpoena power will aid in that function.

This bill would also provide the Department of Regulatory Agencies investigators with the powers of police officers and deputy sheriffs. Your Committees find that this service power would give the department flexibility and convenience in the course of its investigations and would eliminate their dependence on the State Sheriff's Office and the Attorney General's Office for service of documents.

Your Committees on Consumer Protection and Commerce and Judiciary are in accord with the intent and purpose of H.B. No. 2189-80 and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 485-80 Consumer Protection and Commerce and Judiciary on
H.B. No. 2572-80

The purpose of this bill is to amend two sections of the Pest Control Operators Law, Chapter 460J, Hawaii Revised Statutes, to provide additional grounds upon which a license may be revoked, suspended or refused for renewal, and to provide for additional required liability insurance.

This bill would add a new paragraph to Section 460J-15(a) to provide that any licensee convicted of any felony or misdemeanor committed in the performance of his duties as a licensee may have the license revoked, suspended or made non-renewable. Your Committees feel that sanctions should be provided for this circumstance and that the nature of the industry is such that the trust of the public in the integrity of the operator is essential.

Your Committees have made a minor, non-technical change by listing the parts and chapter of the Hawaii Penal Code contemplated by the addition.

This bill would also clarify what appears to be an omission in the law by requiring that liability insurance for fumigation work is required in a policy amount of not less than \$100,000. Present insurance requirements are silent as to liability coverage for fumigation work.

Your Committees on Consumer Protection and Commerce and Judiciary are in accord with the intent and purpose of H.B. No. 2572-80, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2572-80, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 486-80 Housing and Consumer Protection and Commerce on
H.B. No. 1784-80

The purpose of this bill is to encourage the purchasing of residences in this State by persons desiring to use them as their own homes. The bill recognizes that many persons, especially those with low or moderate incomes, are unable to purchase homes because of the rapidly increasing prices caused by speculative buying of condominium

units driving up the price from the initial selling price prior to the time many persons realize units are available or have an opportunity to purchase. This bill will require developers of condominiums to offer for a limited period of time at least one-half of the units in a condominium project to persons wishing to become owner-occupants, simultaneously addressing the need of a developer to keep costs down by avoiding unnecessary delays in completion of the project.

Your Committees received much testimony concerning the bill, nearly all of which recognized its merits. Testimony was received from Barry Chung, Director, Department of Housing and Community Development, City and County of Honolulu; Life of the Land; and the Kokua Council for Senior Citizens in direct support of passage of the bill without any suggestions for amendment.

Testimony from the Oahu Tenants Coalition, Hawaii League of Savings Associations, Real Estate Commission, Land Use Research Foundation of Hawaii, and the Development Association of Hawaii supported the bill's concept of giving owner-occupants the first chance to buy a portion of units within a condominium project at the initial selling price. The testimony also addressed problems of how the time required to make public offerings to attract prospective owner-occupants would affect the cost of the project. There was also a question of who would enforce the provisions of the proposed law.

Testimony was received which was critical of the bill from the Construction Industry Legislative Organization, Inc., Hiroshi Sakai, the Building Industry Association of Hawaii, and the Hawaii Association of Realtors. Testimony from the Hawaii Resort Developers Conference was received requesting that projects developed in resort areas be excluded, and testimony received from the Hawaii Housing Authority also requested that its projects be excluded.

Your Committees desire to present a bill which is realistic in terms of the needs of both average citizens desiring to purchase homes and developers who have made financial investments in their condominium projects. Your Committees, therefore, have made several amendments to the bill for the purpose of addressing the various concerns expressed in the testimony received while not diluting the general purpose of the bill.

The period of time during which the developer must publish a notice of intent to sell units in a project has been amended to begin at a date not more than thirty calendar days prior to the notification by the developer to the real estate commission of the intention to sell the project. This amendment benefits the developer because no time is lost during the publication period and permits the developer to sell when the first public report is issued, as does the current law.

The present law on horizontal property regimes does not permit any sale or offer of sale to be made prior to the issuance of the first public report. Therefore, in order not to cause a problem with possible interpretation of the publication of notice in the newspaper as an "offer of sale" the bill has been amended to construe this notice as an "announcement" which clearly states that the units will be offered for sale after the first public report is issued.

Concern was expressed that if the announcement in the newspaper was published as a "legal notice" many prospective purchasers would not see it and its purpose would be defeated. The bill has been amended to require the announcement to be published in the classified section of the newspaper where sales of condominiums are generally advertised.

Because testimony indicated that the exact price of a condominium unit would not be available until the project is completed, the bill has been amended to require that the public announcement of the project include a fair and reasonable estimate of the price. Your Committees believe that such an estimate is possible at that time since it is included in the first public report. Your Committees have also required an estimate of monthly maintenance fees to be included in the public announcement realizing that such fees may be sizeable and, therefore, a prospective purchaser on a budget would want to know the amount.

Your Committees have amended this bill to permit the developer to designate an agent to provide information to the public because testimony indicated that often the real estate agent selling the project would have access to better information than the real estate commission. The amendment would also require the developer to make information available through the designated agent.

In further appreciation of the concern of developers over the time delays caused by

the required offerings to prospective owner-occupants, the forty-five day offering period after issuance of the first public report has been shortened to thirty days. This amendment, along with the amendment permitting the developer to publish the announcement prior to filing the notice of intention to sell with the real estate commission, shortens any delay by as much as forty-five days.

Testimony received also pointed out that time delays might be caused by prospective owneroccupants attempting to qualify for financing. Directed towards this concern is an amendment to the bill which would require prospective owner-occupant purchasers to obtain financing or at least complete all the necessary steps to obtain financing by the time an offer to purchase is made.

Your Committees have further amended this bill to require that all prospective owner-occupants offering to purchase units make an earnest money deposit which is refundable if no offer of sale is made to such owner-occupant, but without interest. The developer may retain any interest earned on such deposits to offset any losses which may result from the time delay. Further amendment provides that if a prospective owner-occupant who entered into a contract of sale changes his or her mind at any time, the developer may keep a reasonable amount of the deposit representing the cost of processing the sales contract.

Since testimony indicated that cancellation of sales contracts might jeopardize the developer's financing on the entire project, the bill has been amended to require that any cancellation of a sales contract to an owner-occupant shall be subject to the approval of any lender financing the project.

In order to protect a prospective owner-occupant, the bill has been amended to require that the fifty per cent offering to owner-occupants be representative of all the units in the project. This would prevent a developer from offering only studio apartments, which would be of little use to married persons or families with children. The requirement would also prevent a developer from offering only the luxury units which are beyond the price affordable by low-or moderate-income persons.

The bill has also been amended to provide that a purchaser shall not be subject to penal liability if the affidavit of intent to become an owner-occupant was executed in good faith and unforeseeable hardship makes it impossible for the purchaser to occupy the unit.

The bill has also been amended to exclude governmental housing development projects from the law's application.

Realizing the negative effects this bill might have during a slump in the real estate market, it has been amended to be effective for only five years.

Your Committees on Housing and Consumer Protection and Commerce are in accord with the intent and purpose of H.B. No. 1784-80, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1784-80, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 487-80 Legislative Management

Informing the House that House Resolution Nos. 283 to 290, House Concurrent Resolution Nos. 89 to 93, and Standing Committee Report Nos. 465-80 to 475-80, have been printed and distributed.

Signed by all members of the Committee.

SCRep. 488-80 Judiciary on H.B. No. 2063-80

The purpose of this bill is to conform section 560:3-1209, Hawaii Revised Statutes, to section 560:3-1206 of the Uniform Probate Code which requires that small estates having a value in excess of \$10,000 be distributed only after the four-month claim-filing period for creditors has passed.

The current law governing the notice required for informal probate proceedings does not conform to the 1977 amendment to the probate code.

Your Committee feels this measure clarifies the prescribed time the clerk of the court must wait before probating a small estate. Therefore, your Committee recommends adoption of this amendment.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2063-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 489-80 Finance on H.B. No. 2967-80

The purpose of this bill is to amend section 234-4 (a), Hawaii Revised Statutes by exempting the fuel used by "commercial fishing vessels" from the liquid fuel tax.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2967-80, as amended herein, and recommends that it be recommitted to the Committee on Finance in the form attached hereto as H.B. No. 2967-80, H.D. 1, for further consideration.

Signed by all members of the Committee except Representative Fukunaga.

SCRep. 490-80 Consumer Protection and Commerce and Judiciary on
H.B. No. 2537-80

The purpose of this bill is to clarify and update certain provisions of Part I, Chapter 360, Hawaii Revised Statutes, which authorizes the Hawaii Housing Authority to evict tenants of public housing units.

Your Committees find from testimony presented by the Department of Social Services and Housing that the present language and provisions of Chapter 360, Part I, have made it increasingly difficult to process its eviction cases expeditiously because of certain inadequacies in procedural matters. This bill makes numerous changes of a technical nature to clarify terminology and form. Substantive changes made by the bill are:

- (1) A provision allowing the Authority to complete service of an order of eviction or writ of possession by posting a copy of the same on the premises when the tenant cannot be personally served.
- (2) A provision establishing procedures for review by a Circuit Court of any final order or decision has been added.
- (3) A new section has been added authorizing an appeal from a final order of the reviewing court to the Supreme Court.
- (4) The Authority has been given the statutory authority to adopt rules and regulations pursuant to the Administrative Procedure Act.

Your Committees feel that these changes will allow the Authority to process and administer its evictions in a more efficient manner.

While in accord with the intent of the bill, your Committees have amended the appeal section (now Section 360-4) to provide that appeals taken from an initial decision to the Authority need not be in writing.

Your Committees on Consumer Protection and Commerce and Judiciary are in accord with the intent and purpose of H.B. No. 2537-80, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2537-80, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representative Medeiros.

SCRep. 491-80 Higher Education and Finance on H.B. No. 2730-80

The purpose of this bill is to clarify the jurisdiction of the University of Hawaii in its relationship with other State agencies and to effectuate the jurisdiction of the Board

of Regents over the internal organization and management of the University. This Act shall be liberally construed to accomplish its purpose.

H.B. No. 2730-80 was introduced as a short-form bill, which is sometimes referred to as a "vehicle" bill primarily used for convenience to introduce a bill containing only a general idea as to its purpose and means without specific details in long form. Your Committees have amended the bill to provide the substantive contents of the bill in long form so that a public hearing may properly be held on its substantive provisions. Without the amendment providing the substantive contents, members of the public cannot be duly apprised, in advance of the hearing, as to what the bill specifically purports to do and the specific means by which it intends to achieve the desired results. Thus, a hearing on a short-form bill may not be helpful, and a notice thereof could be less than meaningful.

Your Committees on Higher Education and Finance are in accord with the intent and purpose of H.B. No. 2730-80, as amended herein, and recommend that it be recommitted to the Committees on Higher Education and Finance, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 2730-80, H.D. 1.

Signed by all members of the Committees.

SCRep. 492-80 Judiciary on H.B. No. 2809-80

The purpose of this bill is to allow election officials to consolidate election precincts when natural disasters such as floods, tsunami, earthquakes, volcanic eruptions or high winds make regular polling places inaccessible to the voters.

Present law allows for consolidation of precincts in special, special primary, or special general elections, but not in the event that a precinct becomes inaccessible due to some natural disaster. This bill would specifically allow such consolidation, requiring the Chief Election Officer or County Clerk to give notice of the consolidation in a newspaper of general circulation in the affected county prior to the opening of the precinct polling place if sufficient time exists, and providing that affected precinct officials and workers would not forfeit their pay.

Your Committee feels that the provisions of this bill presents a reasonable approach to solving the problems which could occur in the event of a natural disaster occurring close to or on election days.

However, your Committee is of the opinion that allowing consolidation up to the day of the election and requiring notice to be given in a newspaper of general circulation only if sufficient time exists may result in the jeopardizing of an election's outcome in that if sufficient time does not exist, no notice by publication would be given and the election results could thereby be challenged.

Accordingly, your Committee has amended this bill by only allowing the consolidation of precincts due to a natural disaster which makes a precinct inaccessible, if such disaster occurs more than five days prior to an election, thereby assuring that sufficient time will exist to give notice by publication.

Moreover, your Committee notes that as presently drafted, this bill would allow the consolidation of precincts under such circumstances only for special, special primary, or special general elections. However, inasmuch as the purpose of the bill is to remedy situations involving not only these kinds of elections but regular elections as well, your Committee has further amended the bill to allow such consolidation for all elections.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2809-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2809-80, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 493-80 Judiciary on H.B. No. 1873-80

The purpose of this bill is to make the Family Court's decision to waive its jurisdiction over a minor held for criminal proceedings nonappealable.

Present law does not prevent a Family Court's decision to waive its jurisdiction over such a minor from being appealed. This bill would expressly provide that an order waiving jurisdiction is not appealable.

Your Committee finds that in cases involving minors allegedly having committed a felony where the Family Court waives its jurisdiction, much delay is encountered in the appeal process and adjudication of the case is set back months, if not years, while the appeal is being resolved.

Your Committee feels that such a situation is unjustifiable in light of the fact that such delay is caused not by an appeal on the merits of the case, but merely on the jurisdictional question. Accordingly, your Committee recommends favorable consideration of this bill.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1873-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 494-80 Finance on H.B. No. 2053-80

The purpose of this bill is to make approved credit cards acceptable instead of cash, in payment of all court charges.

Present law does not provide for the payment of court charges, e.g., fines or bail, with a credit card. This bill would allow the payment of such sums to be made with credit cards approved by the court.

Inasmuch as credit cards are presently being used with greater and greater frequency and are, in fact, gradually replacing cash as the payment medium in today's complex, computer-oriented society, it would be logical to allow court charges to be paid by the use of credit. Your Committee agrees that allowing this use of credit cards would be beneficial to defendants and other persons affected by giving them an alternative means of paying, while at the same time enabling the courts to become more efficient and effective in collecting sums assessed.

Your Committee has amended this bill to delete language repugnant to constitutional requirements. Other minor technical changes have also been made.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2053-80 as amended herein and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2053-80, H.D. 1.

Signed by all members of the Committee.

SCRep. 495-80 Finance on H.B. No. 2185-80

The purpose of this bill is to permit the Assistant Registrar of the Land Court in the State Bureau of Conveyances to increase filing fees.

Your Committee finds that the filing fees assessed by the Assistant Registrar of the Land Court in the State Bureau of Conveyances have remained constant since 1957. This bill amending section 501-218, Hawaii Revised Statutes, to increase fees for the registration of documents is needed in view of the spiraling increase in the state's cost of purchasing supplies to carry out the filing processes of each document as well as the equipment needed to store, maintain and preserve the state's public land records.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2185-80 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 496-80 Finance on H.B. No. 2773-80 (Majority)

The purpose of this bill is to remove the interest rate ceiling on general obligation bonds.

Municipal bond interest rates, as measured by the Bond Buyer's 20-Bond Index, the industry indicator of such rates, have risen steadily from 5.47 per cent in December 1977 to 8.46 per cent, a new record high, on February 21, 1980. These rates have not dipped below 7.12 per cent since October 11, 1979.

Expenditures for capital improvement projects by the State of Hawaii are expected to continue at the rate of approximately \$150 million per year. Construction encumbrances as of June 30, 1980 are expected to be in excess of \$100 million. In order to insure continued, orderly financing of the State's capital improvement program, it is necessary that the interest rate limitation on general obligation bonds of the State also be removed.

The present ceiling on the interest which may be paid on general obligation bonds is eight per cent. This bill as introduced proposes to remove that ceiling on bonds issued by the counties.

Your Committee finds that as of June 1979 there were 29 states that had no statutory interest rate ceiling on general obligation bonds. Your Committee agrees that a change in the State ceiling is also in order.

Your Committee has amended this bill by adding a section to provide for the removal of the interest rate ceiling on general obligation bonds of the State.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2773-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2773-80, H.D. 1 and be placed on the calendar for Third Reading.

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

SCRep. 497-80 Finance on H.B. No. 1964-80 (Majority)

The purpose of this bill is to make the conduct and reporting of studies relative to public employee compensation permissive rather than mandatory.

With the advent of public sector collective bargaining, your Committee deems the need for a compulsory annual compensation study as unnecessary. The opportunity to determine when a compensation study may become necessary and also which classes of work need to be reviewed can be left to the discretion of the personnel director.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1964-80 and recommends that it pass Third Reading.

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

SCRep. 498-80 Finance on H.B. No. 2093-80

The purpose of this bill is to increase fees and mileage allowances for witnesses required in criminal cases.

Present law provides that a witness legally required to attend court or a grand jury in a criminal case be paid \$4 for each day's attendance and 20 cents a mile for travel, with witnesses from another island being entitled to \$6 for each day's attendance and 20 cents for each mile of ground travel. This bill would increase such amounts to \$10 and 30 cents, and \$12 and 30 cents, respectively.

In many criminal cases, witnesses are required to be available for as much as three full days. Given the fact that very few employers are willing to pay full wages for an employee absent for such a length of time, your Committee agrees that the present monetary compensation of witnesses is inadequate. Further, given the tremendous increase in gas prices, your Committee finds the proposed increase in mileage allowance to 30 cents reasonable and necessary.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2093-80 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 499-80 Consumer Protection and Commerce on H.B. No. 2733-80

The purpose of this bill is to provide courts with discretion in the assessment of penalties for a licensee's failure to notify the director of finance of the termination, transfer, or assignment of his business within thirty days of the date of such termination, transfer, or assignment and the return of his license to the director for cancellation.

Under present law, a licensee is assessed a flat penalty in the amount of \$100 for such a violation. Your Committee has heard testimony that this penalty is too severe for the relatively minor violation of the nonreturn of a license the value of which is often only five to ten dollars.

Your Committee believes that this bill would remedy this situation by permitting the courts to fine chronic and obvious offenders up to the maximum penalty of \$100 while a one time offender who terminates his business but fails to return his license for cancellation could be fined a lesser amount.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2733-80 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 Uechi.

SCRep. 500-80 Consumer Protection and Commerce on H.B. No. 2368-80 (Majority)

The purpose of this bill is to provide for price affirmation for alcoholic beverages thereby resulting in lower prices initially to wholesalers and ultimately the consumer.

This new section provides that suppliers must sell alcoholic beverages to wholesalers at the lowest price they sell to any other buyers in other states. It requires that suppliers file annual price lists for the beverages they sell with the liquor commission.

Your Committee has amended the bill to exclude beer and wine from its requirements by the addition of a definition of liquor excluding beer and wine. Your Committee, upon careful consideration of testimony received, believes that beer and wine should be exempted because they have short shelf lives which may require "special" prices to clear inventory. Moreover, the wine industry has fluctuations in price due to the nature of the industry, i.e., certain years of wine may be "bad" years which may require price reductions to sell the product.

Your Committee has also deleted the word "vintner" from page 1, line 9, since wine has been excluded from the requirements of this bill.

Your Committee has deleted subsection (b) on page 4 which requires that each supplier identify himself as a primary source. Finally, your Committee has made a change in style in the bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2368-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2368-80, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Uechi.
(Representative Nakamura did not concur.)

SCRep. 501-80 Consumer Protection and Commerce on H.B. No. 2443-80

The purpose of this bill is to raise the maximum interest rate a credit union can assess on its loans from one percent per month to one and one-half per month.

Your Committee has heard testimony from the Hawaii Credit Union League that the 12% per annum loan rate ceiling on interest chargeable has caused credit unions to lose their competitive position in attracting the savings of account holders. Credit unions have in the past usually paid a higher rate of interest to their savings account holders than that paid by banks and savings and loans. Your Committee finds that the 12% interest rate maximum has put a ceiling on the earnings of a credit union and has in turn limited the amount of interest paid on savings accounts.

Your Committee feels that credit unions provide a valuable service to their members and require the relief provided by this bill to continue to provide such service. While in agreement with the intent of the bill, your Committee has amended it to provide that the maximum interest rate be 18% per annum to simplify the calculation of per diem interest charges.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2443-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2443-80, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 502-80 Consumer Protection and Commerce and Judiciary on
H.B. No. 2850-80

The purpose of this bill is to update the listing of controlled substances as required annually by Section 329-11(e), Hawaii Revised Statutes, and to correct inadvertent misspellings of previously listed substances.

In addition to making corrections of existing misspellings, this bill would add the drug fenethylamine, also known as Captagon, to the controlled substance list of Schedule I of Section 329-14(d), Hawaii Revised Statutes. Your Committees find that this drug, not manufactured in the United States, has been recommended by the Drug Enforcement Administration for inclusion in the Controlled Substance Act.

Your Committees heard testimony that abuse of Captagon is becoming widespread within the United States. Physiological effects and reactions of abuse of Captagon are similar to those of amphetamines as the substance metabolizes to an amphetamine compound after ingestion. Your Committees are satisfied, based upon the testimony presented by the Department of Health, that this drug be included in Schedule I.

Your Committees on Consumer Protection and Commerce and Judiciary are in accord with the intent and purpose of H.B. No. 2850-80 and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 503-80 Consumer Protection and Commerce and Housing on
H.B. No. 1875-80 (Majority)

The purpose of this bill is to direct the Real Estate Commission to make a study of the rental housing market in relation to the conversion of rental units to condominium status.

Your Committees find that there exists a chronic shortage of rental housing in the State, with vacancy rates as low as 1%. Statistics show that an increasing number of rental units are being converted to condominium status and that such conversions may be exacerbating the rental problem. Your Committees have heard extensive testimony from renters of the increasingly critical rental situation as it appears to them and are aware of the problems they face.

Your Committees also heard testimony from other parties who feel that any unduly restrictive limitations that may be placed on conversions would amount to an effective taking of one's property rights. However, your Committees feel that the correlation between condominium conversions and the current dwindling rental housing availability is sufficiently established to authorize a study of the situation by the Hawaii Housing Authority pursuant to H.R. 23, H.D. 1. Your Committees therefore feel that a moratorium designed to maintain the situation and not worsen it is necessary.

While in accord with the intent of the bill, your Committees have shortened the duration of the moratorium from two years to a period to terminate July 31, 1981, in recognition of the burden being placed on landowners. Your Committees believe that this bill is the best course of action under the prevailing circumstances.

Your Committees on Consumer Protection and Commerce and Housing are in accord with the intent and purpose of H.B. No. 1875-80, as amended herein, and recommend

that it pass Second Reading in the form attached hereto as H.B. No. 1875-80, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.
(Representatives Dods, Lee, Masutani, Uechi, D. Yamada, Ikeda,
Medeiros and Sutton did not concur.)

SCRep. 504-80 Consumer Protection and Commerce and Health on
S.B. No. 2134-80

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

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

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

All prescriptions will be presumed substitutable unless the prescriber handwrites the words, "do not substitute" on the face of the prescription form. Your Committees feel that this requirement will encourage the prescriber to make a conscious decision to not permit a lower cost substitution when in his or her professional judgment, a specifically named drug is necessary for the patient's health. Your Committees find that other prescription form requirements used in other jurisdictions have not successfully accomplished this.

This bill also requires the dispenser to inform the consumer of the substitution and the price difference and provides the consumer the right to refuse substitution. Your Committees feel that this provision is necessary to allow the consumer to make an informed decision.

This bill also requires the dispenser to keep a record of all drug substitutions made.

The drug product selection board shall be composed of two representatives from the Department of Health, one representative from either the University of Hawaii School of Medicine or School of Public Health, two practicing physicians, and two practicing pharmacists, all of whom shall be appointed by the Governor, who shall also designate the board's chairman. The drug product selection board has been placed under the jurisdiction of the Department of Regulatory Agencies in order to comply with constitutional requirements. Members of the board will not be compensated but will be reimbursed their costs.

Your Committees have placed on the board the responsibility of establishing, maintaining and revising a drug formulary listing all drug products found by the United States Food and Drug Administration to be safe, effective and therapeutically equivalent to brand name drugs. The formulary will also list those generic drugs whose therapeutic equivalence is approved by the Commissioner of Food and Drugs and are manufactured in conformance with the Federal Food, Drug and Cosmetic Act. This bill also gives the board the option of adding to the formulary those drugs whose product quality and therapeutic equivalency are adequately assured and deleting those drugs whose quality and equivalency are not adequately assured. Your Committees are aware of the requirements of Chapter 91, Hawaii Revised Statutes, and anticipate that the board will promulgate appropriate rules and regulations prior to the exercise of this option.

Your Committees felt it necessary to include a statement of intent that the liability of a dispenser of prescription drugs shall not be increased because of the availability of generic substitutions.

Your Committees have also amended the present Section 328-6(15), Hawaii Revised Statutes, to reflect the intent and purpose of this bill.

While in accord with the intent of this bill, your Committees have amended it to reflect the concerns of committee members as follows:

(1) The mandatory nature of generic drug substitution has been amended to allow for permissive substitution at the discretion of the dispenser. Your Committees have found from statistics of studies done in other jurisdictions that permissive substitution combined with the handwritten "do not substitute" requirement of prescribers, has resulted in higher rates of substitution than that encountered with the mandatory program. Your Committees feel that the program that has been shown to provide the highest rate of substitution should be implemented.

(2) The drug product selection board has been placed under the Department of Health. Your Committees feel that this is the appropriate jurisdictional agency based on the duties and responsibilities of the board.

(3) The director of health or his representative has been designated the seventh member of the board in place of the second representative from the Department of Health.

(4) Violations of this bill have been deemed to be punishable as misdemeanors in order to assure full compliance with the provisions of the bill.

(5) The time within which the board may have to adopt a formulary has been extended to twelve months. It is anticipated that the board will not require the full period to perform that function and that twelve months has been set as an outside time limit to provide for possible contingencies.

(6) The language of the posting requirement has been amended to conform to the permissive nature of the bill.

(7) The Department of Health has been designated as the agency to provide for both distribution of the formulary and revisions and for the education of the public regarding the drug substitution program.

Your Committees on Consumer Protection and Commerce and Health are in accord with the intent and purpose of S.B. No. 2134-80, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2134-80, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 505-80 Consumer Protection and Commerce on H.B. No. 2589-80

The purpose of this bill is to clarify the justification and powers given to the various liquor commissions under Chapter 281 of Hawaii Revised Statutes and to clarify the proper practice and procedure relating to the promulgation and implementation of liquor license fee assessments.

Present law is silent as to the proper method of fee assessments to be followed by the commissions. Section 281-17(11) states in pertinent part:

"The liquor commission...shall have the sole jurisdiction, power, authority, and discretion...to prescribe, by rule and regulation,...the annual or prorated amount and the manner of payment of fees for such licenses and permits, and the amount of filing fees."

Thus each county's liquor commission is currently free to promulgate its own fee assessment structure.

Your Committee believes this bill will give the commissions the further guideline that any liquor license fee created, or increase in existing liquor license fee sought to be implemented by the commission must have as its justification, a direct and proportionate relationship to an increase in costs and expenses of the commission in its control, or otherwise directly relate to actual costs and expenses of operating the commission.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2589-80, 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 Uechi.

SCRep. 506-80 Consumer Protection and Commerce and Energy on
H.B. No. 2555-80

The purpose of this bill is to require solar energy device dealers to maintain a bond with the director of regulatory agencies.

Your Committees agreed with testimony presented by the Hawaii Solar Energy Association, Inc., and therefore have amended the bill by adding the following paragraph immediately after Section 1, subsection (3):

"If the equipment sold can not be used as a solar device without its incorporation with other equipment, it must be installed in place and ready to be made operational in order to qualify as a "solar energy device".

Your Committees have also amended the bill by setting the bond amount at \$5,000. Your Committees felt that this figure was a fair and equitable one which would be very workable by the Solar Energy dealers.

Your Committees amended page 2 Section 4, by deleting the phrase "obtain a refund for the solar energy device from the dealer or otherwise". Your Committees felt that this amendment would be more equitable to both the consumer and the dealer in settling various disputes.

Your Committees agreed with the Office of Consumer Protection's recommendation that the penalty for violators range from not less than \$100 to no more than \$500.

Your Committees have also amended the bill by deleting Section 2. Your Committees believed that the appropriation clause as provided for in Section 2 is unnecessary and thereby should not be included in the bill.

For the purpose of consistency your Committees have amended the bill by renumbering Section 3 as Section 2.

Your Committees on Consumer Protection and Commerce and Energy are in accord with the intent and purpose of H.B. No. 2555-80, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2555-80, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 507-80 Consumer Protection and Commerce and Energy on
H.B. No. 1945-80

The purpose of this bill is to require separate disclosure of certain costs connected with the operation and installation of solar energy devices when offered for sale and also to restrict tax credit to the actual cost of the solar energy device, accessories and installation, and not the cost of consumer incentive premiums unrelated to the operation of the solar energy device.

Under present law, persons who sell solar energy devices are not required to differentiate costs which are necessary for the installation and operation of the solar energy device, and costs which are unrelated to the operation of the solar energy device.

Your Committees amended the bill on line 7 of page one by replacing the word "itemizes" with "discloses". Your Committees' intent was not to require solar energy dealers to itemize their costs, but to require them to differentiate between costs necessary for the installation and operation of the solar energy device, and costs which are unrelated to the operation of the solar energy device, including, but not limited to, "free gifts", offers to pay electric bills, rebates and other incentives designed to promote the sale of the solar device.

Your Committees agreed with the Department of Planning and Economic Development's recommendation that the bill also include language that would require the disclosure of rebates received by the taxpayer so that the cost of items unrelated to the operation of the

energy device are more clearly defined.

Your Committees have amended the bill by reversing sections (b) and (c) of section 1, as violation clauses should be placed at the end of the section.

Your Committees agreed with the Office of Consumer Protection's recommendation that the penalty for failure to disclose be changed from a misdemeanor to a fine of up to \$5000 per violation.

Your Committees have also amended the bill by adding subsection (d), which provides that the disclosure provision of Section 1 shall be in effect only for so long as the income tax credit for solar energy devices authorized under Section 235-12, HRS, continues in effect.

Your Committees on Consumer Protection and Commerce and Energy are in accord with the intent and purpose of H.B. No. 1945-80, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1945-80, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 508-80 Consumer Protection and Commerce and Judiciary on
H.B. No. 2668-80

The purpose of this bill is to amend Chapter 480, Hawaii Revised Statutes, relating to the granting of immunity from prosecution, and the bringing of actions on behalf of indirect purchasers by the Attorney General.

Your Committees find that the intent of this bill is to clarify a potential and serious uncertainty in the jurisdictional aspect of antitrust litigation. In Illinois Brick Co. v. Illinois, 431 U.S. 720 (1977), the United States Supreme Court held that consumers who are indirect purchasers of products, as opposed to direct or first purchasers, from an antitrust violator, do not have the right to sue under the Clayton Act in federal court. Your Committees recognize that strict application of the holding of this case to our State's antitrust laws will deprive numerous present and potential victims of antitrust violations and will effectively frustrate the intent of antitrust legislation.

Your Committees heard testimony that the State is presently involved in many antitrust cases with the possibility of large recoveries for consumers and these cases may be substantially delayed or even dismissed as to indirect purchasers because of justiciability problems created by Illinois Brick. Your Committees are satisfied that providing indirect purchasers standing to sue will not result in duplicative recoveries which require defendants to compensate both direct and indirect purchasers, since there are no reported cases prior to Illinois Brick where defendants complained of multiple recovery. Your Committees therefore agree that the existing rights under state antitrust laws of indirect purchasers should be specifically codified to allow them to recover damages from antitrust violators.

This bill also amends Section 480-13(a)(1) to make it clear that the minimum \$1,000 recovery shall not apply to class action lawsuits in order to prevent the possibility that small businesses may be bankrupted by class action suits based on the minimum recovery amount.

Your Committees have amended the bill by deleting the provisions dealing with witness immunity.

Your Committees on Consumer Protection and Commerce and Judiciary are in accord with the intent and purpose of H.B. No. 2668-80, H.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2668-80, H.D. 2, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representative Nakamura.

SCRep. 509-80 Consumer Protection and Commerce on H.B. No. 1985-80

The purpose of this bill is to reduce and simplify the paperwork of businesses and the Business Registration Division of the Department of Regulatory Agencies.

The Department of Regulatory Agencies has testified in support of the purpose of this bill and your Committee is in accord with the intent of this bill.

Present law requires that cumulative voting be permitted in the voting for directors of both non-profit corporations as well as profit corporations. However, there is no provision dealing with the minimum number of directors for non-profit corporations. Under this bill, the minimum number of directors in a non-profit corporation is conformed to that required of a profit corporation to insure that cumulative voting rights are not jeopardized.

While your Committee is in accord with testimony heard that the requirement under present law that the filing of an affidavit and a supplemental affidavit when a Hawaii corporation is incorporated is unnecessarily burdensome, your Committee believes that a less burdensome disclosure statement of the information required by the affidavit may be useful to the public.

Present law further requires that if 50% or more of the aggregate authorized capital stock is to be issued for other than cash, or for the acquisition of the assets and business of any existing enterprise, the affidavit must contain a summary description of the consideration for the assets and business to be acquired and net valuation thereof. If less than 75% of the aggregate authorized capital stock has been paid in cash, or the amount of the authorized capital stock that has been paid in cash is less than \$1,000, then before the corporation can commence business in the State it must file a supplemental affidavit. The supplemental affidavit in turn sets forth all matters required plus it must show that not less than 75% of the stock has been subscribed for and that not less than 10% has been paid in cash or property. Your Committee is in agreement with this bill that the foregoing capitalization requirement is not of significant protection to creditors or stockholders to justify its retention when considered in light of the considerable administrative time consumed in its enforcement.

Your Committee recommends the following amendments to this bill. Section 3 has been changed to require a certified statement in lieu of an affidavit. Your Committee believes that a certified statement will simplify administrative paperwork while still serving the purpose of disclosing valuable information to the public.

Your Committee has also made a correction of a typographical error on the bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1985-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1985-80, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 510-80

Consumer Protection and Commerce on H.B. No. 2322-80

The purpose of this bill is to extend the repeal date of Chapter 463, Hawaii Revised Statutes, relating to Private Investigators and Guards from December 31, 1980 to December 31, 1986.

Under present law, Chapter 463 is scheduled to be repealed on December 31, 1980 pursuant to the Hawaii Regulatory Licensing Reform Act. This bill would extend the repeal date to December 31, 1986 upon review by the Legislature whose decision will in turn be based on an evaluation by the Legislative Auditor pursuant to legislative mandate, as well as other sources of input.

While your Committee is aware of the findings and recommendations of the Legislative Auditor in his Sunset Evaluation Report, your Committee has heard extensive testimony from numerous parties urging the reenactment of the chapter.

Your Committee finds that the industry is growing at a rapid rate both in terms of the number of licensees and in sophistication. Licensees have increased 79% in the past five years. Your Committee also feels that the relatively low level of reported complaints concerning abuses by private investigators and guards is due in part to the licensing requirements of the chapter. Your Committee further feels that the general public should be protected from potential abuses that can be caused by client/investigator relationships and therefore recommends that the repeal date be extended for six years.

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

and purpose of H.B. No. 2322-80 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 Lee.

SCRep. 511-80 Consumer Protection and Commerce on H.B. No. 2732-80

The purpose of this bill is to clarify notice requirements of towing companies and vehicle repair businesses regarding abandoned and trespassing vehicles and vehicles involved in traffic accidents which are towed, and vehicles left on the premises of vehicle repair shops.

This bill would require such companies and businesses to give notice to the registered and legal owners of the vehicle as to the location of the vehicle by certified mail. Under the provisions of the bill, the police department must also be notified of abandoned or trespassing vehicles towed.

While in accord with the intent of the bill to prevent towing and repair businesses from accumulating excessive and unreasonably high fees for storage without notice to the owners of the vehicle and to give timely notice to owners, your Committee is also aware of other bills dealing with this subject matter. In order to prevent confusion and overlap of subject matter, your Committee has amended the bill to retain only that portion that requires towing companies to inform the police department of vehicles which are towed. Your Committee heard testimony from the Honolulu Police Department that this requirement will aid in keeping their towed vehicle data current and reduce the incidence of a vehicle being reported stolen when it was in fact towed.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2732-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2732-80, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 512-80 Consumer Protection and Commerce on H.B. No. 3046-80

The purpose of this bill is to amend Section 286-47, Hawaii Revised Statutes, to allow the redesign of motor vehicle certificate of ownership forms.

Present law mandates the form to be used in printing the certificate of ownership. This bill would make certain modifications to that form by (1) providing that transfer of title be executed on the face of the document, (2) requiring that the odometer reading of the vehicle at the date of transfer be recorded on the face of the certificate, and (3) requiring that the reverse side of the certificate contain the application for registration of the vehicle by the transferee.

Your Committee finds that the present form of the ownership has proved difficult to understand by vehicle owners and transferees. Your Committee therefore agrees with the intent of the bill to simplify the ownership form and transfer and registration process.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 3046-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 513-80 Consumer Protection and Commerce on H.B. No. 2226-80

The purpose of this bill is to amend section 431-590, Hawaii Revised Statutes, relating to the conversion of one's life insurance policy from a group or class policy to an individual policy.

Presently, Section 431-590 requires that the premium charged for the newly converted individual policy shall be at the insurer's rate then applicable, based on the form and amount of the policy, the age of the insured, and the class of risk to which the insured

then belongs. Higher premium rates cannot be charged solely because of impaired health.

This bill would require that insurers not base new premiums on the class of risk to which the individual then belongs. Insurers would then be required to charge standard premium rates based only on the age of the insured and the type of policy purchased. Your Committee feels that this will result in lower premium rates for individuals converting their group policy.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2226-80 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 Uechi.

SCRep. 514-80 Finance on H.B. No. 2171-80

The purpose of this bill is to delete the requirement that purchases of articles and products manufactured by correctional industries be made through the Department of Accounting and General Services. This bill would also abolish the board which grants exceptions under the mandatory provisions of Section 354-3.

Present statute requires that all purchases from correctional industries be made through the Department of Accounting and General Services. In actual practice, however, the correctional industries receive 80-85 per cent of its work directly from the requesting agencies, printing being the principle product.

Further, the board established under Section 354-4 very rarely grants exceptions from the requirement of Section 354-3. All exceptions are presently made by the correctional industries staff, in availing its products or services directly to the various state agencies. The present process seems to be operating in a satisfactory manner, therefore, your Committee believes the statutes should be amended to reflect actual practice.

Your Committee has amended the bill by making technical, non-substantive amendments.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2171-80 as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2171-80, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 515-80 Finance on H.B. No. 2219-80

The purpose of this bill is to conform the Hawaii Income Tax Law to the Internal Revenue Code.

This bill changes the date the federal Internal Revenue Codes applies to Hawaii from December 31, 1978 to December 31, 1979. By making such change Hawaii adopts changes made to the Code by Congress during the 1979 calendar year. Your Committee notes that this bill is required by section 235-2.3, Hawaii Revised Statutes, and that the Congressional changes adopted are only adopted for Hawaii purposes as made operative, limited, or made nonoperative by the Hawaii Income Tax Law.

Your Committee finds that there is little or no revenue effect in the provisions of this bill. In recommending this bill for passage, your Committee notes that the following changes made by Public Law 96-167 affecting the Code sections indicated will be adopted and made operative for Hawaii purposes:

1. Section 117. Extends application of the exemption provisions for Government Health Professions Scholarship programs to 1981 and 1985. Extends the application date of income exclusion received from National Research Service Awards to 1980.
2. Section 162. Makes nonsubstantive language changes to this section which relates to certain travel expenses away from home and extends the election period from January 1, 1978 to January 1, 1981.
3. Sections 190 and 263. Extends the effective date for the allowance of the deduction

for expenses made for the removal of architectural and transportation barriers to the handicapped from January 1, 1980 to January 1, 1983.

4. Sections 382 and 383. Delays the application of the net operating loss rules added by the Tax Reform Act of 1976 and adopted by Hawaii from 1980 to 1982.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2219-80, 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. 516-80 Finance on H.B. No. 2035-80

The purpose of this bill is to provide an increase in the cost-of-living bonus for retirees in addition to the automatic post retirement allowance of 2-1/2% in order to keep pace with the rapid increase of inflation.

The spiralling rise in the cost-of-living, a year after year, over the past decade has so eroded the more or less fixed pension dollar of the approximately 11,500 retired former employees of the State and County governments that they are finding it more and more difficult to maintain a decent standard of living.

This bill represents a deviation from the traditional percentage formula of providing for a cost-of-living allowance inasmuch as the bill proposed would provide a fixed dollar increase based on the member's credited years of service. Consequently, this would provide a higher allowance especially to those who are receiving lower benefits.

Your Committee has deleted Section 2 of the bill as it is unnecessary for the purposes of this bill. Subsequent sections have been renumbered accordingly.

Your Committee has also amended this bill for clarity purposes, and to provide for a lapsing date as is constitutionally required.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2035-80, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2035-80, H.D. 2.

Signed by all members of the Committee.

SCRep. 517-80 Finance on H.B. No. 1992-80

This bill empowers the director of regulatory agencies to adjust fees assessed by the department through the administrative process and to establish separate application, examination and license fees.

Under present law, such fees are set by statute and any changes must be approved by the legislative process. This bill would specifically authorize the director of regulatory agencies to set and adjust all fees assessed by the 33 boards and commissions placed within the Department of Regulatory Agencies. This bill also allows the director to establish separate fees for each service rendered by the department. Your Committee agrees that fees should reflect as accurately as possible the value of the services rendered and that fee setting is a duty peculiarly within the province of the department.

This bill further amends Section 26-9, Hawaii Revised Statutes, by eliminating reference to the State Fire Marshall's office and clarifying the powers of the Department in the general administration of all laws within its jurisdiction.

Section 26-9, HRS, is amended to conform to the repeal of the office of the State Fire Marshall which was effected in 1978. Also, a number of boards and commissions were enacted prior to enactment of the Administrative Procedures Act and do not specifically provide for rule making powers of the director. This bill would correct that problem.

Your Committee has made technical amendments to restore statutory language inadvertently omitted in H.B. No. 1992-80, H.D. 1.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1992-80, H.D. 1 as amended herein, and recommends that it pass Third Reading in the

form attached hereto as H.B. No. 1992-80, H.D. 2.

Signed by all members of the Committee.

SCRep. 518-80 Finance on H.B. No. 1965-80

The purpose of this bill is to provide deaf persons with greater access to State government departments and agencies by requiring the installation of telecommunication devices in several State departments and in the legislature and judiciary.

Presently, many deaf and speech-impaired persons who use the telephone have difficulty in directly communicating with government agencies because they require the assistance of an interpreter or must physically visit the agency to receive any governmental assistance. Your Committee finds that an increasing number of deaf and speech-impaired persons are acquiring telecommunication devices for their daily use and have experienced a greater sense of independence and self-motivation as a result of such technology. Only a few public agencies and offices, however, have telecommunication devices to communicate with the handicapped persons with such equipment.

Your Committee recognizes the need to establish a program providing telecommunication devices in public agencies so that the handicapped with such devices can effectively communicate with government agencies.

Amendments have been made to this bill to avoid constitutional problems that may have arisen with regards to separation of powers among the three branches of governments. Your Committee is concerned that any mandate for an executive agency to provide telecommunication devices to the legislature and the judiciary, and to mandate these latter branches of government to comply with requirements promulgated by the director of social services and housing, may constitute a breach of the constitutional provision of separation of powers.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1965-80, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1965-80, H.D. 2.

Signed by all members of the Committee.

SCRep. 519-80 Finance on H.B. No. 2410-80

The purpose of this bill is to empower state agencies to take into custody and dispose of derelict and abandoned vehicles which have been left unattended on State Highways or property owned or controlled by the State.

Abandoned and derelict vehicles on all public property are presently being removed and disposed of by the various counties. This bill would provide the same power to the State with respect to vehicles abandoned on State owned or controlled property.

Your Committee agrees that this bill will provide for more efficient disposition of abandoned vehicles on State property.

Your Committee has revised this bill to add a section amending HRS Section 290-6. The sections of the bill are accordingly renumbered.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2410-80, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2410-80, H.D. 2.

Signed by all members of the Committee.

SCRep. 520-80 Judiciary and Consumer Protection and Commerce on
H.B. No. 2590-80

The purpose of this bill is to clarify the required formats for the publication and filing of rules by all State agencies.

Under present law there are three conceivable formats in which an agency promulgating rules and regulations must publish and file such rules and regulations: (1) in the

uniform format required by the Revisor of Statutes, (2) in the Ramseyer format required for filing with the Legislative Auditor, and (3) in the format required for filing with the Office of the Lieutenant Governor. This bill specifies that the third format is superseded and that the uniform format suffices for filing with the Office of the Lieutenant Governor.

Your Committees find that sections 91-4.1, 91-4.2, and 91-4.4, Hawaii Revised Statutes, require a State agency to publish rules in accordance with a format specified by the Revisor of Statutes and to file a copy of such rules drafted in the Ramseyer format with the Legislative Auditor. In addition, under the so-called "Rules on Rules" adopted by Governor Quinn in 1961, rules are required to be filed in the Office of the Lieutenant Governor in a certain format, different from the Revisor of Statutes' and the Ramseyer formats.

Your Committees feel that such a situation results in $\frac{1}{2}$ confusion at best and much needless work at worst if any agency feels compelled to comply with all three required formats in that the so-called "Rules on Rules" is probably of no force and effect inasmuch as section 7-40, Revised Laws of Hawaii 1955, which allowed Governor Quinn to prescribe the "Rules on Rules" was repealed by Act 103 of the Session Laws of 1961. Accordingly, your Committees recommend this bill's favorable consideration.

Your Committees have amended this bill to correct typographical errors.

Your Committees on Judiciary and Consumer Protection and Commerce are in accord with the intent and purpose of H.B. No. 2590-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2590-80, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 521-80 Judiciary on H.B. No. 2551-80

The purpose of this bill is to implement Article X of the Constitution of the State of Hawaii as amended by the Hawaii Constitutional Convention of 1978 and pertaining to the power of the Board of Education.

Your Committee finds that this bill clarifies the present law by specifying that the Board of Education shall have the power, as provided by law, to formulate policy, to exercise control over the public school system, and to have jurisdiction over the internal organization and management of the public school system through the Superintendent of Education.

Your Committee further finds that the provision mandating the Superintendent to be the Secretary of the Board was deleted. However, your Committee feels that the Secretary is an essential position for purposes of accurate recordation of the Board's meetings and decisions as well as for its smooth and orderly operation.

Accordingly, your Committee has amended this bill to retain the original provision of section 296-2, which provides that the Superintendent serve as Secretary of the Board.

Your Committee has also amended this bill to correct typographical errors.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2551-80, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2551-80, H.D. 2.

Signed by all members of the Committee.

SCRep. 522-80 Judiciary on H.B. No. 2558-80

The purpose of this bill is to exclude certain defendants from being admitted to bail as a matter of right.

Under present law as long as a defendant is not charged with an offense punishable by imprisonment for life not subject to parole, such defendant may be admitted to bail before conviction as a matter of right and the right continues after conviction in all other cases except those in which a twenty year sentence of imprisonment may be imposed. This bill would deny bail as a matter of right before conviction for a defendant who

had been previously convicted of a similar offense and would deny the right after conviction in those cases in which a ten year sentence of imprisonment may be imposed.

Your Committee received much negative testimony, with which it agrees, with respect to denying a person bail before conviction as a matter of right on the basis of his previous conviction for a similar offense. Your Committee feels that this proposed amendment is congruous with the traditional jurisprudential notion that a person is innocent unless proven guilty beyond a reasonable doubt and to a moral certainty.

Accordingly, your Committee has amended this bill by deleting the provision that would have denied a defendant bail as a matter of right solely on the basis of his having been previously convicted of a similar offense.

However, with respect to a defendant's post-conviction right to bail, your Committee has no similar reservation, philosophical or otherwise, with restricting such right. Moreover, your Committee feels that given the lengthy appeals process, the right should be restricted not only to cases involving sentences of imprisonment of less than ten years, but to cases involving sentences of one year or less.

Accordingly, your Committee has rewritten the bill's provision with respect to post-conviction bail as a matter of right to provide that if a defendant is admitted to bail as a matter of right, such right shall continue after conviction, but only in misdemeanors, petty misdemeanors, and violations. In all other cases, the continuance of bail is not a matter of right, but left to the court's discretion to determine.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2558-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2558-80, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 523-80 Judiciary on H.B. No. 2810-80

The purpose of this bill is to clarify section 11-25, Hawaii Revised Statutes, by specifying that challenges to the registration of voters in the special election for members of the Board of Trustees, Office of Hawaiian Affairs, may be made only by voters who are registered to vote in that election.

Present law appears to permit any voter to challenge the registration status of those voters who are registered to vote in the election for members of the Board of Trustees, Office of Hawaiian Affairs.

Your Committee received testimony with which it agrees, that this bill will clarify any questions as to who may challenge an Office of Hawaiian Affairs' voter and that it is in conformance with present voting regulations which restrict the right to challenge a voter's registration status only to those registered voters of that precinct. Accordingly, your Committee recommends favorable consideration of this bill.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2810-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 524-80 Finance on H.B. No. 2454-80

The purpose of this bill is to permit the counties to enter into "put or pay" type contracts in connection with waste disposal facilities financed by pollution control bonds.

The specific need is to grant the City and County of Honolulu the power to write a bond guaranteeing that it will supply a certain amount of solid garbage to the proposed H-power plant. The plant would burn solid waste as a means of waste disposal, but a guarantee is needed to insure the operator of a continuous source of solid waste before the money necessary to construct the plant is expended.

Your Committee has amended this bill to make minor technical style changes.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2454-80, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2454-80, H.D. 2, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 525-80 Finance on H.B. No. 2540-80

The purpose of this bill is to adopt the provisions of Congressional bill H.R. 3919 or a law similar to it which Congress enacts concerning the carryover basis of inherited property for income tax purposes.

Your Committee finds that the Tax Reform Act of 1976 repealed the stepped-up method of determining the value of property passing from a decedent after December 31, 1976. In its place, Congress enacted what is called "carryover basis" which establishes the value of property for the purpose of determining the gain received by an heir as the value of the property when the decedent acquired such property rather than its value at the time of death. The Revenue Act of 1978 subsequently suspended the application of the "carryover basis" for two years to January 1, 1980.

"Carryover basis" has come under severe criticism as it works a hardship against the decedent's heirs who receive property from the estate of the decedent and subsequently sell such property. For the purposes of determining gains realized by the heir selling such property the basis or the original value of the property is determined from the time it was acquired by the deceased rather than at the time it was received by the heir. Therefore, if the decedent acquired the property when its value was relatively minimal and which has since appreciated in value, the recipient of the decedent's property, upon disposing of it, would be responsible for substantial capital gains taxes, assuming the original value of the property can be determined.

This measure proposes that upon adoption of the repeal at the Congressional level, such repeal would also be effective for Hawaii income tax purposes. If this measure is not approved this session, Hawaii taxpayers dying in the interim may be caught in a situation where inherited property is valued differently for state and federal tax purposes.

Although it was anticipated that Congress would repeal this provision by including it in the windfall profits tax bill, the bill failed to win approval before the adjournment of the 1979 session.

Your Committee notes that the windfall profits tax bill has been enacted by Congress and recommends to the Senate that this bill be amended to so reflect such enactment, if the provisions of that bill become available in time for this session.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2540-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 526-80 Finance on H.B. No. 2822-80

The purpose of this bill is to establish a University of Hawaii student activity revolving fund which would receive all student activity fees and other revenues intended for use by various student organizations.

At present student activity fees are deposited into and expended out of an agency fund maintained by the university. A recent study indicated that such funds should be classified as a special fund. However, the Associated Students of the University of Hawaii (ASUH) is deeply concerned that assignment to a special fund would severely impede the operations of the student organizations in that expenditure requests would be subject to reviews and approvals by the departments of budget and finance and accounting and general services, thus delaying considerably the receipt of funds. Moreover, the annual turnover of student leaders and activities require that funds be made available quickly, once they are authorized.

Your Committee agrees that it is desirable to establish a student activities revolving

fund and to assign its custody to the University of Hawaii and require that it be maintained in accordance with policies of the board of regents.

Your Committee has made several minor technical amendments to the bill.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2822-80, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2822-80, H.D. 2.

Signed by all members of the Committee.

SCRep. 527-80 Finance on H.B. No. 2472-80 (Majority)

The purpose of this bill is to repeal a reporting requirement of the Executive Budget Act. This bill would delete from H.R.S. Section 37-71(c) the requirement for a report on the amount and percentage changes in expenditures between the biennium in progress and the ensuing biennium for each program at the lowest level of the state program structure.

Specifically, the elimination of the reporting requirement would reduce the volume of the Executive Budget document by deleting report B1 consisting of 157 pages.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2472-80 and recommends that it pass Third Reading.

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

SCRep. 528-80 Public Employment and Government Operations on H.B.
No. 1813-80

The purpose of this bill is to conform Chapter 76, the Civil Service Law to the principle of equal rights. Specifically, this bill would provide that marital status would be another prohibited basis for discrimination. Other changes are substitutions of the masculine gender with a neuter gender.

This bill would also delete "sex" as a basis for limiting the applicant group for civil service employment. Your Committee however, finds that certain positions mandate the services of a male or female and that the designation of "sex" for certain positions is a bona fide occupational qualification. Thus, your Committee has amended this bill by allowing the use of "sex" as a basis to restrict the applicant group.

Your Committee has made grammatical and technical amendments to the bill.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of H.B. No. 1813-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1813-80, H.D. 1 and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 529-80 Public Employment and Government Operations on
H.B. No. 2163-80

The purpose of this bill is to exclude special election day from designation as holiday. Presently, special election day comes within the designation of a State holiday. Thus, if a special election is held on a Saturday the preceding Friday must be declared a holiday in the county in which the special election is held.

In recent years special elections have been held on Saturdays. The designation of the preceding Friday as a holiday as happened in Maui and Hawaii county in 1979 resulted in considerable unplanned expense to the State and county. This situation is an unintended result and is sought to be corrected in this bill.

Your Committee has made technical and grammatical amendments to the bill.

Your Committee on Public Employment and Government Operations is in accord with

the intent and purpose of H.B. No. 2163-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2163-80, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 530-80 Public Employment and Government Operations on
H.B. No. 1807-80

The purpose of H.B. No. 1807-80 is to amend Section 193-21, Hawaii Revised Statutes, in order to comply with Article I, Section 3, Equality of Rights, of the Hawaii State Constitution.

Your Committee agrees that the language limiting employment to "young men" is discriminatory although in application, no discrimination has been practiced in employing youth for conservation corps programs.

House Bill No. 1807-80 has deleted reference to any specific gender in the bill in order to make the statutes clearly applicable to persons of both sexes.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of H.B. No. 1807-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 531-80 Consumer Protection and Commerce on H.B. No. 2666-80

The purpose of this bill is to delete those sections of Chapter 476, Hawaii Revised Statutes, which relate to the disposition of collateral upon default by a retail buyer, and to permit the release of a buyer upon default provided that payment of at least 60% of the total time sale price has been made.

Your Committee finds from the testimony presented that Sections 476-24 through 476-28 and Sections 490:9-501 through 490:9-507 overlap substantially with regard to procedures for disposition of collateral upon default by a borrower under a security agreement. Because of this overlap of jurisdiction, the two respective procedures provide confusing and conflicting rules for disposition of repossessed collateral. In order to avoid such confusion and because your Committee believes that the Uniform Commercial Code has broader application and clearly defined procedures, your Committee agrees with the intent of the bill to delete the affected sections of Chapter 476.

While in accord with the intent of the bill, your Committee has deleted the proposed amendments to Section 476-34. Your Committee feels that this situation is adequately covered by Section 490:9-505, and in addition, may be interpreted in conjunction with that section to release the holder of the security interest of its obligation to dispose of collateral within 90 days after retaking.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2666-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2666-80, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Lee.

SCRep. 532-80 Consumer Protection and Commerce and Housing on
H.B. No. 1782-80 (Majority)

With the Federal Reserve Board's actions of October, 1979, and related events, the availability of mortgage investment or mortgage purchase funds in Hawaii effectively ceased because the 12% usury restriction fell below the national market price of mortgage money. Hawaii does not, for the most part, generate its own mortgage investment capital. Hawaii's real estate lenders seldom originate loans without participation from out of state or which cannot be sold on the secondary mortgage market.

There is no shortage of mortgage funds and none is anticipated. However, the funds will not flow to a state that restricts returns below market levels. Hawaii's residents

would be unfairly discriminated against, by not being able to compete for housing funds, if the usury ceiling is not amended. The availability of loans at higher interest rates is better than the virtual unavailability of loans which will occur if no amendment is adopted.

In December, 1979, Congress passed emergency legislation which preempted, until March 31, 1980, the usury ceiling in states like Hawaii. The fact that interest rates during this period have risen only slightly above 13% indicates that a competitive market exists to prevent uncontrolled interest rate setting. California and other states without a usury restriction on these loans provide further evidence that a national price level will prevail. Expeditious local action is necessary to prevent the market from drying up when the federal preemption ends.

Your Committees heard testimony that even a small increase in interest rates will be a tremendous burden on the consumer and will drive an even larger percentage of our population out of the market. Regrettably, this is true. However, there are two reasons why this fact does not offset the need for adoption of this legislation. First, a failure to act will not make any money available at less than the market rate. Everyone would be knocked out of the market and no one would be helped. Secondly, even though only the fortunate minority can afford the higher market interest rate, if we drive them out of the market by inaction, we will foment a demand-pull inflation that will hurt all levels of the housing market. Therefore, your Committees believe that this action is necessary to assist, or at least to avoid further detriment to, all levels of the market and all consumers.

Section 478-8 has been retitled as an exemption section. Included therein are the present provisions of sections 8, 9 and 10. The former section 478-9 is now section 478-8(b). The former section 478-10 is now section 478-8(c) and (d). In addition, we have added new provisions, labeled (e) and (f).

Your Committees have amended subsection (e) by providing an exemption from the usury ceiling for written contracts executed during the five year period beginning March 31, 1980, secured by an interest in real property and made for the primary purpose of acquisition, construction, improvement, financing or refinancing of real property. Lenders exempted from the ceiling are only those licensed under State or Federal law, or those approved by the United States Department of Housing and Urban Development. The conditions placed on this exemption were prompted by your Committees' concerns that unreasonably high interest rates charged by unlicensed and unregulated lenders not be permitted. This is the principal substantive amendment to the law. Unless the Legislature makes a further amendment, this exemption will expire at midnight on March 31, 1985.

Your Committees also added a subsection, (f), relating to a very restricted class of loans secured by chattel mortgages on cattle and other livestock. The resulting exemption establishes parity between this group and similar lenders who are exempted pursuant to federal law.

Your Committees on Consumer Protection and Commerce and Housing are in accord with the intent and purpose of H.B. No. 1782-80, H.D. 1, as amended herein and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1782-80, H.D. 2, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.
(Representative Sutton did not concur.)

SCRep. 533-80

Judiciary on H.B. No. 2845-80

The purpose of this bill is to repeal the requirement that candidates for public office in a primary election shall have been residents of the district from which they seek election for at least three months prior to the election, from section 12-1.5, Hawaii Revised Statutes.

Present law states that no person shall be a candidate for a primary election unless, at the time of filing nomination papers, he has been a resident of the district from which he seeks election for a period of at least three months.

Your Committee finds that the statute is in conflict with Article III, Section 7, of the State Constitution. Accordingly, inasmuch as this statute cannot be enforced, your Committee recommends this bill's adoption.

Your Committee has amended this bill to correct typographical errors.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2845-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2845-80, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 534-80 Judiciary on H.B. No. 2929-80 (Majority)

The purpose of this bill is to establish mandatory minimum sentences for repeat offenders who commit certain class C felonies.

Under present law, a mandatory minimum sentence of imprisonment is imposed only when a person is convicted twice or more for murder, kidnapping, assault in the first degree, sodomy in the first degree, rape in the first degree, burglary in the first degree, robbery in the first degree, promoting a dangerous drug in the first and second degree, and promoting a harmful drug in the first degree. This bill would impose a minimum mandatory sentence of imprisonment in cases involving subsequent convictions for burglary in the second degree, theft in the first degree, and for firearm violations.

Your Committee received testimony that the enumerated offenses contained in this bill are those in which there are absolutely no mitigating circumstances for repeating and that these are the types most frequently being utilized in the undercover "Sting" operations. Your Committee feels that making subsequent convictions for such offenses subject to minimum mandatory sentences will go far in making these operations meaningful by preventing the same defendants from being netted over and over again.

However, your Committee is also mindful that any mandatory minimum sentencing provision is inflexible and that there may be situations where giving the Court flexibility, i.e., discretion, is not only desirable but essential. Accordingly, your Committee has amended this bill to provide that the Court may impose a lesser sentence if it finds such lesser sentence justifiable under the circumstances of the individual case and provides a written opinion containing its reasons for imposing a lesser sentence. In addition, your Committee being of the opinion that subsequent convictions for class B or class C felonies involving offenses against the person other than those already addressed under present law also warrant the imposition of a minimum mandatory sentence of imprisonment, has amended this bill by expanding the list of enumerated offenses contained therein, by including these offenses.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2929-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2929-80, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 535-80 Judiciary on H.B. No. 2816-80

The purpose of this bill is to make clear in the election laws that a person cannot be eligible to be a candidate for, or be appointed to, the Board of Trustees, Office of Hawaiian Affairs, and to the Board of Education if he or she is also a candidate for another public office.

Current statutes make no such provision concerning these two specific boards, although Chapter 12, of the Hawaii Revised Statutes, which deals with primary election, prohibits a person from filing nomination papers for more than one office.

Your Committee finds that because members of the Board of Trustees, Office of Hawaiian Affairs, and the Board of Education are elected in a special election held in conjunction with the General Election, it is not clear that the prohibitory provision of Chapter 12 would apply to these offices. Accordingly, inasmuch as the Legislature never intended for these offices to be exempt from the general prohibition of Chapter 12, your Committee recommends adoption of this bill.

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

2816-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 536-80 State General Planning and Water, Land Use, Development and
Hawaiian Affairs on H.B. No. 1775-80 (Majority)

The purpose of this bill, as amended, is to conform the land-use decision-making process with the Hawaii state plan by providing interim statewide land use management policies and priorities.

H.B. No. 1775-80, H.D. 2 repeals Sections 205-16, 16.1, and 16.2, Hawaii Revised Statutes, which require land use district boundary amendments to comply with the Hawaii state plan and which relate to the existing interim land use guidance policies for the land use commission. In consideration of testimony received on H.B. No. 1775-80, H.D. 1, your Committees have made major amendments and have set forth herein the important provisions of H.B. No. 1775-80, H.D. 2.

In the place of the repealed section 205-16, your Committees have added new language to ensure that the land use decision-making process conforms to "applicable provisions" in the Hawaii state plan.

Basically, H.B. No. 1775-80, H.D. 2 is comprised of two major sections, one relating to overall policies and the other relating to specific priorities. Your Committees intend that the interim statewide land use management policies provide comprehensive guidelines for the land use commission in making boundary amendments to urban, agricultural, conservation, and rural districts. These policies are to remain in effect until adoption of all state functional plans described in Chapter 226. In addition to these overall policies, the interim statewide land use management priorities provide specific directives to all state agencies, county councils, and county agencies in carrying out their land use functions and duties. These priorities are to remain in effect until adoption of state functional plans for agriculture, water, conservation lands, recreation, and tourism.

In the event of conflict between any of the policies and priorities, your Committees have provided that the priorities shall be controlling. Moreover, in the event of conflict in a given area with respect to the permitted uses allowed by the priorities, preference shall be given first to agricultural uses, and then to recreational uses.

The priorities apply to the following areas:

- 1) Agriculture. All lands designated by the state department of agriculture under the "Agriculture Lands of Importance to the State of Hawaii" (ALISH) system as "prime", "unique", and "other important" agricultural lands shall be restricted to agricultural use as specified in subsections 205-4.5 (a)(1) to (11), Hawaii Revised Statutes. While it is the Committees' intent that these lands be used for agricultural production, subsections 205-4.5 (a)(1) to (11) would permit the construction of farm dwellings, farm employee housing, and certain other structures and facilities.
- 2) Recreation. The recreational areas specified in the 1975 State Comprehensive Outdoor Recreation Plan (SCORP) are restricted to recreational use.
- 3) Water. New developments shall be subject to the availability of water and shall not cause the water resources for any given area to fall below levels of sustainable yield or significantly diminish the recharge capacity of any groundwater area designated by the board of land and natural resources pursuant to section 177-5.
- 4) Tourism. The use of lands for resort development purposes shall be set back at least 100 yards from the upper reaches of the wash of the waves, provide public access for the recreational use of the shoreline, and shall be restricted to the areas designated in the bill.

In the event that the land use commission or appropriate body determines that substantial injustice and inequity would result from compliance with the policies and priorities of this bill, it may deviate therefrom and shall submit a report of its findings and conclusions to the legislature. An example of "substantial injustice and inequity" could be where lands are presently or in the foreseeable future unable to support any agricultural production but have been restricted to agricultural use under the policies and priorities of this bill.

In addition to the major organizational and substantive revisions to H.B. No. 1775-80, H.D. 1, your Committees have made the following specific amendments:

- 1) The phrase "interim land use management guidelines" have been redesignated as the "interim statewide land use management priorities."
- 2) The phrase "resort-condominium" in the priority section has been redesignated "resort development" as suggested by the Hawaii Hotel Association. The term "resort development" is intended to include all hotel structures and related developments such as condominiums, restaurants, and gift shops.
- 3) The term "marginal" agricultural lands has been corrected to read "other important" agricultural lands to be consistent with the classifications under the ALISH system.
- 4) "County councils" have been added to the government bodies which shall comply with the interim statewide land use management priorities.
- 5) The statement in the priorities section regarding the state's policy has been amended to read, "It shall be the policy of the State of Hawaii to foster a growth rate in an environmentally, economically, and socially sound manner."
- 6) For the island of Maui, Kihei and Kahului have been deleted as resort development areas, and Kanaha Pond and Kealia Pond have been deleted as recreational areas in response to the Maui planning director's concerns. For the island of Hawaii, Napoopoo and Kaloko have been deleted while North Kohala has been included as a priority recreational area. On Oahu, Ewa has been designated a priority agricultural area.

Your Committees on State General Planning and Water, Land Use Development, and Hawaiian Affairs are in accord with the intent and purpose of H.B. No. 1775-80, H.D. 1, as amended herein, and recommend it pass Second Reading in the form attached hereto as H.B. No. 1775-80, H.D. 2, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.
(Representative Dods did not concur.)

SCRep. 537-80

State General Planning and Finance on H.B. No. 1777-80

The purpose of this bill is to conform the Executive Budget Act to the goals, objectives, policies, and priority directions of the Hawaii state plan and functional plans established under Chapter 226, Hawaii Revised Statutes.

Your Committees find that the budgetary decision-making process is an integral implementation mechanism of the statewide planning system as provided for in Chapter 226. Although Section 226-56(c) does require the budgetary review process of the department of budget and finance to be in conformance with the provisions of Chapter 226, your Committees find that the means to accomplish such integration are decidedly more complex than they may appear.

H.B. No. 1777-80 is the product of work done during the 1979 interim by a joint committee comprised of members of the Committees on State General Planning and Finance, as well as the chairmen and vice-chairmen of the Committees on Agriculture; Housing; Transportation; Tourism; Water, Land Use Development, and Hawaiian Affairs; Energy; Education; Higher Education; Culture and Arts; and Health.

Accordingly, your Committees recommend adoption of H.B. No. 1777-80 which would amend the Executive Budget Act, Part IV of Chapter 37, HRS, as amended, in the following manner:

1. It would require that the PPBS program objectives, measures of program effectiveness, and if necessary, the program structure be altered to reflect the overall theme, goals, objectives, policies, and priority directions set forth in the State Plan.
2. It would provide that the priorities reflected by the State functional plans and priority directions be incorporated as the overall budget priorities.
3. It would require that the program plan narrative of the budget documents address the relationships and interrelationships to other program areas and to the State Plan.

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

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

Your Committees on State General Planning and Finance are in accord with the intent and purpose of H.B. No. 1777-80 and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 538-80

Water, Land Use, Development and Hawaiian Affairs on
H.B. No. 2842-80

The purpose of this bill is to abolish the Animal Species Advisory Commission by repealing Section 187-1.1, Hawaii Revised Statutes, and transfers all rights, powers, functions and duties of the Commission to the Division of Fish and Game. The bill further purposes to amend Section 187-1.2, Hawaii Revised Statutes, to require the Division of Fish and Game to directly consult with scientists in botany, mammalogy, ichthyology, entomology, ornithology and invertebrate zoology and to hear concerned persons as desired, to obtain information on any deliberate introduction of animals, or other fishing, hunting and conservation concerns prior to making any recommendation on such matters.

The Department of Land and Natural Resources, in view of the reorganization of the Division of Fish and Game's Enforcement Branch into a Division Status, and pending reorganization efforts of the Department which calls for the separation of the wildlife functions from the Division of Fish and Game, recommended that the Commission be made advisory to the Board of Land and Natural Resources if the decision is made to retain the Commission.

Accordingly, your Committee has amended this bill by deleting section 3 and 4 of the bill, thereby retaining the Animal Species Advisory Commission. Further, the bill has been amended transferring the function of said Commission to the Board of Land and Natural Resources. The Commission may serve in an advisory capacity to the Board of Land and Natural Resources.

Your Committee therefore has also made insubstantial technical corrections to conform with the Ramseyer format.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 2842-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2842-80, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Fukunaga.

SCRep. 539-80

Education on H.B. No. 2712-80

The purpose of this bill is to amend section 297-2, Hawaii Revised Statutes, to require public elementary school teachers, who teach language arts, reading, or mathematics, to complete specialized training in the respective subject area in order to receive certification from the Department of Education which would enable them to teach that subject.

The term "language arts" as used in this bill is defined as the oral and written expression of the English language.

Your Committee believes that the basic skills, which include reading, writing, and arithmetic, are perhaps the most important skills to develop in order to learn and to communicate effectively, and that these skills are essential to the learning of other skills and subjects while in school, and to success in life after high school education. Therefore, elementary school teachers who teach reading, writing, and arithmetic skills should be specially trained and certified to teach the respective skill.

However, your Committee finds that, at present, elementary school teachers can receive teaching certification from the Department of Education by completing a general elementary education undergraduate curriculum, which requires one course each in

elementary reading, elementary language arts, and elementary mathematics.

Your Committee believes that the completion of one method course each in reading, language arts, and mathematics does not provide sufficient evidence of being able to teach those skills competently. Furthermore, although elementary education majors must complete the basic skills method courses as part of their curriculum, there is no requirement that they must do well in those courses, and no assurance that they have the necessary expertise to effectively teach the basic skills. This bill would assure that elementary school teachers who teach the basic skills are adept in those subjects.

Your Committee also believes, however, that the Department of Education and the University of Hawaii should be allowed a sufficient time span to adjust their respective requirements in implementing the provisions stated in the bill. Your Committee further believes that the provisions stated in the bill should not affect teachers who are already employed by the Department of Education and those who have already begun their training for certification according to the present teaching requirements.

Accordingly, your Committee has amended that bill (1) by making the provisions stated in the bill effective as of July 1, 1983, and (2) by excluding teachers, who are employed by the Department of Education prior to July 1, 1983, from these provisions.

Your Committee on Education is in accord with the intent and purpose of H.B. No. 2712-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2712-80, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 540-80 Housing on H.B. No. 2870-80

The purpose of this bill is to amend Section 516-1, Hawaii Revised Statutes, to extend the applicability of the Land Reform Act to leases with terms of fifteen years or more. Current law applies to leases with terms of twenty years or more. This change will allow a greater number of lessees to enjoy the right to petition for condemnation and ultimate acquisition of the fee title to their residential property.

Your Committee received testimony from the Ka'a'awa Community Association in support of this measure. The Association reported that under present law, one-fourth of the 200 lessors in Ka'a'awa will not qualify to purchase fee title to their residential property because their common lessor has been issuing leases with terms of nineteen and one-half years. The legislative intent of the Land Reform Act was to give all leaseholders in Hawaii the opportunity to convert their leases to fee simple. This measure would remedy the situation for those Ka'a'awa lessees concerned. Moreover, this measure interfaces with the fifteen year coverage of the Lease Rent Renegotiation Act.

Your Committee on Housing is in accord with the intent and purpose of H.B. No. 2870-80, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 541-80 Consumer Protection and Commerce on H.B. No. 2318-80

The purpose of this bill is to extend the repeal date of Chapter 447, Hawaii Revised Statutes, relating to Dental Hygienists from December 31, 1980 to December 31, 1986.

Under present law, Chapter 447 is scheduled to be repealed on December 31, 1980 pursuant to the Hawaii Regulatory Licensing Reform Act. This bill would extend the repeal date to December 31, 1986 upon review by the Legislature whose decision will in turn be based on an evaluation by the Legislative Auditor pursuant to legislative mandate, as well as other sources of input.

Your Committee notes the recommendation of the Legislative Auditor in his Sunset Evaluation Report to reenact Chapter 447 until December 31, 1986, and has heard testimony from the Department of Health and the Hawaii Dental Hygienists' Association urging the retention of Chapter 447. Your Committee agrees with the findings of the Auditor that the nature of the services provided by dental hygienists is such that it carries a potential for serious injury to patients. Your Committee therefore believes that the

examination and licensing requirements are necessary for the protection of consumers and is in agreement with the intent of the bill to reenact Chapter 447.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2318-80 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
Dods and Uechi.

SCRep. 542-80 Consumer Protection and Commerce on H.B. No. 2319-80

The purpose of this bill is to extend the repeal date of Chapter 471, Hawaii Revised Statutes, relating to the Board of Veterinary Examiners from December 31, 1980 to December 31, 1986.

Under present law, Chapter 471 is scheduled to be repealed on December 31, 1980 pursuant to the Hawaii Regulatory Licensing Reform Act. This bill would extend the repeal date to December 31, 1986 upon review by the Legislature whose decision will in turn be based on an evaluation by the Legislative Auditor pursuant to legislative mandate, as well as other sources of input.

Your Committee notes the recommendation of the Legislative Auditor in his Sunset Evaluation Report to reenact Chapter 471 until December 31, 1986, and has received testimony from the Board of Veterinary Examiners. Your Committee agrees with the findings of the Auditor that there is a need for regulation of the profession in the interests of the public at large. Your Committee is aware that animals can pose a potential hazard to public health, safety and welfare by reason of the fact that diseases can be transmitted both to animals bred for human consumption as well as to humans themselves.

Your Committee therefore agrees with the recommendation of the Auditor to retain both the educational and examination requirements as prerequisites for licensure as a veterinarian, and to extend the board for six years.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2319-80 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. 543-80 Judiciary on H.B. No. 2680-80

The purpose of this bill is to provide that motor vehicle registration information furnished by an individual and maintained in county files or computers constitutes a public record within the meaning of sections 92-50 and 92-51 of the Hawaii Revised Statutes and to protect the privacy rights of individuals from unwarranted intrusion, by restricting the right of access to such records by requiring that the party seeking access submit his request in writing and that such request itself also be considered a public record.

This bill is a short-form bill which your Committee has amended to provide for the reasonable access to motor vehicle registration records contained in the statewide traffic records system while maintaining safeguards to ensure that any information obtained therefrom will not be used to invade the privacy of individuals.

Currently, under section 286-172 of the Hawaii Revised Statutes, access to the information contained in the statewide traffic records system is allowed under limited circumstances.

As amended, under the provisions of this bill, the Director of Transportation may release motor vehicle registration information in the statewide traffic records system to (1) any person, in response to a request from a state governmental agency, and (2) to a person determined by the director to have legitimate reasons to obtain the information for verification of vehicle ownership or for research or statistical purposes.

Any person in the second category must file an affidavit with the Director of Transportation stating the reasons for obtaining the motor vehicle registration information and assuring the director that the information will only be used for the reasons stated.

If a person who qualifies to receive information requests the entire file of the motor

vehicle registration information contained in the statewide traffic records system, the Director will furnish the information only upon entering into an agreement to provide the information for a fee as set by the Director. In order to safeguard the privacy of individuals, it is mandatory that the person requesting the information agree to protect the individual identities contained in the information and not use the names for compiling a mailing list for commercial purposes. A surety bond in the amount of \$25,000 must be posted to assure compliance with the agreement.

Your Committee feels that the provisions of this bill allow reasonable access to motor vehicle registration information contained in the statewide traffic records system while protecting the privacy rights of individuals whose names appear in the records.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2680-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2680-80, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 544-80 Judiciary on H.B. No. 2646-80

The purpose of this bill is to add a new section to the Hawaii Revised Statutes, which would confer arrest powers on Federal officers in areas where Customs and Immigration Officers are on duty such as the International Arrivals Building at Honolulu International Airport.

Present law contains no stipulation or provision for the granting of such powers on Federal officers.

Your Committee finds that Federal agents are often in a position to observe suspicious activities but, under current State law, cannot take action. If this bill were to become law, it would offer additional protection at our airports and harbors by allowing Federal agents to assist in maintaining law and order. Therefore, your Committee recommends passage of this measure.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2646-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 545-80 Judiciary on H.B. No. 2669-80

The purpose of this bill is to allow Department of Education Rule 49 hearings officers to subpoena witnesses in their administrative proceedings relating to exceptional children who are handicapped and to clarify other procedures to be followed in such hearings.

Present law is silent with respect to authorizing Department of Education hearings officers to subpoena witnesses in the administrative proceedings relating to the provision of a free appropriate public education for exceptional children who are handicapped. This bill would expressly authorize such hearings officers to issue subpoenas and upon application to a Circuit Judge of the judicial circuit in which the witnesses reside, compel attendance of such witnesses.

Your Committee is of the opinion that in order for the parties involved in the so-called "Rule 49" hearings conducted by Department of Education hearings officers to get a full and fair hearing on the merits of their respective positions, they must, among other things, be allowed to confront, cross-examine, and compel the attendance of witnesses. Inasmuch as this bill would give the hearings officers the authority to subpoena witnesses, and thus the parties that right, your Committee believes it to be desirable and warranting favorable consideration.

However, your Committee has amended the bill by deleting the word "education" on line nine of page one of the bill because as presently worded, the language implies that an individual has to have "special education" knowledge of the handicapped in order to advise a party to the administrative proceeding. Your Committee received testimony that all that should be required is that a person have "special" knowledge of the handicapped.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2669-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2669-80, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 546-80 Judiciary on H.B. No. 2262-80

The purpose of this bill is to replace the term mentally "incompetent" with the term mentally "ill" with respect to persons as to whom consent to an adoption is not required, and to add the requirement that the court make a finding that such persons are incapacitated from giving consent to the adoption.

Under present law, parental consent to an adoption is not required if such parent is judicially declared to be mentally incompetent or mentally retarded and the court dispenses with such parent's consent.

Your Committee received testimony that the term mentally "incompetent" should be amended to mentally "ill" to conform to the language in Chapter 571, Hawaii Revised Statutes, relating to the termination of parental rights since the same class of persons is being described.

Furthermore, the phrase "if the court dispenses with such parent's consent" as stated in section 578-2(c)(1)(G) creates some confusion as to its use because paragraph (2) of said section also provides for cases where the parent's consent may be "dispensed with" by the court. However, the latter case refers to fathers or stepfathers and their relationship to the child and not to mental illness or retardation.

Your Committee feels that the use of similar language in two paragraphs of the same section creates confusion.

Therefore, your Committee feels that the term mentally "incompetent" should be replaced with the term mentally "ill" and that the requirement that the court make a finding that said persons be incapacitated from giving consent to adoption be added to section 578-2(c)(1)(G), thereby clarifying any unnecessary confusion and conforming such language to Chapter 571, Hawaii Revised Statutes.

Your Committee has made a technical amendment to this bill to correct a typographical error.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2262-80, as amended herein and recommends that it be placed on the calendar for Third Reading in the form attached as H.B. No. 2262-80, H.D. 1.

Signed by all members of the Committee.

SCRep. 547-80 Public Employment and Government Operations on
H.B. No. 1957-80

The purpose of this bill is to clarify the manner in which the Director shall certify a list of eligibles to fill positions in the civil service.

For many classes of work, i.e., Clerk-Typist, Adult Corrections Officer and Para Medical Assistant, there is frequently more than one vacancy to be filled. Therefore, the Director of Personnel Services may receive requests from several appointing authorities or several requests from the same department.

Presently, Section 76-23, Hawaii Revised Statutes, allows the director to certify a list of five or fewer eligibles for each vacant position. Where the score of the fifth eligible is identical with any others, those additional eligibles shall also be certified. The statute is presently silent as to the certification of eligibles where there is more than one vacancy.

The Department of Personnel Services promulgated rules and regulations to permit the referral of an additional eligible for each additional vacancy; i.e., five eligibles for one vacancy, six eligibles for two vacancies, etc. This method is also used by the federal government. The Department uses this procedure to allow two or more

appointing authorities to select employees from a list simultaneously, In this manner, unnecessary delays in filling vacancies are prevented.

Upon review of this practice by the Office of the Ombudsman and the Attorney General, it was suggested that the pertinent paragraph in Section 76-23, Hawaii Revised Statutes, be amended to reflect this practice.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of H.B. No. 1957-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 548-80 Public Employment and Government Operations and Corrections
and Rehabilitation on H.B. No. 2191-80

The purpose of this bill is to permit the chief of police of each county to issue permits to State or county employed aliens to possess firearms if their duties require them to be armed while in the performance of their duties.

Existing law restricts the ownership or possession of firearms to United States citizens.

Testimony from the Department of Social Services and Housing was in favor of this bill. This bill would permit the Director of the Department of Social Services and Housing to issue department-owned firearms to resident aliens hired as adult correctional officers when they are placed on posts requiring them to carry firearms. It would broaden the department's flexibility in the assignment of the adult correctional officers to the various posts.

Your Committees have made technical and grammatical amendments to the bill.

Your Committee on Public Employment and Government Operations and your Committee on Corrections and Rehabilitation are in accord with the intent and purpose of H.B. No. 2191-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2191-80, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 549-80 Public Employment and Government Operations and Employment
Opportunities and Labor Relations on H.B. No. 1958-80

The purpose of this bill is to permit a public officer or employee to choose whether his sick leave credits are to be used to make up the difference between his regular salary and the workers' compensation wage loss replacement benefits he is receiving.

The language of the current law mandates that an employee receiving workers' compensation wage loss replacement benefits receive a total payment equal to his regular salary by applying his sick leave credits. (Note: Workers' compensation wage loss replacement benefits is equal to $66\frac{2}{3}$ of the worker's regular salary). This interpretation of the law is provided through Attorney General Opinion No. 79-6.

Your Committees find that an employee should be given the right to choose whether his sick leave credits are to be used to make up the difference between his regular salary and the workers' compensation wage loss replacement benefits he is receiving. In this way the employee would be afforded three choices: (1) to supplement his workers' compensation wage loss replacement benefits to a sum equal to his regular salary, (2) to accumulate his sick leave credits for additional service credits in the retirement system, or (3) to apply his sick leave credits for absences due to non-job related injuries or illnesses.

Your Committees on Public Employment and Government Operations and Employment Opportunities and Labor Relations are in accord with the intent and purpose of H.B. No. 1958-80 and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 550-80 Employment Opportunities and Labor Relations on
H.B. No. 2533-80

The purpose of this bill is to amend section 396-8, Hawaii Revised Statutes, to clarify the protection afforded an employee where he or she refuses to perform work because of unsafe equipment or practices.

The department of labor and industrial relations feels that the present language in the statute, that is, "unsafe condition" and "unsafe practices", is unclear and might be interpreted too broadly. Under this bill, amending section 396-8, Hawaii Revised Statutes, an employee's failure or refusal to perform work must be based on a reasonable fear that death or serious injury could result before he or she can come under the protection of this section. The replacement language specifies the conditions necessary to activate employee protection.

Your Committee has amended this bill by inserting the word "a" at the end of line 6, page 2 of the bill, following the word "be" to correct a typographical omission.

Your Committee on Employment Opportunities and Labor Relations is in accord with the intent and purpose of H.B. No. 2533-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2533-80, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 551-80 Employment Opportunities and Labor Relations on
H.B. No. 2178-80

The purpose of this bill is to amend Section 383-162, Hawaii Revised Statutes.

This bill would enable the employment security referee to statutorily establish the fee for counsel or agents who represent unemployment insurance claimants in proceedings before the referee. The fee is based on the average benefit duration for the prior year and the weekly benefit amount of the claimant.

The department of labor and industrial relations testified that prior to July 1, 1976, they imposed a 5 week period of disqualification pursuant to the statute in effect at the time. Because of this statutory provision, there was no problem in determining the ten per cent of the total amount of benefits received as a result of such proceeding that is, the limitation of fee for counsel or agent.

As a result of amendments effective July 1, 1976, the disqualification period became indefinite making it difficult to determine the fees for claimant's counsel or agent. The department is sometimes required to wait until the claimant exhausted his 26 weeks of benefits necessitating a follow-up on the claim. In order to avoid this delay and additional wasted work, this bill provides for a definite basis to determine counsel's fees without doing damage to the limitation of such fees.

Your Committee has amended this bill to include the definition of the "average benefit duration". Your Committee has also amended this bill by inserting the word "each" following the word "for" on line 3, page 2 of the bill, to correct a typographical omission.

Your Committee on Employment Opportunities and Labor Relations is in accord with the intent and purpose of H.B. No. 2178-80, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2178-80, H.D. 1.

Signed by all members of the Committee.

SCRep. 552-80 Ecology and Environmental Protection and Transportation on
H.B. No. 2428-80

The purpose of this bill is to allow the Director of Transportation to regulate or prohibit entry, departure, mooring, or berthing of vessels containing nuclear materials when such a prohibition is necessary to prevent an imminent danger to public health and safety.

In the past there have been numerous instances where it has been necessary for the harbors division of the Department of Transportation to delay entry of a ship into Honolulu Harbor and to provide for extra safety precautions relative to dangerous cargo. Your

Committees agree that this bill would further provide for control of this problem by law rather than by regulation.

Your Committees adopted the recommendation of the Department of Transportation by amending Sec. 266-3(d) by adding, "or dangerous" after the word "nuclear" and before the word "materials" on line 21 of page 4.

An amendment has also been made to H.B. No. 2428-80, H.D. 1 by adding underscoring, inadvertently omitted from the H.D. 1 version, to lines 1 and 2 on page 5.

Your Committees on Ecology and Environmental Protection and on Transportation are in accord with the intent and purpose of H.B. No. 2428-80, H.D. 1, as amended herein, and recommend that it pass Third Reading in the form attached hereto as H.B. No. 2428-80, H.D. 2.

Signed by all members of the Committees.

SCRep. 553-80 Finance on H.B. No. 2577-80

The purpose of this bill is to exempt trusts organized and operated exclusively for religious, charitable, scientific, or educational purposes from the general excise tax.

Present provisions of law provide for the exemption of the income producing activities of organizations operated for religious, charitable, scientific, or educational purposes from the general excise tax. The bill proposes to extend this exemption to those trusts established for the sole purpose of supporting religious, charitable, scientific, or educational activities. Your Committee agrees that the exemption proposed by this bill is justifiable.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2577-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 554-80 Finance on H.B. No. 2059-80

The purposes of this bill are to implement Article I, Section 11, of the Constitution of the State of Hawaii pertaining to Grand Jury Counsel, and to provide a statutory framework for grand jury proceedings.

This bill attempts to implement the mandate of the Hawaii Constitutional Convention of 1978 as it amended Article I, Section 11 of the State Constitution as follows:

1. Provides for the appointment and removal of Grand Jury Counsel by the Chief Justice of the State Supreme Court for the four judicial circuits of the State;
2. Requires that the Grand Jury Counsel be licensed to practice law before the Supreme Court of the State and that he or she not be a public employee;
3. Specifies that the Grand Jury Counsel's term shall be for one year, but that it may be extended by the Chief Justice;
4. Provides for compensation of the Grand Jury Counsel on a daily basis at the same rate as per diem District Judges;
5. Requires that the Grand Jury Counsel disqualify himself or herself in any matter which would bring his or her impartiality into question;
6. Defines the duties of the Grand Jury Counsel as advising the grand jury on matters of law;
7. Requires all grand juries to be provided with Grand Jury Counsel and all inquiries made by the grand jury of its counsel to be recorded verbatim and made a part of the record of the grand jury proceedings; and
8. Provides that any indictment based on a grand jury proceeding in which a violation of the aforementioned requirements have occurred may be dismissed without prejudice.

Your Committee agrees that the statutory framework contained in this bill effectively attains the objectives expressed by the delegates to the Constitutional Convention of 1978 with respect to the Grand Jury Counsel. Accordingly, your Committee recommends this bill's favorable consideration.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2059-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 555-80 Finance on H.B. No. 2224-80

The purpose of this bill is to clarify that judicial security personnel have arrest powers by adding a new section to Chapter 601, Hawaii Revised Statutes.

Under current law there is no provision which expressly states these powers.

Your Committee feels that this bill would clarify the powers of State law enforcement officers and security officers who are employed by the Judiciary.

Your Committee has amended this bill to limit language granting powers to the power of arrest. Other style changes are made and the appropriation provisions are deleted.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2224-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2224-80, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 556-80 Finance on H.B. No. 1361

The purpose of this bill is to provide an increase in excise tax credits which may be claimed by low-income persons as a means of partially offsetting cost of living increases, in particular, the cost of food and drugs.

Your Committee agrees that there is good reason to increase the tax credit by twenty per cent.

Your Committee has amended this bill to change the effective date to taxable years after December 31, 1979.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1361, H.D. 1 as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1361, H.D. 2.

Signed by all members of the Committee.

SCRep. 557-80 Finance on H.B. No. 273

The purpose of this bill is to amend Section 235-55.7, Hawaii Revised Statutes, to increase the renter's income tax credit for low-income renters from \$20 to \$30 per qualified exemption.

This increased tax credit would be welcomed by low-income renters, although it still would not offset the proportionately higher tax burden on renters as compared to homeowners. Renters receive no home exemption under the property tax and may also have the 4 per cent general excise tax levied on their rent payments.

Your Committee agrees that the loss in revenues of \$1,000,000 is not a matter of great concern. In a 1979 study of returns based on 1978 income, the department found that 36,869 taxpayers claimed this credit, or 63 per cent of the eligible renters. The average number of exemptions may drop as rising income levels is expected to reduce the number of taxpayers eligible for this credit in the future.

Your Committee has made minor technical changes in this bill.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 273, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 273, H.D. 2.

Signed by all members of the Committee.

SCRep. 558-80 Finance on H.B. No. 2218-80

The purpose of this bill is to repeal Chapter 359, Part V, Hawaii Revised Statutes, which authorizes the Hawaii Housing Authority to administer the Down Payment Reserve Plan.

The Down Payment Reserve Plan (DPRP) allows a tenant of State housing projects to place a portion of his rent, to be matched by a subsidy from the Hawaii Housing Authority, into a down payment reserve plan fund for the purpose of accumulating sufficient funds for a down payment on a home.

The program was successful during the late 1960s and early 1970s, however, its success has not continued through the late 1970s. Participation in DPRP has decreased sharply to nine families at present, while home purchases decreased from 36 in 1968 to three in 1979. A 1978 staff study concluded that the DPRP has not effectively achieved the goal of home ownership for families in State housing projects. Perhaps the major cause of the failure of the DPRP is the high cost of housing in Hawaii. Participants in the program are ultimately unable to qualify for the purchase of a home because they have insufficient actual and projected incomes. Those tenants desiring to continue or begin saving toward a down payment will be counseled by the Authority to open commercial interest-bearing savings accounts with automatic payroll deductions.

Your Committee agrees that the repeal of DPRP is warranted.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2218-80 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 559-80 Public Assistance and Human Services and Housing on
H.B. No. 2286-80

The purpose of this bill is to provide for regulations of residency for persons with developmental disabilities.

The legislature has committed itself to the deinstitutionalization of the developmentally disabled. Implicit within this, is that developmentally disabled persons will be able to find adequate housing in the community. This has proved to be a problem, due in part to restrictive covenants on deeds and zoning ordinances limiting the definition of single-family residences.

Your Committees have learned that handicapped persons who choose to live in the community are often forced to split the rent between more people to make ends meet. This causes problems with zoning ordinances which prohibit too many unrelated persons from living together in an area zoned for single-family residences. This is also the problem with private non-profit organizations that are attempting to build federally funded housing for the handicapped.

Your Committees have amended this bill by eliminating section 1, renumbering, and amending section 2 to clarify that the relevant residences are built with federal funding.

Your Committee on Public Assistance and Human Services and your Committee on Housing are in accord with the intent and purpose of H.B. No. 2286-80, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2286-80, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 560-80 Public Assistance and Human Services and Consumer Protection
and Commerce on H.B. No. 2795-80

The purpose of this bill is to clarify that members of the nursing home administrators board include two administrators actively engaged in nursing home administration for the duration of their term on the board.

Your Committees agree that the experience of a practicing administrator, the knowledge of late developments, and the understanding and expertise contributed by such members are both invaluable and irreplaceable.

Your Committees on Public Assistance and Human Services and Consumer Protection and Commerce are in accord with the intent and purpose of H.B. No. 2795-80 and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 561-80 Public Assistance and Human Services on H.B. No. 1997-80

The purpose of this bill is to clarify the number of members to serve on the board of social services by providing that the membership include 3 members selected at large and one member from each senatorial district.

Your Committee recognizes that by eliminating the statutory reference to the number of members and instead basing membership upon senatorial districts in general, there will be no need for further amendment upon reapportionment.

Your Committee on Public Assistance and Human Services is in accord with the intent and purpose of H.B. No. 1997-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 562-80 Public Assistance and Human Services on H.B. No. 2073-80

The purpose of this bill is to delete the term "domiciliary" from the term and definition of physical restoration services currently included as vocational rehabilitation services.

The purpose of vocational rehabilitation is to prepare and place in employment persons handicapped by physical or mental conditions. The commonly understood definition of domiciliary care includes the care of handicapped persons for an indefinite length of time. Thus, the inclusion of domiciliary care as part of physical restoration or treatment of short duration does not fulfill the needs of persons who require care and assistance of indefinite duration and who may not be interested in or capable of employment.

Reference to "rest home" is deleted as this term is considered obsolete.

Your Committee has made technical, nonsubstantive amendments to the bill.

Your Committee on Public Assistance and Human Services is in accord with the intent and purpose of H.B. No. 2073-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2073-80, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 563-80 Public Assistance and Human Services on H.B. No. 2173-80

The purpose of this bill is to prohibit food stamp trafficking practices and to establish penalties for this. The bill also redefines certain terms to conform with existing uses under public assistance programs.

Your Committee recognizes that no current statutes readily accommodate felony prosecutions for food stamp trafficking. This bill satisfies that need. Furthermore, the definition clarifications clarify and conform to current usage in the programs.

Your Committee on Public Assistance and Human Services is in accord with the intent

and purpose of H.B. No. 2173-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 564-80 Public Assistance and Human Services on H.B. No. 2362-80

The purpose of this bill is to provide a clear definition of the term "domiciliary care".

Your Committee agrees that the definition and use of the term is in need of clarification and will assist in alleviating confusion in identifying types of care provided by existing residential programs.

Your Committee has made some technical and grammatical changes in section 1 of the bill.

Your Committee on Public Assistance and Human Services is in accord with the intent and purpose of H.B. No. 2362-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2362-80, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 565-80 Education on H.B. No. 2388-80 (Majority)

The purposes of this bill are (1) to avoid confusion between the usages of terms relating to the District School Advisory Councils and the Board of Education, (2) to have the District School Advisory Council members be appointed without consideration of their party affiliation or preference, or nonpartisanship, and (3) to make certain technical amendments to Chapter 296, Hawaii Revised Statutes, which relates to the District School Advisory Councils and school districts.

Under this bill, the word "board" is deleted from the phrase "school board district," thus changing the unit to "school district" from which the District School Advisory Council members will be chosen. This would allow the Department of Education to alter school districts when necessary.

Furthermore, under this bill, the District School Advisory Council members shall be appointed by the Governor without consideration of the appointee's party affiliation or preference, or nonpartisanship. At present, not more than a bare majority of each District School Advisory Council can belong to the same political party or shall be nonpartisan members.

The Board of Education testified in support of the bill. They indicated that since the District School Advisory Council members are required to address problems in education which are not related to partisan considerations, they should be chosen primarily for their ability to address such problems.

Your Committee on Education is in accord with the intent and purpose of H.B. No. 2388-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

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

SCRep. 566-80 Energy on H.B. No. 1947-80

The purpose of this bill is to have the public utilities commission encourage the use of non-fossil fuel generated electricity in its exercise to determine just and reasonable rates for non-fossil fuel generated electricity supplied to the public utility by a producer.

Your Committee notes that the Public Utility Regulatory Policies Act of 1978 (PURPA) requires the Federal Energy Regulatory Commission to prescribe rules and regulations to encourage cogeneration and small power production, and also to prescribe rules requiring electric utilities to purchase electric power from and sell electric power to cogeneration and small power production facilities. Your Committee cites February 19, 1980 as the issuance date of Order No. 69 which establishes the rules as described above.

Your Committee feels that compliance with Federal Energy Regulatory Commission policies is of primary importance. Your Committee feels that the bill establishes compliance with PURPA and that the amendments made to the bill were for consistency purposes.

Your Committee has amended the bill by adding a new section which repeals Section 269-27.1, HRS. Your Committee feels that a new section should not be established each time alternate energy generated electricity requires rate setting procedures.

Accordingly, your Committee has added a new subsection (d), which broadens the definition of "electricity generated from non-fossil fuels" to include wind energy conversion systems, solar thermal electric systems, ocean thermal energy conversion systems, photovoltaic systems, geothermal energy conversion systems, bioconversion systems or any other systems producing energy from a wind or solar source.

For purposes of consistency, your Committee has amended the bill by relabeling Sections 1, 2, 3 to 2, 3, 4.

Your Committee on Energy is in accord with the intent and purpose of H.B. No. 1947-80, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1947-80, H.D. 2.

Signed by all members of the Committee.

SCRep. 567-80 Finance on H.B. No. 2297-80

The purposes of this bill are (1) to transfer the licensing and regulatory functions over private trade, technical, and vocational schools from the department of education to the department of regulatory agencies, and (2) to make certain technical amendments to Chapter 300, Hawaii Revised Statutes, which relates to such functions.

At present, the licensing and regulatory functions over private trade, technical, and vocational schools are under the jurisdiction of the department of education. Your Committee believes that this licensing function is regulatory in nature and more appropriately belongs under the jurisdiction of the department of regulatory agencies.

Your Committee has amended this bill by adding a new section to transfer all the rights, powers, functions, and duties of the department of education granted under Chapter 300, part III, Hawaii Revised Statutes, to the department of regulatory agencies.

Further, the appropriation section has been deleted from this bill.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2297-80, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2297-80, H.D. 1.

Signed by all members of the Committee.

SCRep. 568-80 Water, Land Use, Development and Hawaiian Affairs and
Agriculture on H.B. No. 2418-80

The purpose of this bill is to amend Sections 205-2 and 205-4.5, Hawaii Revised Statutes, to allow the establishment of wind energy facilities as a permitted use in agricultural districts.

Before rural electrification, such as Tennessee Valley Authority, small windmills were widely used throughout the United States on agricultural land for pumping water for irrigation and for watering farm animals.

In a recent public hearing held by your Committees, testimony was received from a number of sources strongly supporting the energy production facilities in the agriculture district. Still other testimony received by your Committees clearly expressed concerns that allowing energy production facilities to be established as a permitted use in Agricultural District may be premature at this time.

As the State looks forward to making Hawaii less dependent and more self sufficient in the use and producers of non-fossil fuel energy, your Committees feel it is appropriate to encourage the use and development of non-fossil fuel energy.

Your Committees note that the counties have the primary responsibility in the enforcement of land use district regulations including the enforcement of the restriction on use and the condition relating to agricultural districts under section 205-4.5.

Your Committees have amended this bill on page 4 as follows:

- 1) Inserted the words "for public, private and commercial use;" , on line 7 after "wind generated energy production".

Your Committees further amended this bill on page 7 as follows:

- 1) Inserted the words "provided, that such facilities and appurtenances are compatible with agriculture uses and cause minimal adverse impact on agricultural land", at the end of line 13.

Your Committees on Water, Land Use, Development and Hawaiian Affairs and Agriculture are in accord with the intent and purpose of H.B. No. 2418-80, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2418-80, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 569-80 Housing on H.B. No. 2661-80

The purposes of this bill are to amend Chapter 359G, Hawaii Revised Statutes to (1) renew the Hawaii Housing Authority's ten-year "buyback" period each time a new occupant buys a dwelling unit; (2) to allow the transfer of a dwelling unit to an eligible family member or to someone else if the Authority determines that the intent of this section would be preserved without the Authority having to repurchase the unit; and (3) to waive the owner-occupant requirement for dwelling units in the case of foreclosure.

The Hawaii Housing Authority (HHA) testified that section two of this bill would ensure continued federal provision of mortgage insurance or guarantee by allowing the Department of Housing and Urban Development (HUD) to sell property insured under its programs without HHA's owner-occupancy restriction. This is in conformance with HUD's general policy to sell mortgaged property free and clear of any lien and encumbrance upon initiation of foreclosure proceedings. The Authority is presently having difficulty securing mortgage commitments from lenders without the HUD insurance. While the HHA's express purpose is to provide low- and moderate-income housing for owner-occupants, this exception is necessary due to the HUD rule that property to be foreclosed upon have no restrictions on use.

Your Committee received no supporting testimony for section one of this bill and has deleted this provision to extend the HHA's "buyback" period.

Your Committee on Housing is in accord with the intent and purpose of H.B. No. 2661-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2661-80, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 570-80 Health on H.B. No. 3048-80

The purpose of this bill is to amend Chapter 323D, Hawaii Revised Statutes, to conform to federal requirements established in Public Law 96-79 which was signed into law on October 4, 1979.

In addition, this bill makes certain technical corrections to the provisions of Chapter 323D, and makes certain amendments which your Committee finds will promote the effective and efficient functioning of the State Agency and its administration of the Certificate of Need Program.

The amendments to Chapter 323D, Hawaii Revised Statutes, are listed below, together with their purpose; throughout the description of the amendments the following abbreviations are used: CON, to mean certificate of need; SHCC, to mean statewide health coordinating council, sometimes referred to simply as the statewide council; and SHPDA, to mean

the State Health Planning and Development Agency, sometimes referred to as the Agency. The amendments are as follows:

- 1) Page 1, lines 5-8; amends definition of "Secretary" to include Secretary of the agency that is the successor to DHEW; reflects change in name of DHEW to Department of Health and Human Services.
- 2) Page 2, lines 3-5; deletes reference to Public law 93-641; corrects citation in federal law.
- 3) Page 2, lines 12-19; SHPDA to determine the statewide health needs; conforms to federal requirements in Public Law 96-79, sec. 1523(a)(1)(A).
- 4) Page 2, lines 20-21; provides for triennial, rather than annual, review of the preliminary State Health Plan; conforms to federal requirements in Public Law 96-79, sec. 1523(a)(2).
- 5) Page 3, lines 1-8; SHPDA to refer the preliminary State Health Plan to Department of Health and other state agencies; conforms to federal requirements in Public Law 96-79, sec. 1523(a)(2).
- 6) Page 3, lines 11-13; deletes the state Medical Facilities Plan; conforms to federal requirements in Public Law 96-79, sec. 1523(a)(3).
- 7) Page 3, lines 18-23 and Page 4, lines 1-6; SHPDA to review institutional and home health services with respect to which goals have been established in the State Health Plan; conforms to federal requirements in Public Law 96-79, sec. 1523(a)(6).
- 8) Page 4, lines 11-14; SHPDA to prepare an inventory of health care facilities and to evaluate their physical condition; conforms to federal requirements in Public Law 96-79, sec. 1523(a)(7).
- 9) Page 4, lines 15-17; SHPDA to provide technical assistance to applicants; conforms to federal requirements in Public Law 96-79, sec. 1523(a)(8).
- 10) Page 4, lines 20-21 and Page 5, lines 1-6; SHPDA to make written explanation if SHPDA does not follow a recommendation relating to statewide health needs or to the preliminary State Health Plan; conforms to federal requirements in Public Law 96-79, sec. 1523(a).
- 11) Page 5, lines 12-13; distinguishes between the Veterans Administration-designated, ex officio member and those SHCC members appointed by the Governor; clarification of existing statutory language.
- 12) Page 5, lines 17-19; provides for a nonvoting, ex officio member designated by Veterans Administration on statewide council; conforms to federal requirements in Public Law 96-79, sec. 1524(b)(1)(D).
- 13) Page 5, line 20; adds word "consumer" before "membership of the statewide council;" corrects an error in existing statutory language.
- 14) Page 6, lines 7-10; no substantive change; clarification of existing statutory language.
- 15) Page 6, line 11; "one-half," rather than "one-third," of SHCC members who are providers of health care shall be direct providers of health care; conforms to federal requirements in Public Law 96-79, sec. 1524(b)(1)(C).
- 16) Page 6, lines 14-16; deletes requirement for representation of public elected officials on statewide council; avoids legal problems arising out of dual office holding, which is prohibited by Article 3, sec. 8, of the State Constitution.
- 17) Page 6, lines 20-21; statewide council membership to include individuals who are knowledgeable about mental health services; conforms to federal requirements in Public Law 96-79, Sec. 1512(b) (3)(c)(iii)(III).
- 18) Page 7, lines 4-5; statewide council membership to include at least one member who is representative of a health maintenance organization; conforms to federal requirements in Public Law 96-79, sec. 1512(b)(3)(C)(iii)(V).

- 19) Page 7, lines 6-10; statewide council membership to include individuals who represent rural and urban medically underserved populations if these populations exist in Hawaii; conforms to federal requirements in Public Law 96-79, sec. 1524(b)(1)(E).
- 20) Page 8, lines 3-18; prohibits a member of the statewide council from voting on any matter before the council if a conflict of interest exists; conforms to federal requirements in Public Law 96-79, sec. 1524(e).
- 21) Page 9, lines 1-3; triennial, rather than annual, SHCC review of the State Health Plan; conforms to federal requirements in Public Law 96-79, sec. 1524(c)(2)(A).
- 22) Page 9, lines 3, 7, and 10; deletes reference to Public Law 93-641, substituting instead a reference to "applicable federal requirements;" corrects citation of federal law.
- 23) Page 9, lines 13-15; deletes reference to the State Medical Facilities Plan; conforms to federal requirements in Public Law 96-79, pages 65-67.
- 24) Page 9, lines 16-17; changes SHCC's power over State Health Plan from approval or disapproval to recommendation only; conforms to federal requirements in Public Law 96-79, sec. 1524(c)(6).
- 25) Page 9, line 23 and Page 10, line 1; SHCC given power of making recommendations on allotments made to the State under the Drug Abuse Office and Treatment Act of 1972; conforms to federal requirements in Public Law 96-79, sec. 1524(c)(6).
- 26) Page 10, lines 4-6 and lines 18-19; deletes references to Public Law 93-641, substituting instead a reference to "applicable federal requirements;" corrects citation of federal law.
- 27) Page 10, line 17; adds word "development" before word "fund;" corrects an omission in existing statutory language.
- 28) Page 11, lines 2-6; SHCC to review and comment upon SHPDA findings as to the appropriateness of those institutional and home health services with respect to which goals have been established in the State Health Plan; conforms to federal requirements in Public Law 96-79, sec 1523(a)(6).
- 29) Page 11, lines 6-8 and lines 11-12; deletes references to Public Law 93-641, substituting instead a reference to "applicable federal requirements;"
- 30) Page 11, lines 16-17; requires that the State Health Plan must conform to federal Public Health Service Act; corrects an omission in existing statutory language.
- 31) Page 12, lines 1-5; no substantive changes; clarification of existing statutory language.
- 32) Page 12, lines 5-7; deletes reference to Public Law 93-641, substituting instead a reference to the "the applicable federal requirements;" corrects citation of federal law.
- 33) Page 12, lines 22-23; deletes reference to the State Medical Facilities Plan; conforms to federal requirements in Public Law 96-79, pages 63-67.
- 34) Page 13, line 19; adds words "at least" before "one person;" conforms to present subarea council policy of recommending more than one person from its membership for gubernatorial appointment to the statewide council.
- 35) Page 14, lines 4-6; deletes reference to Public Law 93-641, substituting instead a reference to "the applicable federal requirements;" corrects citation of federal law.
- 36) Page 14, lines 16-17; repeals provisions for a State Medical Facilities Plan; conforms to federal requirements in Public Law 96-79, pages 65-67.
- 37) Page 14, lines 22-23; deletes reference to section 1-19 in definition of

- "person;" includes the State and its political subdivisions within the definition of "person" in the certificate of need program.
- 38) Page 15, lines 5-6; deletes "purposes set forth in," substituting "activities as set forth in the definitions under;" avoids use of the word "purposes" since it can be confused with a legislative purpose.
- 39) Page 15, lines 10-23; amends definition of "capital expenditure" to include the fair market values of facilities and equipment obtained by donation or lease or transferred for less than fair market value; complies with federal requirements in Pub. Law 96-79, sec. 1531 (6).
- 40) Page 16, line 9; adds "acquisition or" to the definition of "construct," "expand," "alter," "convert," "develop," "initiate," or "modify;" closes a loophole in present certificate of need law.
- 41) Page 16, lines 1; adds "any obligation for a capital expenditure by a health care facility" to the definition of "construct," "expand," "alter," "convert," "develop," "initiate," or "modify;" increases the effectiveness and efficient functioning of the certificate of need program.
- 42) Page 16, line 21; deletes "\$150,000," substituting "the expenditure minimum;" conforms to federal requirements in Pub. Law 96-79, sec. 1531(6), and allows SHPDA to adjust for effects of inflation.
- 43) Page 17, lines 5-12; "expenditure minimum" is defined as "\$150,000, unless otherwise adjusted" to reflect any change in an inflation index maintained or developed by the U.S. Commerce Department; conforms to federal requirements in Pub. Law 96-79, sec. 1531(6), and allows SHPDA to adjust for effects of inflation.
- 44) Page 17, line 13; "health" is defined to include "physical and mental health;" conforms to federal requirements in Pub. Law 96-79, sec. 1531(11).
- 45) Page 18, lines 3-5; amends definition of "health care facility" and "health care service" to include "hospices for the terminally ill that require licensure or certification" by the health department; increases the effectiveness and efficient functioning of the certificate of need program.
- 46) Page 19, lines 17-22; "person" is defined to include, inter alia, the State, any political subdivision of the State, any political subdivision of the State, a State agency, or a county agency; increases the effectiveness and efficient functioning of the certificate of need program.
- 47) Page 20, lines 3-5; "Physician" is defined to mean a doctor of medicine or osteopathy; conforms to federal requirements in Pub. Law 96-79, sec. 1531(12).
- 48) Page 20, line 22; deletes "\$150,000," substituting "the expenditure minimum;" conforms to federal requirements in Pub. Law 96-79, sec. 1531(6), and allows SHPDA to adjust for effects of inflation.
- 49) Page 21, lines 11-15; each decision to issue a certificate of need shall be consistent with the state health plan, except in an emergency situation; conforms to federal requirements in Pub. Law 96-79, sec. 1527 (a)(5).
- 50) Page 21, lines 20-21; SHPDA to adopt criteria for review of certificate of need applications, after consultation with the subarea councils, the review panel, health agencies, and health-related agencies; conforms to federal requirements in Pub. Law 96-79, 79, sec. 1532(a).
- 51) Page 22, lines 4-11; no substantive change; clarification of existing statutory language.
- 52) Page 22, lines 17-18; deletes reference to the state medical facilities plan; conforms to federal requirements in Pub. Law 96-79, pp. 65-67.
- 53) Page 22, line 20; CON criteria shall include the relationship of the proposal to the long-range development plan, if any, of the applicant; conforms to federal requirements in Pub. Law 96-79, sec. 1532(c)(2).

- 54) Page 23, lines 7-9; no substantive changes; deleted language in lines 7-9 became language in lines 10-12; clarification of existing statutory language.
- 55) Page 23, lines 10-12; no substantive changes; language in lines 10-12 based on language deleted in lines 7-9; clarification of existing statutory language.
- 56) Pages 23, lines 13-14; CON criteria shall include the probable impact of the proposal on the overall costs of health services to the community; increases the effectiveness and efficient functioning of the certificate of need program.
- 57) Page 23, lines 20-21 and Page 24, lines 1-20; CON criteria shall include, in the case of health services proposed to be provided, the availability of resources for the proposed services, the effect of the means proposed on the clinical needs of health professional training programs, the accessibility of the services to health-profession schools for training purposes, the availability of alternative uses of the resources for other health service, and the extent to which the proposed services will be accessible to residents of the area; conforms to federal requirements in Pub. Law 96-79, sec. 1532(c)(6).
- 58) Page 25, lines 19-21; CON criteria in the case of a construction project; conforms to federal requirements in Pub. Law 96-79, sec. 1532(c)(9).
- 59) Page 26, lines 4-5; establishes compliance with licensure requirements as a CON criterion; closes a loop hole in existing law.
- 60) Page 26, lines 6-7; establishes emergency conversion as a CON criterion; conforms to federal requirements in Pub. Law 96-79, sec. 1532(c)(10).
- 61) Page 26, lines 8-11; establishes factors affecting the effect of competition on supply of health services as a CON criterion; conforms to federal requirements in Pub. Law 96-79, sec. 1532(c)(11).
- 62) Page 26, lines 12-16; establishes improvements in financing which foster competition as a CON criterion; conforms to federal requirements in Pub. Law 96-79, sec. 1532(c)(12).
- 63) Page 26, lines 17-20; establishes efficiency and appropriateness of existing health services as a CON criterion; conforms to federal requirements in Pub. Law 96-79, sec. 1532(c)(13).
- 64) Page 26, lines 22-23; establishes a facility's history of quality of care as a CON criterion; conforms to federal requirements in Pub. Law 96-79, sec. 1532(c)(14).
- 65) Page 27, lines 1-5; establishes need for osteopathic and allopathic services as a CON criterion for those types of facilities; conforms to federal requirements in Pub. Law 96-79, sec. 1527(f).
- 66) Page 27, lines 6-9; establishes impact on physician training programs as a CON criterion; conforms to federal requirements in Pub. Law 96-79, sec. 1527(f).
- 67) Page 27, lines 16-21; deletes existing paragraph in favor of last paragraph which has been rewritten for clarity; conforms to federal requirements in Pub. Law 96-79, sec. 1527 and clarifies language.
- 68) Page 28, lines 1-22; no substantive changes. Clarifies agency procedures by which applications are accepted, reviewed for completeness, and the review processes initiated or, if the application is incomplete, establishes the processes by which additional information is requested; clarifies existing statutory language.
- 69) Page 28, line 22; provides that CON applicant may extend the review period by 15 days if SHPDA requires additional information during the course of a review; conforms to federal requirements in Pub. Law 96-79, sec. 1532(b)(12)(c)(I).

- 70) Page 29, lines 1-8; clarifies the language providing time periods within which SHPDA must act on a certificate of need; clarifies existing statutory language.
- 71) Page 29, lines 8-21; deletes existing provision that an application which has not been acted on within 150 days is automatically disapproved; conforms to federal requirements in Pub. Law 96-79, sec. 1532(b)(12)(c)(ii).
- 72) Page 29, lines 21-22 and Page 30, lines 1-8; establishes a provision that if SHPDA does not act on a CON application within the specified time, the applicant may bring court action to compel the Agency to act; conforms to federal requirements in Pub. Law 96-79, sec. 1532(b)(12)(c)(ii).
- 73) Page 30, line 9-14; clarifies language by which the Agency is allowed to adopt rules for approving applications in emergency situations or other unusual circumstances; clarifies existing statutory language.
- 74) Page 30, lines 15-21; allows the Agency to adopt rules to provide for the "batching" of applications so that similar types of applications are reviewed at the same time; conforms to federal requirements in Pub. Law 96-79, Sec. 1532(b)(13)(A)(iii).
- 75) Page 31, lines 3-10; clarifies language regarding the involvement of the subarea councils, the Review Panel, and the Statewide Council in the review process; clarifies existing statutory language.
- 76) Page 32, lines 1-11; provides that at any meeting reviewing a certificate of need, any person shall have the right to be represented by counsel, make arguments, present evidence, and conduct reasonable questioning; conforms to federal requirements in Pub. Law 96-79, Sec. 1532(b)(12)(A).
- 77) Page 32, lines 15-20; Page 33, lines 1-23 and Page 34, lines 1-15; prohibits ex parte contacts between anyone in the Agency exercising responsibility for approval, withdrawal, or exemption of a certificate of need and the applicant, representatives of the applicant, proponents or opponents of the proposed application, withdrawal, or exemption; this prohibition does not apply to a written communication which is filed as a public record with the Agency; conforms to federal requirements in Pub. Law 96-79, Sec. 1532(b)(12)(F)(i) and Sec. 1532(b)(12)(F)(ii).
- 78) Page 34, lines 19-22; establishes special criteria for reviewing certificate of need applications from health maintenance organizations. The Agency shall approve a certificate of need application from a health maintenance organization if the application is necessary for the needs of the members of the health maintenance organization and if the health maintenance organization is unable to provide the same services in a more reasonable and cost effective manner through other existing services or facilities in the community; conforms to federal requirements in Pub. Law 96-79, Sec. 1527(b)(5).
- 79) Page 35, lines 20-22 and Page 36, lines 1-6; provides that a facility or medical equipment which was obtained by a health maintenance organization in accord with the previous section may not be sold or transferred to another facility without a certificate of need; conforms to federal requirements in Pub. Law 96-79, Sec. 1527(b)(5).
- 80) Page 36, lines 10-23 and Page 37, lines 1-11; requires the Agency to approve certificate of need applications necessary to bring a facility into compliance with applicable life safety codes or regulations, licensure standards or accreditation standards unless the Agency finds that the facility or service is not needed or inconsistent with the State Health Plan; conforms to federal requirements in Pub. Law 96-79, Sec. 1527(c).
- 81) Page 37, lines 18-22 and Page 38, lines 1-6; provides that the Agency shall establish a time period not more than 150 days within which an applicant receiving conditional certification must meet the conditions or the application shall be denied; clarifies the conditional certification process and establishes by statute the process now provided by rules.
- 82) Page 38, lines 10-20; requires the Agency in issuing a certificate of need to specify the maximum expenditure which may be obligated. Exceeding

- the maximum will require the applicant to get Agency approval or an additional certificate of need; conforms to federal requirements in Pub. Law 96-79, Sec. 1527(a)(4).
- 83) Page 39, lines 1-22; establishes the authority and procedures by which the Agency may withdraw a certificate of need if the applicant is not meeting the specified time table, is implementing a substantially different project, or has procured the certificate through fraud, misrepresentation, corruption, or false statements or information; conforms to federal requirements in Pub. Law 96-79, Sec. 1527(a)(3) and closes a loophole in the existing statute.
- 84) Page 40, lines 9-12; extends right of appeal to circuit court to any person adversely affected by a final decision of the Agency with respect to a certificate of need; conforms to federal requirements in Pub. Law 96-79, Sec. 1532(b)(12)(E).
- 85) Page 40, line 13", changes "he" to "the person,"; deletes sexist reference in existing statutory language.
- 86) Page 40, lines 16-22; extends right of appeal to circuit court to any person adversely affected by a final decision of the Agency with respect to the withdrawal of a certificate of need; conforms to federal requirements in Pub. Law 96-79, Sec. 1532(b)(12)(E).
- 87) Page 41, lines 7-9; no substantive changes; clarifies existing statutory language.
- 88) Page 42, lines 14-15; no substantive changes; language about laboratories moved to page 42a, lines 1-6; clarifies existing statutory language.
- 89) Page 42, line 21; deletes "\$150,000," substituting "the expenditure minimum," conforms to federal requirements in Pub. Law 96-79, Sec. 1531(6) and allows SHPDA to adjust for effects of inflation.
- 90) Page 42a, lines 1-6; substantive changes; language about laboratories based on language in existing statute; clarifies existing statutory language.
- 91) Page 43, lines 17-22 and Page 44, lines 1_9; the agency shall adopt rules to establish criteria to exempt minor proposed expenditures, health care service changes, or bed changes which are determined not to have a significant impact on the health care system; increases the effectiveness and efficient functioning of the certificate of need program.
- 92) Page 44, lines 13-22; Pages 45, 46, 47, 48, and 49; and Page 50, lines 1-3; certain projects proposed by qualified health maintenance organizations are exempted from the certificate of need program; a health maintenance organization must submit an application to the agency to enable the agency to determine if the necessary requirements for an exemption have been met; conforms to federal requirements in Pub. Law 96-79, Sec. 1527(b).
- 93) Page 50, lines 6-7; statewide health coordinating council allowed to adopt necessary rules; conforms to federal requirements in Pub. Law 96-79, Sec. 1532(a).

Your Committee has amended the original bill as follows:

- 1) language has been added to section 6 to ensure that the state health plan includes a chapter on inpatient care and medicare facilities; this was done as a result of your Committee's desire that provision be made for acute and long-term care;
- 2) section 19, page 38, line 14, and section 23, page 43, line 17: in both instances, the word "shall" has been substituted for "may" in order to ensure that the procedures described in the respective sections are followed;
- 3) certain amendments have been made to correct typographical errors in the original bill.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 3048-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3048-80, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 571-80

Public Assistance and Human Services on H.B. No. 1685 (Majority)

The purpose of this bill as amended herein is to establish a statutory basis for the Department of Social Services and Housing to apply liens to real property owned by individuals applying or currently receiving assistance under one of the department's programs. This bill as amended herein grants the Department of Social Services and Housing the statutory power to implement rules and regulations under Hawaii Revised Statutes, Chapter 91, to clearly delineate in which programs and under what conditions the real property liens shall be applied. The bill specifically limits the amount of the obligation which shall be secured by the lien on home property lived in by the assistance household to \$20,000. Any assistance in excess of \$20,000 shall remain unsecured. This provision ameliorates the hardship which would be imposed if the debt owed under a lien on home property increased to totally eliminate an individual's equity in his house.

From the testimonies received and evidence adduced at three public hearings held on this bill, your Committee finds that financial and administrative advantages exist in applying the liens on real property for both the Department of Social Services and Housing and the recipients of public assistance. The department has had difficulties under presently available techniques of establishing the amount and value of real property an individual can possess in order to be eligible for assistance programs. One problem has been placing a valuation on the individual's property, especially when the interest is less than fee simple ownership. A second concern has been the potential hardship placed on individuals owning a home, who must liquidate their real property holdings immediately before applying for much needed assistance.

The authorization to impose a lien on real property allows the DSSH to grant assistance to needy individuals while assuring that the State will be repaid through the satisfaction of the lien when the lien obligation is fulfilled. Implementing the lien provision in department's procedures would eliminate some of the current problems. For example, an elderly couple with a home in which they have lived for thirty years would not be forced to sell their home, if they needed assistance from the department. The department would take a lien on the property for the amount of assistance granted, provided that the amount secured by the lien on their home property will not exceed \$20,000. At a later time the couple could eliminate the lien by paying the obligation, or when the real property is sold or transferred the lien could be satisfied.

This bill provides protection for both the interests of the department on behalf of the State and the applicant or recipient. The lien will be recorded in the Bureau of Conveyances or with the Land Court and will remain until the obligation is satisfied. Further, the lien will take priority over subsequent liens on the property, except tax liens. Finally, the department can enforce its lien in the appropriate court.

The applicant or recipient real property owner is not forced to sell his interest immediately upon requesting assistance, but in situations delineated by the department, the department may enforce the lien to collect the repayment of the assistance at a later time. If the real property owner should die, exemptions for funeral expenses, expenses of the last sickness, cost of the administration of the estate and support for the widow and children would be settled before the lien obligation was satisfied. Furthermore, if a surviving spouse, minor child, or any physically or mentally handicapped child occupied the real property, then the lien would not be enforced at that time. In the event there exists disagreement between the recipient or applicant and the department over the amount owed on the real property lien, the individual has the right under H.R.S. Sec. 346-12 and Hawaii Public Welfare Manual Section 2500 to a fair hearing.

Your Committee finds that a number of states have instituted lien provisions on real property in administering their public assistance programs. Legal challenges to the use of liens in state public assistance programs claiming violations of federal laws and constitutional rights have been unsuccessful. See, "Welfare as a Loan: An Empirical Study of the Recovery of Public Assistance Payments in the United States," *Stanford Law Review*, Vol. 25, No. 2, January 1973, p. 123, 128-9.

The United States Supreme Court has twice affirmed decisions rendered by the United States District Courts, which upheld states' welfare department implementation of lien provisions. *Snell v. Wynam*, 281 F.Supp. 853 (S.D.N.Y. 1968), the United States District Court for the Southern District of New York dismissed the complaint alleging that the lien provisions contained in the New York Social Services Law violated the Equal Protection, Due Process and Supremacy Clauses of the Constitution.

The Supreme Court affirmed the District Court's holding, 393 U.S. 323 (1969). In *Charleston v. Wohlgemuth*, 332 F. Supp. 1175 (E.D.Pa. 1971), the United States District

Court for the Eastern District of Pennsylvania upheld Pennsylvania Welfare Regulations requiring liens through the use of cognovit notes on real property owned by Aid to Families with Dependent Children applicants. The Supreme Court affirmed the Decision. 405 U.S. 970 (1971). These cases establish the legality of empowering the department to apply liens to real property owned by assistance applicants or recipients.

The establishing of statutory authority for the department to use real property lien provisions in developing rules and regulations is particularly desirable and necessary as the eligibility requirements for real property under the Hawaii Public Welfare Manual are currently being revised. The United States District Court for the District of Hawaii issued a judgment in Kanda v. Chang, Civil No. 77-0258 filed on January 29, 1980, that instructs the department to adopt and promulgate amendments to its real property provisions. The use of liens on real property is a possible way of improving the public assistance real property regulations.

The bill does not provide for interest to accrue on the amount of public assistance obligation represented by the lien. The computation of interest would be unduly burdensome to administer and would not significantly contribute to the purpose behind the real property lien provisions.

Your Committee reports that federal and state regulations require that proceeds from insurance policies or medical plans, available to applicant or recipient, be used in determining the individual's eligibility.

Your Committee has amended the original bill, H.B. No. 1685, by removing the provisions relating to transfers of property in the General Assistance program and by granting the Department of Social Services and Housing statutory authority to apply liens on real property owned by public assistance applicants or recipients.

The Legal Aid Society and the Welfare Recipient Advisory Council both concur with the bill as amended. The DSSH initially requested the lien policy and is in concurrence with the bill as amended.

Your Committee on Public Assistance and Human Services is in accord with the intent and purpose of H.B. No. 1685, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1685, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.
(Representatives Baker and Sutton did not concur.)

SCRep. 572-80 Education on H.B. No. 2487-80

The purposes of this bill are (1) to repeal section 296-46, Hawaii Revised Statutes, which relates to the approval of student transportation by the chief executive of the county and the police department of the county, and (2) to amend section 296-45, Hawaii Revised Statutes, to delete the reference made to section 296-46.

A Memorandum of Understanding, which was approved by the Governor in September 1979, designates the responsibility for school bus safety standards and vehicle equipment inspection to the State Department of Transportation. Your Committee believes that the responsibility relating to student transportation safety should be placed under one system, and that responsibility which is placed under both the state and the county would be unnecessary and confusing. Under this bill, the responsibility relating to student transportation safety would be removed from the county, thereby removing the dual responsibilities of student transportation inspection by both the state and the county.

The Department of Education and the Department of Transportation testified in support of the bill.

Your Committee on Education is in accord with the intent and purpose of H.B. No. 2487-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 573-80 Health on H.B. No. 521 (Majority)

The purpose of this bill is to amend Chapter 321, Sections 201 and 202, Hawaii Revised Statutes, to expand the types of enclosed public places where smoking is prohibited.

The Department of Health and the American Lung Association testified in favor of the bill, but are opposed to the amendment in H.D. 1 which would provide an added exception to the prohibition on smoking and would permit smoking in any designated smoking areas. The Department of Health pointed out that this could even apply to elevators. Your Committee is concerned that this exception would permit smoking in small enclosed areas with designated smoking areas.

Your Committee is concerned that areas where relatively large numbers of people gather should be free of smoke. Therefore, your Committee has amended Section 1 of the bill to include cafeterias as areas where smoking is prohibited, under Section 321-201(1)(F), H.R.S., and to provide an exception in item (3) to permit smoking in any designated smoking area within government operated health care facilities.

Your Committee has further amended H.D. 1 by deleting Section 2 of the bill which would have provided under Section 321-202, H.R.S. an exception for any designated smoking area.

Achieving a balance of rights for smokers and non-smokers is a concern of your Committee, and your Committee therefore urges all government departments to designate smoking areas within those areas where employees perform normal duties on a daily basis.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 521, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 521, H.D. 2.

Signed by all members of the Committee.
(Representatives Lee and Sutton did not concur.)

SCRep. 574-80 Finance on H.B. No. 2177-80

The purpose of this bill is to amend Part I of the Employment Practices Law, Chapter 378, Hawaii Revised Statutes, by clarifying and supplementing various sections in order to extend coverage to all employees in the public sector; to assure that women are provided equal treatment in employment when disabled by pregnancy or maternity; and to provide the general public with a statute and procedures that are easier to comprehend and more compatible with the Federal Civil Rights Act and Equal Employment Opportunities Commission's national charge processing system.

Revisions to Part I include: extending coverage to employees of all the State and county governments; exemption for domestic service in the home of any person; authority for the department to initiate complaints and file class actions complaints; delineation of investigational and enforcement authority; setting of a 3-year statute of limitation of civil action; and, provision for the confidentiality of information.

Your Committee has made stylistic and technical, non-substantive amendments to this bill. Further, your Committee has amended subsection 378-4(c), Hawaii Revised Statutes which relates to time for filing of complaints.

An appropriation of \$53,672 is provided for fiscal year 1980-81 for the purposes of this bill.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2177-80, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2177-80, H.D. 2.

Signed by all members of the Committee.

SCRep. 575-80 Finance on H.B. No. 2128-80

The purpose of this bill is to administratively attach the Intake Service Center Advisory Board to the Office of the Governor and to assure the representation of all major components of the criminal justice system and community organizations on the Intake Service Center Advisory Board, including the addition of the Hawaii Paroling Authority.

Your Committee agrees that the Intake Service Center Advisory Board should be placed in the Office of the Governor for administrative purposes to conform to Section 6, Article V of the Hawaii State Constitution, requiring that all boards and commissions be placed within a state department or similar entity.

Current statutes restrict board membership from the private sector to "private social service agencies". While it is desirable to include private social service agencies, your Committee believes that private business and community organizations should also be represented. This bill would assure a broad representation from the community at large.

This bill also provides for the inclusion of the Hawaii Paroling Authority, with its key role in establishing minimum sentences, selecting individual offender for parole, providing parole supervision, and exercising its parole revocation authority. The Authority's membership on the Board will assure a comprehensive representation of all the major components of the Hawaii Criminal Justice System on the Intake Service Center Advisory Board.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2128-80 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 576-80 Finance on H.B. No. 2188-80

The purpose of this bill is to reorganize the insurance division of the Department of Regulatory Agencies by authorizing the director to appoint an assistant insurance commissioner and abolishing the position of motor vehicle insurance commissioner.

The passage of the Motor Vehicle Accident Reparations Act in 1973 established the Motor Vehicle Insurance Division with the purpose of implementing and administering the Act. All insurance other than motor vehicle insurance is regulated by the director of regulatory agencies as insurance commissioner.

Over the past six years, the no-fault insurance program has been successfully implemented and is currently functioning according to legislative intent. The administration of the Motor Vehicle Insurance Division in relation to the administration of other forms of insurance has led to some questions of jurisdictional authority and duplication of effort among staffing in areas such as regulation, licensing, maintenance of records, and investigation. Your Committee believes that consolidation of the two divisions will eliminate the problems created by the dual administration system and will result in more efficient functioning of insurance regulation.

Your Committee has amended this bill by making several technical, non-substantive amendments.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2188-80, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2188-80, H.D. 2.

Signed by all members of the Committee.

SCRep. 577-80 Finance on H.B. No. 2889-80

The purpose of this bill is to authorize the Director of the Office of Consumer Protection to compensate witnesses for testifying in any court proceeding or case which the Office of Consumer Protection is empowered to investigate.

Present law does not provide this authority to the director. This bill would specifically authorize the director to compensate witnesses who testify on behalf of the Office of Consumer Protection in any investigation or judicial proceeding according to rules adopted by the Office. Your Committee agrees with the intent of the bill to lessen the financial burden of witnesses who take time out from their usual business or profession to testify.

This bill makes an appropriation of \$5,000.

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

2889-80, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2889-80, H.D. 2.

Signed by all members of the Committee.

SCRep. 578-80

Judiciary on H.B. No. 2051-80

The purpose of this bill is to amend chapter 84 by adding a new part dealing with the registration of lobbyists. The bill would repeal chapter 97 which contains the present statutory provisions concerning lobbyists. In addition to transferring the lobbyist provisions from chapter 97 to chapter 84, the bill would also make a number of changes in the present requirements concerning lobbyists.

Your Committee received testimony from the Ethics Commission, which was given responsibility for administration of the lobbyist registration law by Act 91 of the 1979 Legislature, that the majority of individuals registered as lobbyists are neither compensated for lobbying activities nor spend substantial time pursuing this activity. This bill would change the present requirements by including within the term "lobbyist" only those individuals who are paid for their lobbying activities if a substantial or regular portion of the activities for which they are paid is for the purpose of lobbying. Organizations that employ lobbyists and individuals who lobby only irregularly or in a volunteer capacity would not be required to register. The Ethics Commission estimates that this change would reduce, by at least 50%, the number of persons filing under the present law.

Your Committee finds that this bill would make other changes in the lobbying provisions including requiring the renewal of a lobbyist's registration within ten days of the opening of each regular session of the Legislature; requiring the Ethics Commission to compile a list of lobbyists; and limiting the reporting of lobbying expenditures to lobbyists, employers of lobbyists and persons, including organizations, who spend in excess of \$250 in a reporting period for the purpose of influencing legislative or administrative action.

The reports of expenditures would call for identification of monies, in excess of \$3,000, spent by an organization to solicit others to influence legislative or administrative action. Such expenditures would include "mail-in" campaign and other "grassroots" lobbying. Organizations would also be required to indicate that portion of an employee's salary that compensates the employee for his lobbying activities on behalf of the organization.

Your Committee notes that another purpose of this bill is to amend section 84-17 to require high-ranking employees in the Judiciary to file disclosures of financial interest by including the Judiciary in subsection (c)(2) of said section and adding a subsection (c)(8) specifically naming the Director and Deputy Director of the courts.

While in agreement with these proposed amendments with respect to requiring financial disclosure with the Ethics Commission by the Director and Deputy Director of the Judiciary, your Committee feels that including the Judiciary in subsection (c)(2) will only lead to confusion inasmuch as the structure of the Judiciary is such that there are none of the types of high-ranking officials enumerated therein. Accordingly, your Committee has amended this bill by deleting "the Judiciary" from subsection (c)(2) of section 84-17.

In addition, the bill would eliminate the requirement that persons filing financial disclosure statements report the value of their interests by specific dollar amount. In place of this requirement, the bill would call for reporting by ranges of value so that, while substantial interests would be shown, individuals' actual net worth would not be identified.

The bill further proposes to amend the procedural sections of the ethics code so as to include lobbyists within these sections. By such amendment, the Ethics Commission would be mandated to issue advisory opinions to lobbyists, and, the amendment would make clear that lobbyists would be subject to the investigative powers of the Commission.

Your Committee upon further consideration has made the following amendment to H.B. No. 2051-80:

That provision of section 7 of the bill, entitled "Periodic reports", has been amended so that individuals and organizations required to report lobbying expenditures need only report those contributions to candidates that, in the aggregate, are in excess of \$100 during the six-month reporting period. Your Committee is of the opinion that,

while such contributions should be reported by individuals and organizations subject to the lobbyist registration law, the threshold figure for reporting should be consistent with the \$100 figure used in the Campaign Spending law.

Your Committee is also of the view that the Ethics Commission should consider the adoption of rules that would clarify the meaning of "grassroots" lobbying so as to differentiate between campaigns directed at influencing legislative action and those concerned only with the election or defeat of a candidate for elected office.

Further, your Committee notes that the bill specifies that an organization must report that portion of an employee's salary that corresponds to the employee's lobbying efforts on behalf of the organization. The bill does not require the organization to indicate what portion of an employee's time is actually spent on lobbying activities. Your Committee believes that caution should be exercised by the Commission to insure that the information reported in this category cannot be used to calculate the full salary paid to "in-house" lobbyists.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2051-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2051-80, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 579-80 Judiciary on H.B. No. 1811-80

The purpose of this bill is to remove words and phrases facially discriminatory on the basis of sex, from section 577-22 of the Hawaii Revised Statutes.

Under present law, it is unlawful for unmarried minors to patronize dance halls where females dance with male patrons for remuneration or compensation. This bill would neutralize the language of section 577-22 by making it unlawful for unmarried minors to patronize dance halls where either males or females dance with either males or females for compensation.

While your Committee agrees that on its face this section is discriminatory on the basis of sex, your Committee does not feel that neutralizing its language is the appropriate remedy. Your Committee feels that the concept or policy underlying said section represents archaic and outmoded moral concepts of the 1920's when it was originally enacted. Accordingly, rather than neutralize the language of section 577-22, your Committee has amended this bill by repealing said section in its entirety.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1811-80, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1811-80, H.D. 1.

Signed by all members of the Committee.

SCRep. 580-80 Water, Land Use, Development and Hawaiian Affairs on
H.B. No. 1982-80

The purpose of this bill is to amend section 171-13, Hawaii Revised Statutes, to enable the Board of Land and Natural Resources to sell all easements directly at appraised value by eliminating the requirement that easements valued at \$500 or above be sold at public auction.

Your Committee finds that under the present law, all easements valued at \$500 or above are subject to public auction and that this bill will allow the Board of Land and Natural Resources to grant easements without holding a public auction at a value established by an independent appraiser.

Your Committee is in agreement with testimony received from the Board of Land and Natural Resources and the Hawaiian Sugar Planters' Association that the present statutory public auction requirement results in unnecessary processing delays and advertising expenses since generally only one party is interested in obtaining a particular easement.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 1982-80 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 Garcia.

SCRep. 581-80 Education on H.B. No. 2711-80

The purpose of this bill is to amend section 298-11, Hawaii Revised Statutes, to have the Department of Education require the parent or guardian of a child, who had been precluded from attending school, to meet with school administrators to discuss the reasons for the child's preclusion from school attendance and to agree on a program to resolve the problem before the child can be readmitted to school.

Presently, under the Board of Education's Rule 21, approved by the Governor in April 1976 and relating to student discipline, the parents, guardian, or other custodian of a child must be notified when their child is suspended from attending school regardless of the length of the suspension.

Your Committee believes that precluding the child from attending school and notifying the parent or guardian of such preclusion will not, in itself, solve or curb the child's detrimental behavior which caused his or her preclusion. Your Committee also believes that the parent's or guardian's active participation by meeting with school administrators would be a positive step in dealing more effectively with the child's detriment.

The Department of Education testified in support of the intent of the bill, indicating that the child may benefit from the proposed amendment. However, they expressed their concern about cases when the parent or guardian of the child is difficult to locate, unavailable, refuses to meet with school administrators, or refuses to implement the agreed upon plan.

Your Committee agrees that the proposed amendment, if strictly enforced, may be too stringent in cases when the parent or guardian is unavailable or uncooperative. Accordingly, your Committee has amended the bill by substituting the word "may" for the word "shall", to allow the Department of Education more flexibility in requiring the parent or guardian to meet with school administrators to discuss the reasons for the child's preclusion from school and to agree upon a workable program.

Your Committee on Education is in accord with the intent and purpose of H.B. No. 2711-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2711-80, H. D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 582-80 Health on H.B. No. 1787-80 (Majority)

The purpose of this bill is to (1) clarify the voting status and composition of the members of the commission on the handicapped; (2) establish the commission as an organization able to address issues relating to the handicapped by coordinating resources, information, problem assessments, and legislative proposals relating to handicapped groups to which the legislature could turn for coordinated review and comment; (3) provide rule-making power to enable the commission to define the handicapped groups which it is to service; and (4) clarify the commission's relationship with other agencies.

The commission has testified that, at the present time, it does not have adequate resources to carry out the changes proposed by this bill. It states that it has barely scratched the surface of its current responsibilities and that was achieved only by overextending its staff and consultants. During the current legislative session, the commission indicated that it reviewed some proposed legislation at the request of your Committee, but did so at the expense of other responsibilities.

The commission, the director of health, the state planning council on developmental disabilities, and the assistant superintendent of the office of instructional services testified as to similar concerns over the commission's role in coordinating the review and assessment of problems of the handicapped and legislative proposals. They expressed a need for clearly defining the commission's role and the commission's relationships with other advisory and planning agencies. Without such definitions, it was indicated that there will be inefficient duplication of effort by agencies and questions of the commission's authority to enforce actions it may deem necessary.

Your Committee has amended the bill by specifying exactly which fifteen members have voting rights.

In view of testimony received, your Committee has also deleted the commission's function to review and assess problems, needs, and availability of services and resources for the handicapped; the responsibility for conducting research, studies, or other activities limited to when other public agencies cannot; and the function of coordinating legislative proposals on behalf of the handicapped. The latter deletion will clarify the commission's function to render informal advice to the legislature and to the senate and house committees on health, as well as other committees or legislators.

The proposed amendment to section 348E-6, Hawaii Revised Statutes, relating to the staff serving at the pleasure of the commission has been deleted.

Your Committee has amended the proposed new section 348E- of the bill relating to agencies and departments cooperating with the commission by deleting county agencies and by requesting rather than mandating cooperative efforts.

For the purposes of consistency your Committee has also amended the bill by renumbering sections 4, 5, and 6, to sections 3, 4, and 5, respectively, and made other minor style and grammatical changes.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 1787-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1787-80, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 583-80 Housing on H.B. No. 2629-80

The purpose of this bill is to amend Section 46-15.1, Hawaii Revised Statutes, to expand county housing powers to provide moderate-income housing as well as low-income housing.

Act 179, Session Laws of Hawaii 1974, provided the various counties with the same housing powers as the Hawaii Housing Authority (HHA). However, the counties were given responsibility only for low-income housing, while the HHA is responsible for both low- and moderate-income housing. This measure would provide more flexibility for the counties to provide both low- and moderate-income housing in an effort to meet the needs of the "gap group". Moreover, there are certain federal grants and funding programs which are limited to counties. Your Committee believes that the counties should have every ability to qualify for these funds in attempting to help meet the housing needs of Hawaii's people.

Your Committee has amended this bill for style in conformity with the Hawaii Legislative Drafting Manual.

Your Committee on Housing is in accord with the intent and purpose of H.B. No. 2629-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2629-80, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 584-80 Transportation and Consumer Protection and Commerce on
H.B. No. 2339-80

The purpose of this bill is to amend Section 462A-15 of the Hawaii Revised Statutes by deleting a portion of the law requiring the pilot association to maintain liability insurance coverage which protects the State against liability arising out of or caused by any acts or omissions of an association pilot.

Your Committees find that since under Hawaii's new pilotage act pilots are no longer employees of the State, there can be no vicarious liability imposed on the State for the negligence of a pilot making that portion of the Hawaii Revised Statutes unnecessary.

Your Committees on Transportation and Consumer Protection and Commerce are in

accord with the intent and purpose of H.B. No. 2339-80 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 Garcia.

SCRep. 585-80 Consumer Protection and Commerce on H.B. No. 2367-80

The purpose of this bill is to establish the "three tier system" of liquor control, distribution, and regulation in the State by amending the appropriate provisions of Chapter 281, Hawaii Revised Statutes.

This bill would (1) require that all liquor imported into the State "come to rest" at the importing wholesaler's warehouse, (2) specify that Hawaii wholesalers must purchase liquor only from the "primary source" of supply for such liquor, and (3) require licensed retailers to purchase liquor only from licensed wholesalers. The primary source is deemed to be the manufacturer if the liquor is produced domestically, or the domestic source closest to the manufacturer in the chain of distribution if the liquor is not produced within the United States.

Your Committee has heard testimony from the Antitrust Division of the Department of the Attorney General that the effect of this bill will be to empower large out of state distilling companies to dictate who may import liquor into the State. Wholesalers and other distributors would be prohibited from buying from other than the primary source. Domestic manufacturers and distributors of foreign produced liquor will be able to control the local wholesale market supply and effectively strangle whatever intra-brand competition there is. Your Committee feels that the policy of the State should be to promote competition in the open market place with as little regulation as feasible whenever the rights of consumers will not be adversely affected. Your Committee has therefore amended the bill to delete the proposed three tier system and retain only the provision requiring retailers to purchase their liquor from licensed wholesalers.

Your Committee notes from testimony from the Honolulu Liquor Commission that retailers sometimes purchase their liquor for resale from military outlets, thus evading State taxes on the liquor. Your Committee feels that this amendment will close that loophole.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2367-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2367-80, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 586-80 Consumer Protection and Commerce on H.B. No. 2892-80

The purpose of this bill is to allow banks to maintain electronic customer communication terminals without regard to the geographic location of the electronic terminal.

Under the present Section 403-53, Hawaii Revised Statutes, the District of Honolulu is divided into three geographic zones within which a bank can establish a maximum of four branch banks. With the advent of electronic devices capable of providing limited banking services without the need for bank personnel to be available, there has apparently arisen a question whether or not such an electronic device is considered a branch bank within the meaning of Section 403-53.

This bill would make it clear that banks may establish and maintain electronic banking terminals without regard to their geographic location. While in accord with the intent of the bill to allow electronic funds transfer devices, in order to provide the bill to provide better and more convenient servicing of consumers, your Committee has amended the bill to provide that the geographic limitations of Section 403-53 shall not apply to electronic funds transfer devices only. Your Committee has also added the requirement that the bank examiner issue rules and regulations regarding location of such devices.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2892-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2892-80, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Uechi.

SCRep. 587-80

Consumer Protection and Commerce on H.B. No. 721

The purpose of this bill is to require creditors, sellers, and lessors to use written agreements which are understandable to the average person in (a) residential leases, and (b) consumer transactions involving less than \$50,000 for primarily personal, family or household purposes.

This bill requires such agreements, entered into on or after January 1, 1981, to be written in a clear manner using words with common and everyday meanings, but does not prohibit words or phrases required by state or federal law, rule or regulation.

This bill permits a consumer, or class of consumers, to sue for actual damages resulting from non-compliance by a creditor, seller or lessor. The bill also permits the Attorney General or the Director of the Office of Consumer Protection to bring an action to restrain and prevent any violation.

Your Committee notes that anyone who attempts in good faith to comply with the provisions of this bill would not be liable, and that no action may be brought after both parties to any agreement have fully performed their obligations.

Your Committee further notes that non-compliance would not render any agreement void or unenforceable.

Your Committee emphasizes that, in mandating the use of "words with common and everyday meanings", it is not the legislative intent of this bill to prohibit the use of technical terms, provided that such terms are clearly explained.

Testimony was received in support of the intent of this bill from the Director of the Office of Consumer Protection and from individuals from lending institutions and the legal profession. Included in the latter testimony were observations, with which your Committee concurs, that the "good faith" defense should be broadly interpreted, and that plain understandable language is capable of legal precision.

Your Committee concurs with testimony received, urging clarification of the applicability of the bill to written agreements executed prior to the effective date, requesting additional time in which to revise forms, and suggesting a prohibition of class action suits for five years. Accordingly, your Committee has amended the bill by removing the January 1, 1981 effective date and, instead, providing that the bill shall apply to written agreements executed on or after July 1, 1981. Your Committee has further amended the bill to prohibit any rights of recovery for classes in class action suits under this bill from accruing prior to July 1, 1986. In addition, your Committee has further amended the bill to provide that it shall apply to consumer transactions involving less than \$25,000, instead of \$50,000, in conformity with the Federal Truth-In-Lending Act.

Recognizing that Article XVI, Section 13 of the Hawaii State Constitution espouses plainly worded governmental writing, your Committee believes that business agreements should also be plainly worded so that the parties clearly understand what is expected of them, and thereby avoid litigation which frequently ensues from misunderstanding.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 721, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 721, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Lee.

SCRep. 588-80

Consumer Protection and Commerce on H.B. No. 1925-80

The purpose of this bill is to raise the statutory maximum rate of interest an industrial loan company may charge on loans.

This bill would raise the interest limits for both advanced interest or discounted loans and also for simple interest loans. Your Committee has heard extensive and often conflicting testimony from various interested parties stating on one hand, that current interest ceilings have caused an apparent crisis situation among industrial loan companies because of the high cost to them of obtaining money, and on the other hand, that the current ceiling is adequate because the method of applying the interest to the loan results in an extremely high actual rate of interest paid by the borrower, well in excess of the statutory limit.

Your Committee has therefore decided to amend only Section 408-15(j), Hawaii Revised Statutes, at this time to specify that industrial loan companies may collect interest on the basis of a rate of 18% per year instead of 1.5% per month. This will clarify certain problems concerning per diem interest rates.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1925-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1925-80, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 589-80 Consumer Protection and Commerce on H.B. No. 2321-80

The purpose of this bill is to change the repeal date of Chapter 468J, Hawaii Revised Statutes, by amending Chapter 26H, from December 31, 1980 to December 31, 1986.

Your Committee concurs with the findings of the Legislative Auditor in his Sunset Evaluation Report on Travel Agencies. The statute exempts appointed travel agencies, which are the majority of travel agencies, from the state licensing and bond requirements. According to the Legislative Auditor, "The rationale for the exclusion was the belief that all official appointments were based on strict financial scrutiny and oversight by the carriers as well as a bonding requirement. It was assumed that these requirements would ensure the ongoing financial stability and responsibility of the appointed travel agency. This assumption warrants further examination for several reasons: first, it is not borne out by the complaints data; second, the financial requirements imposed by carriers protect the interests of carriers and not those of consumers; and, finally, some associations have no bonding requirement for appointees."

The Legislative Auditor also determined that licensing requirements, other than the bond, are unnecessary and should be eliminated.

Accordingly, your Committee has added a new chapter, which requires every travel agency, and sales representatives to post a bond in favor of the State, and assigns to the department of regulatory agencies the responsibility and authority to enforce the chapter.

The enactment of the new chapter makes an extension of Chapter 468J, Hawaii Revised Statutes, unnecessary. Therefore, it will be allowed to "sunset" on December 31, 1980.

The posting of a bond provides the desired protection to consumers. The statute provides sufficient authority to the Department of Regulatory Agencies to require timely reports on changes in bond status, business ownership and location.

It is the intention of your Committee to have the Department of Regulatory Agencies eliminate other extraneous licensing requirements imposed by rule, e.g., the employment in each branch office of a person with at least two years of full-time experience in travel sales and service or with training in the travel industry which is acceptable to the department.

The extension of the bonding requirement to all travel agencies makes the division of responsibility, between the Department of Regulatory Agencies and the Office of Consumer Protection, unnecessary. The bill therefore assigns the Regulatory Agencies to facilitate administration.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2321-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2321-80, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Lee.

SCRep. 590-80 Consumer Protection and Commerce on H.B. No. 2789-80

The purpose of this bill is to provide that the no-fault policy on the customer's insured vehicle shall be primary over the policy of a licensed auto repair business or auto dealer where a loaner vehicle is provided to the customer either at a fee, or at no cost.

Under present law, a customer's policy is primary only in the event that the loaner

vehicle is provided at no cost. This bill would require that the customer's policy also be primary when a fee is charged for such loaner vehicle.

Your Committee finds from testimony presented that businesses are unable to pass on the cost of maintaining and replacing loaner vehicles without incurring primary coverage under their no-fault policy, thus driving the cost of insurance upward. Your Committee feels that this bill will allow repair businesses and dealers to make the practice of loaning vehicles economical and will work to the convenience of consumers.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2789-80 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 Aki, Baker, Honda, Larsen, Lee, Ikeda and Medeiros.

SCRep. 591-80 Judiciary on H.B. No. 2264-80

The purpose of this bill is to amend sections 580-21, 580-26 and 580-27, Hawaii Revised Statutes, by removing reference to terms such as "idiocy", "lunacy", "insanity" and replacing them with the phrase "lack of mental capacity".

Present law utilizes such language as "idiot, lunatic or insane person" in describing the grounds for annulment of a marriage.

Your Committee received testimony that such statutory language is inappropriate and inconsistent with the language of the Uniform Probate Code and should be amended to read "lack of mental capacity".

Your Committee is in agreement with such testimony and accordingly, recommends favorable consideration of this bill.

Your Committee has also made technical amendments to correct typographical errors.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2264-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2264-80, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 592-80 Judiciary on H.B. No. 2549-80 (Majority)

The purpose of this bill is to provide an express statutory provision which will allow the Department of Education (D.O.E.) to appeal the decisions of Rule 49 (D.O.E. Rules) Hearings Officers to the Circuit Courts of the State of Hawaii.

Your Committee finds that Rule 49 of the Rules and Regulations of the D.O.E is such department's attempt to implement the Education of the Handicapped Act (20 U.S.C. 1401, *et. seq.*, and 45 C.F.R. 121 a., *et. seq.*, the implementing Federal regulations) which provides that an impartial due process hearing be conducted by the D.O.E. to decide issues concerning the provision of free appropriate public education for handicapped children and which allows any party aggrieved by the findings and decision of the hearings officer to bring a civil action in any State court of competent jurisdiction or in a District Court of the United States.

However, the Federal law and implementing regulations notwithstanding, your Committee further finds that present State law, as interpreted by the First Circuit Court, does not allow an appeal by the D.O.E. inasmuch as the D.O.E. is not considered a "person" within the meaning of Chapter 91 of the Hawaii Revised Statutes, which allows a "person aggrieved" to appeal a contested case. Thus, under present law, parents are allowed to appeal a decision in either Federal or State court, but the D.O.E. can only appeal in Federal court. This bill would provide the D.O.E. equal access to the State courts and fully implement the Federal law, as well as expressly eliminate the requirement of a bond as a condition for initiating any appeal.

Your Committee feels that principles of fairness and equity dictate that the D.O.E. should have equal access to the State and Federal courts, that no rational purpose is

served by denying one of the parties to a decision the right to appeal to a State court and not the other, and that there is no reason, compelling or otherwise, not to fully implement Federal law which provides that any party aggrieved be allowed to appeal. In addition, your Committee believes that the elimination of the bond requirement would provide freer access to the courts for parents should they desire to appeal a decision. In short, your Committee is in full support of this bill's provisions and recommends its favorable consideration.

However, it is your Committee's express intent only to provide a choice of forums for the parties and not two forums in which to appeal an adverse decision, and that the choice of one forum would be mutually exclusive of the other, consistent with the concepts of res judicata and collateral estoppel which would preclude a party from litigating the same issue or issues in both forums.

Finally, your Committee has made technical, nonsubstantive amendments to this bill solely for the purpose of clarifying its provisions.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2549-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2549-80, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.
(Representatives Lee and Ikeda did not concur.)

SCRep. 593-80 Judiciary on H.B. No. 2930-80 (Majority)

The purposes of this bill are to lower the age at which jurisdiction over a juvenile may be waived by the Family Court and to provide an automatic waiver of such jurisdiction in certain instances.

Under present law the minimum age at which the Family Court may waive jurisdiction over a juvenile is sixteen and there is no provision for an automatic waiver of such jurisdiction. This bill would lower such age to fourteen and provide for an automatic waiver of such jurisdiction when the juvenile is alleged to have committed certain serious crimes against persons or when the juvenile has an extensive juvenile record.

Your Committee finds that lowering the age at which the Family Court may waive jurisdiction over a juvenile from sixteen to fourteen is not desirable from either a legal or philosophical point of view in that the great majority of juveniles at that age are still in an early stage of adolescent development and are very vulnerable and impressionable. Accordingly, your Committee has amended this bill by retaining the present threshold age of sixteen in section 571-22 of the Hawaii Revised Statutes.

In addition, your Committee finds that requiring an automatic waiver of Family Court jurisdiction when the juvenile is alleged to have committed certain serious crimes against persons, e.g., murder, manslaughter, assault in the first degree, etc., is also not desirable because it attaches significance to the mere allegation of committing a crime, and not to the adjudication of such allegation, contrary to the traditional notions of justice and fairness. Accordingly, your Committee has amended the bill by deleting such provision for automatic waiver.

However, with respect to the automatic waiver where the juvenile has an extensive juvenile record, your Committee feels that such a waiver is both desirable and logical in that this is the type of juvenile who obviously is not being effectively dealt with by the Family Court as evidence by his record. Your Committee has made a technical amendment with respect to this provision by changing all references to "convictions" to "adjudications" inasmuch as the latter is the proper terminology with respect to juvenile criminal proceedings.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. 2930-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2930-80, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 594-80 Judiciary on H.B. No. 2448-80

The purpose of this bill is to eliminate as an affirmative defense to prosecutions for

Sexual Abuse in the Second Degree, the victim's previous promiscuous sexual conduct.

Under existing law, a defendant charged with Sexual Abuse in the Second Degree is entitled to acquittal if he can prove that the victim had engaged in promiscuous sexual relations with others prior to the date of the offense charged.

Your Committee received testimony that given the availability to defense counsel of the affirmative defense in question, cases of this nature usually hinge on the prior sexual conduct of the victim. The net effect of this situation is that prosecution is hindered due to the fact that victims are generally reluctant to subject themselves to lengthy cross-examination regarding their prior sexual contacts.

Your Committee agrees with testimony received that this affirmative defense should be eliminated inasmuch as a victim's prior sexual contacts really have no bearing on the offense in question as there is no logical nexus between such defense and the elements of the offense.

Your Committee has amended this bill to correct typographical errors.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2448-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2448-80, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 595-80 Judiciary on H.B. No. 2674-80

The purpose of this bill is to provide that the limitation of actions for damages based on construction to improve real property be extended equally to the owner, surety or other person having any interest in such real property or improvements.

Present law does not specifically exempt sureties from liability damages for any injury to real or personal property arising from any condition of an improvement to real property.

Your Committee received testimony that the assumption that sureties are protected along with other parties having an interest in the improvement of real property is incorrect. In a recent case involving a similarly worded statute, the California Supreme Court in The Regents of the University of California vs. Hartford Accident and Indemnity Company, 21 Cal. 3d 624 (1978) ruled that sureties were not protected under the provisions of such law.

Your Committee finds that it is therefore essential that the protection against liability afforded to sureties under the statute of limitations be made clear and specific.

Moreover, your Committee has amended this bill to make clear that no restriction is intended on any shorter period of limitation provided either by statute or in the language of any bond or that a surety's liability does not extend to all matters provided in section 657-8 of the Hawaii Revised Statutes, such as personal injury and property damage by virtue of including sureties in such section.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2674-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2674-80, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 596-80 Judiciary on H.B. No. 2826-80

The purpose of this bill is to place the responsibility and liability on dog owners whose animal inflicts personal injury or property damage while not on the owners' premises.

Current law offers little protection for innocent citizens, especially children, who are victims of unprovoked dog attacks while on another's or public property such as beaches, parks, school grounds and neighborhood sidewalks.

Your Committee received testimony that people are becoming more fearful of and vocal

about actual and potentially dangerous situations created by vicious dogs whose owners refuse to properly care for, train, or confine. Further, there has been an increase in the number of persons whose pets have been injured or killed by dogs bred for fighting.

Your Committee agrees with the concept contained in this bill that the financial and social responsibility and liability for personal injury or property damage caused by a dog should be placed on its owner. However, your Committee, being of the opinion that attempting to totally overhaul the present statute which is more than 100 years old is a fruitless endeavor, has amended this bill by separating the property damage and personal injury aspects of dog bites, providing for the former in section 142-74 and by proposing the enactment of two new sections, patterned after California statutes, to address the latter. These proposed sections provide for the following:

1. That a dog owner is liable for the damages suffered by any person who is bitten by his dog while in a public place or lawfully in a private place, regardless of the former viciousness of the dog or its owner's knowledge of such viciousness, contrary to the common law which generally requires that a dog display a propensity towards viciousness and that its owner know, actually or constructively, of such viciousness;
2. That the owner of a dog has a duty to take reasonable action to prevent the recurrence of a dog bite incident upon other persons; and
3. That after "two bites", any person or the prosecuting attorney can bring an action in District Court to force the removal of the offending dog from the area or compel its owner to have it destroyed.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2826-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2826-80, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 597-80 Finance on H.B. No. 2625-80

The purpose of this bill is to provide for an occupational information coordinating committee to develop an occupational information system for planners and to deliver career information to students, trainees, and job seekers by the department of labor and industrial relations.

The Hawaii State Occupational Information Coordinating Committee has been mandated by federal law and should be provided for in the Hawaii Revised Statutes so that its work may be implemented as an ongoing practice. The HSOICC and its advisory committees are made up of a number of agencies and bodies. A Hawaii occupational information system is to be developed so that a standard set of demand and supply data and projections can be used for training, education, and employment program planning. The HSOICC should manage and the department operate a career information delivery system which uses this data. This bill provides for these authorities.

An appropriation of \$39,000 is made for the purposes of this Act.

Your Committee has amended this bill by clarifying language and making minor style changes.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2625-80, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2625-80, H.D. 2.

Signed by all members of the Committee.

SCRep. 598-80 Finance on H.B. No. 2944-80 (Majority)

The purpose of this bill is to amend Section 321-228, Hawaii Revised Statutes. Under the present law the State is mandated to contract with any county which applies to operate emergency medical services within the respective county. Removal of this mandatory provision will enable the department of health to contract with the counties or a private agency in order to meet its responsibilities for providing emergency medical services.

The purpose of this bill is to make State contracts with the counties for provision of emergency medical services permissive rather than mandatory. Under the present law, the State is required to contract with any county which applies to operate emergency medical within the respective county. Removal of this mandatory provision will enable the department of health to contract with the counties or with a private agency in order to meet its responsibilities for providing emergency medical services.

Emergency medical services is a vital component of necessary health services provided to the people of the State of Hawaii and your Committee is concerned that certain basic services be provided with assurances of adequate quality of services at a reasonable cost. Your Committee believes that the increased flexibility provided the department by this bill regarding the making of contracts for such services will assist the department in its efforts to meet this goal.

Your Committee has made minor technical amendments to the bill.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2944-80, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2944-80, H.D. 2.

Signed by all members of the Committee.
(Representatives Narvaes and Sutton did not concur.)

SCRep. 599-80 Finance on H.B. No. 2328-80

The purpose of this bill is to assist the department of transportation in the administration and operation of State Boat Harbors by providing statutory authority for determining the true owner of a vessel moored prior to a Mooring Permit being issued by the department.

The department of transportation now requires documentary proof of ownership of a vessel prior to issuing a Permanent Mooring Permit for mooring in a State small boat harbor. The person seeking a permit or renewal of a permit is required to produce either a valid State registration certificate or U.S. Coast Guard documentation certificate on which the owners are listed. In the event of doubt concerning ownership of a vessel, the department also will examine any financing statements relating to the vessel that are on file with the conveyances division, department of land and natural resources, as authorized by the Uniform Commercial Code (Section 490: 9-407, H.R.S.). The problem exists in that the filing of such financing statements is purely voluntary on the part of financing parties and institutions. Also, the department does not have access to financing statements for vessels financed out of state, or any means to detect a full-payment purchase of a vessel.

Your Committee believes that this bill will assist the department by opening legal avenues through which the problem of legal ownership of boats in small boat harbors can be solved.

Your Committee has made minor technical amendments to the bill.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2328-80, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2328-80, H.D. 2.

Signed by all members of the Committee.

SCRep. 600-80 Finance on H.B. No. 2660-80

The purpose of this bill is to clarify Chapter 359G, Hawaii Revised Statutes, relating to the recovery of subsidies upon the sale of a dwelling unit to an eligible purchaser after the Hawaii Housing Authority (HHA) "buyback" period has expired.

Current statutory provisions allow the Authority to "disregard" certain costs when setting sales prices for its units. This provision has been allowable in the interest of keeping sales prices at the lowest possible price; however, after the ten-year "buyback" period, it is unclear as to the Authority's responsibility to recover subsidized costs for land acquisition, site development, administration and other related costs. This bill will provide the Authority with a legal basis under which it may expeditiously recover its previous subsidies. The original purchaser of the HHA dwelling unit must include the subsidized costs in his sale price to the next eligible purchaser and remit the amount to the Authority.

This bill also clarifies Section 359G-15, Hawaii Revised Statutes, to state that the general excise tax exemption offered to contractors of HHA projects should be considered an exemption rather than a subsidy.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2660-80 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 601-80 Finance on H.B. No. 2458-80

The purpose of this bill is to increase the penalty for the late transfer of ownership of a motor vehicle from \$2 to \$10.

Under present law, transferees of motor vehicles are required to file the transferred certificate of ownership and certificate of registration with the director of finance. The penalty for failure to comply with this requirement is \$2.

Your Committee agrees that it is in the best interest of the public to keep records of licensing agencies as current as possible. This bill will encourage the early registration of transferred vehicles.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2458-80 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 602-80 Finance on H.B. No. 3047-80

The purpose of this bill is to allow the department of education to charge fees for the uses of school facilities and to deposit the moneys into a special fund and make disbursements therefrom in accordance with departmental rules and regulations.

The Department of Education presently lacks statutory authority to deposit the moneys collected for the use of school buildings, facilities, grounds and equipment, and charges for custodial services into a Special Revenue fund and to make disbursements therefrom in accordance with departmental rules and regulations. In the absence of statutory authority, the Department of Education is now required to deposit these moneys into the State Treasury as General Fund realizations.

The use of school buildings, facilities, and grounds has increased significantly over the past several years. It is inevitable that increased use of the facilities will lead to higher costs to the State for the repair, maintenance, and replacement of equipment, and furniture, replacement of janitorial supplies, and custodial service overtime. It is your Committee's understanding that the funds deposited into the special fund from proceeds of fees collected for use of school facilities will be used for replacement and maintenance of facilities and equipment.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 3047-80 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 603-80 Finance on H.B. No. 2196-80

The purpose of this bill is to assign the pupil safety of operation program to the Department of Transportation. It is the intent that the Department of Transportation assure that the pupil transportation program is in compliance with the motor carrier safety requirements on school buses and that the Department of Education establish rules and regulations for pupil passenger safety instruction. The Department of Transportation is also assigned responsibility for the technical aspects of school bus safety such as equipment and inspection requirements.

Your Committee has amended this bill by deleting section 2 which set forth an appropriation from the state highway fund to carry out the purposes of this bill. Subsequent sections have been renumbered accordingly.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2196-80, H.D. 1 as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2196-80, H.D. 2, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 604-80 Finance on H.B. No. 2225-80

The purpose of this bill is to increase sheriff's or police officer's fees and mileage allowances for serving any district court criminal summons, warrant, and the like and to make the same adjustments for service of circuit court criminal process.

Under current law fees for service of criminal process have remained the same since 1975. Moreover, the present mileage allowance has been in effect since 1978.

Your Committee feels that inflation has so eroded the fees now received that adjustments are necessary to enable sheriffs and police officers to continue these services. Accordingly, your Committee supports the increase in the mileage allowance.

Your Committee has made a technical amendment to correct a typographical error.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2225-80, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2225-80, H.D. 2 and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 605-80 Finance on H.B. No. 1987-80

The purpose of this bill is to eliminate the statutory examination fee for prospective securities salesmen and to permit the commissioner of securities to set such fee.

Under present law the fee is set at \$10 for the state examination. The Department of Regulatory Agencies is considering requiring applicants to take the Uniform Securities Agent State Law Examination, a national exam, instead of the present Hawaii state exam in order to obtain a license. Your Committee agrees that this bill will provide the necessary flexibility to the commissioner of securities to adjust required fees for the future and in the event such exam should be adopted. Your Committee also agrees that the adjustment of fees by agency rule making rather than by statutory amendment is preferable.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1987-80 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 606-80 Public Employment and Government Operations on H.B. No. 1826-80

The purpose of H.B. No. 1826-80 is to amend Section 88-41, Hawaii Revised Statutes, in order to comply with Article I, Section 3, Equality of Rights, of the Hawaii State Constitution.

The use of masculine terminology while not clearly discriminatory facially or in application, is questionably discriminatory because of an archaic attitude reflected by such usage. More than half the women in our State are employed and the language of the statutes should be neutralized to reflect their equal status under the law.

H.B. No. 1826-80 has deleted reference to any specific masculine terminology in order to make the statutes clearly applicable to persons of both sexes.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of H.B. No. 1826-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 607-80 Public Employment and Government Operations on H.B. No. 2372-80

The purpose of this bill is to provide public employment opportunities for severely handicapped persons. This bill would exempt from civil service those positions filled by severely handicapped persons who are certified by the State vocational rehabilitation office as being able to safely perform the duties of the positions.

Your Committee has amended this bill in the following ways:

1. On lines 7 and 8 on page 8 and on lines 12 and 13 on page 11, delete the words "obtain government employment" and substitute therefor the words "to be initially appointed to a position". Your Committee feels that this bill was intended to apply to initial appointments of severely handicapped persons. This amendment would clarify this intent.
2. On lines 10 to 17 on page 12, between the words "for" and "handicapped", add the words "the severely". This amendment would clarify the intent of the bill.

Your Committee has made technical and grammatical amendments to the bill.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of H.B. No. 2372-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2372-80, H.D. 1 and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 608-80 Public Employment and Government Operations on H.B. No. 2874-80

The purpose of this bill is to permit the Director of Health to appoint, without regard to Chapter 76 and 77 of the Hawaii Revised Statutes, persons to conduct investigations and hearings, and to conduct public participation activities including public hearings and public informational meetings.

In the area of environmental quality control, the programs administered by the Department are numerous and are becoming increasingly more extensive in scope and complexity. There is a critical need to develop the Department's expertise and capacity for investigations, impact assessments and solicitations of public input related to the Department's enforcement action and rulemaking.

There is a critical need for the Department to take timely action on program proposals. Otherwise, the public will be severely affected by the costs of delays in regulatory actions and costs for complying with standards and regulations developed from a national perspective and in application to the State of Hawaii.

More careful attention must be given to the long-term consequences of environmental regulations and standards being mandated by federal and State laws, especially in the rulemaking process.

There is also an increasing need to reach out to the public and solicit their comments and opinions regarding regulatory programs. These activities must extend beyond the formal public hearings which have limited effectiveness. There must be a sincere effort to explain and simplify all the technical and complex language of regulatory programs, receive public comment, incorporate the comments in policy development and inform the public of how their involvement contributed to the final recommendations.

Communication with the Attorney General's Office indicates that H.B. No. 2874-80 is very specific and gives the authority to make such appointments to the Director of Health only.

Your Committee has made grammatical amendments to the bill.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of H.B. No. 2874-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2874-80, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 609-80 Public Employment and Government Operations on
H.B. No. 2168-80 (Majority)

The purpose of this bill is to define the term "essential employee", to require the Hawaii Public Employee Relations Board to designate such essential employees, to make participation in a strike unlawful for essential employees, to require the board to establish specific requirements to be complied with by parties involved when a strike is occurring or impending which affects or will affect public health or safety, to eliminate the requirement that public employers must apply to the board for a declaration that a strike is unlawful, to permit public employers to seek direct relief through the courts when there is a strike occurring or impending affecting public health or safety, and to clarify the application of chapter 380, Hawaii Revised Statutes, relating to the jurisdiction of the courts over labor disputes, to public employee strikes.

The purpose of this bill has been amended so as not to eliminate the public employer's option to apply to the board for a declaration that a strike is unlawful and to include sympathy strikes in the definition of the term "strike".

Your Committee received testimony generally supporting the purpose of the bill from Donald Botelho, director of personnel services for the State; Harry Boranian, director of civil service for the city and county of Honolulu; Keith Odachi on behalf of the office of collective bargaining of the State; William Jones, Sr., on behalf of the police department; and Richard Hashimoto on behalf of the Chamber of Commerce of Hawaii. Testimony was also received from John H. Radcliffe on behalf of the Hawaii State Teachers Association stating that the bill was premature and unnecessary. Testimony received from Henry B. Epstein, director of the United Public Workers, AFSCME Local 646, strongly opposed the bill. He stated that the current law operated well and the proposed amendments are unnecessary.

Your Committee finds that changes in the collective bargaining law are necessary in light of recent events which resulted in the withholding of essential services by public employees engaged in a strike which threatened the health and safety of the general public. Your Committee believes that employees should continue to have a limited right to strike, but not when the public health or safety necessitates maintaining essential employees on their jobs.

H.B. No. 2168-80 has been amended to expand the definition of "strike" to include strikes for the purpose of sympathizing or supporting the strike of another group of public workers engaged in a dispute. Your Committee feels that such an amendment will prevent unnecessary hardships which might occur to the public by the curtailing of services performed by other public workers who are not involved in any dispute with their employers.

The proposed amendments to section 89-12(a), Hawaii Revised Statutes, have been expanded by your Committee to require that no employee may strike unless the employee has exhausted the proceedings for the prevention of any prohibited practices. Your Committee has amended this bill to clarify that essential employees may not strike after the board has determined that the strike presents or would present an imminent or present danger to the health or safety of the public and has designated certain essential employees whose services are essential to avoid or remove such danger. Your Committee has also deleted the specific deadlines in which the board must act to establish requirements for employers and employees when a strike is about to occur.

Your Committee feels that an employer should continue to have the right to apply to the board for a declaration that a strike is or would be unlawful and have an opportunity to be heard and, therefore, section 89-12(d), Hawaii Revised Statutes, has been deleted from the bill.

Your Committee has also amended section 89-12(e), Hawaii Revised Statutes, for the purpose of clarifying which provisions of chapter 380, Hawaii Revised Statutes, relating generally to the jurisdiction of courts in labor disputes, apply to strikes by public employees covered by collective bargaining. It is believed that in the past, there has been confusion caused by apparent overlap or inconsistencies between the two chapters.

Your Committee has also made minor technical amendments for purposes of style and to make language conform to the substantive amendments made to this bill.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of H.B. No. 2168-80, as amended herein, and recommends that

it pass Second Reading in the form attached hereto as H.B. No. 2168-80, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Masutani and Say.
(Representatives de Heer, Hagino, Kunimura and Takamine did not concur.)

SCRep. 610-80 Judiciary and Youth and Elderly Affairs on H.B. No. 2175-80

The purpose of this bill is to allow all children legitimate, legitimated, or illegitimate, to have a name chosen by their legal parents.

Present law requires all children born in wedlock to take their father's name as a surname. However, by an unofficial opinion of the Attorney General, a hyphenated combination of the surnames of both legal parents is also allowed. Further, legitimated children are allowed to take either their father's or mother's names as a family name and illegitimate children are required to take their mother's name.

This bill would allow legitimate, legitimated, and illegitimate children to have a family name chosen by their legal parents with no restriction as to whether the name is to be the mother's, father's, or a combination of both. More specifically, this bill does the following:

1. Changes the title of section 574-2 to read merely as "children", and provides only that all children born in the State shall have a name consisting of at least a given name and a surname, with no requirement on whose name the child is to take and without differentiating between legitimate and illegitimate children.
2. Repeals section 574-3 which specifies that illegitimate children shall have their mother's name as a family name for the reasons heretofore elucidated.
3. Amends section 574-4 which requires that the father or mother of a child report the name of such child within three months of his or her birth by providing that if the parents cannot agree on a surname or if none is reported within the three months, a legitimate child will take the father's surname and an illegitimate child the mother's surname.
4. Amends section 574-5 relating to how a name may be changed by making such section consistent with section 338-21 which has been amended to provide that legitimated children take the surname stipulated by their parents or if there is no agreement between the parents, the surname of the father.
5. Amends section 338-21 as noted above.

Your Committees note that a recent Hawaii case, Jech, et. al. v. Burch, et. al., 466 F. Supp. 714 (D.C.H. 1979), challenged section 574-2 on the grounds that it was unconstitutional because it deprived plaintiffs of the right to give their child any name they wished. The court agreed with plaintiffs stating that the State had shown no compelling interest for upholding the statute and that given the relatively simple name-change law, the mandate of registration in the father's surname was, moreover, illogical.

Your Committees feel that although the plaintiffs in Jech did not challenge the case on the basis of discrimination on account of sex, it can be assumed that if such a challenge were made, the court would reach the same result. That is, inasmuch as section 574-2 permits registration of legitimate children's names in only the name of the father or a hyphenated combination of the father's and mother's names, it appears to be discriminatory against mothers and, thus, females, and Jech would indicate that for the same reasons, said section would be ruled constitutionally infirm.

Accordingly, your Committees recommend that this bill be given favorable consideration inasmuch as it incorporates the holding of Jech and provides for a logical, nondiscriminatory naming scheme for children.

Your Committees on Judiciary and Youth and Elderly Affairs are in accord with the intent and purpose of H.B. No. 2175-80 and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 611-80 Consumer Protection and Commerce on H.B. No. 3045-80

The purpose of this bill is to amend Section 286-52, Hawaii Revised Statutes, to allow the present certificate of ownership for vehicles to be redesigned.

Presently, Section 286-52 requires that the transfer of title for motor vehicles be executed on the reverse side of the certificate of ownership, thus requiring that the certificate be printed on both sides.

Your Committee finds from testimony presented by the Department of Finance of the City and County of Honolulu that the present format of the ownership certificate has proved confusing to automobile owners and transferees. This bill would delete the requirement of printing on the reverse side of the certificate and allow more flexibility in the redesigning of a more easily understood form.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 3045-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 612-80 Legislative Management

Informing the House that House Resolution Nos. 291 to 300, House Concurrent Resolution Nos. 94 to 97, and Standing Committee Report Nos. 477-80 to 486-80, have been printed and distributed.

Signed by all members of the Committee.

SCRep. 613-80 Judiciary on H.B. No. 2167-80

The purpose of this bill is to amend present election laws to conform them with constitutional and statutory requirements as well as present election practices and to clarify language and correct style and errors.

Your Committee finds that the bill amends Chapters 11, 12, 13, 13D, 15, 16 and 19 of the Hawaii Revised Statutes as follows:

1. Chapter 11 Elections, generally.

- a. Section 11- 1. Deletes the language from the definition of "special election" which restricts such elections to those "to be held to fill a vacancy" because the Board of Education and the Office of Hawaiian Affairs, Board of Trustees elections are now described as "special elections".
- b. Section 11- 12. Clarifies the language permitting 17 year olds to register to vote if they will become 18 years old before the date of the next election.
- c. Section 11- 26. Removes the language describing functions of Boards of Registration because this language properly belongs under Part III. "Board of Registrations."
- d. Section 11- 41. Adds the language removed from Section 11-26 describing functions of Boards of Registration.
- e. Section 11- 92. Makes stylistic changes and also remove references to specific types of public buildings to be used as polling places because police stations are not used in Hawaii at the present time and only one fire station is currently used as a polling place.
- f. Section 11-111. Removes the language dealing with "specimen ballots" and substitutes requirements for informational posters containing facsimile ballots to conform with present practice and to better assist voters in understand the contents of the ballots before voting.
- g. Section 11-112. Adds the identification of ballot sets to the kinds of information permitted to be prepunched on ballots because in primary elections, voters will receive ballots for all parties along with the nonpartisan ballot. Section

12-31 requires that the ballot not be counted if the voter votes for candidates of more than one party. However, the ballot set codes cannot be identified with the names of the voters whereas, the prepunched ballot set code will allow the computer to detect such crossover voting when it occurs.

- h. Section 11-114. In conformance with Section 13-3, the Board of Education is removed from the order of offices listed on the ballot and further, authority for determining the physical characteristics of the ballot is removed because it is more appropriate in Section 11-119.
- i. Section 11-119. Adds language removed from Section 11-114.
- j. Section 11-132. Removes requirement that precinct officials "set apart" the area 1000 feet around a polling place because adequate posting of such a large area, especially in urban areas, is beyond the capability of precinct officials in the time available to them, especially in view of the other responsibilities they have prior to the opening of the polls.
- k. Section 11-134. Substitutes "nonreusable seal" for "lock" as the means for securing ballot boxes because nonreusable seals with recorded serial numbers provide better ballot security. Also, removes authority to open ballot boxes for early collection of ballots because greater security has been achieved by requiring that sealed ballot boxes be transported to the counting center.
- l. Section 11-135. Provides that, in the early collection of ballots, the ballots must be returned to the counting center in sealed ballot boxes to provide greater ballot security.
- m. In conformance with Article II, Section 4 of the Constitution and Section 12-31, adds the choice of party or nonpartisan ballot to that information about voting which must be kept secret and also provides that unvoted ballots in primary elections be collected and their identification be kept secret. Further, changes "drop" to "deposit" to conform with present usage.
- n. Section 11-138. Pursuant to the new provision in Section 11-137, removes prohibition against reentering voting booth after voting because voters who spoil ballots, or, in new primary elections, who have not properly segregated voted and unvoted ballots, must be permitted to re-enter voting booth.
- o. Section 11-140. Requires voter to mark spoiled ballot to insure secrecy and removes requirement that precinct chairman indicate reason for spoilage on ballot because secrecy is required by the State Constitution and the Hawaii Revised Statutes and no purpose is served by the requirement that the reason for spoilage be indicated.
- p. Section 11-152. Requires ballots be taken in sealed ballot boxes to counting center to ensure ballot security.
- q. Section 11-155. Provides that compilation, certification and release of election results take place after expiration of time for bringing an election contest, thus, clarifying the time frame for such action.

2. Chapter 12 Primary Elections.

Section 12-3. Adds to the nomination paper a certificate that the candidate has complied with the resignation from public office requirement of the Constitution (Article II, Section 7).

3. Chapter 13 Board of Education.

- a. Section 13-3. Clarifies description of order of names on Board of Education ballot.

Present Language indicates that departmental school district candidates would be listed twice on the ballot.

That is not the intention of the section.

- b. Section 13-4. In conformance with Section 13-3 and 17-6, adds "the special election held in conjunction with" the general election. Deletes "by the governor."
4. Chapter 13D Board of Trustees, Office of Hawaiian Affairs.
- Section 13D-5. Pursuant to Section 13D-4 adds "the special election held in conjunction with" the general election.
5. Chapter 15 Absentee Voting.
- a. Section 15-4. Permits the County Clerks to waive the requirement that requests for absentee ballots be made in person or in writing and removes the closed primary language to allow Clerks to honor requests made by telephone. However, written application would still be required before absentee ballots would be received under rules promulgated by the Chief Election Officer.
- b. Section 15-5. Eliminates archaic language regarding the use of airmail and clarifies the time for mailing absentee ballots.
- c. Section 15-6. Substitutes "return" for "reply" to conform with current usage and requires separate ballot envelopes for voted and unvoted absentee ballots.
- d. Section 15-8. Substitutes "box" for " container" and "return" for "reply" to conform with present usage.
- e. Section 15-10. Substitutes "return for "Reply" to conform with current usage and adds "ballot envelopes" to conform with the amendment proposed to Section 15-6.
- f. Section 15-12. Substitutes "return" for "reply" to conform with present usage.
- g. Section 15-13. Substitutes "return" for "reply" to conform with present usage.
6. Chapter 16 Voting Systems.
- a. Section 16-12. Pursuant to Article II, Section 4 of the Constitution and Section 12-31, Hawaii Revised Statutes, amends item 4 to require voting machines to automatically lock out other parties once voter selects a party ballot in primary elections.
- b. Section 15- . To conform with current practice, provides authority for unscored absentee ballots to be punched at counting center to reflect votes cast by absentee voters.
7. Chapter 18 Districting.
- Section 18-1. Substitutes congressional districting adopted on recommendation of 1973 Legislative Reapportionment Commission.
8. Chapter 19 Election Offense.
- Section 19-6. Eliminates item 9 which makes a false statement a misdemeanor in an absentee voter affidavit because affidavits are no longer required for absentee voting.

Your Committee has made technical amendments to this bill to correct typographical errors.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2167-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2167-80, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 614-80

Judiciary on H.B. No. 501

The purpose of this bill is to allow a person to gain access to personal records relating to him or her maintained by State and county agencies and to amend such records when they are not accurate, timely, or complete. To effectuate this purpose, the bill adds a new chapter to the Hawaii Revised Statutes entitled "ACCESS AND AMENDMENT OF PERSONAL RECORD."

The bill, as introduced and received by your Committee, contained no purpose section and made no reference to its broader purpose of implementing, at least in part, the 1978 amendment to the Hawaii State Constitution (Article I, Section 6) relating to the right to privacy.

Accordingly, your Committee has amended the bill by adding a purpose section to make explicit this broader purpose. Such a statement of purpose should assist the general public, agencies which must implement and administer the provisions of the bill, and the courts in better understanding, applying, or construing the bill and its provisions.

To clarify and explain the bill's broader purpose of implementing in part the right-to-privacy constitutional amendment, your Committee has made reference, in the purpose section, to the relevant Constitutional Convention committee report as follows:

"Standing Committee Report No. 69, the primary 1978 Hawaii Constitutional Convention committee report relating to this amendment, contains a statement (at p. 7) to the effect that the right to privacy encompasses in part 'informational privacy or the ability of a person to control the privacy of information about himself.' The committee report also states that 'the right of privacy should insure that at the least, an individual shall have the right to inspect records to correct misinformation about himself.'" (Emphasis added).

Two hearings were held on the bill: one during the 1979 Regular Session and a second during the current session.

At the 1980 hearing, the only testimony submitted was from the Attorney General. The major concerns of the Attorney General were carefully considered by your Committee inasmuch as the bill applies to personal records maintained by State (as well as county) agencies and the Attorney General, therefore, will undoubtedly be involved in connection with State-agency application or implementation of the provisions of the bill, if enacted, or in defending State agencies in any civil actions which might be brought against such agencies for noncompliance with the provisions of the bill. A number of the legitimate major concerns or objections of the Attorney General have been addressed or remedied in the H.D. 1 of the bill being reported out by your Committee. Any such concerns remedied are indicated in the section of this committee report listing the amendments made by your Committee.

No county agency submitted testimony at either hearing.

At the 1979 hearing, the Department of Regulatory Agencies, through its testimony, raised a number of valid concerns which, for the most part, have been remedied in the attached H.D. 1, as indicated in the section of this committee report listing the amendments made by your Committee.

Your Committee has amended the bill in the following major respects (all page and line references being to the original bill and to the initial line and/or page on which a particular provision begins unless otherwise indicated):

(1) The title of the new chapter added to the Hawaii Revised Statutes by this bill (p. 1, line 5) has been expanded from "ACCESS AND AMENDMENT OF PERSONAL RECORD" to "ACCESS AND CORRECTION OR AMENDMENT OF PERSONAL RECORDS" to reflect language added to the bill relating to the correction as well as amendment of personal records.

(2) The definition of "agency" has been amended from "each state or county board, commission, department, or officer" (p. 1, line 7) to expressly exclude the legislature, the county councils, and the judiciary branch.

(3) A definition of "individual"--meaning "a natural person"--has been added to the definitions section and the bill appropriately amended throughout to substitute the word "individual" for the word "person" which was not defined in the original bill.

However, a careful reading of the original bill, particularly its definition of "personal record" ("information about . . . the person's educational, financial, medical, or employment history") appears to indicate that the bill is intended to apply to "natural persons" and not, e.g., to corporate entities, unincorporated associations, or partnerships. It is the intent of your Committee that the provisions of the bill apply only to "natural persons."

(4) The definition of "personal record" has been amended and clarified as follows:

(a) The word "criminal" has been deleted from p. 1, line 13, inasmuch as opportunity for access to and review and correction of "criminal history record information" collected and maintained by agencies most likely to so collect or maintain--"criminal justice" or law enforcement agencies--is afforded under Chapter 846, Hawaii Revised Statutes (HRS), entitled "Criminal History Record Information." See, especially, section 846-14, HRS. This was one of the concerns of the Attorney General.

(b) The sentence providing that a "personal record" includes a "public record," as defined in section 92-50, HRS (p. 2, line 1), has been amended by adding the phrase "if the public record fits or qualifies under the definition of 'personal record.'" This addition is to make clear that if a particular "public record" is not or does not constitute a "personal record" with respect to the individual seeking access to or copies of that "public record," he/she must gain access to and pay the requisite fees for such copies under Chapter 92, HRS, rather than under the provisions of this bill which contain different access or availability provisions and different copy-cost provisions.

(c) The definition of "personal record" has also been amended by adding a sentence that "'Personal record' does not include the types of personal records, or the kinds of information in the types of personal records, enumerated in section 92-50 (exemptions)." This addition is intended to make clear that the types of personal records exempted from the application of the chapter are also expressly excepted from the definition of "personal record." This addition also immediately alerts a person who is applying or construing the definition of "personal record" that he must do so in conjunction with the section on exemptions.

(5) The provision relating to giving an individual access to his/her personal record and copies requested within ten working days (p. 2, lines 3-8) has been amended pursuant to a concern expressed by the Attorney General that such a time limitation is unreasonable where, e.g., the record is in use; difficult to locate or retrieve; otherwise not immediately available; contains exempted or confidential information, or references to third parties whose constitutional right to privacy must be protected, so as to require that such information or references be deleted prior to giving access; is in abbreviated or code language which may need to be transcribed or otherwise processed into readable or intelligible form; or is voluminous so as to require extensive staff time to review prior to allowing access and/or to make copies of.

Your Committee believes that this concern is a legitimate one and has amended the subject provision by adding a sentence that "The ten-day period may be extended for an additional twenty working days if the agency provides to the individual, within the initial ten working days, a written explanation of unusual circumstances causing the delay." This addition, while allowing an agency additional necessary time, is intended to prevent dilatory agency handling of requests to gain access to personal records and to keep the requestor informed as to why more time is necessary to process his/her request.

(6) A provision has been added allowing agencies to charge individuals for any copies of personal records requested and for the certification of any such copies. Both the Attorney General and the Department of Regulatory Agencies objected to the original bill's silence as to who is to bear the costs of reproduction.

However, inasmuch as the bill implements the constitutional right to privacy and inasmuch as your Committee does not wish to make it unduly costly for individuals to exercise this right and to secure copies of personal records relating to himself or herself, your Committee has given agencies the discretion to charge fees for such copies with the proviso that if such charges are assessed, they "shall not exceed the actual cost of duplication or of transcription into readable or intelligible form and duplication and shall not include any costs of searching for the record." Your Committee considered, but rejected, incorporating or applying by reference the mandatory and possibly burdensome copy-cost provisions for public records contained in section 92-21,

HRS.

(7) The circumstances or standards under which an individual may request an agency to amend his/her personal record (p. 2, lines 9-10) have been amended from the somewhat general and vague standards--as pointed out by the Attorney General--of when the record "is not accurate, timely, or complete" to when the record "contains any factual error, any misrepresentation or misleading entry, or is not reasonably current or complete with respect to materially relevant facts."

(8) Relatedly, because it is more accurate to say that factual errors and misrepresentations or misleading entries are corrected rather than amended, language in various provisions of the bill relating to the amendment of personal records have been appropriately amended to read "correction or amendment" or "correct or amend."

(9) In the provision relating to requests to agencies to amend personal records, the phrase "amend a personal record," on p. 2, lines 9 and 10 of the bill, has been amended to read "amend his or her personal record" to make it clear that an individual may only request an agency to correct personal records relating to himself or herself and not personal records relating to someone else. Such a potential problem was raised by the Attorney General.

(10) The original bill did not specify how a request to amend a personal record is to be made to an agency and imposed no requirements on the requesting individual to provide verifying or supporting information or data to substantiate his or her request so as to afford the agency a "reasonable basis" on which to make a timely decision to make or not to make the requested amendment or correction without the agency finding or always finding it necessary to conduct exhaustive or substantial research or an independent investigation from scratch prior to making a decision on the request. Concerns along this line were also indicated in the testimony of the Attorney General.

Accordingly, your Committee has inserted a provision providing that "The request shall be made by filing with the agency an affidavit, containing verifying or supporting information, data, or documents, specifying what the individual believes to be the correct, current, or complete facts or representations."

This inserted provision, however, is not intended to mean that the agency may not or that it need not, as it may decide in its discretion, conduct its own independent investigation or even a fact-finding hearing to verify the contents of the affidavit and/or to decide whether to make the requested correction or amendment.

(11) The time-limitation of ten working days within which an agency must either make or refuse to make the correction or amendment requested may be unreasonable where the requested amendments are extensive, substantial, or complicated, and the agency needs more time to review and investigate the requested corrections. Accordingly, the ten-working-day limitation has been extended to twenty working days.

(12) Because of the inserted affidavit requirement, and in order to give direction to the agencies and to help make the correction or amendment process less burdensome for the agencies, the provision relating to the making of the correction or amendment, once the agency decides to make the requested correction (p. 2, line 13), has been amended from shall "Make the correction or amendment requested" to read shall:

"Make the correction or amendment requested, by appending or including the individual's affidavit to or in the individual's relevant personal record or in such other manner as the agency may deem necessary or appropriate, and inform the individual of the corrective action taken."

The requirement of informing the individual as to the corrective action taken has been inserted to ensure that the agency informs the individual, within the required time period, of the disposition of his request where a correction is decided upon and made to the record.

(13) The provision requiring an agency, when it refuses to make a requested amendment, to notify the individual of the reason for the refusal and agency procedures for review of the refusal (p. 2, line 15) has been amended to provide and make clear that such notification requirement shall apply whether the agency refuses to make the requested amendment in whole or in part and to require that such notification be given in writing.

(14) The provision, on p. 2, line 19 of the bill, requiring agencies to establish

by rule procedures for review by the head of the agency of the refusal to amend, has been deleted from that page and rewritten as a separate section, captioned "Rules and regulations," of the proposed new chapter. See p. 14, line 11 of the attached H.D. 1.

That separate section, while retaining the requirement that each agency adopt rules establishing the aforementioned review procedures, also requires agencies to adopt "such other rules which may be necessary to implement or administer this [new] chapter."

To help ensure as much uniformity as possible among such review procedures and implementing rules among all State agencies and among all the county agencies of each county, respectively, a provision has been added requiring such uniformity insofar as practicable. The provision assigns the duty of ensuring such uniformity to the Attorney General for State agencies and to the county attorney for county agencies. Such uniformity should make it easier for the general public, especially individuals who wish to have access to and to possibly correct personal records relating to them maintained by a number of State and/or county agencies.

(15) The provision that the personal record shall be amended if the head of the agency determines that the amendment should be made (p. 3, line 3) has been amended to provide, in pertinent part, that "the personal record shall be corrected or amended and the individual notified in accordance with subsection (b)(1)." This amendment means that a correction or amendment decided and ordered to be made by an agency head shall be made in the same manner (e.g., by appending the individual's affidavit to the individual's relevant personal record) and the individual informed of the corrective action taken, as if the correction had been made by the agency prior to or without the individual having to request a review by the agency head.

(16) The provision requiring an agency head, if he determines that the requested amendment should not be made, to give written notice to the requesting individual (p. 3, line 5) has been amended, in pertinent part, to provide that the notice requirement applies whether the requested amendment is refused in whole or in part and that the required written notice must be given within the same thirty-working-day period that the agency head has to complete his/her review of the lower-level agency refusal to amend a record.

(17) A provision has been added (p. 5, line 18 of the attached H.D. 1) so that if the agency head determines that the requested amendment should not be made in whole or in part, the affected individual shall be permitted to file with the agency a concise written statement setting forth the reasons for the individual's disagreement with the agency head's adverse determination. Such statement of disagreement must be appended to or otherwise included in the individual's relevant record.

Your Committee believes that this added provision should reduce the number of civil actions, authorized by the bill, which are brought against agencies for refusing to make requested corrections. Rather than initiating a lawsuit, an affected individual may be satisfied if he is allowed to file a statement of disagreement which must become a part of the record.

(18) The provisions relating to civil remedies (p. 3, line 10 through p. 4, line 9; proposed section -3(a) of the new chapter) have been amended in a number of ways but in the following major respect:

Proposed new section -3(a)(4)--which allows an individual to bring a civil action against an agency when it "Fails to maintain any personal record with such accuracy, relevance, timeliness, and completeness as is necessary to assure fairness in any determination relating to the . . . rights . . . or benefits to the person that may be made on the basis of the personal record, and consequently a determination is made which is adverse to the person;"--has been amended to comport with or parallel the previously mentioned amended standards under which an individual may request an agency to correct or amend his or her personal record (see item (7) above and p. 4, lines 1-5 of the attached H.D. 1).

The result of this amendment is that in order for an individual to bring a civil action under proposed new section -3(a)(4), the agency must have failed to maintain the individual's personal record "so that it is reasonably free from factual errors and misrepresentations or misleading entries and is reasonably current or complete with respect to materially relevant facts. . . ."

Proposed new section -3(a)(4) has also been amended so that in order for an individual to have a cause of action against an agency for the agency's failure to maintain the individual's personal record in accordance with the amended standards indicated above and a subsequent determination adverse to the individual, there must be a stronger or more explicit causal relationship or link between such failure and the subsequent adverse determination than the linkage of a consequent adverse determination described at p. 4, lines 4 and 5 of the original bill. The amended language relating to such causal relationship reads: "if such failure to so maintain results in, causes, or is a material cause of a determination or decision which is adverse to the individual" (p. 6, lines 20-23 of the attached H.D. 1).

Your Committee believes that these two amendments to proposed new section -3(a)(4)--amended standards relating to maintenance of records and a more explicit casual relationship requirement--are important because under a subsequent section of the bill, an individual who prevails in a civil action brought under section -3(a)(4) shall be awarded a sum equal to the actual damages he/she has sustained plus litigation costs and reasonable attorney's fees.

(19) The provisions relating to what relief the court may grant (p. 4, line 10 through p. 5, line 12) for the different causes of action maintainable under the bill have been expanded in parts to afford the court with greater leeway or additional options as to grantable relief.

Additionally, the references in these provisions to the "State of Hawaii" (p. 4, line 22) and "State" (p. 5, line 4) have been amended to read "agency" inasmuch as the bill applies to both State and county agencies and in its H.D. 1 version to both State and county executive branch agencies. Such amendment makes it clear that assessment of reasonable attorney's fees and litigation costs and liability for damages--as authorized by the bill--may be imposed not only against the State or a State agency but against county agencies as well.

Additionally, the minimum recovery amount of \$1,000 against the government for actual damages, specified at p. 5, line 10 of the original bill, may be excessive in particular cases, especially since if the court finds an agency liable under the provision in which that minimum recovery is specified, the plaintiff will be awarded his/her actual damages (plus the costs of the action together with reasonable attorney's fees). It is conceivable that in some cases, the plaintiff's actual damages may be less than \$1,000. Accordingly, your Committee has amended the minimum recovery amount to \$100.

(20) The provisions specifying the date of the cause of action, or when the cause of action accrues, for each of the different civil actions maintainable under the bill (p. 5, line 16 through p. 6, line 10) have been substantially amended to make more explicit the exact date on which each cause of action accrues and from which date the two-year statute of limitations specified in the bill starts to run.

One specific amendment in this regard warrants special mention. In an action brought by an individual against an agency for refusing to correct or amend the individual's personal record, the date of the cause action has been amended in pertinent part from the date of the final refusal to allow such amendment (p. 5, lines 18 through 21) to the date the written notice from the head of the agency, informing the individual that the requested correction or amendment will not be made, is received by the individual.

This amendment helps make it clear that before an individual brings such an action, he/she must have exhausted his/her administrative remedies by having requested a review by the head of the agency of the lower-level agency refusal, or that his/her cause of action accrues when he/she receives the adverse notice from the head of the agency and not before. Thus, an individual cannot file a lawsuit against an agency for failure to correct or amend his/her personal record before his/ her case is reviewed by the agency head or at the same time his/her case is so being reviewed. This amendment remedies one of the concerns of the Attorney General regarding the advisability of requiring the potential plaintiff to first exhaust his administrative remedies.

(21) The section on exemptions-from-the-chapter (p. 6, line 11 through p. 7, line 19) has been expanded and clarified in the following major respects:

(a) The first sentence has been expanded from "This chapter shall not apply to the following types of personal records" to "This chapter shall not apply to the following types of personal records or to the following kinds of information in the following types of personal records."

(b) An exemption has been added for personal records, or information in such records, which fit or fall within the definition of "criminal history record information" in section 846-1. As indicated previously, Chapter 846, HRS, at section 846-14, contains its own provisions relating to access to and review and correction of "criminal history record information."

(c) Because "criminal history record information," as defined in Chapter 846, HRS, includes certain kinds of information collected by "criminal justice agencies" but does not include intelligence or investigative information, and because "criminal justice agencies" as defined in that same chapter does not include all law-enforcement related agencies, e.g., those involved in crime prevention activities, your Committee has retained and clarified the exemption provision relating to personal records maintained by law-enforcement related agencies (p. 6, line 13 through p. 7, line 7).

Although there is much overlap and a seeming redundancy between exemption (1) and exemption (2)(A) in the attached H.D. 1--both relating to personal records or information in such records definable as "criminal history record information"--exemption (2)(A) is broader because of the broader definition of law-enforcement related agencies in the first paragraph of exemption (2), as distinguished from the definition of "criminal justice agencies" in Chapter 846, HRS.

(d) Exemption (3) in the original bill, relating to personal records consisting of civil service testing or examination material, has been expanded to include scoring keys and testing or examination material used as or to administer a licensing examination or an academic examination. The Department of Regulatory Agencies testified that examination materials for professional and occupational licensure should be protected against disclosure as personal records.

(e) Exemption (4) in the original bill--personal records related to an upcoming civil or criminal action against the person--has been renumbered as exemption (5) and amended to protect against the disclosure, as personal records, of investigative reports and materials related to an upcoming, ongoing, or pending civil or criminal action or administrative proceeding against the individual. This amendment takes into account the concern expressed by the Department of Regulatory Agencies to protect against the disclosure, as personal records, of investigative materials related to an upcoming disciplinary administrative proceeding against the individual.

However, this exemption does not mean and is not intended to mean that an agency may withhold or deny access to a personal record, or any information in a personal record, when it is ordered to disclose the record, or when discovery of such record is allowed by discovery rules or by subpoena, in any judicial (civil or criminal) or administrative proceeding. See, in this regard, the new section -7 added by your Committee to the attached H.D. 1 at p. 15, line 9.

(f) Exemption (6) in the attached H.D. 1 has been added by your Committee so as to protect against the disclosure of personal records required to be withheld from the individual to whom it pertains by statute or judicial decision or authorized to be so withheld by constitutional or statutory privilege.

(22) Two new sections to the proposed new chapter have been added in the attached H.D. 1:

(a) Section -6, which provides that if any employee or officer of an agency knowingly or intentionally violates the chapter or any related rules, he may be disciplined by the head of the agency. This amendment is intended to aid in the enforcement of the chapter; otherwise, enforcement would depend solely on the bringing of civil actions by aggrieved individuals.

(b) Section -7, relating to access to personal records by order, under discovery rules, or by subpoena in any judicial or administrative proceeding and access to such records as authorized or required by other law.

This amendment is in effect a conflict-of-laws provision intended to help resolve conflicts under certain circumstances between the provisions of this bill and other laws or policy considerations.

(23) Lastly, a severability provision has been added as Section 2 of the attached H.D. 1.

Your Committee is in accord with the intent and purpose of H.B. No. 501, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 501, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 615-80 Judiciary on H.B. No. 2932-80

The purpose of this bill is to close a loophole in the State campaign spending law which allows corporations, unions, and other organizations to make contributions to candidates without reporting them to the State Campaign Spending Commission.

Your Committee received testimony that under present law organizations can make contributions to candidates independent of such candidates, i.e., without their authorization, without having to report such contributions inasmuch as the present definitions contained in section 11-191 of the Hawaii Revised Statutes do not take into account the possibility of an organization or association being formed for other than political purposes.

This bill would split the definition of "committee" in section 11-191 into "candidate's committee" and "political committee", the former to include a committee supporting one candidate with such candidate's authorization, and the latter all other entities which make or receive contributions or make expenditures to influence the outcome of elections or ballot issues.

Your Committee feels that bifurcating the definition of "committee" to include those entities previously not accounted for will rectify the present insufficiencies in the campaign spending laws.

However, your Committee has amended this bill to provide that an aggregate of \$500 be contributed towards any election before the reporting requirements of independent contributors be applicable in order to avoid placing an undue burden upon the small contributor to file reports. As amended, your Committee feels that this bill will effectively close the loophole that exists in present law with respect to independent contributors not having to report their contributions, while at the same time not placing an unjustifiable burden on small contributors to abide by the, at times, onerous task of reporting their activities.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2932-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. 2932-80, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 616-80 Finance on H.B. No. 2645-80

The purpose of this bill is to add a new section to the Workers' Compensation Law, Chapter 386, Hawaii Revised Statutes, relating to revision of the medical fee schedule for workers' compensation contained in or adopted as Regulation XXXI of the Department of Labor and Industrial Relations.

Section 386-21, Hawaii Revised Statutes, currently requires the Director of Labor and Industrial Relations to establish a schedule of reasonable fees (which in actual practice is set in actual dollar amounts) for medical care, medical services, and medical supplies provided to workers' compensation claimants. Section 386-21 also requires the Director to make annual adjustments in such fees or allowable charges to reflect increases or decreases in the Consumer Price Index for the Honolulu region prepared by the Bureau of Labor Statistics of the U.S. Department of Labor.

House Bill No. 2645-80 would convert the fee schedule, currently established in terms of actual dollar amounts, to a "unit value and conversion factor system" which would obviate the need for the Director of Labor to annually determine and publish individual dollar amounts or fees chargeable for specific or different kinds of medical services, care, and supplies provided to workers' compensation claimants.

Your Committee is in accord with the concept of a "unit value and conversion factor system" proposed by this bill.

Your Committee has amended the bill by adding two sections which had been inadvertently

omitted from the H.D. 1 of the bill. These two sections, relating to the Ramseyer format and the effective date, are designated as Sections 2 and 3 of the attached H.D. 2.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2645-80, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2645-80, H.D. 2.

Signed by all members of the Committee.

SCRep. 617-80 Finance on H.B. No. 1852-80

The purpose of this bill is to change the salary of the administrator of the Office of Hawaiian Affairs from \$30,000 to one equal the salary of a department head of the State.

This proposed change gives the Board of Trustees the flexibility of establishing a beginning salary of the administrator commensurate with the level of expertise required.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1852-80 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 618-80 Finance on H.B. No. 2217-80

The purpose of this bill is to establish a one year state funded assistance program directed to provide displaced homemakers' counseling, employment assistance, job training and other supportive services designed to improve the employability and to enhance the self-sufficiency of these individuals.

Today a significant number of individuals find themselves "displaced" when their marriages end in divorce, separation, or death of spouse. Thus, more individuals are introduced into the employment market where they face enormous difficulties because many lack marketable skills and/or related job experiences. This problem is acute in Hawaii where the problem is compounded by an overabundance of individuals competing for decreasing numbers of non-technical jobs.

"Displaced homemakers" need counseling, employment assistance, job training and other supportive services to facilitate their transition from the home into the working world.

Your Committee therefore recommends an appropriation of \$77,500 for a displaced homemaker program.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2217-80, H.D. 1 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 619-80 Finance on H.B. No. 2294-80

The purpose of this bill is to provide for the establishment and maintenance of alternative learning centers in the Honolulu and Leeward education districts.

Alternative learning centers provide alternative educational options for alienated students who have problems in functioning successfully in the conventional school setting. Alternative education meets the objectives and requirements of a conventional school program but differs from the conventional program in environment, structure, and/or learning styles. Students are given the opportunity to function at their level of proficiency, and to improve their self-worth and self-image through the alternative settings and curricula.

Your Committee believes that the alternative learning center program can yield positive results for severely alienated students.

An appropriation of \$373,350 is provided for fiscal year 1980-81 for the purpose of establishing and maintaining alternative learning centers in the Honolulu and Leeward education districts.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2294-80 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 620-80 Finance on H.B. No. 1961-80

The purpose of this bill is to restore the law to its original and proper intent as it applies to vacation entitlement of certain public officers and employees.

Act 199, Session Laws of Hawaii 1977, changed the numbering of the paragraphs in section 76-16, Hawaii Revised Statutes. Although it was not the intent of Act 199, the result of the renumbering of the paragraphs is that in section 79-1, Hawaii Revised Statutes, certain employees who should be entitled to vacation with pay are now technically not entitled to vacation with pay and certain employees who should not be entitled to vacation with pay are now technically entitled to vacation with pay.

Your Committee has amended this bill by correcting the statutory language to conform to the Hawaii Revised Statutes and by making nonsubstantive, technical changes.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1961-80, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1961-80, H.D. 2.

Signed by all members of the Committee.

SCRep. 621-80 Finance on H.B. No. 2945-80

The purpose of this bill is to provide for the collection, coordination, maintenance, analysis, and transmission of health data through the establishment of the Hawaii cooperative health information system. The bill adds a new chapter to the Hawaii Revised Statutes which may be cited as the Health Information Act.

The bill creates an educational, scientific public non-profit corporation, which shall assume the current activities of the Hawaii Cooperative Health Statistics System of the Research Corporation of the University of Hawaii and which shall perform the functions assigned by the new chapter.

There is a critical need to bring together and to make accessible the full spectrum of health-related data and information collected by both public agencies and private organizations, thereby enabling health professionals to decide and solve health care problems more accurately, efficiently, and effectively.

The public non-profit corporation, functioning as a health information center, will be helpful as a health planning resource. Such a corporation will be able to provide the data support and analytical capability necessary to determine in part the health status of residents and the status of the health care delivery system--its resources, services, and utilization.

Your Committee finds that this bill does not threaten or violate the privacy rights of individuals or donors of data, and that safeguards can be built into the system to protect the privacy of individuals or the confidentiality of data. The bill contains provisions to protect and maintain the confidentiality and security of data or information collected by the public non-profit corporation.

The bill does not appropriate State funds to the public non-profit health information corporation. It is expected that the corporation will receive adequate funds from fees it charges for providing services and data to individuals and organizations and from various grants and gifts to cover its operational expenses, thereby making it essentially self-supporting.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2945-80 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 622-80 Finance on H.B. No. 2672-80

The purposes of this bill are (1) to eliminate the maximum increase of not more than five percent of the previous year's compensation due to the school bus contractor when school bus contracts are extended, and (2) to amend the school bus contracts to require the State to compensate the contractor for fixed cost expenses incurred during the days when a school is temporarily closed due to a collective bargaining dispute or other unexpected disruption.

At present, when school bus contracts between the State and a private contractor are extended, the compensation due to the contractor by the State for each extended year may be increased to a maximum of five percent of the previous year's compensation. This five percent limitation may be unreasonable based on the cost of living increases within the past two years, particularly in the increase of fuel cost. This bill provides that the bus contractor shall be compensated by the State for fuel cost and bus drivers' wage adjustments by an appropriate amount by taking into account a maximum of ninety percent of the inflationary increases or decreases of such expenses.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2672-80, H.D. 1 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 623-80 Finance on H.B. No. 2215-80

The purpose of this bill is to amend the classification level of the school nurses as provided in Section 321-243, Hawaii Revised Statutes.

Supportive testimony was received from the Department of Health, Department of Education, Maui District Liaison Specialist, Molokai, Hawaii Government Employees Association, Hawaii Nurses Association and representatives from various School Health Advisory Committees.

Your Committee finds that the requirement in Section 321-43, Hawaii Revised Statutes, that the Department of Health provide a registered professional nurse, at the entry or next level, to school health complexes should be eliminated to give the administration the responsibility and flexibility to determining the entry level of the school nurse.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2215-80, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 624-80 Finance on H.B. No. 2343-80 (Majority)

The purpose of this bill is to establish an investment yield rate of seven per cent plus such tables and factors as are adopted by the board of trustees of the state retirement system as the basis for determination of a public employer's normal cost and accrued liability contributions to the system. Another purpose of this bill is to require that any excess of earnings of the system over the seven per cent yield rate shall be deductible from the amounts to be contributed by the State and counties.

Your Committee has amended this bill to change the proposed seven per cent investment yield rate to six per cent. Your Committee has also made other technical amendments for the purpose of style.

Your Committee is in accord with the intent and purpose of H.B. No. 2343-80, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2343-80, H.D. 2.

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

SCRep. 625-80 Finance on H.B. No. 2141-80

The purpose of this bill is to permit surviving spouses of deceased retirants who were recipients of pensions granted by special acts of the legislature to receive the

share that the deceased retirant would have taken had the retirant not died, regardless of whether the surviving spouse was married to the retirant at the time the pension was granted.

Your Committee has amended this bill to utilize correct Ramseyer drafting style.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2141-80, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2141-80, H.D. 2.

Signed by all members of the Committee.

SCRep. 626-80 Finance on H.B. No. 2216-80

The purpose of this bill is to recognize recent changes in the health services industry by expanding the authority of the board of trustees to contract with health maintenance organization plans that provide and arrange health services for members on a prepaid basis.

When the law was enacted in 1961, the Kaiser Foundation Health Plan was the only comprehensive group-practice prepayment plan available in Hawaii. Their physicians represented at least three major medical specialties and received all or a substantial part of their professional income from prepaid premiums.

In 1973, the Federal Health Maintenance Organization Act was passed to require private sector employers with 25 or more employees to offer prepaid systems specializing in preventive medicine and family health care for subscribers as an alternative to traditional health benefit plans if such prepaid systems were available.

In Hawaii today, HMSA's Community Health Program, through physician-owned medical centers, offers prepaid health care services to their subscribers similar to the Kaiser Plan. These physicians also maintain their regular fee-for-service business.

A change in the Health Fund Law at this time is needed to permit the board of trustees to contract with HMOs whose benefit plans will reduce total out-of-pocket medical expenses of public employees and their dependents.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2216-80 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 627-80 Finance on H.B. No. 2647-80

The purpose of this bill is to clarify truck size and weight laws, to raise the permit fees, to set new minimum fines, and to provide enforcement by motor carrier officers.

This bill will aid the courts in the enforcement and proper judgment of truck size and weight laws.

Testimony by the department of transportation in favor of this bill was received by your Committee.

Your Committee has amended this bill by making various technical and nonsubstantive changes.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2647-80, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2647-80, H.D. 2.

Signed by all members of the Committee.

SCRep. 628-80 Finance on H.B. No. 2723-80 (Majority)

The purposes of this bill are to expand and transfer existing statutory provisions for rental housing financing from chapter 359G to chapter 356, Hawaii Revised Statutes, to assure long-term existence of such projects on the rental market; to authorize a

separate appropriation of \$122.5 million of tax-exempt revenue bonds to fund this program; to require the Hawaii Housing Authority to establish procedural rules for requests for loans to develop rental housing under the program; and to require that such loan be insured or guaranteed by the federal government. The proceeds from the revenue bonds will be used to make interim and permanent mortgage loans through certain local mortgage lenders to "eligible developers and owners" including the Hawaii Housing Authority, who wish to develop government-assisted rental housing.

Act 138, Session Laws of Hawaii 1978, authorized the Authority to issue and utilize \$22.5 million in revenue bonds; however, it was limited to financing the Authority's HUD Section 8 rental housing projects because of state constitutional restrictions on all revenue bonds. A 1978 constitutional amendment now permits the utilization of tax-exempt revenue bonds for the undertaking of loan programs.

Your Committee has made nonsubstantive, technical amendments to this bill.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2723-80, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2723-80, H.D. 2.

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

SCRep. 629-80 Finance on H.B. No. 1772-80 (Majority)

The purpose of this bill is to extend the State Program for the Unemployed as provided by Act 151, 1975, as amended.

As part of the State's effort to combat cyclical unemployment through a program similar to CETA, the 1975 Hawaii State Legislature established the State Program for the Unemployed (SPU). SPU, a temporary state funded program administered by the department of labor and industrial relations, has been extended from year to year by the State Legislature.

With unemployment rates still relatively high and unstable, there is still a need to continue programs such as SCET. Continued efforts in this area can also serve as a countercyclical strategy since State and national economic forecasts include continued recession and a down turn in the visitor industry in Hawaii. Your Committee therefore recommends that an appropriation be made to extend the SCET component of SPU.

Your Committee has amended this bill by deleting section 4 which directed the revisor of statutes to codify Act 151, Session Laws of Hawaii 1975, as amended. It is your Committee's belief that the State Program for the Unemployed should remain a temporary program which should be annually reviewed by the Legislature to determine the need for continuance of such a program in light of conditions at the time.

Your Committee has further amended this bill by making technical, non-substantive amendments, and by adding a lapsing provision.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1772-80, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1772-80, H.D. 2.

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

SCRep. 630-80 Finance on H.B. No. 2752-80

The purpose of this bill is to permit the director of civil service for the city and county of Honolulu, the director of personnel services of the State, or the respective personnel directors of the counties of Hawaii, Maui, or Kauai, to designate a group of positions in a class, not only an entire class of positions, in which a shortage occurs for the purpose of adjusting the entry level salary range to attract applicants to fill such positions.

Section 77-9, Hawaii Revised Statutes, currently provides for a designation of an entire class of employees as a shortage category. Since adjustments in entry level salaries must be granted to incumbent employees, substantial increases for an entire class of employees could be costly to the State. The ability to designate only a group of positions in a class is a more economic approach to solving the problem.

Your Committee has made nonsubstantive, technical amendments to this bill to correct typographical and style errors.

Your Committee is in accord with the intent and purpose of H.B. No. 2752-80, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2752-80, H.D. 2.

Signed by all members of the Committee.

SCRep. 631-80 Finance on H.B. No. 2633-80

The purposes of this bill are to, (1) to remove the restriction that only classroom teachers may apply to participate in the job sharing pilot project, thereby enabling such personnel as school counselors and school librarians to participate in this program, and (2) to remove the restriction that only five percent of the eligible personnel at any one school may participate.

Job sharing was initiated in 1978 as a three-year pilot project to enable two teachers to share one full-time teacher position on a voluntary basis. It provided an opportunity for people to be employed on the basis of their financial or other needs, without, perhaps the necessity of being employed on a full-time basis.

Your Committee believes that the expansion of job sharing may create more stimulating environments for public school personnel.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2633-80 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 632-80 Finance on H.B. No. 584

The purpose of this bill is to clarify and streamline the planning, implementation, and delivery of mental health services for children and youth.

This bill is the result of a subcommittee of your standing Committee on Youth and Elderly Affairs which conducted an interim review of children's mental health services.

This bill revises the existing statute, to make further clarification and streamlining to facilitate the planning, implementation, and delivery of mental health services without jeopardizing the existing provisions for necessary services.

Your Committee has noted the comments in House Standing Committee report No. 371-80.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 584, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 633-80 Finance on H.B. No. 1933-80

The purpose of this bill is to have the department of labor and industrial relations establish a program to provide career planning and employment counseling to public high school students throughout the State.

Your Committee recognizes that choosing a career or occupation is one of the most important decisions a person will ever make. Although millions of dollars are expended annually for the formal education of our youth, only a limited amount of funds and resources are available for career planning and employment counseling.

Under this program, the department of labor and industrial relations will be required to provide information and counsel students on career fields and occupations, current and future job opportunities, educational and skill requirements, earning prospects, post-high school educational and vocational training opportunities and financial aid for post-high school education and training.

An appropriation of \$231,800 is provided for fiscal year 1980-81 to carry out the purposes of this bill.

Your Committee has made technical non-substantive amendments to this bill.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1933-80, H.D. 1 as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1933-80, H.D. 2.

Signed by all members of the Committee.

SCRep. 634-80 Finance on H.B. No. 2296-80

The purposes of this bill are (1) to transfer the licensing and regulatory functions over agents of private schools and correspondence schools from the department of education to the department of regulatory agencies, and (2) to make certain technical or minor amendments to Chapter 302, Hawaii Revised Statutes, which relates to such agents.

At present, the licensing and regulatory functions over agents of private schools and correspondence schools are under the jurisdiction of the department of education. Your Committee believes that this licensing function is regulatory in nature and more appropriately belongs under the jurisdiction of the department of regulatory agencies.

Your Committee has amended this bill by adding a new section to transfer all the rights, powers, functions, and duties of the department of education granted under Chapter 302, Hawaii Revised Statutes, to the department of regulatory agencies.

Further, the appropriation section has been deleted from this bill.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2296-80, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2296-80, H.D. 1.

Signed by all members of the Committee.

SCRep. 635-80 Finance on H.B. No. 3052-80

The purpose of this bill is to prevent the lapsing of the unexpended and unencumbered portion of \$3.5 million in general funds appropriated to the Hawaii Housing Authority by the legislature in 1947.

The 1978 Constitutional Convention proposed an amendment to the state constitution, which was ratified by the general electorate on November 7, 1978, relating to the lapsing of appropriations. The amendment, Article VII, section 11 of the state constitution, requires that all appropriations from the general fund be for a specified period of time not to exceed three years. This amendment also provides that any appropriation from the general fund effective on the date of the amendment's ratification, which is unencumbered on June 30, 1980 shall lapse. Your Committee believes that the amendment to this bill is necessary to prevent such a lapse.

Your Committee has made a style change to page 1, line 4, and amended sections 2 and 3 to clarify the fiscal years and effective date to which the appropriation applies.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 3052-80, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3052-80, H.D. 2.

Signed by all members of the Committee.

SCRep. 636-80 Finance on H.B. No. 2983-80

The purpose of this bill is to implement parts of the Juvenile Justice Plan of 1974 and its 1979 Supplement.

Revamping of Chapter 352, Hawaii Revised Statutes, relating to the Youth Correctional Facility is long overdue. Some of the current laws are obsolete and should be repealed.

Other sections of this chapter should be amended to meet current needs and practices. The proposed bill will help to clarify, simplify and update the statutes, and will help to clarify the authority and jurisdiction of the Family Court and Police.

The bill seeks to accomplish the following:

1. Creation of a coordinating body to bring together the separate agencies involved in juvenile justice matters.
2. Provision of a stronger policy statement as to the purpose of the youth correctional facilities.
3. Clarification of the period of commitment of persons at the youth correctional facility and their disposition by way of furlough, parole or discharge.
4. Emphasis on intelligence and aptitude evaluation and psychological and employment counseling for committed persons.
5. Emphasis on work-release programs for persons confined to the facility or work at the facility, and provides for holding of funds earned through work for their use.
6. Emphasis on the use of community-based programs for treatment of juvenile offenders.
7. Clarification of the circumstances under which the director of social services' jurisdiction ceases over a person committed to the youth correctional facilities.
8. Provision of a procedure for reviewing the status of every person committed to youth correctional facilities at least annually.
9. Clarification of the procedure for retaking a person for escape, violation of parole, or violation of furlough from youth correctional facilities.
10. Clarification of the procedure for transfer of a person committed to youth correctional facilities to an adult facility.
11. Clarification of the jurisdiction of the family court over persons who commit before age eighteen what would be a criminal offense if committed by an adult, but who have passed the age of eighteen, before a hearing is held. The proposed change authorizes the family court to have a hearing and make a disposition up to age nineteen, if it does not waive the child to adult jurisdiction.
12. Emphasis on the family court being authorized to order financial or in kind restitution from an adjudged person to anyone who suffers loss as a result of his actions.
13. Clarification of the authority of the police to counsel and release, do follow-up counseling and provide follow-up services in appropriate cases involving juvenile offenders.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2983-80, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 637-80 Finance on H.B. No. 2153-80 (Majority)

The purpose of this bill is to mandate the counties to regulate the operation of pedicabs within each respective county. It calls for county ordinances to provide for regulating in areas such as licensing and fares. This bill also permits the counties to limit the number of pedicabs which may be operated.

Your Committee agrees that the unregulated operation of pedicabs may have an adverse impact on Hawaii's visitor industry, and therefore, regulation of the pedicab industry is warranted.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2153-80, H.D. 1, and recommends that it pass Third Reading.

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

SCRep. 638-80 Finance on H.B. No. 2897-80

The purpose of this bill is to broaden the power of the Department of Transportation over harbors and maritime operations by allowing the Department of Transportation to enter into a lease of a special facility and to issue special facility revenue bonds.

The bill authorizes the Department of Transportation to engage in and issue revenue bonds up to \$20,000,000 for special facilities projects relating to water transportation. Section 1 is patterned after Sections 261-51 through 261-55 of the Hawaii Revised Statutes, which authorizes the Department of Transportation to engage in and to issue \$25,000,000 in revenue bonds for special facility projects related to aeronautics.

As in the case of special facility revenue bonds for aeronautics, these maritime special facility revenue bonds will be payable from and secured by lease rentals from the project.

Your Committee has amended this bill by adding a proviso at the end of clause (1) on page 2.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2897-80, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2897-80, H.D. 3 and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 639-80 Finance on H.B. No. 1611

The purpose of this bill is to grant the investigators in the Department of the Attorney General the same benefits and privileges enjoyed by investigators appointed by county prosecutors.

Presently investigators of the Attorney General's office do not receive the same benefits and privileges as do investigators of the county prosecutors, notwithstanding the fact that the former's duties and functions are no less than the latter's. This bill would give them the same benefits and privileges.

Your Committee believes that under the concept of equal compensation and benefits for equal work, the investigators of the Attorney General's office should receive the same benefits and privileges as do investigators of the county prosecutors.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1611 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 640-80 Finance on H.B. No. 2980-80

This bill excludes from the general excise tax those amounts received by common paymasters which are disbursed as remuneration to employees of two or more related corporations where the common paymaster is making such remuneration on behalf of such corporations. The amounts not taxable include social security and unemployment taxes, as well as payroll.

Under the current interpretation of the general excise tax law, reimbursements of costs or advances that are made without monetary gain to the taxpayer making such advances are subject to the four per cent tax. However, when the legislature amended the law in 1967, it intended that payments made by one person through another without monetary gain to the latter should not create a taxable incident.

This bill would clarify the law as it related to reimbursements to a common paymaster who makes payroll payments for two or more related corporations to provide that such amounts are not gross proceeds of the common paymaster and therefore should not be subject to the general excise tax.

By adopting this amendment to the general excise tax law, individual corporation of a related group would be relieved of having to file separate returns and paying duplicate employer taxes such as social security and unemployment insurance premiums. Your Committee agrees that where two or more related corporations employ the same person, payroll services performed by a common paymaster are more efficient and result in considerable cost-savings.

Your Committee has amended this bill to include a provision to prevent a related corporation from claiming, as nontaxable reimbursement, the cost of services charged to the other related corporations provided by an employee employed solely by the the corporation providing the services. In such a case of services rather than employment, the employee would have only one employer and neither the common paymaster provisions nor the exemptions should apply. It also provides that separate payroll records and other documents be required to prove the existence of more than one employer in a common paymaster situation.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2980-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2980-80, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 641-80 Finance on H.B. No. 2552-80

The purpose of this bill is to increase the personal exemption for individual income tax purposes from \$750 to \$1,000.

Congress enacted the Tax Revenue Act of 1978 which increased the personal exemption on the federal level from \$750 to \$1,000. In an effort to maintain conformity between state and federal income tax laws, and also as a means of providing tax relief to individual income taxpayers, your Committee believes that the personal exemption should be increased to \$1,000.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2552-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 642-80 Finance on H.B. No. 2444-80

The purpose of the bill is to authorize the preparation and publication of a new index to the Hawaii Revised Statutes.

Volume 8 of the Hawaii Revised Statutes containing the present index to the revised statutes, is approaching the state when it needs to be republished. Portions of the index are no longer appropriate as a result of changes in the law; and the increasing size of the pocket supplement will soon make further publication of the supplement impracticable. But because the present index is generally regarded as unsatisfactory, instead of updating and republishing it, it is recommended that a completely new index be prepared from scratch.

To cover the cost of preparing and publishing the index, an amount of \$275,000 is appropriated to the office of the Legislative Reference Bureau.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2444-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 643-80 Finance on H.B. No. 2634-80

The purpose of this bill is to authorize a reduction in the number of steps within the existing salary ranges for positions covered by Chapter 77, Hawaii Revised Statutes.

Currently, there are five steps for blue-collar positions and ten steps for white-collar

positions. These steps may have been appropriate prior to collective bargaining when pay increases were sporadic and determined by the Legislature. Since collective bargaining, however, the granting of step increases along with yearly negotiated pay increases resulted in prohibitive costs. Therefore, beginning July 1, 1976, the Legislature prohibited the granting of step increases during any fiscal year when a negotiated pay increase takes effect.

Specifically, the bill proposes that exclusive representatives for employees in each appropriate bargaining unit be granted the option to share in the decision-making process regarding the manner in which the number of steps are to be reduced. This would be consistent with the Legislature's policy on collective bargaining, provided the option is exercised and a conversion plan is developed and executed prior to December 31, 1980. This would allow the parties sufficient time to conduct their next wage negotiations based on such mutually agreed upon conversion plan as well as subsequent wage negotiations. In the absence of such a plan for any particular bargaining unit, negotiations shall continue based on the existing five-step salary ranges for blue-collar positions and the ten-step salary ranges for white-collar positions contained in the statutes.

If a master conversion plan is agreed to by December 31, 1980, the employers and the exclusive representative would be bound by the plan until the number of steps has been reduced to the number mutually agreed upon as appropriate. There is a requirement that at least one step must be deleted each year. The parties would negotiate rates for the number of steps allowable or such fewer number as mutually agreed upon each year. All employees are to be paid in accordance with the rates negotiated for such steps, thereby eliminating the current "in-between" rates and beyond maximum rates which resulted from recent negotiated wage increases. The movement of employees to the revised schedules with fewer steps is also subject to mutual agreement between the parties. All costs involved in reducing the number of steps are to be construed as part of negotiated pay increases. Such costs, like all other negotiated cost items are subject to approval and appropriations by the appropriate legislative bodies.

This bill also enables the chief executives of the State and counties and the Chief Justice of the Supreme Court to reduce the number of steps within the salary range under Hawaii Revised Statutes Chapter 77 for employees who are excluded from collective bargaining coverage. The reduction is to be made in accordance with the procedures under Hawaii Revised Statutes Chapter 89C, which permits adjustments for excluded employees. There is a directive in the bill that the conversion plans for included employees be reviewed prior to any decision being made regarding a reduction in the number of steps for excluded employees. The costs entailed in reducing the number of steps are subject to approval and appropriations by the appropriate legislative bodies along with any pay adjustments for excluded employees.

Your Committee has made technical and grammatical amendments to the bill.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2634-80, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2634-80, H.D. 2.

Signed by all members of the Committee.

SCRep. 644-80

Finance on H.B. No. 2496-80

The purpose of this bill is to require the board of land and natural resources to submit all agricultural park project and the needed appropriation for its development to the legislature.

Your Committee agrees that the development of agricultural parks is an important step in the promotion of diversified agriculture and the preservation of agriculturally suitable lands.

Your Committee has amended this bill to provide for a new section under Chapter 171 which would make provisions for legislative review of agricultural parks. Your Committee believes that this would provide more clarity as to the process of review without deviating from the intent and purpose of this bill.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2496-80, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2496-80, H.D. 2.

Signed by all members of the Committee.

SCRep. 645-80 Finance on H.B. No. 2344-80

The purpose of this bill is to increase the ceiling of the additional receipts to the Hawaiian home loan fund under section 213 of the Hawaiian Homes Commission Act, 1920.

This bill also provides that the entire thirty per cent of the revenues derived from the state cane leases and water licenses be deposited into the Hawaiian home education fund, This is to assure continuation of educational projects for the children of Hawaiian Homes lessees.

Your Committee has amended this bill to provide a ceiling of \$6,000,000 for the Hawaiian home education fund commencing after June 30, 1980. This is the estimated amount of revenues the fund will receive over a two-year period. A lapsing provision has also been added.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2344-80, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2344-80, H.D. 2.

Signed by all members of the Committee.

SCRep. 646-80 Finance on H.B. No. 1610

The purpose of this bill is to require public employers to pay one-half of the additional Medical Plan costs attributed to improved pregnancy benefits as mandated by a 1978 amendment to the 1964 Civil Rights Act.

Pursuant to Public Law 95-555 which became effective April 29, 1979, employers are required to treat pregnancy and maternity-related disabilities exactly the same as any other conditions for all employee-related purposes.

The Federal Law requires employers to treat pregnancy and maternity-related disabilities exactly the same as any non-maternity disabilities. The Board of Trustees of the Hawaii Public Employees Health Fund implemented the necessary benefit changes on April 30, 1979. However, public employers have not increased their pro-rata share of contributions for such maternity-related benefit improvements. The State Attorney General recently ruled that public employers are in violation of Public Law 95-555.

Your Committee agrees that a change in the public employers' monthly contribution to the Health Fund for maternity-related benefit improvements is necessary. In order to comply with Public Law 95-555, your Committee has amended this bill to require public employers to pay an additional monthly contribution for the payment of monthly charges attributable to the special benefit improvement for pregnancy, childbirth, and other related disabilities retroactive to July 1, 1979.

Your Committee has further amended the bill to provide for an appropriation of \$426,000 as the State's share for implementing this bill.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1610, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. 1610, H.D. 1.

Signed by all members of the Committee.

SCRep. 647-80 Finance on H.B. No. 2072-80

The purpose of this bill is to amend Sections 237-23, 237-29, and 359G, Hawaii Revised Statutes, to stimulate private sector participation in government-assisted housing developments by providing various tax exemptions to developers as well as nonprofit entities involved in housing development.

This bill deletes reference to obsolete government housing programs and provides a definition for government-assisted housing that will stand the test of time. In addition, this bill eliminates reference to federal laws under which a nonprofit corporation or association is exempt from the general excise tax. Instead, the bill provides definitions for "eligible person", "government assistance", and "mixed-use residential property" which broaden the group entitled to claim this exemption. While present law exempts only "contractors" from paying tax on the gross income received from contracting,

this bill will exempt any "eligible person" who is connected with the planning, design, financing, construction, sale, lease, or rental of low or moderate income residential property with government assistance. The Hawaii Housing Authority is to certify these claims for exemptions.

Your Committee supports this bill and expresses the hope that this exemption will serve as an incentive to the private sector to provide lower cost housing for Hawaii's people.

Your Committee has amended this bill to clarify the effective date of provisions in the bill and to make minor technical changes.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2072-80, as amended herein, and recommends that it pass Third Reading, in the form attached hereto as H.B. No. 2072-80, H.D. 1.

Signed by all members of the Committee.

SCRep. 648-80

Finance on H.B. No. 2753-80

The purpose of this bill is to amend sections of Chapter 77 to delete the existing wage and salary schedules covering blue-collar and white-collar workers; to establish the salary and wage schedules of such workers through the collective bargaining process; and to establish compensation plans for managerial white-collar positions by action of the chief executives of the State and counties and the chief justice of the supreme court, subject to the provisions of Chapter 89C.

Your Committee finds that present pay schedules established in Chapter 77 are obsolete in that the real wage and salary schedules are now established through the collective bargaining process. Furthermore in an effort to accommodate the existing system to the needs of the bargaining table, the number of steps within the negotiated salary ranges has increased greatly adding to the complexity and administration of these and other pay plans in the State.

Providing for the establishment of wage or salary schedules through the bargaining unit negotiating process will allow the creation of schedules more clearly suited to the particular unit or units concerned and provide if properly established and administered, incentives for up-grading personnel skills and qualifications.

Concerns of the excluded "managerial" white-collar officers or employees are addressed through provisions authorizing the Governor and other executive heads of government to establish appropriate pay structures, and to adjust compensation under the provisions of Chapter 89C.

Your Committee has amended the bill in order to create the authority by which to establish a salary schedule for only excluded non-managerial white-collar and excluded managerial white-collar employees. The bill has been clarified to deal only with amending section 77-13, Hawaii Revised Statutes, deleting the existing salary schedules covering white-collar workers and giving authority to establish salary schedules for excluded non-managerial white-collar workers and establishing a compensation plan for excluded managerial white-collar workers by action of the chief executives of the State and counties and the chief justice of the supreme court, subject to the provisions of Chapter 89C, Hawaii Revised Statutes. The following amendments have been made:

(1) Section 2 has been deleted in its entirety referencing Section 77-5, Hawaii Revised Statutes.

(2) The words "non-managerial" appearing on page 11, has been deleted on lines 3, 5, and 11.

(3) Insert the term "white-collar" before the word "positions" on line 5 of page 11.

Your Committee has made technical and grammatical amendments to the bill.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2753-80, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2753-80, H.D. 2.

Signed by all members of the Committee.

SCRep. 649-80 Finance on H.B. No. 1853-80

The purpose of this bill is to amend Section -3(1) of Act 196, Session Laws of Hawaii, Regular Session of 1979, by setting the amount of funds derived from the public land trust to a sum equal to twenty percent, to be used for the betterment of the conditions of native Hawaiians.

Under present statute, the funds for the betterment of conditions of native Hawaiians are determined by the legislature as a pro rata portion of all funds derived from the public land trust. Under this bill amount of funding is set at twenty percent of all funds derived from the public land trust.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1853-80 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 650-80 Finance on H.B. No. 2409-80

The purpose of this bill is to create a task force, representing both the scientific and community knowledge and interest, to study, investigate, report on, and make recommendations on radiological safety for the State of Hawaii.

A clear state policy towards the use and disposal of nuclear-related materials is critical to the safety of the residents of Hawaii and even to the Islands themselves, and must be established before the widespread use of nuclear materials and the proliferation of piecemeal legislation on the subject make any comprehensive and consistent policy impossible. The task force proposed by this bill would provide the knowledge and input necessary to determine the course of action that should be taken by the State in regards to the nuclear and radiological issue.

Your Committee has amended this bill to place the task force under the department of health for administrative purposes.

Your Committee has also amended the appropriation of this bill to cover only the fiscal year 1980-1981 and provide that expenditures shall be made by the department of health.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2409-80, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2409-80, H.D. 2, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 651-80 Finance on H.B. No. 2222-80

The purpose of this bill is to amend chapter 261, Hawaii Revised Statutes, by adding a new section providing for a system of enforcement of airport rules pertaining to vehicle parking at airports.

According to testimony by the department of transportation, abandoned vehicles on airport roads, in airport parking lots and other areas of property within airport jurisdiction are becoming an increasingly difficult problem, creating serious traffic hazards and marring the visual environment, and the department is in favor of the bill.

Your Committee has amended this bill by making various nonsubstantive, technical, and grammatical changes and by adding a new section 2 in the bill on the underscoring of new material and renumbering the former section 2 as 3.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2222-80, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2222-80, H.D. 2, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 652-80

Transportation on H.B. No. 2086-80

The purpose of this bill is to increase the membership of the Board of Pilot Commissioners from five to seven members by increasing the number of members representing the general public from one to three and to allow the movement of vessels in state harbors without harbor pilots when an emergency occurs. Although your Committee has received testimony from the Department of Transportation generally in support of this bill, your Committee believes that the present composition of the Board of Pilot Commissioners adequately represents the interests of harbor users and the general public.

Your Committee has amended this bill by deleting the entire section 1 of the bill, relating to the Board of Pilot Commissioners, and by deleting the language beginning on page 2, line 9 of the original bill which authorized the Department of Transportation's district manager to allow movement of vessels without the services of a pilot when he declared an emergency to exist or when pilot services were unobtainable due to conditions such as inclement weather. In place of this provision, your Committee has inserted the following language:

"For purposes of this section, an exempt vessel shall include a vessel declared by the director of transportation to be in immediate danger of destruction or a vessel which poses an immediate hazard to public safety by its presence in the harbor; provided, that such a vessel shall be moved without a pilot only when a pilot is not immediately available."

Your Committee finds that a pilot, who is a master mariner familiar with the intricacies of ship movements within his pilotage waters, is most needed in an emergency; in view of this fact your Committee believes this amendment necessary to guarantee public safety by narrowing the instances in which vessels may be moved without a pilot and by requiring the highest level of expertise on the part of the official charged with making this decision.

For purposes of consistency, your Committee has renumbered the original sections 2, 3, and 4 of this bill as sections 1, 2, and 3 and has amended the new section 2 to delete any mention of materials to be repealed.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2086-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2086-80, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 653-80

Finance on H.B. No. 2539-80

The purpose of this bill is to provide for a tax rebate for resident taxpayers who file state income tax returns for the 1979 calendar year.

The state constitution now provides that "whenever the state general fund balance at the close of each of two successive fiscal years exceeds five percent of general fund revenues for each of the two fiscal years, the legislature in the next regular session shall provide for a tax refund or tax credit to the taxpayers of the state, as provided by law."

As of the close of the 1978-79 fiscal year, the general fund balance exceeded five percent of the general fund revenues. There is a good possibility that the same will occur at the end of the 1979-80 fiscal year. As residents have been affected with double digit inflation, and with the high cost of energy, your Committee agrees that a rebate is now timely and appropriate.

Your Committee agrees that the method of rebate proposed in this bill is the most equitable means of returning the general fund surplus to state residents, as all individuals must pay the general excise tax on purchases of necessities, and furthermore, the general excise tax represents over half of the general fund revenues.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2539-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 654-80

Finance on H.B. No. 2023-80

The purpose of this bill is to dissolve the Hawaii Foundation for History and the Humanities and to transfer the functional responsibility for ethno-cultural program activities to the State Foundation on Culture and the Arts.

During recent years the Hawaii State Legislature has studied and evaluated management and expenditure of funds appropriated to the Hawaii Foundation for History and the Humanities. A major argument for this transfer is that the Hawaii Foundation has failed to create a viable and workable structure as mandated by the Legislature several years ago and to carry out its function as intended by statute. In March 1976, the Legislative Auditor reported in his management audit publication:

"The establishment of the foundation for history and the humanities was for a laudatory purpose. That we have found the experiment to have been less than successful does not detract from that purpose. The choices are now fairly clear-cut. The legislature could reassign program responsibilities along the lines we have suggested, or it could strive to redirect the foundation's efforts to its statutory duties. We hope that our report provides a sufficient basis for pursuing either alternative."

During the past four years, the Legislature has attempted without success to redirect the foundation's efforts in line with statutory mandate. Your Committee is satisfactorily assured that a transfer of functional responsibilities for ethno-cultural programs from the Hawaii Foundation to the State Foundation would not impose undue hardships on programs and existing administration.

Your Committee has amended this bill to include a definition for "humanities" and to include responsibility for ethno-cultural program activities as duties required of the state foundation on culture and the arts. While this bill has been completely redrafted, your Committee believes that it accomplishes the same purpose. Other amendments include provision for the dissolution of the Hawaii foundation on history and the humanities, and the transfer of rights, powers, functions, duties, records, supplies, and equipment to the state foundation on culture and the arts.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2023-80, H.D. 1 as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2023-80, H.D. 2.

Signed by all members of the Committee.

SCRep. 655-80

Finance on H.B. No. 2673-80

The purpose of this bill is to provide that funding for loan authorized under Act 2, Session Laws to Hawaii 1977 (Industrial Loan Company Guaranty Act) may be obtained from loans made from the general fund.

The Thrift Guaranty Corporation of Hawaii was established under Act 2, SLH 1977 to guarantee the payment of industrial loan company thrift accounts up to \$10,000 each. The director of finance was authorized by the Act to issue bonds to generate funds to fund the corporation when necessary.

The Constitution now requires that present authorized but unfunded appropriations lapse as of June 30, 1980. Although your Committee believes that the intent of the Constitutional amendment was to eliminate only those appropriations of funds for projects that were never intended to be carried out, and not appropriations for programs such as Act 2 SLH 1977), your Committee recognizes the fact that the Thrift Guaranty Corporation may have its bond authorization lapse under the wording of the Constitutional amendments. This bill therefore provides that funding may also be made from the general fund. Responsibility for the initial request of funds shall remain with the Director of Regulatory Agencies, both for the issuance of bonds and for requests for funds from the general fund.

Your Committee has amended this bill by deleting subsection (b) of Section 1 which recommended immediate passage of this bill under the provisions of Article VII, section 9 of the State Constitution.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2673-80, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2673-80, H.D. 1.

Signed by all members of the Committee.

SCRep. 656-80 Finance on H.B. No. 2574-80

The purpose of this bill is to establish a state land bank program, which the constitution authorizes, by establishing a State land bank commission whose duties would include preparing and updating an inventory of lands which constitute the land bank and submitting an annual report to the governor and the legislature, managing the land bank, and establishing policies and procedures for the acquisition of land suitable for inclusion in the land bank. The commission would be attached to the department of land and natural resources for administrative purposes.

Land banking is a process by which a government authority acquires land for some future use benefitting the public interest. With the rolling tide of pressures of enlarging population, burgeoning urban and rural growth on our limited land resources, the state is faced with the stark realization that the land areas are limited by such factors as a finite number of remaining open space areas and the unique topographical makeup of this island state.

Your Committee believes that the new public land banking amendment to the constitution will be one with profound significance for the future of Hawaii. Aside from controlling future growth and development, a state land banking program can be expected to yield other important benefits such as preservation of prime agricultural lands, preservation of scenic and historic areas, protection of watersheds and water resources, provision of lands for development of park and recreation lands and beach reserves, and maintenance of the remaining open spaces.

Your Committee has amended this bill by changing the appropriation amount to \$30,000,000.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2574-80, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2574-80, H.D. 2.

Signed by all members of the Committee.

SCRep. 657-80 Finance on H.B. No. 2022-80

The purpose of this bill is to transfer the administration and responsibilities of the review board for the Hawaii register of historic places from the Hawaii Foundation for History and the Humanities to the Department of Land and Natural Resources.

Last year the Hawaii State Legislature had transferred the Review Board's budget to the Department of Land and Natural Resources, and the Review Board physically moved its offices into the Historic Sites section of the Department. This shift has worked well and the Review Board now wishes to complete the move.

An amount of \$11,217 is appropriated for fiscal year 1980-81 for the purpose of this bill.

Your Committee agrees that the Hawaii foundation for history and humanities should be dissolved and its functional responsibilities regarding the historic preservation program should be transferred to the department of land and natural resources. The Hawaii foundation for history and humanities has for years been plagued with problems regarding its structure and functions. Since the 1976 management audit by the legislative auditor, the foundation has not been adequately successful in correcting its deficiencies. Your Committee therefore believes that the most effective and efficient means to carry out the programs assigned to the foundation would be to dissolve the foundation and transfer its responsibilities to other agencies.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2022-80, H.D. 1 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 658-80 Finance on H.B. No. 2815-80 (Majority)

The purpose of this bill is to permit the Director of Health to appoint, without regard to Chapters 76 and 77 of the Hawaii Revised Statutes, persons to conduct investigations and hearings, and to conduct public participation activities including public hearings and public informational meetings.

In the area of environmental quality control, the programs administered by the Department are numerous and are becoming increasingly more extensive in scope and complexity. Expertise and capacity for investigations, impact assessments and solicitations of public input related to enforcement action and rulemaking, are tools required by the Department of Health to effectively carry out their duties in this area.

There is a critical need for the Department to take timely action on program proposals. Otherwise, the public will be severely affected by the costs of delays in regulatory actions and costs for complying with standards and regulations developed from a national perspective and in application to the State of Hawaii.

More careful attention must be given to the long-term consequences of environmental regulations and standards being mandated by federal and state laws, especially in the rule-making process.

There is also an increasing need to reach out to the public and solicit their comments and opinions regarding regulatory programs. These activities must extend beyond the formal public hearings which have limited effectiveness. There must be a sincere effort to explain and simplify all the technical and complex language of regulatory programs, receive public comment, incorporate the comments in policy development and inform the public of how their involvement contributed to the final recommendations.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2815-80 and recommends that it pass Third Reading.

Signed by all members of the Committee.
(Representatives Lacy and Sutton did not concur.)

SCRep. 659-80 Finance on H.B. No. 2847-80

The purpose of this bill is to authorize additional general funds for a program of significant repairs and maintenance of State facilities.

Your Committee finds that there exists a need to initiate an accelerated program of significant repairs and maintenance of State facilities to prevent the deterioration of public facilities, especially schools. Your Committee agrees that a concerted effort is necessary to enhance and preserve capital investments made by the State.

Your Committee has amended this bill to change the appropriation to \$30,000,000.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2847-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2847-80, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 660-80 Finance on H.B. No. 3006-80 (Majority)

The purpose of this bill is to clarify and expand the organizational responsibilities and authority of the office of children and youth.

This bill modifies the responsibilities of the office to promote the coordination of programs and services for children and youth and to conduct selected assessment of policies and practices of other agencies. It authorizes the reimbursement of volunteers who assist the office and allows the office to develop pilot programs when no other public or private agency is able to do so. It also authorizes the selective monitoring and coordination of state operations and policies. It requires county agencies to provide access to information and it allows the office to maintain a data and information storage and retrieval system. Membership of the advisory council is also revised. Duties of the office will not include the establishment of intern programs within the state government to acquaint young adults, particularly students, with the functions, responsibilities and complexities of government.

Your Committee understands that the data and information system will not be one of electronic data processing. Your Committee agrees that the office should make a careful review of reimbursements.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 3006-80, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Ige.
(Representative Sutton did not concur.)

SCRep. 661-80 Finance on H.B. No. 2720-80 (Majority)

The purpose of this bill is to appropriate the sum of \$3,500,000 agreed upon between the State of Hawaii and Mark Construction, Inc., in full settlement of civil numbers 38134, 44113 and 45060.

The Mark Construction, Inc., filed three separate suits against the State for the recovery of damages allegedly suffered as a consequence of performing construction contracts for three separate federal-aid highway projects for the State Department of Transportation.

The suits involved a total of twenty-one separate grounds and include damage claims for business impairment and cross-project impact totaling in excess of \$12,000,000. Because of the extended and complex nature of the claims, the trial was suspended and the parties with the approval of the Court entered into negotiations to settle their differences.

An agreement was reached in February, 1978, to settle cases for \$3,500,000, contingent upon legislative appropriation.

Your Committee agrees that the settlement of \$3,500,000 would be in the best interest of the State and further that the State will apply to the Federal Highway Administration for federal reimbursement on the amount paid in settlement.

Accordingly, your Committee recommends favorable consideration of this bill which appropriates \$3,500,000 for full settlement with Mark Construction Inc.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2720-79 and recommends that it pass Third Reading.

Signed by all members of the Committee.
(Representatives Narvaes and Sutton did not concur.)

SCRep. 662-80 Finance on H.B. No. 2729-80

The purpose of this bill is to establish the Hawaii Fisheries Coordinating Council to advise the Board of Land and Natural Resources on matters relating to fisheries and to coordinate fisheries activities among the various federal, state, and county agencies and private industry.

Your Committee agrees that if Hawaii is truly serious about development of the fishing industry, a vital factor will be a coordinating mechanism which assures the industry's problems and requirements are fully understood.

Your Committee further agrees that there is a need for a body which can advise the department of land and natural resources and coordinate activities among the various county, state and federal agencies and private industry.

This bill provides for an appropriation of \$11,100 to be expended by June 30, 1981.

Your Committee has amended this bill to make technical and style changes.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2729-80, H.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached as H.B. No. 2729-80, H.D. 3.

Signed by all members of the Committee.

SCRep. 663-80 Finance on H.B. No. 2834-80

The purpose of this bill is to exempt antique motor vehicles from the state annual motor vehicle weight tax.

Section 249-1, Hawaii Revised Statutes, defines an antique vehicle in part as "...operated or moved over the highway primarily for the purpose of historical exhibition or other similar purpose."

Your Committee finds that the highway use by antique vehicles is minimal.

Your Committee has amended this bill to impose the regular tax if there is an abuse of an "antique vehicle" by adding a sentence to the end of the first paragraph of section 249.33.

Your Committee has also amended this bill by making various nonsubstantive, technical, and grammatical changes, and by adding a new section 3 on the underscoring and bracketing of statutory material and renumbering the former section 3 as 4.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2834-80, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2834-80, H.D. 1

Signed by all members of the Committee.

SCRep. 664-80 Finance on H.B. No. 2358-80

The purpose of this bill is to increase the per diem allowance for food and lodging which is paid to employees who are required to travel in the course of their official duties.

Current per diem allowances are inadequate to meet the increased travel expenses due to inflation.

Proposed increases provide for retroactive per diem coverage from July 1, 1979 for state employees covered under chapter 89C, Hawaii Revised Statutes, as well as other employees who are not covered under the collective bargaining agreements recently negotiated. The proposed rates conform to the per diem rates which were agreed to in the recent series of collective bargaining negotiations.

The proposed bill allows the governor or the chief justice to approve an additional per diem allowance up to \$10 a day.

Your Committee received testimony from the Judiciary in favor of this bill.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2358-80, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 665-80 Finance on H.B. No. 1865-80

The purpose of this bill is to appropriate supplementary funds to the Judiciary for the fiscal year July 1, 1980 to June 30, 1981.

The bill provides an additional \$494,972 in operating funds for the 1980-81 fiscal year. Of this amount \$484,628 is in general funds and \$10,344 is in special funds. Significant requirements include funds for: (1) the district courts to provide an increase from \$10 to \$15 for each document served by process servers; (2) full evaluation of the Judiciary's overall financial management system; (3) office space rental by the Family Court of the Third Circuit which will be moving to private quarters to help alleviate overcrowding in the Hilo State Office Building; (4) four volunteer coordinators; and, (5) rental of computer terminals and telephone lines.

The bill also provides additional funds for \$30,324,000 worth of funds for CIP projects in fiscal year 1980-81. The bulk of the funding is for the State Judiciary Complex and the Honolulu District Court.

Your Committee has amended this bill by adding a full-time librarian in the Circuit Court of the Third Circuit and four district court clerks in the District Court of the Third Circuit. One position of the three requested for the Judiciary's Personnel Office has been deleted along with \$37,000 of the \$87,540 requested for rental of computer terminals and telephone lines. Additionally, Section six of the bill has been deleted

in its entirety to retain a June 30, 1982 lapse date for all CIP authorizations made for the 1980-81 fiscal year. Finally, the effective date of this bill has been amended to read July 1 1980 rather than July 1, 1979 to correct a minor drafting error.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1865-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1865-80, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 666-80 Finance on H.B. No. 2029-80

The purposes of this bill are to:

- (1) Increase from \$125,000,000 to \$225,000,000 the principal amount of revenue bonds which may be issued by the Hawaii Housing Authority for housing loan programs as established by Act 50, Session Laws of Hawaii 1979; and
- (2) Amend the Hula Mae loan program eligibility requirement so as to:
 - (a) Permit persons who own land in Hawaii to be eligible for a Hula Mae loan for financing the construction of a dwelling unit on that land;
 - (b) Allow persons with less than one-half interest in real property which is not their principal place of residence and is within the State of Hawaii to participate in the Hula Mae loan program;
 - (c) Increase the statutory income limits from 115 to 125 percent of median family income in the State of Hawaii as most recently published by the United States Department of Health, Education and Welfare;
 - (d) Permit persons residing in residential leasehold property to qualify for Hula Mae financing for the purpose of purchasing the real property in fee simple title from the lessor; and
 - (e) Prohibit persons with any interest in residential property outside of Hawaii from participating in the Hula Mae loan program.

Your Committee recognizes that the current shortage of affordable, long-term conventional home mortgage financing will cause a greater number of potential home buyers to seek other sources of long-term financing, such as Hawaii's Hula Mae program. Your Committee believes that the principal amount of the revenue bonds which may be issued by the Hawaii Housing Authority for the Hula Mae program should be increased from \$125 million to \$225 million to permit a greater number of qualified persons to participate in this program.

Due to the rising sale prices of homes and the relatively small increase of incomes experienced in Hawaii, your Committee finds that the Hula Mae "target group" is contracting while Hawaii's housing "gap group" is expanding in absolute numbers. The expansion of the "gap group" is perhaps best reflected by Multiple Listing Service figures which show a 30 percent increase in home sale prices between 1979 and 1980, while median family income increased only 3.5 percent during the same period. The net result has been that more Hawaii residents are being priced out of the housing market thus increasing the number of families in the "gap group." However, the program is prevented from expanding to assist these families because of the current statutory income limits and restrictive income adjustment factors currently employed by the Hawaii Housing Authority. Accordingly, your Committee believes that present statutory income limits should be adjusted upwards, from 115 to 125 percent of the median family income in the State as most recently published by the United States Department of Health, Education and Welfare (HEW). This statutory amendment is necessary to ensure that the program's benefits, below-market-interest-rate mortgage loans, are provided to as many eligible Hawaii residents as possible.

Your Committee also recognizes that the Hula Mae loan program eligibility requirements should be expanded so that a greater number of Hawaii residents can participate in this program. Presently, a person who owns vacant, residential land is ineligible to qualify for a Hula Mae loan to finance the construction of a dwelling unit on that land. Your Committee feels that ownership of such land should not prohibit an applicant from qualifying for a Hula Mae loan. Your Committee also believes that an applicant

with less than one-half interest in real property which is not his place of residence and located in Hawaii should also be eligible to participate in the Hula Mae program.

Presently, the Hula Mae program permits persons who do not own residential property in Hawaii but have interest in residential property outside of Hawaii to participate in this program. Your Committee believes that the intent of the Hula Mae program was to assist qualified Hawaii residents seeking homeownership and not owning property within or outside of Hawaii. Accordingly, your Committee is in agreement with the requirement prohibiting persons with any interest in residential property outside of Hawaii from participating in the Hula Mae program.

Your Committee's review of the Authority's current assets rules indicates that the asset limits established for program eligibility are too restrictive to apply to families in the "gap group." However, your Committee feels it inappropriate to recommend specific asset limitations by dollar amounts in the statutes as the effectiveness of such limits would not stand the "test of time" or be responsive to a changing market. We do, however, recommend that the Authority consider the following when amending its rules regarding asset limitations:

- (1) A factor or multiplier applied to the adjusted income limits in determining asset limits may provide the flexibility desired by the Legislature;
- (2) The down payment, currently limited by statute to not more than 20 percent of the fair market value of the property to be purchased, should not be treated as an asset, but as equity in the property to be purchased and therefore should not be calculated within the asset limitations; and
- (3) The calculation of assets should be limited to the "equity" portion of real and personal property purchased with a loan and should not include the "liability" or unpaid portion of the real or personal property. Furthermore, assets should be defined as liquid assets such as savings accounts, securities, stocks and bonds, and should not include such items as retirement benefits.

While your Committee is in agreement with the many proposed changes to the Hula Mae program for the purpose of permitting a greater number of persons to participate in this program, your Committee does not believe that homeowners residing on residential leasehold property should be eligible to qualify for Hula Mae financing for the purpose of purchasing the real property in fee simple title from the lessor.

Accordingly, your Committee has amended the following H.B. No. 2029-80, H.D. 1 by:

- (1) Deleting all provisions and language in Sections 1 and 2 of the bill which refer to expanding the Hula Mae loan eligibility requirements for the purpose of assisting homeowners residing on residential leasehold property to purchase the real property in fee simple title from the lessor; and
- (2) Amending the bill to make nonsubstantive technical, grammatical, and style corrections for the purpose of clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2029-80, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2029-80, H.D. 2.

Signed by all members of the Committee.

SCRep. 667-80 Finance on H.B. No. 1912-80

The purpose of this bill is to appropriate or authorize, as the case may be, supplementary funds to various state programs for the fiscal year 1980-81. The bill provides an additional \$26.0 million in operating funds, of which \$10.4 million is in general funds, \$13.8 million is in federal funds and \$1.8 million is in special funds.

The bill also provides for \$294.0 million worth of capital improvement projects for the fiscal year 1980-81. Of this total, \$117.1 million is in general obligation bond funds and \$29.5 million is in general obligation bond funds-reimbursable.

Your Committee agrees that a supplementary budget bill for the 1980-81 fiscal year is necessary to augment existing appropriations in areas where unanticipated or urgent

program needs exist. Additionally, authorizations for significant capital improvement projects in the 1980-81 fiscal year are required since legislative sanction was deferred in the 1979 session. However, although financial projections have indicated a general fund surplus in excess of \$100 million by the end of FY 1979-80 and despite favorable revenue collections during the first half of the current fiscal year, your Committee has approached the supplemental budget with measured caution. Your Committee finds that existing and projected general fund surpluses are in large part due to prudent fiscal practices by both the state administration and the legislature in the past. Continued adherence to this kind of fiscal policy is indicated by recent declines in the State's visitor industry, the rapidly escalating costs of fuel oil and the continued anticipation of a national recession. It is your Committee's belief that revenue collections may not continue at a favorable level and consequently, if new revenue information or changing conditions so dictate, further revisions to the budget may be necessary.

Your Committee has reviewed and has generally included the recommendations of the governor into the supplemental budget. Adjustments to the executive budget recommendations have been made in those areas where your Committee, upon consideration of concerns raised by the various subject matter committees, believes that additional funding is necessary.

In the remainder of this report, the major program recommendations of your Committee on the supplemental appropriations bill are covered.

ECONOMIC DEVELOPMENT

Tourism. In recognition of the plight of Hawaii's major industry and the decline of westbound visitors to Hawaii, \$800,000 has been provided to support the operations of the Hawaii Visitors Bureau and enhance their efforts in international tourism promotion.

New and Emerging Industries. A diversified and stable economy has long been the goal of the Hawaii State Legislature. In this regard, funds have been made available to support the development of Hawaii's fledgling fishing industry in accordance with the recently completed Fisheries Development Plan. In addition, your Committee has (1) supported the development of energy tree farms and an organizational framework to manage and implement alternate energy development and conservation; and (2) provided funds to determine the environmental impacts of the manganese nodule processing industry; a potentially viable industry capable of reaping large economic benefits to Hawaii.

TRANSPORTATION

General Aviation Airport. Hawaii's congested Honolulu International Airport (HIA) remains a concern due to the heavy mix of large and light aircraft. Funds have been made available to support a general aviation airport and relieve traffic at the HIA.

HEALTH

Emergency Medical Services. Your Committee recognizes the impact of higher inflationary costs for personnel, fuel, and drug and medical costs on the various county operated emergency medical services systems. Funds are included in the budget for this purpose.

Mental Health. Due to the recent and rapid increase of penal code patients admitted to the Hawaii State Hospital, your Committee has found that additional staffing is required by the facility for security purposes as well as for the rehabilitative needs of these patients. Funds have been provided in the budget for this purpose.

Mental Retardation. Your Committee believes that free access to transportation services for the mentally retarded who are unable to use the public mass transit system to travel to and from day care or day activity centers operated by the Department of Health should not be denied. Funds for this purpose have been provided in the budget.

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 substance abuse.

Hospital Care. Funds have been provided for the expansion and upgrading of services and facilities to state-administered hospitals. Two of the major items for which funds are provided are for a new Acute Care Facility at Hilo Hospital and the modernization and renovation of Kula Hospital.

SOCIAL PROBLEMS

Medicaid Administration. Your Committee has provided funding for the strengthened administration of the state's Medicaid program. Recent audits have pointed out deficiencies in program administration which need to be corrected in order to insure proper management controls.

Fraud Control. Existing programs in the prevention, detection and investigation of welfare fraud have met with success in attempting to curb misuse. Funds have been provided to extend these efforts to the neighbor islands on a full-time basis.

Hawaiian Home Lands. Capital improvement project funds for continued support for the development of Hawaiian Home lands are provided. A total of \$11.0 million is included in the supplemental budget for this purpose.

Youth and Elderly Programs. Funds to improve programs aimed at the needs of senior citizens and youth are provided in the areas of care services, food advisory services for the elderly and a gerontology center at the University of Hawaii.

LOWER EDUCATION

Basic Needs. Your Committee has recognized that to improve the quality of education in Hawaii's public schools, additional resources are required to achieve and maintain high levels of competency for our students. As a result, \$2.0 million has been included in the supplemental budget to replace and purchase additional textbooks.

Intensive Basic Skills. Funds have been provided to continue the special intensive basic skills to students requiring such services. This program supplements on-going programs with the objective of assuring that students acquire the basic skills of speaking, reading, writing, listening, computing, and thinking.

Special Needs. Additional funds have been included to provide educational services to a projected increase in the number of handicapped students. Your Committee has also provided funds for transportation services for handicapped students.

Limited English Speakers. Funds are included to accommodate additional students whose first or home language is other than English. This program will assist students in acquiring the necessary level of language proficiency to allow them to perform satisfactorily in regular classes where English is the instruction medium.

Asbestos in Classrooms. Your Committee has provided \$5.4 million in capital improvement funds to eliminate the asbestos health hazards in classrooms. These funds are in addition to \$30 million worth of cash financing of other urgent repairs and maintenance projects throughout the State, a substantial portion of which is directed at correcting deficiencies in the schools. That cash financing is being addressed by a separate bill.

HIGHER EDUCATION

Continuing Education for Women. The Displaced Homemakers Program was evaluated and was found to provide valuable services to a growing amount of women in today's society. Courses provided under this program enabled program participants to better cope with the problems encountered in business and in their private lives. Funding support was provided to continue this program.

Maui Community College. Maui Community College serves as the only higher education institution for the county of Maui. Funds were authorized to provide students attending MCC better student housing by replacing the existing, dilapidated dorms with new facilities.

School of Law. The newly instituted School of Law at the University of Hawaii has begun to emerge as a positive force in the community. Services are provided through its community legal education programs, its research programs and the publication of the Law Review. Funding support was provided for physical facilities for the School of Law and to enhance its library collection.

College of Tropical Agriculture. The College of Tropical Agriculture has long provided research and training services to those engaged in agriculture. Funds were provided to continue these services during the fiscal year 1980-81.

CULTURE AND RECREATION

Public Television. Your Committee has provided capital improvement funds for the

expansion of public television. Funds are included for expansion of existing studio facilities and for installation of translators to provide improved reception for residents of Windward Oahu, northern Kauai, and the Kona Coast and Volcano areas of the Big Island.

Historical and Archeological Places. Hawaii's cultural and historical sites are threatened by impending destruction in the face of rapid urban development. Your Committee has recognized this situation and has accordingly provided funds to save those sites for the posterity of the State.

PUBLIC SAFETY

Correctional Facilities. Your Committee has provided funds for staffing of Modules 17, 18 and 19 at the Oahu Community Correctional Center and for Module C at the High Security Facility (Halawa Prison). These facilities will help alleviate the existing problem of adequate space to house inmates.

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.

GOVERNMENT-WIDE SUPPORT

Reapportionment Commission. Funds for convening the Reapportionment Commission as mandated by Article IV of the Constitution of the State of Hawaii are provided.

State Planning. Funds for a State Plan Division are provided to carry out the workload of implementing the State Plan, Chapter 226, Hawaii Revised Statutes.

RECOMMENDATIONS

Your Committee wishes to emphasize some of the other major financial proposals contained in separate bills which influenced the final form of the supplemental budget. These include cash financing of urgent repairs and maintenance projects, funds for a state land banking program, the granting of a tax rebate, and various tax credit proposals such as raising the personal exemption from its current \$750 level to the federal level of \$1000. Your Committee has considered all of these matters in taking an overall, integrated approach to the supplemental budget, mindful of the need for fiscal prudence while intending that the budget and the specific proposals mentioned above will have a meaningful impact on the lives of the people of this state.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1912-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1912-80, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 668-80 Transportation and Finance on H.B. No. 2541-80

The purpose of this bill is to add a new chapter to the Hawaii Revised Statutes which establishes an agency called Van Go Hawaii to develop, promote, manage, and operate a van pool program.

Your Committees concur with testimony from the Department of Transportation supporting this measure and recommending establishment of a revolving fund to meet the operating expenses of the Van Go Hawaii program.

Your Committees agree with the Department of Transportation's recommendation and have amended Section 1 of the bill by inserting an additional section to the proposed chapter to read as follows:

"Sec. -6 Revolving Fund. There is established in the State treasury a revolving fund to be known as the Van Go Hawaii revolving fund which shall be administered by the Van Go Hawaii board. The monies in the fund shall come from collections from the Van Go Hawaii riders, and may be expended by the department of transportation for the operational expenses of the program."

Your Committees have also amended Section 2 of the bill to provide that the funds appropriated are to be expended by the Department of Transportation, rather than Van

Go Hawaii, for fiscal year 1980-1981.

Your Committee on Transportation and your Committee on Finance are in accord with the intent and purpose of H.B. No. 2541-80, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2541-80, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Nakamura and Medeiros.

SCRep. 669-80 Legislative Management

Informing the House that House Resolution Nos. 301 to 305, House Concurrent Resolution No. 98, and Standing Committee Report Nos. 488-80 to 611-80, have been printed and distributed.

Signed by all members of the Committee.

SCRep. 670-80 Legislative Management

Informing the House that House Resolution Nos. 306 to 310, House Concurrent Resolution Nos. 99 and 100, and Standing Committee Report Nos. 613-80 to 668-80, have been printed and distributed.

Signed by all members of the Committee.

SCRep. 671-80 Health on H.R. No. 133 (Majority)

The purpose of this resolution is to request the U.S. Navy to publish the names and most recent addresses of all servicemen and individuals who participated in the nuclear test called "Operation Wigwam".

Your Committee viewed a film which was recently declassified by the U.S. Navy, showing "Operation Wigwam", which was a controlled atomic weapons test, performed in 1955 in the Pacific Ocean. The film depicted the elaborate preparations made by the Navy in order to detonate an atomic bomb below the surface of the ocean. In spite of preparations to safeguard ships and personnel from exposure to radiation, testimony indicated that the blast unexpectedly broke the oceans surface spraying nearby ships with contaminated water.

Your Committee heard testimony concerning radiation contamination during the test and the possible effects of this contamination on those individuals exposed and the possible genetic ramifications for their children. Your Committee is aware that exposure to radiation is known to be carcinogenic and also causes miscarriages and birth defects. Because of the implication of genetic damage and potential harm to both the individuals exposed and their families, your Committee feels that it is imperative that these persons and their families be notified in order to seek the appropriate medical attention.

Testimony also indicated that as many as 3,000 persons involved in the operation were residents of the State of Hawaii.

Your Committee on Health has amended the title of the Resolution by urging the President of the United States to request the U.S. Navy to disclose and notify persons involved in the atomic test "Operation Wigwam".

Your Committee has further amended this Resolution to have certified copies transmitted to each member of Hawaii's congressional delegation.

Your Committee on Health concurs with the intent and purpose of H.R. No. 133, as amended herein, and recommends that it be referred to the Committee on Judiciary, in the form attached hereto as H.R. 133, H.D. 1.

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

SCRep. 672-80 Health on H.R. No. 119

The purpose of this resolution is to call attention to the problems and progress in the control of cancer of all kinds and to designate the month of April, 1980 as Cancer Control Month.

Cancer is one of the leading causes of death in Hawaii. Achievement of services in the control of cancer requires substantial public education and the optimum focusing of available resources.

Your Committee finds that April has traditionally been designated as Cancer Control Month; that the President of the United States has so designated April each year; and that the House of Representatives, State of Hawaii, passed such a resolution in 1979. Your Committee further finds that the American Cancer Society, in 50 states, prepares material and programs to tie in with Cancer Control Month in April and the Cancer Crusade. The Hawaii Division of the American Cancer Society makes an even greater effort during April to reach the public with life-saving information on cancer through radio, television, and newspapers and through one-to-one contact with special informational literature.

Your Committee on Health concurs with the intent and purpose of H.R. No. 119 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 673-80 Health on H.C.R. No. 41

The purpose of this concurrent resolution is to call attention to the problems and progress in the control of cancer of all kinds and to designate the month of April, 1980 as Cancer Control Month.

Cancer is one of the leading causes of death in Hawaii. Achievement of services in the control of cancer requires substantial public education and the optimum focusing of available resources.

Your Committee finds that April has traditionally been designated as Cancer Control Month; that the President of the United States has so designated April each year; and that the House of Representatives, State of Hawaii, passed such a resolution in 1979. Your Committee further finds that the American Cancer Society, in 50 states, prepares material and programs to tie in with Cancer Control Month in April and the Cancer Crusade. The Hawaii Division of the American Cancer Society makes an even greater effort during April to reach the public with life-saving information on cancer through radio, television, and newspapers and through one-to-one contact with special informational literature.

Your Committee on Health concurs with the intent and purpose of H.C.R. No. 41 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 674-80 Housing on H.C.R. No. 75

The purpose of this resolution is to direct the Hawaii Housing Authority to make a study of the rental housing market in relation to the conversion of rental units to condominium status.

Your Committee finds that there exists a chronic shortage of rental housing in the State, with vacancy rates as low as one percent. Statistics show that an increasing number of rental units are being converted to condominium status and that such conversions may be exacerbating the rental problem. Your Committee has heard extensive testimony from renters of the increasingly critical rental situation as it appears to them and is aware of the problems they face.

Your Committee also heard testimony from other parties who feel that any undue restrictive limitations that may be placed on conversions would amount to an effective taking of the property rights of developers and landlords.

Your Committee therefore feels that a study addressed to the problem of diminishing rental housing in relation to condominium conversions be authorized. However, to bring the study requested into conformance with the moratorium on condominium conversions proposed by H.B. No. 1875-80, H.D. 1, your Committee has amended the date for submission of the study to one month prior to the 1981 legislative session.

Your Committee on Housing concurs with the intent and purpose of H.C.R. No. 75 as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as H.C.R. No. 75, H.D. 1.

Signed by all members of the Committee except Representative Blair.

SCRep. 675-80 Water, Land Use, Development and Hawaiian Affairs; and Culture
and the Arts on H.R. No. 186

The purpose of this resolution is to request the Department of Land and Natural Resources to submit a report to the House of Representatives on the feasibility of establishing a comprehensive tour incorporating the many historic facilities in the civic center complex and the visitor parking, loading, and unloading problem. The report shall consist of findings and recommendations and shall be submitted prior to the convening of the 1981 Regular Session.

The resolution further resolves that the Department of Accounting and General Services, the City and County Department of Transportation Services, the Friends of Iolani Palace, the Mission House Museum, and Kawaiahao Church assist the Department of Land and Natural Resources in performing the study.

Your Committees find that the area surrounding the Iolani Palace, usually referred to as the civic center complex, is filled with historical, cultural, as well as unique architectural designs that are of significant value to the State and its people. With adequate parking facilities, a comprehensive tour of the various historical buildings in the civic center area will increase resident, as well as visitor interest in Hawaii's history.

Your Committees feel that the volume of visitors to these facilities has not been as large as expected and view this to be a product of insufficient parking facilities. Presently, parking provisions for loading and unloading tourists from tour buses does not exist.

Your committees have amended this resolution by further requesting the Department of Land and Natural Resources to report on the feasibility of using piers 1 and 2 container yards as potential alternatives for parking facilities.

Your Committees on Water, Land Use, Development and Hawaiian Affairs and Culture and the Arts concur with the intent and purpose of H.R. No. 186, as amended herein, and recommend that it be referred to the Committee on Finance in form the attached hereto as H.R. No. 186, H.D. 1.

Signed by all members of the Committees except Representative Garcia.

SCRep. 676-80 Transportation on H.C.R. No. 52

The purpose of this concurrent resolution is to request the Department of Transportation to conduct a study of the consolidation of land transportation functions at the state level.

Your Committee finds that there exists much duplication of effort with regards to the public highway system of the State because of the dual jurisdiction of the State and counties.

Your Committee on Transportation concurs with the intent and purpose of H.C.R. No. 52 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 677-80 Transportation on H.R. No. 183

The purpose of this resolution is to request the Department of Transportation to conduct

a study of the consolidation of land transportation functions at the state level.

Your Committee finds that there exists much duplication of effort with regards to the public highway system of the State because of the dual jurisdiction of the State and counties.

Your Committee on Transportation concurs with the intent and purpose of H.R. No. 183 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 678-80 Transportation on H.C.R. No. 51

The purpose of this concurrent resolution is to request a study conducted by the Legislative Reference Bureau on the different types of government structures responsible for land transportation programs on the mainland at the state and local levels.

Your Committee notes that there have been discussions by government study commissions and other concerned persons on the consolidation of transportation programs within one level of government. This concurrent resolution would provide additional information on this matter by examining the types of government structures which are responsible for transportation programs on the mainland.

Your Committee on Transportation concurs with the intent and purpose of H.C.R. No. 51 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 679-80 Legislative Management

Informing the House that House Resolution Nos. 311 to 317, House Concurrent Resolution No. 101, and Standing Committee Report Nos. 671-80 to 675-80, have been printed and distributed.

Signed by all members of the Committee.

SCRep. 680-80 Legislative Management

Informing the House that House Resolution Nos. 318 and 319, and Standing Committee Report Nos. 676-80 to 678-80, have been printed and distributed.

Signed by all members of the Committee.

SCRep. 681-80 Culture and the Arts on H.R. No. 118

The purpose of this resolution is for the Legislative Auditor to examine the status of projects and funds of the Hawaii Bicentennial Commission, as of the most current fiscal accounting period, and submit a report on his findings. The Auditor is further requested to prepare a written analysis of the benefits engendered by the Commission's projects and to include his findings in the report which is to be submitted to the Legislature 20 days prior to the convening of the Regular Session of 1981.

Your Committee examined scattered data regarding expenditures during the early 1970's on behalf of the Commission's work. It appears that more than \$19,000 is unaccounted for, out of the cumulative \$575,000. Moreover, a major product of the Commission's efforts was supposed to have been the publication of the Encyclopedia of Hawaii, a collection of more than 300 different articles and essays on Hawaiiana by various authors and reputable experts. Unfortunately, the Encyclopedia has never been published, although a total of \$72,000 was allocated for work in writing, editing, and publishing the Encyclopedia.

Your Committee further discussed the projected cost for the Legislative Auditor and his staff to conduct research on this matter and determined that the benefit to be accrued by the expenditure is not equitable. Therefore, instead of requesting the Legislative Auditor to conduct research, the House Committee on Culture and the Arts should be

made responsible. The paragraphs stating the resolved comments are to be amended by deleting any reference to the Legislative Auditor and by assigning the House Committee on Culture and the Arts the same responsibility.

Your Committee on Culture and the Arts concurs with the intent and purpose of H.R. No. 118, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as H.R. No. 118, H.D. 1.

Signed by all members of the Committee.

SCRep. 682-80 Legislative Management

Informing the House that House Resolution Nos. 320 to 327, and Standing Committee Report No. 681-80, have been printed and distributed.

Signed by all members of the Committee.

SCRep. 683-80 Legislative Management

Informing the House that House Resolution Nos. 328 to 330, and Standing Committee Report Nos. 684-80 to 696-80, have been printed and distributed.

Signed by all members of the Committee.

SCRep. 684-80 Water, Land Use, Development and Hawaiian Affairs on H.R. No. 139

The purpose of this resolution is to request the Department of Land and Natural Resources to work with the Department of Planning and Economic Development, the Marine Option Program, the Marine Affairs Coordinator, the University of Hawaii Oceanography Department, and the public for the restoration and modern aquaculture use of the He'eia'uli Fishpond at He'eia (Kaneohe), Oahu and Kaloko'eli Fishpond at Kamiloloa (Kaunakakai), Molokai through Hawaiian craftsmanship methods consistent with maintaining their historical and cultural values.

The He'eia'uli Fishpond owned by the Bishop Estate, is an estuarine fishpond constructed by dirt-filled walls. The fishpond is currently listed on the National Register of Historic Places. The Kaloko'eli Fishpond is a State-owned oceanic fishpond with loosely constructed rock walls. At the present time both fish ponds are in need of reconstruction particularly in the walls and makaha.

Your Committee recognizes the ancient Hawaiian fishponds are a very visible and treasured vestige of our Hawaiian heritage and feels that restoration of the He'eia'uli and Kaloko'eli fishponds should not be limited to its historical and cultural significance, but, also as a vehicle to educate and employ youths and adults in aquaculture in the near future.

The Department of Land and Natural Resources concurs that the renovation and use of certain ancient Hawaiian fishponds will benefit the State's aquaculture and historical preservation programs. In addition, the department feels, and your Committee concurs, that the application of modern aquaculture techniques are deemed necessary to render the He'eia'uli and Kaloko'eli Fishponds aquaculturally productive. Cultured species would require supplemental feeding particularly if the biological productivity of the water is inadequate or cannot be sufficiently increased even through the application of fertilizers and/or other chemicals. Further, the installation of pumps, pipes and related fixtures may be necessary to control the intake and exchange of water within the fishpond to adequately circulate the water and prevent adverse impact on fish crops resulting from the accumulation of metabolic and other wastes.

Your Committee on Water, Land Use, Development and Hawaiian Affairs concurs with the intent and purpose of H.R. No 139 and recommends that it be referred to the Committee on Higher Education.

Signed by all members of the Committee except Representative Garcia.

SCRep. 685-80 Water, Land Use, Development and Hawaiian Affairs on H.R.
No. 212

The purpose of this resolution is to request the Department of Transportation and the Department of Land and Natural Resources to conduct a feasibility study to determine whether or not a statewide outrigger canoe site should be built at Ke'ehi Lagoon instead of Sand Island, and the findings to be submitted at least thirty days prior to the convening of the 1981 legislative session of the House of Representatives.

Your Committee, the Department of Transportation and the Department of Land and Natural Resources, concur with the intentions of this resolution.

Your Committee on Water, Land Use, Development and Hawaiian Affairs concurs with the intent and purpose of H.R. No. 212 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Garcia.

SCRep. 686-80 Higher Education on H.R. No. 145

The purpose of this resolution is to request the Legislative Reference Bureau to conduct a feasibility study on the establishment of a special higher education program for the developmentally disabled and mentally retarded students.

The resolution has been amended to request the University of Hawaii to prepare a report, with the assistance of the Department of Education and the State Planning Council on Developmental Disabilities, concerning the University's special higher education programs. The resolution, as amended, also reflects a change in title.

Testimony by several individuals from the University of Hawaii disclosed that Kapiolani, Leeward and Honolulu Community Colleges have offered for a number of years special programs for the developmentally disabled and mentally retarded students. The most recent program is Honolulu Community College's Program Options for Neglected Adults (PONA), funded by a small grant from Title I of the Higher Education Act. PONA, which currently has eleven student participants, is viewed as a success and has given impetus to Leeward Community College's plan to inaugurate a PONA II in the Fall of 1980. Other state agencies cooperate substantively with the PONA staff.

Since the Community Colleges state they are sensitive to the post-high school special education needs of developmentally disabled and mentally retarded adults, and since the PONA program is in effect, your Committee concluded that there is no necessity for the Legislative Reference Bureau to conduct a feasibility study on establishing special higher education programs for this special segment of our population. However, your Committee requests the University of Hawaii to prepare a progress report describing its present and future plans for its special education programs prior to the convening of the Eleventh Legislature of the State of Hawaii, Regular Session of 1981. The Committee also requests the Department of Education and the State Planning Council on Developmental Disabilities to assist in the preparation of the report.

Technical and style amendments were made to the second "BE IT FURTHER RESOLVED" clause for clarification.

Your Committee on Higher Education concurs with the intent and purpose of H.R. No. 145, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as H.R. No. 145, H.D. 1.

Signed by all members of the Committee.

SCRep. 687-80 Higher Education on H.R. No. 41

The purpose of this resolution is to request the Hawaii Public Television--KHET--to study the feasibility and cost of (1) establishing a Media Study Center in conjunction with but not necessarily co-located at KHET; (2) acquiring the facilities of the studios of "Hawaii Five-O", or the Kunia facility formerly used by the Navy, or a similarly large quality facility which could be used for such productions and training; (3) establishing positions for cinematographer and videographer artist-in-resident; and (4) financing these programs through a combination of special purpose bonds, private endowments, institutional and foundation support, and grants-in-aid.

Your Committee has amended the purpose of this resolution by requesting the Hawaii Public Television along with the Department of Planning and Economic Development and the University of Hawaii to conduct the study.

The Department of Planning and Economic Development is concerned with the economic development of the State. The promotion of the industry, now a multi-million dollar industry, could greatly increase the annual revenues of the State.

The University of Hawaii is also requested to participate in the study because it is able to provide the expertise in analyzing the type of educational needs and in offering through its system the courses required to fulfill this need.

The facility of "Hawaii Five-O" was deleted from consideration as a possible site of a Media Study Center. The facility is under a Conditional Use Permit granted by the City Council and the permit and certificate of appropriateness terminates March 1, 1981. At this time the facility is scheduled to be turned over to Kapiolani Community College, Fort Ruger Campus, for a variety of institutional activities. Since the tentative draft master plan for the campus indicates full utilization of the facility, your Committee eliminated this facility from consideration.

Technical and style amendments were made to the first "BE IT FURTHER RESOLVED" clause for clarification.

Your Committee on Higher Education concurs with the intent and purpose of H.R. No. 41 as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as H.R. No. 41, H.D. 1.

Signed by all members of the Committee.

SCRep. 688-80

Higher Education on H.C.R. No. 11

The purpose of this concurrent resolution is to request the Hawaii Public Television--KHET--to study the feasibility and cost of (1) establishing a Media Study Center in conjunction with but not necessarily co-located at KHET; (2) acquiring the facilities of the studios of "Hawaii Five-O", or the Kunia facility formerly used by the Navy, or a similarly large quality facility which could be used for such productions and training; (3) establishing positions for cinematographer and videographer artist-in-resident; and (4) financing these programs through a combination of special purpose bonds, private endowments, institutional and foundation support, and grants-in-aid.

Your Committee has amended the purpose of this concurrent resolution by requesting the Hawaii Public Television along with the Department of Planning and Economic Development and the University of Hawaii to conduct the study.

The Department of Planning and Economic Development is concerned with the economic development of the state. The promotion of the industry, now a multi-million dollar industry, could greatly increase the annual revenues of the State.

The University of Hawaii is also requested to participate in the study because it is able to provide the expertise in analyzing the type of educational needs and in offering through its system the courses required to fulfill this need.

The facility of "Hawaii Five-O" was deleted from consideration as a possible site of a Media Study Center. The facility is under a Conditional Use Permit granted by the City Council and the permit and certificate of appropriateness terminates March 1, 1981. At this time the facility is scheduled to be turned over to Kapiolani Community College, Fort Ruger Campus, for a variety of institutional activities. Since the tentative draft master plan for the campus indicates full utilization of the facility, your Committee eliminated this facility from consideration.

Technical and style amendments were made to the first "BE IT FURTHER RESOLVED" clause for clarification.

Your Committee on Higher Education concurs with the intent and purpose of H.C.R. No. 11, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as H.C.R. No. 11, H.D. 1.

Signed by all members of the Committee.

SCRep. 689-80 Higher Education on H.R. No. 259

The purpose of this resolution is to study the ability of all Pacific Basin countries to jointly finance with the aid of national and international funding sources for the establishment of a satellite that will provide interactive audio, visual, and data communication needs and resources.

Your Committee finds that the Peacesat experiment, which links Hawaii and fifteen other nations in the Pacific Basin, has been successfully used for educational courses, health services, epidemic control, agricultural and scientific communications. With aid of the NASA satellite, development of these terminal satellite systems for the smaller populations and low income areas has opened new horizons. The benefits of this communications service has been numerous and should be encouraged. This study would further ensure development of this international educational satellite system.

Technical and style amendments were made to the First "BE IT FURTHER RESOLVED" clause for clarification.

Your Committee on Higher Education concurs with the intent and purpose of H.R. No. 259, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as H.R. No. 259, H.D. 1.

Signed by all members of the Committee.

SCRep. 690-80 Higher Education on H.C.R. No. 19

The purpose of this resolution is to study the ability of all Pacific Basin countries to jointly finance with the aid of national and international funding sources for the establishment of a satellite that will provide interactive audio, visual, and data communication needs and resources.

Your Committee finds that the Peacesat experiment, which links Hawaii and fifteen other nations in the Pacific Basin, has been successfully used for educational courses, health services, epidemic control, and agricultural and scientific communications. With the aid of the NASA satellite, development of these terminal satellite systems for the smaller populations and low income areas has opened new horizons. The benefits of this communications service have been numerous and should be encouraged. This study would further ensure development of this international educational satellite system.

Amendments were made to the "BE IT RESOLVED" clause to meet requirements of all House Concurrent Resolutions. Technical and style amendments were made to the first "BE IT FURTHER RESOLVED" clause for clarification.

Your Committee on Higher Education concurs with the intent and purpose of H.C.R. No. 19, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as H.C.R. No. 19, H.D. 1.

Signed by all members of the Committee.

SCRep. 691-80 Employment Opportunities and Labor Relations on H.R. No. 12

The purpose of this resolution is to request the department of education to develop and improve career fairs to disseminate information on job opportunities, particularly the visitor industry, to high school students.

Your Committee has received testimony from the department of labor and industrial relations which indicated that it is prepared to assist the department of education in implementing the purpose of this resolution. In its original form the resolution requested the department of education to implement the above indicated purpose.

Your Committee is aware that in addition to career fairs, there are other methods or modes of disseminating career-related information to high school students, such as the Career Kokua information system administered by the Hawaii State Occupational Information Coordinating Committee (HSOICC).

In view of the willingness of the department of labor and industrial relations to assist in implementing the purpose of this resolution and in view of other modes of disseminating career related information, your Committee has amended the first "BE IT RESOLVED"

clause to read as follows:

"BE IT RESOLVED by the House of Representatives of the Tenth Legislature of the State of Hawaii, Regular Session of 1980, that the Department of Education and the Department of Labor and Industrial Relations are requested to develop and improve the career fairs and other informational modes for high school students in order to better inform them of job opportunities in local industries, particularly the visitor industry; and"

Your Committee has also amended the resolution to provide for a certified copy of the resolution to also be transmitted to the director of the department of labor and industrial relations.

Your Committee on Employment Opportunities and Labor Relations concurs with the intent and purpose of H.R. No. 12, as amended herein, and recommends that it be referred to the Committee on Education, in the form attached hereto as H.R. No. 12, H.D. 1.

Signed by all members of the Committee except Representative Silva.

SCRep. 692-80 Education on H.R. No. 47

The purpose of this resolution is to request the Department of Education to conduct a feasibility study regarding establishing computer base education and computer assisted instruction services in elementary and secondary schools.

Computer base education is the use of a computer to assist the instructor in managing the records and other accounting functions associated with regular classroom instruction. Computer assisted instruction is the use of a computer as an instructional device which substitutes for the instructor in a specific subject area.

Your Committee finds that the University of Hawaii, after conducting a feasibility study on computer base education and computer assisted instruction, recommended that such facilities and services be expanded at the higher education level. Your Committee believes it is appropriate that the Department of Education conduct a similar study regarding the feasibility of establishing computer base education and computer assisted instruction services at the lower education level.

Your Committee on Education concurs with the intent and purpose of H.R. No. 47 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 693-80 Education on H.C.R. No. 36

The purpose of this concurrent resolution is to request the Department of Education to conduct a feasibility study regarding establishing computer base education and computer assisted instruction services in elementary and secondary schools.

Computer base education is the use of a computer to assist the instructor in managing the records and other accounting functions associated with regular classroom instruction. Computer assisted instruction is the use of a computer as an instructional device which substitutes for the instructor in a specific subject area.

Your Committee finds that the University of Hawaii, after conducting a feasibility study on computer base education and computer assisted instruction, recommended that such facilities and services be expanded at the higher education level. Your Committee believes it is appropriate that the Department of Education conduct a similar study regarding the feasibility of establishing computer base education and computer assisted instruction services at the lower education level.

Your Committee on Education concurs with the intent and purpose of H.C.R. No. 36 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 694-80 Education and Health on H.R. No. 26

The purpose of this resolution is to request the Department of Education and the Depart-

ment of Health to conduct a study of ways to include more high fiber foods in school lunches, and to prepare such foods more attractively and appetizingly.

Your Committees find that fibrous foods, which include whole grain cereal, brown bread, vegetables, and fruits, are important in the individual's diet as they can have positive effects on the individual's health. However, your Committees also find that food wastage in schools consist primarily of foods which are high in fiber content. Therefore, your Committees believe that it is appropriate that a study be conducted to study ways of increasing the intake of fibrous foods.

The Department of Education (D.O.E.) reported that they are currently working in the direction of providing more fibrous foods in school lunches. At present, 25 percent of all rice served in the school food service program is brown rice. Furthermore, the D.O.E. has utilized all of the whole wheat flour which is made available through the United States Department of Agriculture. The D.O.E. suggested that it would be more appropriate that the responsibility of conducting the study on fibrous foods in school lunches be assigned solely to the D.O.E., instead of to both the D.O.E. and the Department of Health. The D.O.E., through its School Food Service Branch, administers the planning and preparation of school lunches, and therefore has the professional competencies to conduct the study.

The Department of Health testified in support of the intent of the resolution. However, they also recommended that it would be more appropriate that the Department of Education be responsible for conducting the study.

Based on the aforementioned testimonies, your Committees have amended the resolution by having the Department of Education, rather than both the Department of Education and the Department of Health, conduct the study on fibrous foods in school lunches. The reference made to the Department of Health has been deleted. In order to conform to this amendment, your Committees have found it necessary to amend the title of this resolution to read: "HOUSE RESOLUTION REQUESTING THE DEPARTMENT OF EDUCATION TO CONDUCT A STUDY OF WAYS TO INCLUDE MORE HIGH FIBER FOODS IN SCHOOL LUNCHES AND TO PREPARE SUCH FOODS MORE ATTRACTIVELY."

Your Committees have also amended the resolution by having the Department of Education report its findings and recommendations to the Legislature at least sixty days prior to the convening of the 1981 regular legislative session, instead of prior to the adjournment of the 1980 session.

Your Committees have further amended the resolution by transmitting a certified copy of the resolution to the Chairperson of the Board of Education instead of to the Director of Health.

Your Committee on Education and your Committee on Health concur with the intent and purpose of H.R. No. 26, as amended herein, and recommend that it be referred to the Committee on Finance, in the form attached hereto as H.R. No. 26, H.D. 1.

Signed by all members of the Committees except Representative Blair.

SCRep. 695-80

Education and Health on H.C.R. No. 25

The purpose of this concurrent resolution is to request the Department of Education and the Department of Health to conduct a study of ways to include more high fiber foods in school lunches, and to prepare such foods more attractively and appetizingly.

Your Committees find that fibrous foods, which include whole grain cereal, brown bread, vegetables, and fruits, are important in the individual's diet as they can have positive effects on the individual's health. However, your Committees also find that food wastages in schools consist primarily of foods which are high in fiber content. Therefore, your Committees believe that it is appropriate that a study be conducted to study ways of increasing the intake of fibrous foods.

The Department of Education (D.O.E.) reported that they are currently working in the direction of providing more fibrous foods in school lunches. At present, 25 percent of all rice served in the school food service program is brown rice. Furthermore, the D.O.E. has utilized all of the whole wheat flour which is made available through the United States Department of Agriculture. The D.O.E. suggested that it would be more appropriate that the responsibility of conducting the study on fibrous foods in school lunches be assigned solely to the D.O.E., instead of to both the D.O.E. and

the Department of Health. The D.O.E., through its School Food Service Branch, administers the planning and preparation of school lunches, and therefore has the professional competencies to conduct the study.

The Department of Health testified in support of the intent of the concurrent resolution. However, they also recommended that it would be more appropriate that the Department of Education be responsible for conducting the study.

Based on the aforementioned testimonies, your Committees have amended the concurrent resolution by having the Department of Education, rather than both the Department of Education and the Department of Health, conduct the study on fibrous foods in school lunches. The reference made to the Department of Health has been deleted. In order to conform to this amendment, your Committees have found it necessary to amend the title of this concurrent resolution to read: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF EDUCATION TO CONDUCT A STUDY OF WAYS TO INCLUDE MORE HIGH FIBER FOODS IN SCHOOL LUNCHES AND TO PREPARE SUCH FOODS MORE ATTRACTIVELY."

Your Committees have also amended the concurrent resolution by having the Department of Education report its findings and recommendations to the Legislature at least sixty days prior to the convening of the 1981 regular legislative session, instead of prior to the adjournment of the 1980 session.

Your Committees have further amended the concurrent resolution by transmitting a certified copy of the concurrent resolution to the Chairperson of the Board of Education instead of to the Director of Health.

Your Committee on Education and your Committee on Health concur with the intent and purpose of H.C.R. No. 25, as amended herein, and recommend that it be referred to the Committee on Finance, in the form attached hereto as H.C.R. No. 25, H.D. 1.

Signed by all members of the Committees except Representative Blair.

SCRep. 696-80 Education and Ocean and Marine Resources on H.R. No. 63

The purpose of this resolution is to urge the Department of Education to review its marine education programs in secondary schools throughout the Windward School District.

Your Committees find that marine education programs at Windward district secondary schools are limited, in spite of the proximity of Kaneohe Bay to these schools. Your Committees therefore believe that marine education programs at these schools should be expanded, such that the students at these schools can better utilize Kaneohe Bay as a natural resource laboratory.

The Department of Education testified in support of the intent of the resolution, and made reference to various instructional programs which are promoting awareness and use of natural resources such as Kaneohe Bay. They indicated that the resolution would give further credence to the Windward School District's attempts to expand its efforts in expanding its marine education programs, depending on the availability of funds.

The Marine Affairs Coordinator also testified in support of the resolution and indicated that marine education programs utilizing Kaneohe Bay are an integral part of the State Master Plan for Marine and Aquatic Education.

Your Committees have amended the resolution by having the Department of Education report the results of its review of the marine education programs at least twenty days prior to the convening of the 1981 legislative session.

Your Committees on Education and on Ocean and Marine Resources concur with the intent and purpose of H.R. No. 63, as amended herein, and recommend that it be referred to the Committee on Finance, in the form attached hereto as H.R. No. 63, H.D. 1.

Signed by all members of the Committees.

SCRep. 697-80 Legislative Management

Informing the House that House Resolution Nos. 331 to 338, House Concurrent Resolution Nos. 102 to 104, and Special Committee Report No. 18, have been printed and distributed.

Signed by all members of the Committee.

SCRep. 698-80 Legislative Management

Informing the House that House Resolution Nos. 339 to 352, House Concurrent Resolution Nos. 105 and 106, and Standing Committee Report No. 699, have been printed and distributed.

Signed by all members of the Committee.

SCRep. 699-80 Consumer Protection and Commerce on S.B. No. 1991-80

The purpose of this bill is to eliminate the statutory examination fee for prospective securities salesmen and to provide the commissioner of securities the authority to set such fees.

Under present law the fee is set by statute at \$10 for the state examination. Your Committee finds that because of the nature of securities sales and securities laws, the Department of Regulatory Agencies is considering requiring applicants to take the Uniform Securities Agent State Law Examination, a national exam, instead of the present Hawaii state exam in order to obtain a license. Your Committee finds that this bill will provide the necessary flexibility to the commissioner of securities to adjust required fees for the future and in the event such exam should be adopted.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. 1991-80 and recommends that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 700-80 Judiciary on S.B. No. 1370

The purpose of this bill is to amend subsection (f) of section 77-13, Hawaii Revised Statutes, to provide for the assignment by the Judiciary, of one position at salary ranges SC-1, SC-2, or SC-3, upon the recommendation by the Administrative Director of the Courts and approval by the Chief Justice.

Present law provides that there be not more than sixteen positions classified and paid in salary ranges SC-1, SC-2 and SC-3 by the State and not more than eight be classified and paid in those salary ranges by any county. No provision is made on the number to be assigned by the Judiciary. Also, present law provides that these positions are to be classified and paid only upon the recommendation of the Director of Personnel Services and approval by the Governor or recommendation of the personnel director of a county and approval by the respective council and mayor.

Your Committee feels these proposed amendments to section 77-13 are in accordance with sections 76-9 and 76-10, Hawaii Revised Statutes, which define the authority and duties of the Chief Justice as the chief executive of the Judiciary Branch, administering a separate personnel system coequal with the Executive Branch of the State and with the several counties. Accordingly, your Committee recommends that this bill be adopted, thereby insuring coequal recommendations and approval of appointments by the Judiciary.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1370, 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.

SCRep. 701-80 Legislative Management

Informing the House that House Resolution Nos. 353 to 365, House Concurrent Resolution Nos. 107 to 110, Standing Committee Report No. 700-80, and Conference Committee Report Nos. 19 and 20, have been printed and distributed.

Signed by all members of the Committee.

SCRep. 702-80 Water, Land Use, Development and Hawaiian Affairs and
Transportation on H.C.R. No. 98

The purpose of this concurrent resolution is to request the Department of Planning and Economic Development to proceed with the advance planning necessary to implement the Aloha Tower Plaza project.

This concurrent resolution further resolves that the CIP funds appropriated in Act 214, 1979 Session Laws of Hawaii, be available to the Department of Planning and Economic Development to be used for necessary planning.

Your Committees concur with the redevelopment of the Aloha Tower Plaza as a maritime and business development for downtown Honolulu. With the favorable indication through sufficient evidence of the project's economic feasibility, while retaining and redeveloping the maritime facilities, the project should proceed so that our community can match other cities in the active public use and economic renewal of its unique waterfront sites.

Your Committees have amended this concurrent resolution by further requiring that the Department of Planning and Economic Development to submit progress reports to the House of Representatives on or before July 13, 1980 and on or before October 31, 1980.

Your Committees on Water, Land Use, Development and Hawaiian Affairs and Transportation concur with the intent and purpose of H.C.R. No. 98, as amended herein, and recommend that it be referred to the Committee on Finance, in the form attached hereto as H.C.R. No. 98, H.D. 1.

Signed by all members of the Committees.

SCRep. 703-80 Legislative Management

Informing the House that House Resolution Nos. 366 to 381, House Concurrent Resolution No. 111, and Standing Committee Report No. 702-80, have been printed and distributed.

Signed by all members of the Committee.

SCRep. 704-80 Judiciary on S.B. No. 2883-80

The purpose of this bill is to increase the per diem paid out-of-state witnesses summoned to testify in a criminal proceeding.

Present law provides that witnesses who reside without the State, summoned to testify in criminal proceedings, be paid \$30 for each day they are required to travel and attend as witnesses. This bill would increase the per diem to \$60.

Your Committee received testimony that the present \$30 per diem is woefully inadequate given the fact that the costs of food and accommodations have risen considerably since that figure was established in 1971. Based on common experience, your Committee is in total agreement with such testimony.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2883-80, 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. 705-80 Judiciary on S.B. No. 2869-80

The purpose of this bill is to include within the same budgetary procedure currently being used for payment of witness expenses the expenses for the return of criminal defendants to a judicial circuit when mandated by court order or bench warrant.

Under present practice, some expenses relating to defendants are processed through the courts. It is more consistent and appropriate to alleviate the financial burdens presently imposed upon the courts and have the State bear all costs of the procedure for obtaining the appearance of a criminal defendant, as well as the appearance of a

locally convicted prisoner who is imprisoned outside of the jurisdiction, and who has filed for post-conviction relief within this jurisdiction.

Accordingly, your Committee has amended this bill to include post-conviction petitioners in light of Rule 40, Hawaii Rules of Penal Procedure, relating to post-conviction proceedings and situations involving locally convicted prisoners who are imprisoned outside of the jurisdiction.

Your Committee has further amended this bill to make clear that expenses chargeable to the State are for witnesses who are subpoenaed by, and defendants and post-conviction petitioners who are summoned for or required by public prosecutors, county attorneys, and public defenders.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2869-80, S.D. 3, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2869-80, S.D. 3, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 706-80 Judiciary on S.B. No. 1944-80

The purpose of this bill is to clarify that Judicial security personnel have arrest powers by adding a new section to Chapter 601, Hawaii Revised Statutes.

Under current law, there is no provision which expressly gives Judiciary security personnel these powers.

Your Committee feels that this bill would specifically clarify the authority of State law enforcement officers and security officers who are employed by the Judiciary, by affording them the powers of police officers inclusive of arrest powers, but not including pension or retirement benefits which accrue to police officers.

However, your Committee does not feel that State law enforcement officers and security officers employed by the Judiciary should be held to the same qualification and training requirements as are security officers hired under the auspices of the department of the Attorney General; nor should Judiciary security officers be required to wear the same type of uniform required of security officers under the department of the Attorney General. Your Committee feels that the administering agency, in this case, the Judiciary, should be free to set its own qualifications and requirements and dress code for personnel hired as security officers. Therefore, your Committee has amended this bill by deleting the requirement for conformity of Judiciary security officers with officers employed under section 28-11.5, Hawaii Revised Statutes.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1944-80, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1944-80, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 707-80 Judiciary on S.B. No. 2277-80

The purpose of this bill is to make approved credit cards acceptable instead of cash, in payment of all court charges.

Present law does not provide for the payment of court charges, e.g., fines or bail, with a credit card. This bill would allow the payment of such sums to be made with credit cards approved by the court.

Your Committee finds that inasmuch as credit cards are presently being used with greater and greater frequency and are, in fact, gradually replacing cash as the payment medium in today's complex, computer-oriented society, it would be logical to allow court charges to be paid by the use of credit.

Moreover, your Committee feels that allowing the use of credit cards as aforesaid would be beneficial to defendants and other affected persons by giving them an alternative means of paying, while at the same time enabling the courts to become more efficient

and effective in collecting sums assessed.

Your Committee has, however, amended this bill by restricting the assessment, acceptance, or collection of "services" to the courts or on behalf of the courts. Such amendment was necessary to conform to Article III, Section 14 of the Hawaii Constitution, which requires that each bill "embrace but one subject, which shall be expressed in its title."

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2277-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2277-80, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 708-80 Transportation on H.R. No. 273

The purpose of this resolution is to request a study conducted by the Legislative Reference Bureau on the different types of government structures responsible for land transportation programs on the mainland at the state and local levels.

Your Committee notes that there have been discussions by government study commissions and other concerned persons on the consolidation of transportation programs within one level of government. This resolution would provide additional information on this matter by examining the types of government structures which are responsible for transportation programs on the mainland.

Your Committee on Transportation concurs with the intent and purpose of H.R. No. 273 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 709-80 Judiciary on S.B. No. 2278-80

The purpose of this bill is to increase sheriff's or police officer's fees and mileage allowances for serving any district court criminal summons, warrant, and the like and to make the same adjustment for service of circuit court criminal process.

Under present law, fees for the service of criminal process have remained the same since 1975, and the mileage allowance has been in effect since 1978. Increases in service and mileage fees are required in order to enable continuation of these services in the face of inflationary trends.

Your Committee feels that the effects of inflation warrant an increase in the mileage allowance from fifteen cents per mile to eighteen cents per mile and an increase in the service fees from \$10 to \$15 effective July 1, 1980.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2278-80, 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.

SCRep. 710-80 Employment Opportunities and Labor Relations on
S.B. No. 2302-80

The purpose of this bill is to establish a temporary commission to study and review Hawaii's workers' compensation law and to prepare a report of findings and recommendations in consonance with the basic objectives of workers' compensation law, with a special emphasis on ways of reducing or stabilizing costs while maintaining benefits at existing levels, or ideally, providing increased benefits or reduced employer costs. The commission will submit a preliminary report to the governor and the legislature prior to the 1981 legislative session, and a final report, within ten days after the convening of the 1982 legislative session. This bill provides that the commission shall cease to exist ninety days after the submission of its final report.

Your Committee is generally in accord with the intent and purposes of the bill. Your Committee has amended the bill by amending the composition of the commission to provide

for a more equitable and appropriate representation on the commission. In the bill referred to your Committee, provisions were made for ten commission members, including five representatives from the government sector, three representatives from the business sector, and two representatives from the labor sector. In the amended bill, your Committee has provided for three representatives each from the three affected sectors of our community. In order to accomplish this and provide for a more appropriate commission composition, your Committee has reduced the membership of the commission from ten to nine members; deleted the director of social services and the chairperson, conference of personnel directors as members of the commission; and has further specified that the assistant insurance commissioner be a member of the commission in lieu of the director of regulatory agencies. Your Committee has further provided that six instead of five commission members be appointed by the governor in order to increase the representation from the labor sector from two to three. Your Committee has further specified with regard to the labor sector, that one member shall represent Hawaii's public employee unions, one member shall represent Hawaii's non-public construction employee unions, and one member shall represent Hawaii's non-public general trades employee unions. Your Committee believes that this amended commission composition is a more equitable and appropriate one.

Your Committee has further amended the bill referred to your Committee by renumbering section 8 to section 9 and by adding a new section 8 to appropriate an unspecified amount for the two-year study and the operations of the commission including the hiring of staff. The Senate Committee on Ways and Means has indicated in its committee report on S.B. No. 2302, S.D. 2, that an appropriation for the commission shall be included in the supplemental budget. Your Committee believes, however, that the appropriation for the commission's study should be included in the bill establishing the commission and not part of the supplemental budget to ensure funding of the study.

Your Committee on Employment Opportunities and Labor Relations is in accord with the intent and purpose of S.B. No. 2302-80, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2302-80, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 711-80 Employment Opportunities and Labor Relations on S.B. No.
2914-80

The purpose of this bill is to amend the provisions of the workers' compensation law related to the physical and vocational rehabilitation of injured employees who become permanently disabled in order to improve the delivery of rehabilitation services to such employees and to provide incentives for participation in rehabilitation programs.

The bill establishes a new rehabilitation unit within the department of labor and industrial relations that will be responsible for:

1. referring injured employees for rehabilitation after it fosters, reviews, and approves plans specifically developed for them;
2. coordinating and enforcing the implementation of such plans; and
3. regulating providers of rehabilitation services.

The bill will also provide incentives for participation by permitting an employee undergoing rehabilitation to receive temporary total disability compensation, at least to a point where the sum of wages earned during the rehabilitation period and his compensation reaches the level of his average weekly wages at the time of injury.

Your Committee is of the opinion that this measure will improve the administration of the Workers' Compensation Law and benefit disabled workers by providing a more effective means to attempt the rehabilitation of the many workers who become disabled through industrial accidents.

On the suggestion of the Hawaii Insurance Association, your Committee has amended the bill so that the director's referral of an injured employee for rehabilitation will follow consultation with both the employee and the employer.

Concerns have also been expressed about the possible cost implications. The bill limits rehabilitation expenses to those that are "reasonable and necessary". While

the relevant term is not further defined, the director is expected to exercise his discretion to limit rehabilitation expenses to such that are actually "reasonable and necessary" from the employer's standpoint also.

Your Committee on Employment Opportunities and Labor Relations is in accord with the intent and purpose of S.B. No. 2914-80, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2914-80, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 712-80 Judiciary on S.B. No. 1827-80

The purpose of this bill is to codify the rules of evidence which would apply in State courts. The proposed Hawaii Rules of Evidence, set forth in this bill, would apply in both civil and criminal proceedings except as otherwise provided in the rules.

As stated in the proposed commentary to Rule 100 of the proposed Hawaii Rules of Evidence:

"The purpose of this chapter is to codify the law of evidence, to promote informed judicial rulings on evidence points, and to achieve uniformity in the treatment of evidence among the courts of this State."

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

The codification of such evidence rules, as one chapter of the Hawaii Revised Statutes, has a number of benefits or advantages. For a listing and explanation of such advantages, see House Special Committee Report No. 4 (February 8, 1980)--relating to the possible codification of the proposed Hawaii Rules of Evidence--issued jointly by the House and Senate Committees on Judiciary. Findings no. (1) and no. (2) on p. 3 of that special committee report are incorporated herein by reference. See also the companion (identical) Senate Special Committee Report No. 2 (February 5, 1980).

The proposed Hawaii Rules of Evidence are modelled after, or follow the format and to a great extent the substance of, the Federal Rules of Evidence which were adopted by Congress in 1974 (P.L. 93-595; 88 STAT. 1926) and which took effect in the federal courts on July 1, 1975.

Basing the Hawaii Rules of Evidence on the Federal Rules of Evidence, or substantial similarity between these two sets of rules, has a number of major advantages. For a listing and explanation of such advantages, see House Special Committee Report No. 4 (February 8, 1980). Finding no. (4) on pp. 3-4 of that special committee report--which finding lists four such major advantages--is incorporated herein by reference. See also the companion Senate Special Committee Report No. 2 (February 5, 1980).

Reference is made to the discussion--at pp. 1-3 of the Senate Judiciary Committee's Standing Committee Report No. 22-80 (February 11, 1980) reporting out S.D. 1 of this bill--relating to "separation of powers" and particularly to the discussion relating to the concurrent jurisdiction of the judiciary and legislative branches of Hawaii State government in making or adopting rules of evidence for civil and criminal cases where such rules relate or may be construed as relating to process, practice, procedure, and appeals. See in this regard Attorney General Opinion No. 67-9 construing what is now Article VI, Section 7 of the Hawaii State Constitution which empowers the Hawaii Supreme Court "to promulgate rules and regulations in all civil and criminal cases for all courts relating to process, practice, procedure and appeals, which shall have the force and effect of law."

Inasmuch as the judiciary branch has submitted the proposed Hawaii Rules of Evidence to the Legislature for enactment as statutory law (see p. 4 of Senate Standing Committee Report No. 22-80 and the submission or transmittal memorandum, dated February 6, 1979 and addressed to the chairmen of the House and Senate Judiciary Committees, from the chairman of the Rules of Evidence Committee of the Judicial Council of Hawaii), your Committee on Judiciary expects and intends that any additions, deletions, or amendments to the Hawaii Rules of Evidence, upon enactment by the Legislature as statutory law or as part of the Hawaii Revised Statutes, must be made by the Legislature

or through the normal legislative process.

Your Committee on Judiciary agrees with the statement on p. 3 of Senate Standing Committee Report No. 22-80 in which the Senate Judiciary Committee states that it "agrees with the evident conclusion of the judiciary inherent in its submission of the Hawaii Rules of Evidence for legislative enactment, that these rules require the exercise of legislative responsibility and the coordinated endeavor of both branches of government."

Your Committee has amended S.D. 1 of the bill in the following respects:

(1) Rule 503(d)(6) excepted communications between public agency officers and their lawyers from the attorney-client privilege. See p. 30, lines 11-14 of S.D. 1.

This rule has been deleted because there appears to be no compelling need to treat public agencies differently from private corporations and businesses for the purposes of the general rule--Rule 503(b)--providing for the lawyer-client privilege.

(2) Rule 504(d)(1) excepted from the physician-patient privilege communications between a patient and his doctor which are relevant to an issue in proceedings to hospitalize the patient for mental illness or substance abuse. See p. 31, line 23 through p. 32, line 3 of S.D. 1.

Pursuant to concerns expressed by the Attorney General in his testimony, this rule has been amended so as to add to the exception communications which are also relevant to an issue "in proceedings for the discharge or release of a patient previously hospitalized for mental illness or substance abuse." (Emphasis added). See p. 31, lines 18-24 of the attached H.D. 1.

(3) Rule 504.1(d)(1) in essence excepted from the psychologist-client privilege communications between a client and his psychologist which are relevant to an issue in proceedings to hospitalize the client for mental illness or substance abuse. See p. 33A, line 19 through p. 33B, line 2 of S.D. 1.

Pursuant to concerns expressed by the Attorney General in his testimony, this rule has been amended--as in the case of Rule 504(d)(1) as explained in (2) above--so as to add to the exception communications which are also relevant to an issue "in proceedings for the discharge or release of a client previously hospitalized for mental illness or substance abuse." (Emphasis added). See p. 34, lines 16-22 of the attached H.D. 1.

(4) Rule 505(a), relating to the spousal privilege in criminal proceedings, provided in essence that an accused in a criminal proceeding has a privilege to prevent his spouse from testifying against him, and that the privilege may be claimed either by the accused or by the spouse on his behalf. See p. 34, lines 816 of S.D. 1.

In a very recent (February, 1980) decision by the U.S. Supreme Court relating to the federal common law spousal privilege rule--or what the Supreme Court terms the privilege against adverse spousal testimony--as applied in criminal proceedings by the federal courts, the Supreme Court held in pertinent part that "the existing rule [against adverse spousal testimony] should be modified so that the witness spouse alone has a privilege to refuse to testify adversely; the witness may be neither compelled to testify nor foreclosed from testifying." (Trammel v. United States, No. 78-5705, February 27, 1980; United States Law Week, Volume 48, No. 33, February 26, 1980)

In so holding, the Supreme Court indicated that "the modern justification for the privilege against adverse spousal testimony is its perceived role in fostering the harmony and sanctity of the marriage relationship." However, the Court concluded that "When one spouse is willing to testify against the other in a criminal proceeding--whatever the motivation--there is probably little in the way of marital harmony for the privilege to preserve."

Although the Supreme Court decision may be mandatory only in the federal courts, it is expected to have persuasive impact on the states or on state courts. Accordingly, Rule 505(a) has been amended to read in pertinent part as follows:

"In a criminal proceeding, the spouse of the accused has a privilege not to testify against the accused. This privilege may be claimed only by the spouse who is called to testify."

See p. 36, lines 6-10 of the attached H.D. 1.

The holding and rationale of the Supreme Court decision, in relation to the above-amended version of Rule 505(a), will be more fully explained in the commentary to this rule.

(5) Rule 603.1 made it mandatory for a person to be disqualified as a witness if he is incapable of expressing himself so as to be understood or incapable of understanding the duty of a witness to tell the truth. See p. 42, lines 6-11 of S.D. 1.

In its testimony, the Department of the Prosecuting Attorney, City and County of Honolulu, objected that such mandatory disqualification "could arbitrarily preclude the testimony of, for example, the child victim of a sex offense who is either too young or inarticulate to [adequately] convey . . . [or express] that . . . [he is] capable of understanding the duty of a witness to tell the truth" and whose testimony may be the only evidence against the accused. The Department indicated that such difficulties in expression on the part of a witness or potential witness should go to the weight or credibility of the witness' testimony rather than to its admissibility.

Moreover, your Committee believes that the matter of assessing and determining the competency of witnesses is best left to the discretion of trial judges who are in a unique position to observe and evaluate the witness' or potential witness' demeanor, maturity, capacity to articulate, and capacity to understand and field questions and to determine, for example, whether the witness is competent to testify on certain matters but not on others.

In view of the foregoing, Rule 603.1 has been amended so as to allow the court discretion in disqualifying as a witness any person who is incapable of expressing himself so as to be understood or incapable of understanding the duty of a witness to tell the truth. See p. 44, lines 4-8 of the attached H.D. 1.

(6) Rule 613(b), relating to the admissibility of extrinsic evidence of a prior inconsistent statement by a witness (p. 48, lines 15-22 of S.D. 1), has been amended to remedy a serious problem raised in its testimony by the Department of the Prosecuting Attorney, City and County of Honolulu.

The problem relates to the impeachment of a "turncoat" witness by the proponent of that witness. The proponent is allowed to impeach his own witness under Rule 607, and if the impeachment is by prior, written inconsistent statement then Rule 802.1(1) provides for substantive use of the statement provided the conditions in Rule 802.1 are met and "the statement is offered in compliance with Rule 613(b)."

The problem is that the intent of Rule 802.1 is frustrated, in the case of the proponent's own turncoat witness, by two provisions of Rule 613(b):

(a) 613(b) requires that the foundation be laid on cross-examination, but in this case the impeachment is happening on direct; and

(b) 613(b)(3) requires that "the witness has not distinctly admitted that he made the statement," yet the turncoat witness typically admits making the statement but then goes on to deny the truth of it.

Rule 613(b)(3) comes from our present law, and the rationale is that since the prior statement is hearsay and not admissible to prove its contents, there is simply no need for the extrinsic evidence once the witness admits the contradiction. But, since Rule 802.1 excepts written, inconsistent statements from the hearsay ban, there is a legitimate need for the extrinsic evidence even when the witness admits making the statement. After all, the statement is usable to prove the truth, and the trier of fact can in effect "pick" between the witness' testimony and his prior statement:

To remedy these defects, Rule 613(b) has been amended to read in pertinent part as follows:

"Extrinsic evidence of a prior inconsistent statement by a witness is not admissible unless, on direct or cross-examination, (1) the circumstances of the statement have been brought to the attention of the witness, and (2) the witness has been afforded an opportunity to explain or to deny the statement."

See p. 50, lines 5-11 of the attached H.D. 1.

(7) In S.D. 1, the two proposed sections to the proposed new chapter in the Hawaii Revised Statutes (HRS)--one section relating to the effective date of the chapter and the application of the Hawaii Rules of Evidence to future cases and pending cases and the other relating to laws inconsistent with the chapter--were deleted and reinserted as "non-statutory" sections of the bill or proposed Act without appropriately and completely amending the references to the (new) chapter or to sections in the new chapter. See p. 81 of the original bill and pp. 81 and 109 of S.D. 1 of the bill.

Your Committee believes that the two proposed sections contain important provisions which should be made statutory and readily or conveniently available for reference as part of the proposed new chapter. In this regard, your Committee notes, for example, that the Uniform Commercial Code, Chapter 490, Hawaii Revised Statutes, contains an effective date provision and an inconsistent laws provision as parts of the chapter itself. See sections 490:10-101 and 490:10-103.1, HRS.

Accordingly, your Committee has reinserted those two proposed sections as part of the proposed new HRS chapter. See p. 83 of the attached H.D. 1.

(8) To give appropriate direction to the Revisor of Statutes in printing the commentary to the Hawaii Rules of Evidence, and to help avoid some of the kinds of problems or uncertainties which occurred in connection with the printing of the commentary to the Hawaii Penal Code, a section containing such appropriate directions or instructions has been added to the bill. See p. 111, Section 16 of the attached H.D. 1.

(9) An effective date section for the Act has been reworded and inserted as Section 19 of the attached H.D. 1. See p. 109 of S.D. 1 and p. 113 of H.D. 1.

(10) Other minor or technical amendments of a non-substantive nature, mainly to correct typographical or spelling errors, have also been made.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1827-80, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1827-80, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 713-80 Ecology and Environmental Protection on S.B. No. 3085-80

The purpose of this bill is to exclude the requirement of any environmental impact assessment when State or county funds are used for the acquisition of unimproved property.

Current law requires an environmental assessment for such uses of funds.

Your Committee received testimony from the Environmental Center and the Office of Environmental Quality Control concurring with the purpose of this bill.

Your Committee on Ecology and Environmental Protection is in accord with the intent and purpose of S.B. No. 3085-80 and recommends that it pass second reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 714-80 Consumer Protection and Commerce and Judiciary on S.B. No. 3145-80

The purpose of this bill is to amend Chapter 480, Hawaii Revised Statutes, relating to the granting of immunity from prosecution.

Your Committees find from testimony presented by the Antitrust Division of the Department of the Attorney General that the present provisions relating to immunity from prosecution in antitrust proceedings, Section 480-23(a) and (b), Hawaii Revised Statutes, can be construed to be a grant of automatic immunity to any witness called to testify by the Attorney General. Your Committees agree that this result was not intended by the statute.

Your Committees further find that the Legislature enacted the present general immunity statute, Chapter 621C, in 1978, and repealed various other immunity provisions similar

to Section 480-23 in 1971 when the predecessor of Chapter 621C was enacted. Your Committees therefore agree that the witness immunity provisions of Chapter 480 should be made consistent with the other witness immunity provisions and further, that the unintended interpretation of Section 480-23 heretofore mentioned should be prevented.

While in accord with the intent of the bill, your Committees have deleted the use immunity provision. Your Committees are aware that criminal defendants have a constitutional right to counsel during investigation and because of presence of counsel are usually granted transactional immunity. Civil defendants are not accorded that right and this amendment will grant these defendants transactional immunity on parity with criminal defendants.

Your Committees on Consumer Protection and Commerce and Judiciary are in accord with the intent and purpose of S.B. No. 3145-80, S.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 3145-80, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representative Lee.

SCRep. 715-80 Consumer Protection and Commerce on S.B. No. 2740-80

The purpose of this bill is to amend Section 416-59, Hawaii Revised Statutes, with regard to the issuance of stocks without par value.

This bill amends Section 416-59(a) to make clear that the rights, restrictions and qualifications of a series of any class or a class of stock issued without par value are to be provided for in the acts of incorporation.

This bill also amends Section 416-59(e) to allow a corporation to issue stocks without par value in one series of a class with rights, restrictions and qualifications different from those of another series of no-par value stock issued from the same class. Your Committee has heard testimony to the effect that the present requirement that all such no-par value stock whether or not issued from the same series of a class have the same rights, restrictions and qualifications serves no useful purpose and that distinctions between different series of no-par value stock are great enough to allow different rights and restrictions.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2740-80, 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 Lee.

SCRep. 716-80 Consumer Protection and Commerce on S.B. No. 2515-80

The purpose of this bill is to reduce the inactive period for contractors' licenses from three to two years to coincide with the biennial license renewal period. The bill also amends the procedure for placement of a license on inactive status.

At present, when a contractor wishes to place his license on an inactive status, he may do so for as long as three years. Under this bill, there would be a biennial updating of all licenses, and upon written request of a licensee, an active license may be placed in an inactive status after review by the board.

Your Committee finds that uniformity in the time period for the payment of fees would improve the administration of the licensing procedure.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2515-80, 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 Lee.

SCRep. 717-80 Consumer Protection and Commerce on S.B. No. 2186-80

The purpose of this bill is to amend Section 249-7, Hawaii Revised Statutes, by providing that all vehicles owned by the State of Hawaii, the various counties, the Board of Water

Supply, and official representatives of foreign governments be issued registrations which need to be renewed only in the new plate issue year.

Your Committee agrees with the testimony presented by the Department of Finance of the City and County of Honolulu that renewal of registration for certain designated vehicles is necessary only when new license plates are issued.

Your Committee has made technical, non-substantive changes.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2186-80, S.D. 1, and recommends that it pass Second Reading in the form attached hereto as S.B. 2186-80, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Lee.

SCRep. 718-80 Ecology and Environmental Protection on S.B. No. 2292-80

The purpose of this bill is to amend Chapter 339 of the Hawaii Revised Statutes by removing the prohibition on the sale of beverages in plastic containers.

Judge Arthur Fong of the First Circuit Court, State of Hawaii, in his opinion on September 13, 1979 in the case of JUICE TREE HAWAII, INC. vs. GEORGE YUEN, Civil No. 58218, held that Section 339-7 (b) is invalid, void and unenforceable because it was in violation of the Constitution of the State of Hawaii and the Constitution of the United States. The ruling has not been appealed. This bill in its original form is a housekeeping measure to conform the chapter to the ruling.

Your Committee has amended this bill by adding a new paragraph to Sec. 339-3. The amendment adds to the duties of the director a formula for the allocation to the counties of monies appropriated by the Legislature for the sole purpose of direct litter pickup. This formula determining county allocation is based on a weighted percentage figure comprised of each county's proportion of the State's population, miles of road, acres of public park area, and miles of beach. The rationale for weighting the percentage figures is to place emphasis on those areas contributing most to litter proliferation, while simultaneously insuring that each county receives an amount adequate for its needs.

Your Committee has also amended this bill by adding an appropriation of \$1.1 million for litter pickup. These funds are to be used by each county to contract for direct litter pickup labor, which may include persons hired from labor programs of the Department of Social Services and Housing or other State unemployment programs as labor is available, and supervision of such labor through either its own county agencies or private contractors; provided that not less than 25% of the total amount distributed to each county shall be expended during the months of June, July and August to employ youths between fifteen and eighteen years of age.

Your Committee on Ecology and Environmental Protection is in accord with the intent and purpose of S.B. No. 2292-80, S.D. 1 as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as S.B. No. 2292-80, S.D. 1, H.D. 1.

Signed by all members of the Committee.

SCRep. 719-80 Consumer Protection and Commerce on S.B. No. 1992-80

The purpose of this bill is to clarify Chapter 482, Hawaii Revised Statutes, regarding trademarks and trade names. This bill changes Chapter 482 in the following manner:

- 1) Adds a new Section 482-1 containing definitions of the terms "service mark", "trademark", "trade name", and "person".
- 2) Changes the designation of the present Section 482-2 to Section 482-3; repeals the present Section 482-3 and incorporates the substance thereof into the redesignated Section 482-2.
- 3) Adds the term "service mark" as an affected category throughout the chapter.

- 4) Separates "trade name" into two words instead of one word in certain sections where it appears.
- 5) Makes a petitioner seeking revocation of a certificate of registration under Section 482-8 responsible for notifying the person to whom the certificate has been issued of the hearing on the petition for revocation. Under the present statute, the Director of Regulatory Agencies is responsible for giving such notice.
- 6) Makes the notice requirements for revocation hearings for non-use (Section 482-6) and prior ownership (Section 482-8) identical by requiring that notice for hearings under either section be given as provided for by Section 91-9.5, Hawaii Revised Statutes.
- 7) Exempts the Director of Regulatory Agencies from paying damages, attorney's fees and costs for violation of Section 482-4(a).

Your Committee is in agreement that the amendments to Chapter 482 proposed by this bill will clarify the law and provide for more efficient administration of the law by the Department of Regulatory Agencies.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1992-80, 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 Lee.

SCRep. 720-80 Consumer Protection and Commerce on S.B. No. 1519

The purpose of this bill is to amend section 403-53, Hawaii Revised Statutes, to permit an increase in the number (from four to five) of branch banks or collection offices allowed within each of the three zones of the Honolulu district.

Your Committee received testimony from the Department of Regulatory Agencies in support of the general concept of the bill.

Your Committee is aware of the fact that the District of Honolulu has undergone a rapid population growth and that allowing banks to establish five branches in each zone will serve as a convenience for consumers.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1519, 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 Lee.

SCRep. 721-80 Consumer Protection and Commerce and Public Employment and
Government Operations on S.B. No. 2214-80

The purpose of this bill is to reorganize the insurance division of the Department of Regulatory Agencies by authorizing the director to appoint an assistant insurance commissioner and abolishing the position of motor vehicle insurance commissioner.

Under present law, the passage of the Motor Vehicle Accident Reparations Act in 1973 established the Motor Vehicle Insurance Division with the purpose of implementing and administering the Act. All insurance other than motor vehicle insurance is regulated by the director of regulatory agencies as insurance commissioner.

Your Committees find from the testimony presented that the no-fault program has, over the past six years, been successfully implemented and is functioning according to legislative intent. Your Committees also find, however, from testimony presented by the Department of Regulatory Agencies, that current administration of the Motor Vehicle Insurance Division in relation to other forms of insurance sometimes leads to questions of jurisdictional authority and duplication of effort among staffing in areas of regulation, licensing maintenance of records investigation, and other areas which would benefit from consolidation of the two divisions. Your Committees feel that the changes in the Department of Regulatory Agencies proposed by this bill will eliminate the problems created by the dual administration system and will result in more efficient

functioning of insurance regulation.

Your Committees on Consumer Protection and Commerce and Public Employment and Government Operations are in accord with the intent and purpose of S.B. No. 2214-80, S.D. 1, and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committees except Representative Lee.

SCRep. 722-80 Consumer Protection and Commerce on S.B. No. 2066-80

The purpose of this bill is to permit small liquor licensees to purchase liquor as a group.

Present law is silent with respect to whether such purchases are allowed.

This bill would specifically permit small liquor licensees to pool their resources and purchase liquor as a group thus enabling them to take advantage of maximum quantity purchase discounts offered to purchasers of large quantities. Your Committee finds from the testimony presented that the liquor commissions of the Counties of Honolulu and Hawaii will not permit such pool buying unless specifically authorized by statute. Your Committee feels that this bill, if enacted, would help smaller liquor establishments better compete with the larger establishments which have greater purchasing power.

Your Committee further finds from testimony presented by the Antitrust Division of the Attorney General's office that requiring the approval of the liquor commission of the jurisdiction without specifying what such approval entails may lead to ambiguities and possible escape from coverage of the State's antitrust laws. Your Committee therefore agrees with the bill to make clear that pool buying agreements contemplated by this bill shall not constitute exemption from any antitrust laws.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2066-80, 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 Lee.

SCRep. 723-80 Judiciary on S.B. No. 2120-80

The purpose of this bill is to remove words and phrases facially discriminatory on the basis of sex, from section 577-22 of the Hawaii Revised Statutes.

Under present law, it is unlawful for unmarried minors to patronize dance halls where females dance with male patrons for remuneration or compensation. This bill would neutralize the language of section 577-22 by making it unlawful for unmarried minors to patronize dance halls where either males or females dance with either males or females for compensation.

While your Committee agrees that on its face this section is discriminatory on the basis of sex, your Committee does not feel that neutralizing its language is the appropriate remedy. Your Committee feels that the concept or policy underlying said section represents archaic and outmoded moral concepts of the 1920's when it was originally enacted. Accordingly, rather than neutralize the language of section 577-22, your Committee has amended this bill by repealing said section in its entirety.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2120-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2120-80, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 724-80 Housing on S.B. No. 2557-80

The purpose of this bill is to increase from \$125,000,000 to \$225,000,000 the principal amount of revenue bonds which may be issued by the Hawaii Housing Authority for housing loan programs as established by Act 50, Session Laws of Hawaii 1979.

The purpose of the bill has been broadened to amend the Hula Mae loan program eligibility requirements.

Your Committee recognizes that the current shortage of affordable, long-term conventional home mortgage financing will cause a greater number of potential home buyers to seek other sources of long-term financing, such as the State of Hawaii's "Hula Mae" program. Your Committee believes that the principal amount of the revenue bonds which may be issued by the Hawaii Housing Authority for the Hula Mae program should be increased from \$125 million to \$225 million to permit a greater number of qualified persons to participate in this program.

Due to the rising sale prices of homes and the relatively small increase of incomes experienced in Hawaii, your Committee finds that the Hula Mae "target group" is contracting while Hawaii's housing "gap group" is expanding in absolute numbers. The expansion of the "gap group" is perhaps best reflected by Multiple Listing Service figures which show a 30 percent increase in home sale prices between 1979 and 1980, while median family income increased only 3.5 percent during the same period. The net result has been that more Hawaii residents are being priced out of the housing market thus increasing the number of families in the "gap group." However, the program is prevented from expanding to assist these families because of the current statutory income limits and restrictive income adjustment factors currently employed by the Hawaii Housing Authority. Accordingly, your Committee believes that present statutory income limits should be adjusted upwards, from 115 to 125 percent of the median family income in the State as most recently published by the United States Department of Health, Education and Welfare (HEW). This statutory amendment is necessary to ensure that the program's benefits, below-market-interest-rate mortgage loans, are provided to as many eligible Hawaii residents as possible.

Your Committee also recognizes that the Hula Mae loan program eligibility requirements should be expanded so that a greater number of Hawaii residents can participate in this program. Presently, a person who owns vacant, residential land is ineligible to qualify for a Hula Mae loan to finance the construction of a dwelling unit on that land. Your Committee feels that ownership of such land should not prohibit an applicant from qualifying for a Hula Mae loan. Your Committee also believes that an applicant with less than one-half interest in real property which is not his place of residence and which is located in Hawaii should also be eligible to participate in the Hula Mae program.

Presently, the Hula Mae program permits persons who do not own residential property in Hawaii but have interest in residential property outside of Hawaii to participate in this program. Your Committee believes that the intent of the Hula Mae program was to assist qualified Hawaii residents seeking homeownership. Accordingly, your Committee is in agreement with the requirement prohibiting persons with any interest in residential property outside of Hawaii from participating in the Hula Mae program.

Your Committee's review of the Authority's current assets rules indicates that the asset limits established for program eligibility are too restrictive to apply to families in the "gap group." However, your Committee feels it inappropriate to recommend specific asset limitations by dollar amounts in the statutes as the effectiveness of such limits would not stand the "test of time" or be responsive to a changing market. We do, however, recommend that the Authority consider the following when amending its rules regarding asset limitations:

- (1) A factor or multiplier applied to the adjusted income limits in determining asset limits may provide the flexibility desired by the Legislature;
- (2) The down payment, currently limited by statute to not more than 20 percent of the fair market value of the property to be purchased, should not be treated as an asset, but as equity in the property to be purchased and therefore should not be calculated within the asset limitations; and
- (3) The calculation of assets should be limited to the "equity" portion of real and personal property purchased with a loan and should not include the "liability" or unpaid portion of the real or personal property. Furthermore, assets should be defined as liquid assets such as savings accounts, securities, stocks and bonds, and should not include such items as retirement benefits.

Your Committee recommends the following amendments to S.B. 2557-80, S.D. 2:

- (1) Adding an amendment to the definition of "eligible borrower" in Section 356-201,

Hawaii Revised Statutes to:

- (a) Permit persons who own land in Hawaii to be eligible for a Hula Mae loan for financing the construction of a dwelling unit on that land;
 - (b) Allow persons with less than one-half interest in real property which is not their principal place of residence and is within the State of Hawaii to participate in the Hula Mae loan program;
 - (c) Prohibit persons with any interest in residential property outside of Hawaii from participating in the Hula Mae loan program; and
 - (d) Prohibit persons who have already obtained a Hula Mae loan from securing a subsequent loan under that program.
- (2) Adding an amendment to Section 356-206, Hawaii Revised Statutes, to increase income eligibility limits from 115 to 125 percent of the median family income in the State as determined by the United States Department of Health, Education and Welfare.
- (3) Changing the effective date of this bill from July 1, 1980 to the date of approval.

Your Committee on Housing is in accord with the intent and purpose of S.B. No 2557-80, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No 2557-80, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 725-80 Transportation and Judiciary on S.B. No. 2003-80

The purpose of this bill is to clarify the applicability of the motor carrier safety law to certain private carriers of passengers.

This bill was amended previously to correct the confusing definition of "motor carrier" in the Hawaii Revised Statutes. The bill had been amended to correct the definition by deleting the extraneous language.

Your Committees on Transportation and Judiciary are in accord with the intent and purpose of S.B. No. 2003-80, S.D. 1 and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 726-80 Higher Education and Energy on S.B. No. 108

The purposes of this bill are to provide permanent status for the Hawaii Natural Energy Institute (HNEI) and to designate HNEI as the State's lead organization for natural energy research, development, and demonstration efforts.

Your Committees find that, since its establishment in 1974, the HNEI has provided outstanding leadership in the development of energy-related activities. Approximately ninety energy research and development projects have been completed or are ongoing. Total funds for these projects amount to \$21,076,031, of which \$16,386,500 represents non-state moneys.

While the Institute's operating costs amount to \$332,453, HNEI has been able to bring \$722,127 to the State's general revenues in overhead funds. The HNEI, through its grant application efforts, has generated more revenues for the State than has been provided for its operating requirements by the general fund.

Your Committees believe that, if HNEI is to continue its outstanding work, it should be provided a permanent status, a budget, and a core staff necessary to coordinate its broad and significant programs.

Your Committees have amended the bill by deleting lines 13 and 14 on page 3 of the bill. Your Committees have also amended the bill by replacing the word "State's" with "institute's" on both line 21 on page 3, and on line 1 of page 4.

Chapter 304 of the Hawaii Revised Statutes has been amended to effect the purposes set forth in this bill.

Your Committees on Higher Education and Energy are in accord with the intent and purpose of S.B. No. 108, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 108, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representative Garcia.

SCRep. 727-80 Employment Opportunities and Labor Relations on
S.B. No. 3026-80

The purpose of this bill is to amend the Temporary Disability Insurance (T.D.I.) Law's definition of "wages" to include tips or gratuities received by a worker in an occupation where tips are customary and expected if such tips or gratuities are reported to an employer for payroll tax deduction purposes. This will enable employees employed in so-called "tipping categories" to receive T.D.I. benefits based upon their actual reported incomes when they become disabled.

Under present law, tips are deemed "wages" for purposes of the T.D.I. law only when set amounts are charged customers as service charges by an employer who thereafter disburses the amounts charged to his employees or when an employer takes tips into account in determining whether his employees are being paid wages above the statutory minimum. Otherwise tips and gratuities are excluded from "wages". Thus many employees in "tipping categories" receive T.D.I. benefits that are not proportionate to their actual incomes.

Tips and gratuities are reportable as wages and taxable under state and federal laws. If an employee reports sums received as tips or gratuities as part of his earned wages, there appears to be no good reason why he should not be entitled to wage replacement benefits based upon such actual wages.

Your Committee on Employment Opportunities and Labor Relations is in accord with the intent and purpose of S.B. No. 3026-80, 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. 728-80 Transportation on S.B. No. 2004-80

The purpose of this bill is to permit a boat dealer to move a boat to his place of business without a number plate attached to the trailer.

This bill has been previously amended by deleting the proposed changes to Section 286-53 and in place thereof, adding a new section to the law specifically authorizing a boat dealer to operate boat trailers without license number plates on the public highways during the move from the point of entry into the State to the boat dealer's storage, display or sales area.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 2004-80, 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. 729-80 Public Employment and Government Operations; and Employment
Opportunities and Labor Relations on S.B. No. 1988-80

The purpose of this bill is to permit a public officer or employee to choose whether his sick leave credits are to be used to make up the difference between his regular salary and the workers' compensation wage loss replacement benefits he is receiving.

The language of the current law mandates that an employee receiving workers' compensation wage loss replacement benefits receive a total payment equal to his regular salary by applying his sick leave credits. (Note: Workers' compensation wage loss replacement benefits is equal to $\frac{2}{3}$ of the worker's regular salary) This interpretation of the

law is provided through Attorney General Opinion No. 79-6.

Your Committees find that an employee should be given the right to choose whether his sick leave credits are to be used to make up the difference between his regular salary and the workers' compensation wage loss replacement benefits he is receiving. In this way the employee would be afforded three choices: (1) to supplement his workers' compensation wage loss replacement benefits to a sum equal to his regular salary, (2) to accumulate his sick leave credits for additional service credits in the retirement system, or (3) to apply his sick leave credits for absences due to non-job related injuries or illnesses.

Your Committees on Public Employment and Government Operations and Employment Opportunities and Labor Relations are in accord with the intent and purpose of S.B. No. 1988-80 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committees.

SCRep. 730-80 Public Employment and Government Operations on S.B. No. 2225-80

The purpose of this bill is to recognize recent changes in the health services industry by expanding the authority of the board of trustees to contract with health maintenance organization plans that provide and arrange health services for members on a prepaid basis.

When the law was enacted in 1961, the Kaiser Foundation Health Plan was the only comprehensive group-practice prepayment plan available in Hawaii. Their physicians represented at least three major medical specialties and received all or a substantial part of their professional income from prepaid premiums.

In 1973, the Federal Health Maintenance Organization Act was passed to require private sector employers with 25 or more employees to offer prepaid systems specializing in preventive medicine and family health care for subscribers as an alternative to traditional health benefit plans if such prepaid systems were available.

In Hawaii today, HMSA's Community Health Program, through physician-owned medical centers, offers prepaid health care services to their subscribers similar to the Kaiser Plan. These physicians also maintain their regular fee-for-service business.

A change in the Health Fund Law at this time is needed to permit the board of trustees to contract with HMOs whose benefit plans will reduce total out-of-pocket medical expenses of public employees and their dependents.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of S.B. No. 2225-80 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 731-80 Public Employment and Government Operations on S.B. No. 2977-80

The purpose of this bill is to amend sections of Chapter 77 to delete the existing wage and salary schedules covering blue-collar and white-collar workers; to establish the salary and wage schedules of such workers through the collective bargaining process; and to establish compensation plans for managerial white-collar positions by action of the chief executives of the State and counties and the Chief Justice of the Supreme Court, subject to the provisions of Chapter 89C.

Your Committee finds that present pay schedules established in Chapter 77 are obsolete in that the real wage and salary schedules are now established through the collective bargaining process. Furthermore, in an effort to accommodate the existing system to the needs of the bargaining table, the number of steps within the negotiated salary ranges has increased greatly adding to the complexity and administration of these and other pay plans in the State.

Providing for the establishment of wage or salary schedules through the bargaining

unit negotiating process will allow the creation of schedules more clearly suited to the particular unit or units concerned and provide if properly established and administered, incentives for up-grading personnel skills and qualifications.

Concerns of the excluded "managerial" white-collar officers or employees are addressed through provisions authorizing the Governor and other executive heads of government to establish appropriate pay structures, and to adjust compensation under the provisions of Chapter 89C.

Your Committee has made technical and grammatical amendments to the bill.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of S.B. No. 2977-80, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2977-80, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 732-80 Public Employment and Government Operations on S.B.
No. 2800-80

The purpose of this bill is to remove limitations to adjustments in compensation for excluded public officers and employees and to allow for an additional adjustment in the compensation of excluded managerial, administrative, professional, or technical officers or employees.

This bill proposes to delete the existing statutory limitations in compensation under sections 78-18 and 89C-2, Hawaii Revised Statutes, which would permit excluded employees to receive equitable treatment as their counterparts in the collective bargaining units. Secondly, the bill proposes to amend section 89C-2 (1), Hawaii Revised Statutes, which would permit an optional 5 percent increase to excluded managerial, administrative, professional, or technical officers or employees.

Your Committee has received testimony from the State Department of Personnel Service, City and County Department of Civil Service, Department of Education, University of Hawaii and the Public Employees Management Association of Hawaii in support of the proposal to remove the salary limitations placed upon excluded employees.

Figures from the Department of Personnel Services indicate that there are approximately 33 employees who are adversely affected by the limitation within the civil service, Department of Education, and the University of Hawaii since 1979. For the year 1980, 83 more employees will become affected.

For the City and County of Honolulu, 6 employees have already reached the limitation with 31 more to follow in 1980.

The State Department of Personnel Services expressed concern in their testimony regarding the amendment to permit an additional 5 percent upward adjustment in compensation for managerial, administrative, professional, or technical officers or employees. Such an amendment would mean compensation for supervisory employees would then be dictated by their subordinate's level of pay. This could result in substantial windfall salary increases and compound existing pay inequities which are currently based on length of service. An example would be an employee with supervisory responsibilities receiving additional adjustments in salary if their subordinate's level of pay was sufficiently high enough to trigger the adjustment as opposed to another employee of similar supervisory status not receiving comparable adjustments if their subordinate's level of pay was not as sufficiently high.

Your Committee has therefore amended the bill by deleting the provisions for an additional 5 percent increase for managerial, administrative, professional, or technical officers or employees and has added a new section which would delete subsection (4) of section 77-13 (f), Hawaii Revised Statutes, which would be inconsistent with the proposed amendment to remove salary limitations placed upon excluded employees.

Your Committee has made technical amendments to the bill.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of S.B. No. 2800-80, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2800-80, S.D.

2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 733-80 Higher Education on S.B. No. 1878-80

The purpose of this bill is to provide for changes in the eligibility and the amount of the award under the State Higher Education Loan Fund program so as to make those provisions comparable to the provisions of the National Direct Student Loan Program on the federal level.

The provision extending eligibility to less than full-time students will not significantly affect the State Higher Education Loan Fund (SHELF) program. Presently SHELF recipients must be enrolled as full-time students, meaning they must register for a minimum of twelve credits each semester. Testimony introduced indicated that a problem arises when a student drops below this number. When this occurs, he is presented with a repayment schedule to commence nine months later. However, a majority of such students again become full-time students prior to the repayment schedule date. This bill will eliminate the unnecessary paperwork required to prepare the repayment schedules.

Greater flexibility in packaging financial aid while still ensuring that students do not accumulate an unreasonable debt obligation is achieved by the provision that would change the loan limit to an aggregate amount by educational level, based on the amounts established for the National Direct Student Loan Program.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 1878-80, 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. 734-80 Higher Education on S.B. No. 1873-80

The purpose of this bill is to provide for the retention and administration by the University of Hawaii of fifty per cent of all funds annually received for administrative and overhead costs included in all university-held contracts and grants.

Your Committee was primarily responsible for increasing the University of Hawaii's research and training revolving fund when the Tenth Legislature, Regular Session of 1979, passed H.B. No. 1647, H.D. 2, S.D. 1, C.D. 1, which was subsequently enacted into law as Act 109, Session Laws of Hawaii, Regular Session of 1979. Act 109 now permits the University to use up to \$600,000 of the revolving fund to more adequately support and increase its research and training effort: first, by providing the flexibility required to pay for and recover from the federal government the cost of providing overhead support for research and second, by increasing the seed moneys available for research and training contracts and grants.

There is no doubt that an increase in the revolving fund, which H.B. No. 1873-80, S.D. 2, proposes, will encourage more research and generate more training grants for the University. Therefore, increasing the revolving fund by allowing the University of Hawaii to retain fifty per cent of all funds generated is a step in that direction.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 1873-80, 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.

SCRep. 735-80 Health; and Youth and Elderly Affairs on S.B. No. 1982-80

The purpose of this bill is to distinguish between overall coordination and program responsibilities at the branch level and actual delivery of mental health services to children and youth.

To accomplish this purpose, the bill (1) requires the Children's Mental Health Services Branch, Department of Health, to coordinate delivery of mental health services to children and youth, (2) requires the Department of Health and the Department of Education

to develop memoranda of agreement relating to services to children, (3) requires an implementation plan with specific goals and objectives as well as a plan of action, (4) requires a statewide children's mental health services plan to be developed in five-year cycles, and (5) requires biennial review of progress in accomplishing the statewide plan.

Your Committees note that S.B. No. 1982-80, S.D. 2 is similar to H.B. No. 584, H.D. 1 discussed by your Committees in Standing Committee Report No. 371-80, dated February 29, 1980, and discussed by your Committee on Finance in Standing Committee Report No. 539-80, dated March 10, 1980. Your Committees agree with these previous reports and incorporate their content herein by reference.

Your Committees on Health and Youth and Elderly Affairs are in accord with the intent and purpose of S.B. No. 1982-80, S.D. 2, and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committees.

SCRep. 736-80 Water, Land Use, Development and Hawaiian Affairs; and
Energy on S.B. No. 1889-80

The purpose of this bill is to amend Section 182-7, Hawaii Revised Statutes, to encourage the development and commercialization of geothermal energy resources by providing for the waiving of royalty payments to the State during the period July 1, 1980 to June 30, 1985, on leases for geothermal energy production. The bill further provides that in the event production is disrupted by Act of God, royalty payments, in proportion to the loss of the well field capacity, shall not be required for five years from the date of revenue loss.

Your Committees concur with the intentions of this bill by providing incentives to encourage private sector participation in the development of geothermal resources.

Your Committees have amended this bill on page 4 as follows:

Inserted the words "shall be", on line 15 before the words
"subject to the following: "

Your Committees further amended this bill on page 5, lines 19 - 25 to read as follows:

"(B) In the case of geothermal resources, royalty payments shall not be required for the first five year period from the date of actual production of power of sale, on the initial lease granted to any person, and in the event that production is disrupted at any time by acts of God, including earthquakes or lava flows, royalty payments shall be reduced or discontinued in proportion to the loss of well field capacity for a period of not more than five years from the date of any revenue loss resulting from the disruption. The board shall have the authority, at any time during the term of the lease, to terminate the exemption from, or reduction in royalty payments provided for in this subparagraph when it determines that such incentives for commercialization of geothermal resources are no longer needed."

Your Committees on Water, Land Use, Development and Hawaiian Affairs and Energy are in accord with the intent and purpose of S.B. No. 1889-80, S.D. 2, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 1889-80, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representative Garcia.

SCRep. 737-80 Public Employment and Government Operations on
S.B. No. 2512-80

The purpose of this bill is to clarify the requirement that all printing, binding, and stationery work for the State and counties be performed within the State and to provide

a penalty for manufacturers who do not abide by the terms of bids or contracts which stipulate that all such work be performed within the State.

Under current law, all printing, binding, and stationery work for the State and its political subdivisions are required to be performed within the State, except where such work cannot be performed within the State or would cost fifteen per cent more than the price charged by a mainland manufacturer.

This bill adds language to the law which makes it clear that the word "work" as used in the law, includes all preparatory work, presswork, bindery work and any other related work.

The bill further adds a provision subjecting any manufacturer who violates the requirement that all work be done in the State to a fine equal to three times the value of the job.

Your Committee has made technical, non-substantive amendments to the bill.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of S.B. No. 2512-80, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2512-80, S.D. 1, H.D. 1 and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 738-80 Public Employment and Government Operations on
S.B. No. 744

The purpose of this bill is to provide flexibility in the recruitment of certain essential personnel by the State. The flexibility is provided by: exempting certain personnel who provide services which are essential to the public interest from civil service; allowing the payment of travel and transportation expenses for the recruitment of such personnel; allowing the provisions of perquisites for such personnel; and providing monetary incentives for recruitment of such personnel.

Your Committee has made a technical amendment to the bill.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of S.B. No. 744, S.D. 3, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 744, S.D. 3, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 739-80 Judiciary and Transportation on S.B. No. 2002-80

The purpose of this bill is to permit the Director of Transportation to effectively operate a lost and found program for articles found on the premises of airports operated by the department.

Your Committees heard testimony from the Department of Transportation that current law prevents the department from effectively operating a lost and found operation as all recovered items are legally required to be turned over to the county police. Your Committees find that the present practice conflicts with the more logical procedure of operating an airport lost and found office in the airport terminal which would allow direct and almost immediate access to the general public.

Your Committees also would like to reflect in the committee report that "a newspaper or general circulation" means having a readership of over 100,000 individuals.

Your Committees on Judiciary and Transportation are in accord with the intent and purpose of S.B. No. 2002-80, S.D. 1 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committees.